



Code Compliance Board Regular Meeting Minutes

November 7, 2024 at 3:00 PM

City Hall Commission Chambers
401 S. Park Avenue

Present

Douglas Bond, Melissa Blaney, Paul Mandelkern, Wayne Johnson, Steve Heller, Carlos Diez-Arguelles

Absent;

Tim Cordle

Legal Representation

Deputy City Attorney Richard Geller

Staff Present

Chief Building Official Gary Hiatt, Asst. Building Official Ashley Ong, Code Compliance Division Manager Susanne Porras, Code Compliance Officer Christina Busch, Code Compliance Officer Phillip Wade; Board Secretary Susan Pruchnicki

1. Call to Order

The meeting was called to order at 3:00 PM.

- a. Roll Call
- b. Board President Wayne Johnson read the Statement of Purpose

2. Swearing in of Witnesses

Witnesses were sworn in by Board Secretary Susan Pruchnicki.

3. Consent Agenda

- a. Approve the minutes of the September 5, 2024 Regular Meeting

Board Member Paul Mandelkern made a motion to approve the minutes as presented. Steve Heller seconded. Motion passed unanimously, 6-0.

- b. Appointment of a new Vice Chair.

Board Member Douglas Bond nominated Board Member Paul Mandelkern to fill the position of Vice Chair. Board Member Melissa Blaney seconded. Mr. Mandelkern accepted the nomination. The motion passed unanimously, 6-0.

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

There were no public comments.

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

- a. **CCB#-LDC-24-0366 (1030 Early Avenue, Winter Park, FL 32789)**

Violation Description: Boat and trailer parked and/or stored on the driveway of the property in plain view from the public right of way.

Codes Cited: Chapter 58, Section 58-71 (f) (1) Boats, Trailers, and Recreational Vehicles of the City of Winter Park Land Development Code.

Compliance Requirements: Cease parking of boat and trailer for more than 24 hours or store it out of the view of public right of way and/or adjacent neighboring properties.

Code Compliance Officer Phillip Wade identified himself, and presented documentation of the property location, zoning, and ownership as verified per Orange County official records. He stated that the violation was self-observed. Notices of Violation and Hearing were issued by regular and certified mail, and posted on the property and at City Hall to meet Florida Statute Chapter 162 due process requirements.

Officer Wade Presented photos and a timeline of inspections beginning August 12, 2024. Follow-up inspections were performed on August 13, 2024, August 14, 2024, August 21, 2024, and August 23, 2024. On August 27, 2024, the Notice of Violation was posted on the property and mailed. Follow-up inspections were conducted on August 30, 2024, September 4, 2024, and September 6, 2024; the boat and trailer remained parked and stored in the driveway. A Notice of Hearing was posted on the property and mailed September 6, 2024. Follow-up inspections were completed on September 14, 2024, September 18, 2024, September 24, 2024, September 25, 2024, September 28, 2024, October 2, 2024, October 11, 2024, October 18, 2024, October 24, 2024, and October 31, 2024. The boat and trailer remained parked and stored in the driveway at each inspection. An inspection was completed today, November 7, 2024. The boat and trailer remained parked in the driveway.

Paul Mandelkern asked Officer Wade if he had spoken with the Respondent. Officer Wade said yes, on September 6, 2024, and that the Respondent stated that he would move the boat and trailer into his back yard, so I agreed to work with him and allow time for him to move them. Officer Wade returned to perform another follow-up inspection and the boat and trailer remained parked in the driveway. At that time, the Respondent complained to Officer Wade about his neighbor having an illegal fence up in the back. Officer Wade requested that the neighbor remove the fence, which the neighbor did, however the boat and trailer were not moved.

Wayne Johnson inquired if there were any other conversations with the property owner. Officer Wade stated yes, that the Respondent stated there were some green pipes that the neighbor left in the ground. Officer Wade visited the neighboring property but did not find the pipes mentioned. The boat and trailer remained in the driveway.

