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Code Enforcement  
Police Department  
2290 Minton Road  
West Melbourne, FL 32904  
Phone: (321) 837-7793  
Fax: (321) 952-2857  
www.westmelbourne.gov

## CODE ENFORCEMENT BOARD

### MINUTES

JULY 20, 2023

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

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

#### 2. ROLL CALL

Present: Chair Chris Gibbs, Board Members Robert Luber, Linda Palardy, George Bosch and Kimberly McGibany.

Absent: Board Member Linda Palardy moved to excuse Vice Chair Sandra Michelson, Board Members Andrew Jones and James Shipton. Seconded by Board Member Robert Luber motion carried 4-0.

Also present: Council Member Diane Adams, Planning Director Christy Fischer, Commander Michelle Page, Code Enforcement Inspectors Roy Black and Camille Moore, City Attorney John Cary, Building Permit Technician Lisa Pilsbury, Code Enforcement Board Coordinators Nicole Tarry and Monica M. Diaz and other members of the public.

#### 3. ADOPTION OF THE MINUTES

Board Member Luber moved to approve the minutes from May 18, 2023. Seconded by Board Member Palardy motion carried 4-0.

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

Lisa Pilsbury swore in those presenting testimony.

## **5. OLD BUSINESS**

### **Case No. 20-0066**

#### **Order Releasing Lien for Violations**

#### **Sec. 2-94 – Emergency actions**

#### **Sec. 98-562 – Principal uses and structures**

#### **Sec. 98-565 – Prohibited uses and structures**

Code Enforcement Inspector Camille Moore presented Case number 2020-0066 for property located at 9075 Ellis Road and owned by Jason Wadsworth of Madison Holdings of Brevard, et al.

Inspector Moore haven been sworn in testified:

Reminded the Code Board back in November 19, 2020 they were found in violation and the Board imposed a lien total of \$1,000.00 for four days of burning after being ordered to cease all burning.

7/17/2023 – The owner paid the \$1,000.00 lien paid in full.

Inspector Moore recommends an order releasing the lien for violations on said property.

Board Member Luber moved to release the lien for violations. Board Member McGibany seconded; motion carried 4-0.

### **Case No. 21-0043**

#### **Violation of Section 98-1122. – Maintenance of walls and fences**

Code Enforcement Inspector Roy Black presented Case No. 2021-0043 for property located at 3009 Elizabeth Street and owned by Ms. Elizabeth Ann Maples, et al.

Inspector Black haven been sworn in testified:

Reminded the Code Board back in May, 2021 they were found in violation and granted 10 days to come into compliance. If not in compliance by May 30, 2021, then \$100 a day fine thereafter. Fines began May 30, 2021. Fines have now accumulated to \$78,100 as of July 20, 2023.

7/16/2021 - Spoke to a Robin Panicialo who states she represents Elizabeth and Rusty Maples due to their mental incapacitation. She was informed on the issues due to receiving the Notice of Violation.

7/11/2023 – Received email Elizabeth Maples had passed from Covid complications. Randy is still in a treatment facility in central Florida. The family has a realtor lock box on the house for viewing.

Inspector Black recommends order imposing a lien in the amount of \$78,100 on said property.

Inspector Black mentioned to the Board the passing of the owner and informed them he received notice in January 2023, that Elizabeth Maples had passed from Covid complications. Randy is still in a treatment facility in central Florida, and he is not listed on the deed. Inspector Black mentions the house maybe in a trust, and up for sale due to the lawn being cleaned up and a realtor lock box on the front door of the house.

Board Member Luber moved to impose a lien of \$78,100. Board Member McGibany seconded, motion carried 4-0.

