

MAYOR  
Hal J. Rose

DEPUTY MAYOR  
Stephen Phrampus

COUNCIL MEMBERS  
Diana Adams  
Pat Bentley  
John Dittmore  
Daniel McDow  
Andrea Young



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## CODE ENFORCEMENT BOARD

### AGENDA

Thursday, July 20, 2023

5:30 pm

City Council Chambers

#### 1. CALL TO ORDER/ PLEDGE OF ALLEGIANCE

#### 2. ROLL CALL

#### 3. ADOPTION OF MINUTES

The Board is asked to approve the minutes of the May 18, 2023 hearing.

#### 4. SWEARING IN OF THOSE PRESENTING TESTIMONY

#### 5. OLD BUSINESS:

- A. Case No. 20-0066 (9075 Ellis Road)  
MADISON HOLDINGS OF BREVARD, et al.  
Order Releasing Lien for violations:  
Sec. 2-94 – Emergency actions  
Sec. 98-562 – Principal uses and structures  
Sec. 98-565 – Prohibited uses and structures
- B. Case No. 21-0043 (3009 Elizabeth Street)  
ELIZABETH MAPLES, et al.  
Violation of Section 98-1122. – Maintenance of walls and fences  
Order imposing penalties and liens

#### 6. NEW BUSINESS:

- C. Case No. 23-0062 (562 Lake Ashley Circle)  
GABRIELLA A. FRISELLA, et al.  
Violation of Section 18-178. – Work starting before permit issuance  
Order finding violations and penalties
- D. Case No. 23-0124 (1220 South Wickham Road)  
ACL WICKHAM PROPERTIES, LLC., et al.  
Violation of Section 18-451. – Fence permit. Permit application received.  
Violation of Section 98-896. – Site Plan  
Order finding violations and penalties

- E. Case No. 23-0134 (4325 W. New Haven Avenue)  
INVESTMENTS AAB, LLC., et al.  
Violation of Section Sec. 71-107. – Required.  
Order finding violations and penalties
  
- F. Case No. 23-0160 (217 Buffett Lane)  
PATRICK LINN ROSS, II & STACEY ELIZABETH ROSS, et al.  
Violation of Section Sec. 98-1082. – Conditions  
Violation of Section Sec. 18- 178. – Work starting before permit issuance  
Order finding violations and penalties

## **7. ADJOURNMENT**

**All persons wishing to be heard should appear in person at these hearings or send written comments to the City Clerk. All persons and parties are hereby advised that if they should decide to appeal any decision made by the City with respect to any matter considered at the public meeting or hearing described in this notice, they will need a record of the proceedings, and for such purpose, said person or party may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (Chapter 286, Florida Statutes). In compliance with American with Disabilities Act (ADA), anyone who needs a special accommodation for this meeting should contact the City’s ADA coordinator at 321-837-7774 at least 48 hours before the hearing.**

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## CODE ENFORCEMENT BOARD

### MINUTES

May 18, 2023

#### 1. CALL TO ORDER / PLEDGE OF ALLEGIANCE

Chair Chris Gibbs called the meeting to order at 5:31 pm and led the Pledge of Allegiance.

#### 2. ROLL CALL

Present: Chair Chris Gibbs, Vice Chair Sandra Michelson, Board Members James Shipton, Linda Palardy, George Bosch and Kimberly McGibany.

Absent: Board Members Robert Luber and Andrew Jones

Board Member Linda Palardy moved to excuse Board Members Robert Luber and Andrew Jones. Seconded by Board Member George Bosch motion carried 5-0.

Also present: Council Member Andrea Young, Planning and Zoning Director Christy Fischer, Police Chief Gregory Vesta, Code Enforcement Inspectors Roy Black and Camille Moore, City Attorney John Cary, Permit Technician Lisa Pilsbury and other members of the public.

#### 3. ADOPTION OF THE MINUTES

Board Member James Shipton moved to approve the minutes from April 20, 2023. Seconded by Board Member Kimberly McGibany motion carried 5-0.