The Respondent approached the podium. Wayne Johnson informed him that he had ten minutes to address the Board. David Hmielewski introduced himself and confirmed his address as being 1030 Early Way, Winter Park, FL 32789. Mr. Hmielewski confirmed that Officer Wade had visited his property, but that his report was somewhat inaccurate. Mr. Hmielewski stated that the boat and trailer had been moved, that he took the boat to have upholstery work done on it, and that he had taken it to the Fairview Marina, where he had an expired storage lease. Mr. Hmielewski confirmed the conversation with Officer Wade about the neighbors' illegal fence, which was constructed of chicken wire and not quite "pipes", but u-shaped structural fence posts to hold the wire. When the fence was erected it blocked where the Respondent normally parked the boat and trailer, on the basketball court in his back yard. He stated that he made complaints to code enforcement and the building department over a six to nine-month period about the fence being installed without a permit, but no action was taken. Officer Wade did speak with the neighbor who installed the fence, and the chicken wire was clipped and pulled from the brackets but there was still four to six inches of the brackets protruding from the ground. Mr. Hmielewski stated if he backed the boat trailer over them it would have damaged the tires, which he communicated to Officer Wade.

Mr. Hmielewski stated that he and Officer Wade remained in decent communication. The notices were received by mail and posted in the yard, and Officer Wade and Officer Porras came to his door last week with a police officer. While not relevant to this case, the police officer stated that they were informed that there was a convicted felon in possession of a fire arm, which was not true. He was cleared and his firearm was returned. The Respondent stated that he filed a complaint with the Police Department. Initially, no one would tell him who made the claim about his being a convicted felon. A Detective called him back later and told him that Code Enforcement told the Department that they made a mistake and apologized.

Mr. Hmielewski stated that after he removed the remaining fence structure in order to move his boat and trailer to the back yard, trees fell as a result of one of the recent hurricanes. He stated that he spent several weeks cutting up the fallen trees, and offered photo evidence that as of today, the boat and trailer are no longer in the driveway. Mr. Hmielewski offered that he tried to comply, that he didn't understand that he was in violation of a code, but at this time the boat and trailer are stored in his back yard.

Wayne Johnson asked Mr. Hmielewski to confirm that "as of this morning" he was in compliance, however, the photo taken today by Officer Wade shows a time stamp of 13:05, which is 1:05 PM. Mr. Hmielewski stated that the photo he presented was taken somewhere between 11:30 AM and 12:00 Noon.

Mr. Johnson asked about the situation with the neighbor's fence, that it was the reason the boat and trailer could not be moved. He asked the Respondent if the fence was installed on his property. Mr. Hmielewski stated that the neighbor leases that property, and that there is a gravel drive between the properties. He noted that he has a six-foot wood fence that goes halfway back to the lake, and the neighbor attached his chicken wire fence to it which ran down to the lake. There was no egress around it.

Steve Heller confirmed with Mr. Hmielewski that currently there is nothing impeding the back of the property. Mr. Johnson requested that Mr. Hmielewski provide the photo he brought be given to Officer Wade for the Board's review and then be entered as evidence in the case.

Mr. Bond confirmed with the Respondent that in the future there would be no problems backing the boat into the back yard. Mr. Hmielewski asked for clarification on the code on how long the boat and trailer could be in the driveway. Mr. Johnson asked how large the boat was. Mr. Hmielewski stated 18 feet.

Board Discussion:

Paul Mandelkern asked Officer Wade to confirm the time the photo in his presentation was taken. Officer Wade stated 1:05 PM. Officer Wade provided a hard copy of the photo for the Board's inspection.

Wayne Johnson noted that the remaining conflict was when the Respondents' photo was taken. The respondent offered that his photo could have been taken later than he thought, it was taken before he came to the hearing. Mr. Johnson suggested that the Board offer two – three days to ensure compliance and for a follow-up inspection to be completed, then asked for comments from the Board.