## **6. NEW BUSINESS**

### **Case No. 2023-0062**

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

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

Inspector Moore has been sworn in testified:

- 03/08/2023 – Received email referencing unpermitted construction built along property line inside setback.
- 03/10/2023 – Inspect/photo; requested Notice of Violation for demolition of unpermitted construction per Building Official.
- 03/13/2023 – Spoke with property owner to schedule meeting.
- 03/15/2023 – Met with property owner and provided aerial photos indicating what must be taken down and advised to apply for demolition permit.
- 03/23/2023, 04/11-04/12, & 04/25 – Received voicemails from property owner referencing online trouble. Left voicemail with information. Emailed with information.
- 05/02/2023 – Inspect/photo; no change/permit app. Conferred with interim Building Official who agreed to Summons per original conditions (demolition required and permit after the fact for roof extension if composite).
- 05/16/2023 – Inspection; no change.
- 05/17/2023 – Property owner called inquiring about certified letter. Advised of Code Enforcement Board meeting information. Property owner stated she has roof composition documents and demolition permit application she will deliver on May 18, 2023 to Building Department and learn if Code Enforcement Board Meeting attendance necessary.
- 05/18/2023 – Property owner dropped off demo permit application.

- 05/22/2023 – Emailed property owner list of required changes to permit application and advised NOT to begin demo without permission.
- 06/01/2023 – Property owner requested list of changes resent; she verbally confirmed receipt before ending phone call.
- 07/10/2023 – Post Summons at site.
- 07/13/2023 – Property owner came to Police Department with a copy of Summons to ask about requirements and attendance due to surgery.

Board Member Luber requested to recuse himself due to personally knowing the Property Owner.

Board Member Palardy asked Inspector Moore if she thinks the property owner will have enough time to complete what is needed since she is having surgery.

Inspector Moore stated she is only asking for additional information and believes property owner should be able to accommodate just that. There is no request to have project approved or start work. Just the request for the information that has been asked for.

Board Member Luber confirms Mrs. Frisella did have surgery.

Inspector Moore states she does not feel Mrs. Frisella is being dishonest only that she is perhaps stalling due to the efforts gone into remodeling the property. However, those efforts were done without a permit, and needed to be done within code.

Inspector Moore recommends finding the violations.

Board Member Palardy moved to find the violations. Board Member Bosch seconded; motion carried 4-0.

Inspector Moore recommends granting 30 days to come into compliance then \$25.00 a day thereafter if not in compliance.

Board Member Palardy moved to grant 30 days to come into compliance by 8/21/2023 then \$25.00 a day thereafter if not in compliance. Board Member McGibany seconded; motion carried 4-0.

**Case No. 2023-0124**  
**Violation of Section 18-451. – Fence permit required**  
**Violation of Section 98-896. – Site plan**

Inspector Moore presented Case No. 2023-0124 for property located at 1220 S. Wickham Road owned by ACL Wickham Properties LLC., et al.

Inspector Moore haven been sworn in testified:

- 05/02/2023 – Received email from Planning and Zoning reference work without a Site Plan.
- 05/03/2023 – Met on site with project manager and advised they must stop work. During visit was informed the only work was finishing a fence. Advised him to apply for fence permit.
- 05/2023 – Emailing/calling with Project Manager.
- 05/30/2023 – Posted Notice of Violation & Summons on site for no Site Plan (asphalt millings laid down and multiple vehicles stored on site).
- 06/13/2023 – Reinspect/photo; site unchanged. Project Manager on site said Site Plan was complete and asked if it should wait until July Code Enforcement Board meeting. I advised ‘no’ if it is ready, it should be turned in as soon as possible.
- 07/07/2023 – Emailed signed Summons with request to acknowledge. He acknowledged receipt and distributed to 4 attendees.
- 07/18/2023 – Reinspect/photo; site unchanged.

Inspector Moore presented photographs explaining and showing the wooden fence and the vehicles on the site along the back of the property, and the asphalt millings. The yellow line shows where the new fence was built on the property which is owned by the same individual. The project is overlapping onto the residentially owner parcel.