#### 4. SWEARING IN OF THOSE PRESENTING TESTIMONY

Lisa M Pilsbury swore in those presenting testimony

#### 5. OLD BUSINESS

**Case No. 22-0040**

**Violation of Section 2-93. – Repeat Violations – COMPLIED**

**Violation of Section 18-51. – Required**

**Violation of Section 26-207. – Storing, depositing or keeping abandoned property in enclosed building.**

**Violation of Section 50-152. Business Tax Receipt required**

**Violation of Section 66-552. – Required for certain developments; exemptions**

Code Enforcement Inspector Roy Black presented Case No. 2022-0040 for property located at 7629 Coral Drive and owned by XA THI TRAN, et al.

Inspector Black haven been sworn in testified:

4/7/2022 - Glenda on Coral Drive advised there was a new auto salvage yard being operated at 7629 Coral Drive.

4/8/2022 – Observed two (2) people actually cleaning up abandoned property, trash in general and in exchange for them cleaning up Ms. Tran is allowing nearby businesses to keep overflow vehicles on her property at 7629 Coral. Assuming this was the case weeks ago, but today he spoke with Alex of 7608 Coral who runs Budget Handicap Vans who advised me of this agreement. Observed several inoperable vehicles some with no tags in front of the property as well as on the property inside the fence with the open gate. There are a lot of automotive parts strewn about inside the existing structure as well as outside in the open. Requested Notice of Violation to be mailed

4/12/2022 - Violation entered for business without approved site plan.

4/15/2022 - Glenda called to advise there are now tires being dumped on the property and tractor trailers parked on the property, which is actually unpaved.

4/27/2022 - Case on hold to allow more time to acquire an approved Site Plan.

6/29/2022 – Spoke with Denise Curry from Planning and Zoning who indicated the Site Plan was still under review

8/31/2022 - Waiting to hear from Planning and Zoning regarding if the Site Plan has been accepted. Spoke with Christy Fisher a few weeks back and there is progress.

9/1/2022 – Received email from Christy Fischer regarding no more progress has been made on the site plan sec. 66-552, which is a repeat violation of Case Number EEN 21-0094 with a finding of violations per Code Board. They also have been conducting business without a Business Tax Receipt and observed new construction without a permit.

10/4/2022 - Records check revealed pending Business Tax Receipt. Requested Summons to be mailed.

10/05/2022 – Summons was mailed as requested.

10/18/2022 - Complied Repeat Violation as it is a different business than the business which had the findings at the previous board.

10/20/2022 - Case tabled until November. Neighboring property owner spoke of his disdain for the property and made unfounded allegations.

11/1/2022 - Roy requested Summons for November's Code Board hearing.

11/02/2022 – Summons was mailed to the Property Owner and Registered Agent for the November 17, 2022 Code Board hearing via certified and regular mail as requested.

11/16/2022 – Code Board decided to table the case to a future board meeting. Emailed engineering firm preparing the Site Plan.

1/4/2023 – Summons was mailed to the Property Owner and Registered Agent for January's Code Board hearing as requested.

1/17/2023 - Per Code Inspector, this case is being tabled due to the Development Review Committee meeting on Thursday, January 19, 2023.

1/25/2023 - Cynthia Snay with Planning and Zoning advised there are additional comments which the property needs to address

5/3/2023 – Per Planning & Zoning, no site plan. Requested Summons to be mailed.

5/3/2023 – Summons was mailed to the Property Owner and Occupant for May 18, 2023 Code Board hearing via certified and regular mail as request

5/17/2023 – Per Christy Fischer the Site Plan has been approved but the Business Tax Receipt is still pending.

- The business was instructed they could not conduct any business during this period/process, which they have been. Since the Site Plan is now approved this complies this violation.
- There are other violations which were sited during the process: No Business Tax Receipt, vehicles on the property which are inoperable and cannot be there inside or outside the fence.
- Also noticed two carport structures which have been built without permits and needs to comply with the current setback rules.
- The remaining charges are lack of a Business Tax Receipt, abandoned property and the unpermitted improvements on the property. So, we are looking for a violation on all three (3) of these charges.