Melissa Blaney reiterated Mr. Hmielewski's inquiry about the timeframe allowed within the code for his boat and trailer to be in his driveway. The code states 24 hours, and inquired if the Code Officer could inspect the property again today to confirm that the boat and trailer have been moved.

Mr. Mandelkern was reminded by Mr. Geller to use the microphone so that his input could be heard and recorded. That said, Mr. Mandelkern stated that it is not the place of the Board to interpret the code or advise the property owner what he can or cannot do; he needs to work that out with the Code Officer. The Board's responsibility is to adjudicate the case brought before us, not to give out advice.

Mr. Johnson added that Ms. Blaney is asking if the city can do an inspection within 24 hours. Mr. Bond offered input that was not recorded. Mr. Heller added that the Respondent has confirmed that the obstruction in the back yard is gone, so there is no reason for him to be in violation in the future.

Motion:

Wayne Johnson made the following motion:

From the evidence presented today, I move to find the Respondent, David Hmielewski, Compliance Board Case #LDC-24-0366, owner of 1030 Early Avenue, Winter Park, FL 32789 currently in compliance with Chapter 58, Section 58-71 (f)(1) Boats, Trailers, and Recreational Vehicles of the City of Winter Park Land Development Code.

The respondent has been properly notified per regular and certified mail and posting to satisfy Florida Statutes Chapter 162 and City Code section 2-109 due process requirements.

The Respondent is ordered to cease parking of the boat and trailer for more than 24 hours or store it out of the view of the public right of way and/or adjacent neighboring properties within one day of the hearing date. Failure to comply with this order will result in fines of \$250 per day for each day the violation continues. The Respondent is further ordered to contact the City Safety & Code Compliance Officer and provide documentation of action taken by November 12, 2024.

Deputy City Attorney Rick Geller suggested that the motion be amended to read "*The Respondent is ordered to cease parking of the boat and trailer for more than 24 hours in any seven-day period*".

Amended Motion:

Wayne Johnson made the following Amended Motion:

From the evidence presented today, I move to find the Respondent, David Hmielewski, Compliance Board Case #LDC-24-0366, owner of 1030 Early Avenue, Winter Park, FL 32789 currently in compliance with Chapter 58, Section 58-71 (f) and (1) Boats, Trailers, and Recreational Vehicles of the City of Winter Park Land Development Code.

The respondent has been properly notified per regular and certified mail and posting to satisfy Florida Statutes Chapter 162 and City Code section 2-109 due process requirements.

The Respondent is ordered to cease parking of the boat and trailer for more than 24 hours in any seven-day period or store it out of the view of the public right of way and/or adjacent neighboring properties within one day of the hearing date. Failure to comply with this order will result in fines of \$250 per day for each day the violation continues. The Respondent is further ordered to contact the City Safety & Code Compliance Officer and provide documentation of action taken by November 12, 2024.

Motion seconded by Doug Bond, and passed unanimously with a 6-0 vote.

Following the motion, Mr. Hmielewski asked the Board if he would be required to take another picture showing the boat and trailer were not in the driveway and provide it to Officer Wade. Mr. Johnson responded yes, on Monday or Tuesday.

b. CCB# - PM-24-0116, 631 Depugh Street, Winter Park, FL 32789

Violation: Windows and doors boarded up exceeding the 60 days that the city code allows. Broken windows and doors constituting hazardous conditions and inviting trespassers and malicious mischief.

Code(s) Cited: Chapter 22 Section 22-176 (adopting the IPMC 2021 edition), 22-177 (amending the IPMC), Sec. 108.9 Vacant Buildings, 202 (1), (2), (13), (21) Nuisance and 304.13 Windows, Skylight, and Door Frames of the International Property Maintenance Code.

Compliance Requirements: Remove boards from all windows and doors. Repair and or replace all broken windows and doors.