Planning Director Fischer was sworn in and discussed how the property has been sitting vacant for years, once the property is not being used for many years it has to comply with today’s codes. Planning Director Fisher presented a photograph explain the property parcel and the size. Was explained to applicant the property needed to be brought up to today’s code. Presentation of the second slide show what was the active commercial site versus the residential site. A third slide is presented to show a graph of the steps for Development Requirements presented to all applicants of this site.

- Step 1 - Obtain site plan approval.
- Step 2 – Obtain building permits.
- Step 3 – Construct the parking driveways, pond, landscaping, etc.
- Step 4 – Obtain business tax receipt.

Planning Director Fisher states that none of these steps has taken place in regards to this property. This applicant never contacted the Planning Department to discuss what was needed to occupy the site. The fourth slide shown is a site plan example of the property back in 2018 that never came about.

Mike Hampton, Contractor, 3920 Ponderosa Road, Malabar, FL 32950 haven been sworn in and testified:

- Retained recently as the Contractor, and received today, July 20, 2023, the site plan from the engineer.
- Mr. Hampton states there was discussion on getting a fence permit, but was advised by the city to include the fence permit in the site plan instead of a separate fence permit.
- The plan is to introduce the site plan to the city through the proper channels.

Tony Castronovo, 2214 Woodlawn Circle, Melbourne, FL 32934 haven been sworn in and testified:

Mr. Tony Castronovo states the site plan has been under way for two months with an engineer he has been persistent with. He was not aware the projects he started were outside of code. He replaced a preexisting fence and cleaned up the front of the building. He spoke to Inspector Moore and stopped working on projects outside of code. Mr. Castronovo states he was working through the engineer, and listening to him, however he did not contact the city. He then corrects himself stating he had spoken to the city twice. One conversation pertained to the fence permit and submitting it. Second conversation was getting the site plan underway. He has since been working with the engineer to do so.

Inspector Moore recommends finding the violations.

Board Member Palardy moved to find the violations. Board Member Luber seconded; motion carried 4-0.

Inspector Moore recommends granting 14 days to come into compliance by 8/3/2023 then \$250.00 a day thereafter if not in compliance and to not resume activities without an approved site plan on the western side.

Board Member Palardy moved to grant 14 days to come into compliance by 8/3/2023 then \$250.00 a day thereafter if not in compliance and to not resume activities without an approved site plan on the western side. Board Member McGibany seconded; motion carried 4-0.

**Case No. 2023-0134**  
**Violation of Section 71-107. – Permit required**

Code Enforcement Inspector Camille Moore presented Case No. 2023-0134 for property located at 4325 W New Haven Avenue and owned by Investments AAB LLC., et al.

Inspector Moore haven been sworn in testified:

- 5/16/2023 – Received email from Planning & Zoning referencing tree removal.
- 5/17/2023 – Inspect/photo; large oak cut down. Arborist on site who advised he would be the local point of contact for the property owners.
- 6/13/2023 – Reinspect/photo; new trees planted. Sent summons to local point of contact to testify as to state of tree to get \$1,800 fine waived.

Kevin Tudor, Property Maintenance, 3198 Arden Circle Melbourne, FL 32934 haven been sworn in and testified:

Mr. Tudor discussed how the tree was dead and how part of the tree fell on the drive thru. He stated they were worried about the safety of others which is why they cut the remaining part of the tree down. They have since replaced the tree with two of the largest maple trees they could find.

Planning Director Fischer discussed how commercial businesses must notify the city prior to cutting down any tree. If there was a concern about the tree being dead and a safety issue, the company still has to contact the City to come out and review it prior to it being cut down.

Inspector Moore recommends finding the violations.

Board Member Luber moved to find the violations. Board Member Palardy seconded; motion carried 4-0.

Inspector Moore recommends waiving the \$1800 fine.

Board Member Luber moved to waive the \$1800 fine. Board Member Bosch seconded; motion carried 4-0.