Vice Chair Sandra Michelson asked if they have been conducting business this whole time. Inspector Black replied correct. Vice Chair Michelson then stated as many times as they have been up here what do they not understand.

Inspector Black replied:

- This case was not always tabled at Code Hearings. Some were tabled prior to the Code hearing as Site Plans were submitted just not approved.
- Spoke with the business operator and advised them of the other charges which he did not agree with and is here tonight to testify.

Board Member Kimberly McGibany asked on the four (4) things which were listed were they aware they could not be doing any of these. Inspector Black replied correct.

Mr. Alexander Fedovou, Owner/Manager of Budget Handicap Vans, 7629 Coral Drive, West Melbourne, FL 32904 having been sworn in testified:

- He converts vans into wheelchair accessible vans for clients
- He is in the car business and does not know anything about site plans nor construction.
- Hired an Engineer who has been working on the Site Plans this whole time and has submitted several revisions per Planning and Zonings feedback. Just received the approved Site Plans the other day.
- Understands the history of this property as a junk yard.
- Rented this property a year ago, took steps to clean it up including a new fence.
- Has been running this business for the last seven (7) years
- He has several other locations in the area which is where he sells the vehicles. This location is used as storage. When this location was rented he double checked with an Attorney who directly told him this location can be used for storage as the registered property usage is open storage, new and used building supply, junk yard, fuel storage and equipment and material storage. We no longer use this property as a junk yard. All the other listed usages we can use. Again, the Attorney indicated we can use this property as storage.
- There are vehicles waiting on the customers and some waiting on parts.
- He is currently doing everything which was required by Planning and Zoning.

Ms. Christy Fischer, Planning and Economic Director having been sworn in testified:

- When you have a business at a location and Mr. Fedovou is correct in his own opinion with the reading of the M1 Zoning District which his attorney gave him.

- You cannot go onto a property and start using it without a Business Tax Receipt this is not allowed.
- Mr. Fedovou and his Civil Engineer has meet with Planning and Zoning.
- The architect which Ms. Tran hired for the Site Plan was then turned over to the Civil Engineer.
- Seems like the urgency to complete the Site Plan only came due to the continued notices
- She now understands from Mr. Fedovou who was under the impression from his Attorney he could put these cars on the lot without having a Business Tax Receipt and without any improvements.
- Per City Code Sec 50-152: A Business Tax Receipt is required for each business which operates within the City.
- There are vehicles on the property which may take a while to get moved.
- Since the Site plan is now approved Mr. Fedovou needs to construct it, ask for a Certificate of Occupancy and then the Business Tax Receipt. This is the order of business for all commercial industrial sites.

Board Member Palardy asked Director Fischer the time line which Mr. Fedovou is looking at.

Director Fischer replied:

- The site plan was approved back on May 17, 2023
- Certificate of Occupancy and Business Tax Receipt depends on how fast and how well Mr. Fedovou communicates with the City.
- She is unclear how long this could take. Using 3 months for example. At the end of the third month Mr. Fedovou would need to contact the Building Department as they issue the Certificate of Occupancy
- This then will trigger the Planning Department to review and sign off on the Business Tax Receipt.
- Again, this all depends on Mr. Fedovou's timeline for construction.
- The process between the Certificate of Occupancy and the Business Tax Receipt is typically a week.
- She explained after the site plan has been approved, the proposed development shall be built in accordance with the approved site plan specifications. This comes from the Code not the Planning Department.
- The Civil Engineer should be advising his client this is the process.
- The development of the swales, laying of stabilization rock, planting of trees must occur.
- She presented the following for industrial sites: The site plan has been approved with conditions, building permits can be issued, a pre-construction meeting to discuss the process and if they will be using big trucks on City roads, what kind of tracking of materials.
- Construction must be started within 18 months of an approved site plan, then the Certificate of Occupancy can be issued.