Code Compliance Officer Phillip Wade identified himself, and presented documentation of the property location, zoning, and ownership as verified per Orange County official records. He stated that the violation was self-observed. Notices of Violation and Hearing were issued by regular and certified mail, and posted on the property and at City Hall, and Hand Delivered to meet Florida Statute Chapter 162 due process requirements.

The initial inspection was conducted on June 24, 2024 where the door in the carport was observed as being damaged and boarded up. Follow up inspections were conducted on July 9, 2024, and July 18, 2024; no improvement was observed. A follow up inspection on August 2, 2024 found no repairs to the door. While conducting an inspection on a neighboring property the same day, Officer Wade noted that he noticed the door on the back of the property at 631 Depugh St. was also boarded up.

Follow up inspections were conducted on August 12, 2024, August 15, 2024, August 23, 2024, August 30, 2024, September 4, 2024, September 6, 2024, and September 12, 2024. No repairs had been made to the carport door or the rear door to the property. The Notice of Violation and Notice of Hearing were posted on the property September 12, 2024.

Follow up inspections were conducted on September 19, 2024 and September 23, 2024; no repairs were observed. An Amended Notice of Hearing was posted on September 24, 2024. Follow up inspections were conducted on September 27, 2024, October 4, 2024, October 11, 2024, October 17, 2024 and October 24, 2024; the doors remained boarded up.

Officer Wade presented a screenshot of a permit search conducted on October 24, 2024; no permit was found for the property. Follow up inspections were conducted October 30, 2024, and today, November 7, 2024, photos show that both doors remain boarded up.

Mr. Johnson asked Officer Wade if there were working utilities at the property; Officer Wade responded he did not know. Mr. Bond inquired if the boards were painted to match the house, if that would be acceptable to correct the violation, and if the grass on the property was an issue. Officer Wade responded no. Mr. Mandelkern confirmed with Officer Wade that the violation is because the doors remained boarded up for more than 60 days. Officer Wade also noted that only the Building Official can approve a longer period of time for the boards to remain.

Mr. Bond asked a question that was not heard on the recording. Officer Wade responded that he has spoken with Ms. Price, and she stated that she did not want to make the repairs because there are plans for other renovations to be done in the future, and she did not want to pay for the repairs twice.

Mr. Johnson confirmed with Officer Wade that there is no one currently living at the property. Mr. Mandelkern confirmed with Officer Wade that the violation was self-observed, not reported.

Mr. Troy Gualandi, General Manager of Skolfield Homes, LLC approached the podium and introduced himself. Mr. Gualandi stated that he has worked for Kelly L. Price for two decades, and that Ms. Price contacted him about this violation a couple of weeks ago so they met to discuss.

Mr. Gualandi offered to Mr. Bond's question about painting the boards, that he asked the same question. He would offer to paint them only as a temporary fix today, as Ms. Price plans to remodel the house at some point, and has extensive work to do. He also confirmed to Mr. Johnson that the utilities for the property are on. His proposal is to apply for a permit to frame out the two openings, remove the existing doors, and paint to match the existing house color. This would allow Ms. Price time to get her financing in order and get permitting to complete the renovation. He asked the Board if this would be acceptable.

Kelly L. Price, owner of 631 Depugh Street, spoke to thank everyone for being there, and to thank Officer Wade for his patience. She mentioned that there have been several code violations brought forth for this property. She stated that this property is in the pipeline for renovation, that it is a very expensive renovation because of the time, everything is more expensive. She also reminded the Board that this house is contiguous to Ms. Rosetta's home on Swoope Ave (directly behind her property), where there were four years of police violations and SWAT Teams, attempted murders and prostitution. Ms. Price stated the people that were residing at the Swoope property broke in to the back door of her property, it was boarded up to prevent anyone from entering the property. Approximately four months later they broke the door in the carport; an emergency call to Skolfield Homes was made to secure the opening to prevent any more vandalism. She reminded the Board that she had violations for high grass, caused as a result of her landscaper moving, and for the trash bins being visible from the right of way, which she had the city pick up. She mentioned there were hundreds of houses in the neighborhood where the cans were visible. Now she is being enforced because of the plywood securing the property, which is why Mr. Gualandi was asked to be present.

