

**CODE ENFORCEMENT BOARD
MEETING
NOVEMBER 17, 2020**

MEMBERS PRESENT: John Chalifoux, Chairman
Henry Bauman, Nora Giardina,
Timothy Heggan, Carol Perry,
Paul Sacilotto, Edward Weiner

OTHERS PRESENT: City Attorney David Levin
Lisa Hannon, Zoning Official
David McCarty, Code Compliance Supervisor
Lavosia Price, Code Compliance Officer
Allen McDaniel, Code Compliance Officer
Nick Falkner, Code Compliance Officer
Terry Nichols, Executive Assistant
Matthew Jones

CALL TO ORDER/ANNOUNCEMENTS

- Mr. Chalifoux called the meeting to order at 9:00 a.m.
- A. Roll Call
- B. Next Scheduled Meeting
- 1. December 15, 2020

APPROVAL OF MINUTES

- A. October 28, 2020
- Mr. Weiner MOVED, Mr. Sacilotto SECONDED approval of the October 28, 2020, minutes.
MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- Recording Secretary Pues swore in all participants.
- A. 20-76175 - CODE COMPLIANCE OFFICER - ALLEN MCDANIEL
Respondents: Barbara A. McCollom, Estate & Beth A. McCollom, L/E
% Thomas R. McCollom, Personal Representative,
Address of Violation: 56 Ocean Drive
Violation of Chapter 26, Section 8.11 (a) Dirty Roof
- Mr. Chalifoux entered a plea of not guilty on behalf of the absent respondent.
- Mr. Allen McDaniel, Code Compliance Officer, displayed photographs of the subject property, located within City limits, stating an inspection on June 30, 2020, found more than 20% of the roof on the housing structure was not maintained to be free from dirt and/or mold. He reviewed the City's efforts to bring the property into compliance, noting inspections on October 26, 2020, and November 16, 2020, found the violation remained. He submitted an invoice for case costs incurred in the amount of \$20.97.

- Mr. Heggan MOVED, Mr. Bauman SECONDED the City had presented a prima facie case. MOTION CARRIED UNANIMOUSLY.
 - Mr. McDaniel verified the property was not currently occupied and both respondents were deceased and no contact had been with made with the personal representative.
 - Mr. Heggan MOVED, Ms. Perry SECONDED to find the respondent guilty, to issue a Cease and Desist Order for any future violations, to order the property be brought into compliance within 30 days and to require payment of case costs incurred in the amount of \$20.97 within 10 days, subject to a fine of \$250 per day plus applicable interest.
 - Mr. Weiner commented the property was in violation for more than thirty days.
 - VOTING AYE: Bauman, Chalifoux, Giardina, Heggan, Perry, Sacilotto.
 - VOTING NAY: Weiner.
 - MOTION CARRIED.
- B. 20-76119 - CODE COMPLIANCE OFFICER – ALLEN MCDANIEL
- Respondents: Paul E. & Elena M. Smith,
Address of Violation: 2301 Via Seville
Violation of Chapter 26, Section 8.11 (a) Dirty Roof
- Mr. McDaniel stated the property was in compliance and requested dismissal of this case.
 - Mr. Sacilotto MOVED, Mr. Bauman SECONDED to dismiss the case. MOTION CARRIED UNANIMOUSLY.
- C. 20-77736 - CODE COMPLIANCE OFFICER – NICK FALKNER
- Respondent: A Way Out Bail Bonds II, Inc.,
Address of Violation: 312 Mary Street
Violation of Chapter 9, Section 9-2 (h) Tall Grass/Weeds
- Mr. Matthew Jones, respondent, entered a plea of not guilty.
 - Mr. Nick Falkner, Code Compliance Officer, displayed photographs of the subject property, located within City limits, stating an inspection on October 13, 2020, found tall grass/weeds on the property. He reviewed the City’s efforts to bring the property into compliance, noting inspections on October 28, 2020, and November 16, 2020, found the violation remained. He requested a Cease and Desist Order for future violations and submitted an invoice for case costs incurred in the amount of \$16.26.
 - Mr. Chalifoux indicated the area in violation appeared to be a retention/detention pond, noting recent rainfall could have prevented the tall grass/weeds from being maintained.
 - Mr. Weiner pointed out the dates on the photographs indicated the respondent had enough time to come into compliance even if there had been recent rainfall.
 - Mr. Bauman MOVED, Ms. Perry SECONDED the City had presented a prima facie case.