- Each number on the site plan indicates different things in different places which needs to be done.
- She presented the following solutions: Alternative 1 – remove all of the stored vehicles and cease operations in the building. Unsure if they are currently operating in the building or not. Start construction and get a certificate of occupancy. Then the Business Tax Receipt can be issued. Finally, the site can be occupied with an active business.
- Alternative 2 – remove half of the stored vehicles and cease operations in the building. Start construction and move vehicles and equipment and get a certificate of occupancy. Then the Business Tax Receipt can be issued and the site can be occupied with an active business.
- They must move some of the vehicles to place stabilized rock on the site.
- If Mr. Fedovou intends to continue business then half the vehicles must be moved and construction started immediately.

Vice Chair Michelson asked if his business was across the street. Mr. Fedovou replied no, the business across the street is Garcia Motors a separate business. As was mentioned before we have several locations which are not all in West Melbourne.

Inspector Black asked if Mr. Fedovou was aware for every business within West Melbourne you need a Business Tax Receipt. Even if it is the same business just in a different location a Business Tax Receipt is needed for each location. Mr. Fedovou replied yes, which is why we applied for the Business Tax Receipt a year ago and are still waiting. We were initially told no Business Tax Receipt until the Site Plan was approved and now today we are told no Business Tax Receipt again.

Board member Palardy asked regarding the van conversion are all these cars currently on the lot being converted. Mr. Fedovou replied some will be converted and some will not.

Board member Palardy asked about auto repairing along with converting the vehicles. Mr. Fedovou replied sometimes we need to make repairs or service and hold the vehicle until it is moved to the mechanic shop where they can finish up the job. Some vehicles are just waiting on parts and other special-order parts.

Chair Gibbs asked according to what has been discussed today are you aware until all this is completed you are not to be working there. Mr. Fedovou replied work yes but keeping the vehicles while we are waiting is not really work. This is a place to store the vehicles which are inside the property, the stuff outside the fence does not belong to Budget Handicap Vans.

Inspector Black recommends finding the violations.

Board Member Shipton moved to find the violations. Board Member McGibany seconded, motion carried 5-0.



Inspector Black recommends granting 180 days to come into compliance then \$100/a day thereafter if not in compliance.

Board Member McGibany moved to grant 180 days to come into compliance then \$100/a day thereafter if not in compliance. Board Member Palardy seconded, motion carried 5-0.

## **6. NEW BUSINESS**

### **Case No. 2023-0011 Violation of Section 18-421. Conditions**

Code Enforcement Inspector Roy Black presented Case No. 2022-0011 for property located at 2155 Keystone Avenue and owned by New Eagle Holdings, LLC., et al.

Inspector Black have been sworn in testified:

1/12/2023 - Spoke with supervisor Ronel Mercado on site, who said the owners are in the Philippines and will return this Friday. She would pass along the information from my visit and asked him to please recontact.

1/18/2023 - Spoke with owner Ms. Mercado and she advised they have been in a battle with their insurance company and have retained a lawyer. I told her I would recheck periodically, but this cannot go on indefinitely.

3/2/2023 - Spoke with property owner via land line and got the same response and she will have her lawyer call me. Will ask Lisa to send Notice of Violation.

3/16/2023 - No call from lawyer as of yet

3/18/2023 - Please send Notice of Violation

3/22/2023 – Notice of Violation was mailed to the Property Owner, Occupant and the Registered Agent via certified and regular mail as request

3/31/2023 - Spoke with Ms. Mercado who said it is still in litigation

4/6/2023 - Received email from person representing themselves as the attorney and they requested an extension as they have reached or are reaching a settlement with the insurance. Agreed for 1-month postponement.

4/25/2023 – Certified mail returned "undeliverable" from Owner of Record

5/5/2023 - Per Roy - summons requested for May's Code Board hearing as no permit has been pulled. Mailed Summons for May's Code Board hearing to Property Owner, Occupant and Registered Agent as requested

5/11/2023 - Received email from respondent's attorney, Alejandra Ares, Esq. Attorney regarding the litigation's resolution was close. He responded regarding the case moving forward for Finding of Violation.