Ms. Price stated that she is not trying to be a bad citizen, but that she doesn't want to spend hundreds, maybe thousands of dollars because the neighbors broke into the property, and because the property is part of an overhaul. She described the property as a two-bedroom, one bath that she has already purchased and had a new kitchen made for. She had TECO cap off the natural gas, and the lawn is being mowed weekly. She stated she visits the property every week. Although the plans are extensive, the house will not be torn down. She stated it could be applied for its historic value, that she wants to keep some smaller houses in the neighborhood. She renovates them to try and keep some of the Winter Park feel. She stated that she really doesn't want to battle with the city, that she really wants to work with them; I want them to understand that. She stated that she has talked with Officer Wade and with Officer Porras. She mentioned that the officers came by her home, but that she is never there. She said the officers did speak with her husband, who was home with their dogs and sick with COVID. She was surprised by the visit to her home, and offered that the officers could visit her at her place of business.

Ms. Price again stated that she doesn't want to fight with the city, and apologized for the delay in the renovation project; that's why she asked Mr. Gualandi from Skolfield Homes to be at the hearing to help find a band-aid for the violation that is acceptable. She noted this repair would be removed in approximately six months. She mentioned that the home was damaged by Hurricane Helene and needs a new roof, which has set back the renovation schedule. She mentioned that Tip Top Roofing will be applying for the permit to replace the roof, which will cost \$10,000 to \$15,000. Ms. Price stated that she tries to do everything right, that the renovation probably run in the six figures. She wasn't complaining, just doesn't want to waste money.

Mr. Gualandi added that with approval from the Building Department if his proposal was an acceptable temporary fix to Code Compliance that he could have the work completed within 10 days. Mr. Johnson noted that a permit would be required but no permit had been applied for. Mr. Gualandi stated that no permit has been pulled because there are no plans for the renovation yet, and that he would discuss the work to be done with CBO Gary Hiatt about the requirements for the temporary fix and then apply for the permit.

Ms. Price added that it was too bad that she was the recipient of damage at the hand of others who lived on the property behind her house, noted that she had Police reports documenting the break-ins. She reminded the Board of the extension cord she provided at a previous meeting as evidence that the people living in the house next door were using to steal electricity from her property.

Mr. Johnson asked Ms. Price if the home was vacant. She said yes, that the interior demolition work had been completed when dry wood termites were discovered. She had the house tented, and then the Hurricane came and damaged the roof, so her timeline to complete the renovation has gone backwards. The new kitchen has been designed, ordered, and is sitting in a warehouse.

Melissa Blaney asked Ms. Price if she thought the renovation permits would be filed within the calendar year. Ms. Price responded yes, that part of the challenges with the project are that the contractor is very busy and everything is so expensive. Ms. Blaney asked if the project would take 2-3 years. Ms. Price replied no, that she is losing income, that it is in a good location and she only rents to reputable people.

Mr. Johnson asked Chief Building Official Gary Hiatt about the section violations and permitting. Mr. Hiatt responded that the permit is not for the boarded buildings, that it refers to the less than 60 days if its painted; this has been ongoing since June. Mr. Hiatt acknowledged that Mr. Gualandi could apply for the permit within ten days, which is agreeable, and then show an effort to move forward to date because this has been going on so long; to date we haven't seen that effort. Mr. Hiatt recognized that Renata Minoga, Permitting Manager for the City, was in the audience, and recommended Mr. Gualandi speak with her about what is necessary to put into the permit application system.

Board Discussion:

Doug Bond asked Gary Hiatt about framing and painting the openings. Mr. Hiatt responded that when the permit is applied for it will be reviewed for code compliance, whether doors are required, exterior treatment, etc., and make sure the proper materials are used to be code compliant.