- VOTING AYE: Bauman, Giardina, Heggan, Perry, Sacilotto.
- VOTING NAY: Chalifoux, Weiner.
- MOTION CARRIED.
- Mr. Jones expressed uncertainty whether he owned the portion of the property in violation (ditch), asserting the City had always maintained same. He verified a survey of the property was not completed and the City had confirmed there was no record of same on file. He stated there were orange stakes with reflectors previously bordering the ditch; however, they were now gone.
- City Attorney David Levin drew attention to the warranty deed as well as the Geographic Information System (GIS) map of the property, questioning whether Mr. Jones still believed the violation was not located on his property.
- Mr. Jones replied with uncertainty, noting he was informed the orange stakes represented his property line.
- City Attorney Levin inquired whether he understood the ditch might be on his property and whether he would be able to properly maintain same.
- Mr. Jones agreed to do so if same was proven to be part of his property, questioning the reason for the orange stakes when the City had confirmed a survey was not on file. He reiterated the City had always maintained the ditch and inquired as to what had changed.
- Mr. Chalifoux replied Mr. Jones was responsible for maintaining the ditch if same was determined to be on his property, recommending a survey be completed.
- Ms. Lisa Hannon, Zoning Official, explained the City could not verify whether the ditch was a retention pond, noting development on the property predated any Development Review Committee requirements or records the City might have.
- Mr. Chalifoux opined the GIS map was not reliable for determining property lines, reiterating a survey should be completed.
- Mr. Bauman verified Mr. Jones would have a survey completed within 30 days and questioned whether the case should be continued until same was obtained.
- City Attorney Levin explained there were issues which could occur if cases were continued every time a respondent disputed the boundaries of their property. He stated the GIS map presented prima facie evidence of the property lines and the City was permitted to base their decisions on same.
- Discussion ensued regarding the usage of GIS maps for determining property lines of properties in violation, with Mr. Jones confirming he would have a survey completed as soon as possible.

- Mr. Lavosia Price, Code Compliance Officer, noted the City might have ceased maintaining the property if it was determined the property was not part of the City Lot Mowing program.
- City Attorney Levin recommended the Board determine a violation occurred this date and allow the respondent until the next meeting to come into compliance. He stated the respondent could return to the Board with the survey as evidence the ditch was not part of his property or he could rely on the GIS map as evidence.
- Ms. Perry MOVED, Ms. Giardina SECONDED to find the respondent guilty, to issue a Cease & Desist Order for any future violations, to order the property be brought into compliance by December 14, 2020, and to require payment of case costs incurred in the amount of \$16.26 by December 14, 2020, subject to a fine of \$250 per day plus applicable interest.
- Mr. Chalifoux stated additional time might be needed if the respondent were to secure a survey as same could take time to process.
- Ms. Perry stated she would make that addendum to the motion.
- MOTION CARRIED UNANIMOUSLY.

UNFINISHED BUSINESS

A. HEARING IMPOSING PENALTY - 20-75985

CODE COMPLIANCE OFFICER – ALLEN MCDANIEL

Respondent: Monica Vallee, Trustee

Address of Violation: 3420 Bal Harbor Boulevard

Violation of Chapter 26, Section 3.13 (n) LP Tank, No Landscape Screening

- City Attorney Levin announced the City received a letter on October 2, 2020, from Mr. Norman Cardinale, who identified himself as the property owner and requested an informal hearing to resolve this matter. He then asked the Board to direct staff to respond to the letter with rules of procedures which prohibit informal hearings. He stated an additional letter was received on November 13, 2020, from Mr. Jason Lucas, attorney writing on behalf of Ms. Monica Vallee, requesting the case be continued so he could review same. He then recommended the Board grant the continuance to allow the respondents the ability to properly represent themselves.
- Mr. Bauman MOVED, Ms. Perry SECONDED to move the case to December 15, 2020, meeting. MOTION CARRIED UNANIMOUSLY.
- Consensus of the Board was to direct staff to respond to Mr. Cardinale's letter.

B. HEARING IMPOSING PENALTY - 20-75831

CODE COMPLIANCE OFFICER – LAVOSIA PRICE, JR.

Respondent: Zareh Michael Issakhanian

Address of Violation: 506 Showalter Avenue

Violation of Chapter 26, Section 8.11 (e) 1,2,3,4,5; Dead Tree and Violation of Chapter 9, Section 9-2 (h) Tall Grass and Weeds

- Mr. Price provided a brief history of the Compliance Order issued to the respondent on September 16, 2020. He then displayed photographs of the subject property, located within City limits, stating inspections on October 29, 2020, and November 16, 2020, found corrective action ordered by the Board had not been taken in that the dead tree along with tall grass/weeds around same remained on the property. He reviewed the City's efforts to bring the property into compliance, concluding the property remained in violation for 40 days and submitting an invoice for total case costs incurred in the amount of \$33.18.
 - Mr. Weiner verified the respondent's daughter had indicated they would attempt to bring the property into compliance on November 6, 2020.
 - Mr. Weiner MOVED, Mr. Bauman SECONDED to find the respondent in violation of the Compliance Order, to impose a fine of \$8,000, representing \$200 per day for 40 days plus applicable interest, with the fine continuing to run until the respondent came into compliance, and to require payment of total case costs incurred in the amount of \$33.18.
- MOTION CARRIED UNANIMOUSLY.

STAFF COMMENTS

- None.

COMMITTEE/BOARD COMMENTS

- None.

CITIZENS' COMMENTS

- None.

ADJOURNMENT

- Meeting Adjourned: 9:45 a.m.

John Chalifoux, Chairman

Leah Pues, Recording Secretary