Inspector Black recited the following Ordinances regarding property maintenance:

- Code Section 18-421 - Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe and declared a public nuisance. For purposes of making the determination that any building, structure, or equipment is an unsafe building, structure, or equipment as defined above, the city shall apply the standards and requirements of the most current edition of the building, the Property Maintenance Code, and all other statutes, ordinances and laws regulating the construction of structures within the city.
- (Ord. No. 2011-23, § 2, 9-6-2011)
- Code Section 304.1.1(8) - Unsafe conditions - Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects.

Vice Chair Michelson asked if the building is vacant or are there people living in it. Inspector Black replied no it is not vacant. This was a house converted into an Assisted Living Facility. Vice Chair Michelson asked if there was a maintenance department. Inspector Black replied he did not know.

Ms. Irene Mercado, Manager for New Eagle Holdings LLC, 2155 Keystone Avenue, West Melbourne, FL 32904 have been sworn in testified:

- Her attorney advised on May 11, 2023 the insurance company has approved the settlement and now they are waiting on funding
- She has a signed contract with R & C Roofing to replace the roof.

Vice Chair Michelson stated so a building permit is needed. Inspector Black replied yes, the contractor needs to apply for a roof permit and once he sees the permit application he can then comply this case. However, we still need a finding of violation just in case there is no permit application.

Inspector Black recommends finding the violations.

Board Member Palardy moved to find the violations. Board Member Shipton seconded, motion carried 5-0.

Inspector Black recommends granting 30 days to apply for a permit then \$50/a day thereafter if not in compliance.

Board Member Shipton moved to grant 30 days to apply for a permit then \$50/a day thereafter if not in compliance. Board Member Bosch seconded, motion carried 5-0.

**Case No. 2023-0062**

**Violation of Section 18-178. – Work starting before permit issuance.**

Code Enforcement Inspector Camille Moore presented Case No. 2023-0062 for property located at 562 Lake Ashley Circle owned by Ms. Gabriella A. Frisella, et al.

Inspector Moore haven been sworn in testified:

- Requested tabling this case due to the submission of the application for Demolition.

**Case No. 2023-0074**

**Violation of Section 18-421. - Conditions**

Code Enforcement Inspector Camille Moore presented Case No. 2023-0074 for property located at 4185 W New Haven Avenue and owned by West Melbourne Center LLC., et al.

Inspector Moore haven been sworn in testified:

3/16/2023 – Received complaint referencing removing without replacement of oak tree and torn up sidewalk for over a year

3/17/2023 – Inspected and photographed; tree is gone and section of sidewalk in the NW corner has been removed. Met with Planning and Zoning who advised the tree removal was ok but the sidewalk needs to be replaced

3/22/2023 - Met with tenant in #11 (Luxe Furniture) to inquire if the bricks present were pavers being installed to replace sidewalk and he said no. Requested

Notice of Violation to be mailed with corrective action to replace sidewalk in the Northwest portion of the property

3/24/2023 – Notice of Violation was mailed to the Property Owner and Registered Agent via certified and regular mail as requested.

3/28/2023 – Received call from the property owner who advised the damaged sidewalk was new and he was going to replace it with grass

4/20/2023 – Re-inspected and photographed; no change. Requested Summons to be mailed.

4/26/2023 – Summons was mailed to the Property Owner and Registered Agent for the May 18, 2023 Code Board hearing as requested.

5/16/2023 – Re-inspected; no change

5/17/2023 – Property Owner called and indicated plan to install drain and replace sidewalk. Routed call to Planning and Zoning due to possible magnitude of changes to site. Meeting has been scheduled for May 23, 2023 with Planning and Zoning to discuss the plan. Asked property owner to follow up regarding planning changes and timeline. Advised property owner she would be seeking a finding of violation from the Code Enforcement Board and nothing further at upcoming meeting on May 18, 2023. Requested property owner to stay in contact.

Inspector Moore recommends finding the violations.

Board Member McGibany moved to find the violations. Board Member Palardy seconded, motion carried 5-0.

## **7. ADJOURNMENT**

There being no further business, hearing was adjourned at 6:13 pm.

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Chair Chris Gibbs or designee

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Lisa M. Pilsbury  
Recording Secretary