Mr. Johnson noted the he was looking at the violation section in the Board packet, and read that exterior walls and all boards used to enclose the building must be neatly fitted within window and door openings, and must be painted to blend in with the rest of the building, which seemed to be the question Mr. Bond was asking. Mr. Bond recognized that Mr. Gualandi knows what the sufficient manner is because he has 20 years of experience.

Mr. Bond then asked that the permit needed to be filed within ten days of the hearing. Ms. Blaney responded that Mr. Hiatt said the permit is required. Mr. Hiatt noted that once a permit is issued it is good for months, and the city doesn't want the property sitting waiting for the work to start. Mr. Johnson suggested providing 7- 10 days, more or less from the issuance of the permit, depending on the Board's view, to complete the repair. Mr. Hiatt felt more time could be given to complete the work, and suggested a deadline of December 31, 2024.

Mr. Johnson noted that there were three violations listed for the property. He did not feel that the boarded doors met the definition of nuisance. He agreed to the violation about boarding up, but not of nuisance. He read the nuisance definitions. Mr. Heller agreed with the “unsightly” portion, but that the violation is more cosmetic.

Mr. Johnson then read the violation for windows, skylights, and door frames, and stated that in his opinion this violation did not apply to the case if the openings are boarded up.

Mr. Johnson suggested that a motion should include submitting a permit application and the corrections be tied to the permit, because if the permit is denied, they will still have time to correct the violation.

Gary Hiatt responded to Mr. Johnson, noting the conversation with Mr. Gualandi from Skolfield Homes, that there is another alternative. Mr. Hiatt requested the language “apply for a permit or an approved alternative to the correction” be included. He added that some ideas discussed may not require a permit.

Mr. Heller asked Mr. Hiatt if the repair made as code complaint, should a timeframe be determined to replace the doors, or if the repair can remain indefinitely. Mr. Hiatt responded that it would be best to put a timeframe on it to ensure it gets done in a timely manner. Mr. Hiatt still remained concerned that this has gone on since June, however, he anticipates very quick action in getting it resolved.

Mr. Johnson asked if the timeframe should mirror a regular case, where 30 days would be provided to correct the violation and provide proof to the city for a follow-up inspection to be completed. Ms. Blaney asked Mr. Johnson to repeat his statement, which he did.

Motion:

Melissa Blaney offered the following motion:

From the evidence presented today, I move to find the Respondent, Kelly L. Price, Compliance Board Case #PM-24-0116, owner of 631 Depugh St., Winter Park, FL 32789, in violation of Chapter 22, Sections 22-176 (adopting the IMPC), 22-177 (amending the IPMC), and Section 108.9 Vacant Buildings (boarding up) of the City of Winter Park International Property Maintenance Code as adopted and amended.

The Respondent has been properly notified per regular and certified mail and posting to satisfy Florida Statutes Chapter 162 and City Code Section 2-109 due process requirements.

The Respondent is ordered to provide the city a permit application with code compliant repair or acceptable alternative within seven days. Repair or replace all broken windows and doors within 30 days of the receipt of permit. Failure to comply with this order will result fines of up to \$250.00 per day for each day the violation continues. The Respondent is further ordered to contact the City Safety & Code Compliance Officer and provide documentation of action taken by December 31, 2024.

Mr. Heller asked for clarification on the timeframes included in the motion. Ms. Blaney noted that Mr. Hiatt wanted to make sure that once the permit was issued it's not open-ended to where they could take two, three, or four months to complete the work.

Mr. Heller asked Mr. Hiatt to clarify, which he did. Ms. Blaney asked about an extension of the completion date; Mr. Hiatt confirmed that the timeframe and dates Ms. Blaney offered in her motion were acceptable.

Steve Heller seconded the motion. Motion passed unanimously, 6-0.

