



Code Compliance Board Regular Meeting Minutes

February 1, 2024 at 3:00 PM

City Hall Commission Chambers
401 S. Park Avenue

Present

Douglas Bond, Melissa Blaney, Paul Mandelkern, Steve Heller, Todd Boyer, Wayne Johnson

Deputy City Attorney Richard Geller

Staff Present

Building Official Gary Hiatt, Assistant Building Official Ashley Ong, Code Compliance Division Manager Susanne Porras, Code Compliance Officer Phillip Wade, Code Board Secretary Susan Pruchnicki

1. Call to Order

a. Roll Call

Roll was called, all board members are present.

b. Statement of Purpose

The Statement of Purpose was read by Chairperson Wayne Johnson.

2. Swearing in of Witnesses

Witnesses were sworn in by Board Secretary Susan Pruchnicki.

3. Consent Agenda

a. Approve the minutes of the January 4, 2024 Regular Meeting

One name correction was requested in the minutes from January 4, 2024. A motion to approve the amended minutes was made by Board Member Paul Mandelkern, and seconded by Vice Chair Todd Boyer. The motion passed by a 6-0 vote.

4. Public Comments (for items not on the agenda): Three minutes allowed for each speaker

No Comments

5. Public Hearings (Public participation and comment on these matters must be in person.)

- a. CCB# - BLDG-23-0008 2661 VIA TUSCANY, WINTER PARK, FL 32789
(MASSEY HEARING)

Code Compliance Division Manager Susanne Porras introduced herself, then proceeded with her presentation of the case. This is a Massey Hearing. A history of the previous case presented to the Board on September 7, 2023, was outlined. The respondent came into compliance where the fencing was concerned. Today's presentation is regarding the pool installation. Permit information from the Building Department showing the inspection failed, and photos from the most recent inspection were presented.

Two mailed notices to the respondent's address of record were returned as undeliverable (regular mail), and unclaimed (certified mail) by the United States Postal Service. Hand Delivery of the Notice of Hearing was attempted by Officer Porras. No one was present at the respondent's office, so the notice was placed in the door frame with Officer Porras' business card, as evidenced by a photograph.

The latest report from the City of Winter Park Building and Permitting Division notes that all permits have expired.

Mr. Mandelkern inquired about work left on the pool structure. Officer Porras noted it was complete, but it was done without a permit. Gary Hiatt, Chief Building Official for the city, stepped to the podium and stated that the respondent was to reinstate the pool permit and get the required final inspections per the previously issued board order (September, 7, 2023), but did neither.

Ms. Blaney inquired about the comments from the Engineering Department. Mr. Hiatt responded that he is not aware and that Engineering is not within his realm. The respondent has an expired permit sitting there with no action.

Mr. Heller noted that the mailed notices were not received. Officer Porras noted that the property was posted as evidenced in the photos presented in addition to all the notices provided. She also noted there were workers on the site today. Mr. Hiatt stated that a Certificate of Occupancy had not yet been issued for the house on the property.

Ms. Blaney inquired if there were any other failed inspections, or just for the pool. Mr. Hiatt responded that the respondent would get their messages out of the system, and that the building final could not be scheduled until all other departments are cleared.

Mr. Johnson confirmed that there were no further questions from the board for Officer Porras or Mr. Hiatt. He then recognized that no one appeared on behalf of the respondent, but asked Officer Porras to check outside of chambers to see if anyone had arrived. She did; no one was there.

Barry Render of 2630 Via Tuscany, Winter Park, FL 32789, and Nancy Freeman of 1055 Tuscany Place, Winter Park, FL 32789 were sworn in. Mr. Render testified that he has been watching this project for five years, and attended the December, 2022 board meeting where the respondent stated that all construction on the property was to be finished in January, 2023. His main concern is that the property is an eyesore with a dumpster still parked on site, no workers had been present in weeks, and that the pool area appeared to be accessible from their vantage point, which posed safety hazards. Mr. Heller then asked Officer Porras if fencing was in place. Officer Porras confirmed with photos in her presentation that there is fencing installed around the pool.

The Board went into closed session. Mr. Heller and Ms. Blaney noted that all construction should be to the current code, not what was in place when construction started. Officer Porras noted that communication with the respondent was attempted multiple times without response.

Mr. Mandelkern asked Assistant City Attorney J. Giffin Chumley about action to be taken by the Code Board. Mr. Chumley stated they are to determine if the respondent came into compliance as per the Findings of Fact issued September 7, 2023. This hearing is an opportunity for the respondent to appear before the board to explain why compliance has not been attained, however, no one is in attendance to speak on their behalf.

Mr. Boyer asked for clarification on the imposition of fines. Was the board changing the fine amount, imposing the fines from the original hearing, changing the fines, or adding more fines?

With no further discussion, a motion was made by Board Member Paul Mandelkern:

From the evidence presented today, I move to issue an Order finding the Respondents, Developer and Builder Group, LLC, owners of 2661 Via Tuscany, Winter Park, Florida (the "Subject Property"), in violation of the Order issued by the City's Code Compliance Board, dated September 7, 2023.

On September 7, 2023, this Board ordered the Respondent to: Submit a new permit application for the pool structure to demonstrate compliance with current regulations and to address the comments made in 2021 within seven (7) days of the hearing date.

The Board further ordered respondents to contact the Building Department and the Safety & Code Compliance Officer and provide documentation of action taken by September 15th, 2023.

The Board further ordered the Respondents to "contact the Building Department and the Safety & Code Compliance Officer and provide documentation of action taken by September 15, 2023.

As of the date of today's hearing, February 1st, 2024, the Board finds by a preponderance of the evidence:

(1) The Respondents **have not** submitted a new permit application for the pool structure to demonstrate compliance with current regulations, to address the comments made in 2021, and that the previously obtained permit is now expired.

The Board finds that the Respondent received all required notices of the September 7, 2023, Order and of this hearing in accordance with Section 2-109 of the City Code, and was given a full and fair opportunity to be heard.

(2) In accordance with the requirements of *Massey v. Charlotte County*, 842 So. 2d 142 (Fla. 2d DCA 2003), the board hereby assesses a fine against Respondent in the sum of \$250.00 per day, per violation, running from September 15, 2023 [the date established for compliance, seven days after September 7, 2023]. In determining the amount of the fine, in accordance with Section 2-107 of the City Code and Florida Statutes § 162.09, the Board considered the gravity of the violations, any actions taken by the violator to correct the violation[s]; and any previous violations committed by the violator.

The lien recorded in connection with the order shall constitute a lien against any real or personal property owned by the violator.

The motion was seconded by Board Member Steve Heller. The motion passed by a 6-0 vote.

6. Non-Action Items

No items were presented.

7. Staff Updates

No staff updates.

8. Board Attorney Reports

Discussion regarding the 6 Isle of Sicily property and what the city can do to enforce the lien or foreclose on the property.

9. Board Comments

No additional comments

10. Upcoming Agenda Items

Officer Porras noted that there are currently three cases on the docket for March.

11. Adjournment

Board Member Melissa Blaney motioned to adjourn the meeting, seconded by Board Member Douglas Bond. The motion passed with a 6-0 vote.

ATTEST:

Approved by the board on March 7, 2024

Susan Pruchnicki

/s/ Susan Pruchnicki, Board Secretary