**Case No. 2023-0160**

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

**Violation of Section 98-178. - Conditions**

Code Enforcement Inspector Camille Moore presented Case No. 2023-0160 for property located at 217 Buffett Lane and owned by Patrick Linn Ross II and Stacey Elizabeth Ross, et al.

Inspector Moore haven been sworn in testified:

- Accessory cases 23-0080 & 0138 – 185 McClain
  - Late March – Lot clearing debris (chipper broke down) property owner advised they would be bringing in fill dirt over the next few weeks and possible transient storage of items for delivery to 217 Buffet.
  - Early May – Debris removed and fill dirt being placed. Spoke with property owner about noise issue and she would limit work 0900-1700 weekends.
  - 05/23/2023 – Inspect/photo; large amount of dirt, numerous sandbags, vehicles, trailers, rolls of turf. Requested Notice of Violation and Summons

- since this is more than fill and “transient” storage; property owners own turf installation business.
- 05/31/2023 – Advised property owner there must be an approved Site Plan in place to conduct business at address.
- 06/01/2023 – Emailed property owner turf install using all the material from 185 McClain would require permission from Planning and Zoning and a permit from Building Department.
- Case F: 23-0160 – 217 Buffet Lane
- 06/01/2023 – Property owner indicated she had talked with Planning & Zoning ‘long ago’ about the project to ‘replace real grass with fake grass’ and was told no permission was needed.
  - Building Official had informed her in person that using all the material from 185 McClain would require permission/permit. I reiterated this via email.
  - Via email discussion, provided the number to Planning & Zoning for her to confer with that department about the magnitude of change the turf installation project.
  - Advised DO NOT begin turf install project without approval from Planning & Zoning and applying for a permit through the Building Department.
- 07/06/2023 – Inspect/photo; sandbags, fill dirt, turf rolls (on a trailer), and pallets of items all apparent on site.
- 07/10/2023 – Posted Notice of Violation and Summons on site.

Planning Director Fischer discussed the following regarding the properties located at 185 McClain Drive and 217 Buffet Lane:

- Size: 1.66 acres in the red shape
- Existing Use: single family but materials being stored – not typical construction remodeling materials
- Desired Use: replace living sod with AstroTurf
- Issue: Astroturf is like pavement and a retention pond will be needed
- Solution 1: Hire a civil engineer and design the sod replacement
- Solution 2: Remove the materials to an industrial zoned site in the city

State of Florida allowances in 2021:

- Secondary to the primary residential use
- Business owners must live there but can have a couple of employees
- Parking must comply with our single-family codes
- If more parking is needed, cannot continue business out of the home
- External view of the residence must remain residential – cannot look like a business
- Processes and operations that produce heat, noise, dust, glare, fumes or noxious odors.
- Retail transactions allowed but only inside the house

Patrick & Stacey Ross, Property Owners, 217 Buffett Lane West Melbourne, FL 32904 haven been sworn in testified:

Mr. & Mrs. Ross discussed how their home is losing part of the foundation because of the run off which is why they are bringing in all of the dirt. They stated they have spoken to



several engineers regarding the amount of dirt they have on the property. They are being told once the dirt is spread out it will not be enough for what they need for their projects. They discussed what their future plans are with all of the supplies they had delivered.

Inspector Moore believes two possible scenarios are occurring:

- Prohibited 'home business' activities storing equipment/supplies, accepting delivery of same.
  - April 2022 complaint rec'd/closed due to "installation of turf plan".
  - Active Business Tax Receipt for Legacy Sports Surfacing and LLC in Sunnis to address.
- Project without requisite permission/permit.

Code Inspector Moore recommends finding the violations.

Board Member Luber moved to find the violations; work started before permit was issued. Board Member Palardy seconded, motion carried 4-0.

Board Member Luber moved to grant 37 days to come into compliance then \$100.00 a day thereafter if not in compliance. Board Member Bosch seconded; motion carried 4-0.

## **7. ADJOURNMENT**

There being no further business, hearing was adjourned at 6:43 pm.