CCB# PM-24-0016, 820 W. Webster Ave, Winter Park, FL 32789. MASSEY HEARING

Violation: Severe conditions causing appreciable harm or material detriment to the aesthetic and/or property values of surrounding properties. Dilapidated wood fence surrounding the property is not structurally sound and is in need of repair. Unsightly discarded articles, white trash bags, debris, broken bicycles, grill, lawn mower, plastic containers, lawn equipment, leaf blower, trash cans, black trash bags trolley, wheel barrow, ladder, generator, crate, gas canister, vacuum, metal boxes, white cover, tarp, and car parts were stored on the property in plain view of the right of way and/or adjacent properties.

Codes Cited: Chapter 22, Sections 22-176 (adopting the International Property Maintenance Code, 2021 edition), 22-177 (amending the International Property Maintenance Code), Sections 202 (1), (2), (14) (b), (c) (16), (18) Nuisance, Section 302.7 Dilapidated Fences, Section 302.1 Sanitation & Storage of materials of the International Property Maintenance Code.

Compliance Requirements: Repair and/or replace dilapidated fencing. Remove unsightly discarded articles out of plain view from the public right-of-way and adjacent neighboring properties.

Code Compliance Officer Phillip Wade identified himself, and stated that he was presenting an Affidavit of Non-Compliance for the case. The case was first presented on August 1, 2024, and the property owner, Willie J. Clark, was found in violation and was ordered to (a) repair or replace the dilapidated fence and remove all debris, and (b) move all unsightly discarded articles so they are not in plain view of the right of way and adjacent neighboring properties within 30 days of the hearing date. Failure to comply with the order will result in fines of \$250 per day per violation for each day the violation continues. The Respondent is further ordered to contact the City Safety & Compliance Officer and provide documentation of action taken to bring the subject property into compliance by August 31, 2024.

The city provided proper notice of this Massey hearing by posting to the property, at City Hall, and by certified mail and hand delivery to meet Florida Statute 162 due process requirements.

Reinspections of the property were performed on September 4, 2024, September 6, 2024, September 14, 2024, September 20, 2024, October 3, 2024, October 4, 2024, October 11, 2024, October 18, 2024, October 24, 2024, October 31, 2024, and November 7, 2024.

Officer Wade presented photos taken during his reinspections as accurate representation of the property at issue. Unsightly articles remained, and although some repairs had been made to the fence a full panel was still missing.

Mr. Mandelkern asked Officer Wade if he could tell from his inspections if any clean-up was done since the August hearing. Officer Wade responded that no cleanup was done. Some things were moved around, but the articles are still there. The fence was repaired except for a panel that remains missing. Mr. Mandelkern asked if in Officer Wade's view this was not additional debris, but the original debris from the previous case. Officer Wade said that some articles are moved, and new articles appear at each inspection.

Mr. Johnson asked Officer Wade if he presented the original case. Officer Wade responded yes. Mr. Johnson noted one of the pictures displayed today showed stacked chairs, and he didn't remember them from the previous presentation. Officer Wade confirmed that they were new on the property.

Ms. Blaney asked if based on his inspections, Officer Wade considered the articles basic rotation. He said yes, that some articles would be removed, but more articles were added, and this pattern was repeated during his inspections.

Mr. Bond asked Officer Wade a question that was not picked up on the recording. Officer Wade responded that the Respondent had not reached out to him since the August hearing. Mr. Bond asked two additional questions which were not picked up on the recording; Officer Wade answered no to both of them. Deputy City Attorney Rick Geller asked Mr. Bond to please turn on and use the microphone, that although his voice carries pretty well it may not be picked up on the recording.

Mr. Johnson asked Officer Wade to display his photos from September 4, 2024, specifically the one that contained the stacked chairs. Mr. Johnson noted the time stamp on the photo as 15:36.

Officer Wade asked the Board if they would like to see photos from the August presentation to compare the debris. Mr. Johnson said yes. Officer Wade displayed a series of photos for the Board.

Willie J. Clark Sr., and Willie J. Clark Jr. approached the podium and confirmed that Willie J. Clark Sr. is the owner of 820 W. Webster Ave., Winter Park, FL 32789. Mr. Clark Jr. spoke on behalf of his father. He noted that the right of way was cleaned up at one time, but he didn't take any pictures. He stated that the individual cars shown in the pictures belongs to the individual that keeps bringing the unsightly articles onto the property. Mr. Clark Jr. stated that the individual has been repeatedly asked not to leave articles on the property.

Mr. Clark Jr. said that the condition of the property was not as bad as it was. He noted that the open part of the fence is what he is using as an egress while cleaning out what is stored behind the fence. His intention is to install the missing panel once he finishes that work.

Mr. Clark acknowledged that some articles that he is liable for remain out front, and he is trying to make room inside the fence to relocate them, but there are articles that belong to the aforementioned individual who owns the vehicles pictured and continues to use that right of way as a place to stay. He reminded the Board that during the first hearing he asked for information on how to keep the individual from parking his vehicles and leaving more articles outside of the repaired fence.

Mr. Clark stated that he has been working on the property as best as he can. He noted that he works 10 to 12-hour days at his job, and that his father is physically unable to help. He reiterated that he hasn't taken any pictures to show that work is being done and improvements made.

Mr. Johnson asked Mr. Clark Jr. that if his recollection was correct, the "individual" was a family member. Mr. Clark Jr. confirmed this. Mr. Johnson asked Mr. Clark Jr if he repaired the fence himself or if he had someone else do it. Mr. Clark Jr. responded that he put up all of the new fencing himself. He stated that the missing panel had not been installed yet, referencing the need for an egress in his earlier statement. He said that he tried to make space for the individual to put his items inside the fence, but he keeps putting them outside the fence. Mr. Clark Jr. repeated that he has asked and pleaded with the individual not to leave articles where he does, but the individual insists on it. He confirmed Officer Wade's statement that items will be there for a few days and be hauled away, but he and Mr. Clark Sr. don't want it to be there at all.

Mr. Johnson asked Mr. Clark Jr. what he did with the old fence. Mr. Clark Jr. responded that he hauled it away to the dump. Mr. Johnson asked Mr. Clark Jr. if there was a reason he didn't haul away some of the other articles at the same time. Mr. Clark Jr. responded that he did not bring the other articles onto the property, and that he was asking the individual who owns the vehicles to haul it off.

Mr. Clark admitted that the individual was his brother, and that he has some mental health issues. He is trying to be diplomatic and not start an all-out war with his brother, but it seems like asking him to remove the items is not getting through.

Mr. Clark Jr. stated again that at one time the fence was replaced, (adding that a crew came and cleaned up the property), but articles and debris continue to be left on the property by his brother.

Mr. Bond asked Mr. Clark Jr. if he had ever contacted the city since the last hearing to let them know the property was cleaned and requested an inspection. Mr. Clark Jr. responded no. Mr. Bond asked if Mr. Clark Jr. had any conversations since the last hearing with the city explaining to them the dilemma of your brother dumping trash in your father's yard. Mr. Clark Jr. said no, because he wasn't provided with the information about coming to the city to file a complaint against his brother. Mr. Bond asked Mr. Clark Jr. if he didn't want to call the Winter Park Police Department to report that his brother was dumping trash on his father's property. Mr. Clark Jr. responded that the dumping was on the right of way.

Mr. Clark Sr. identified himself and asked to speak. He shared the history of the property, that at one time it served as the city dump, and was sold to his family. His mother's house was behind the small section of land, and she used to drive through Mr. Clark's yard to get to her house, so a driveway was built for her to access her home. He stated that he was once cited for having firewood stored in his back yard for a fireplace. He stated that he and his brothers built his house, and have been having trouble ever since. The fence was erected to get the right of way back. He said they didn't have to sell the right of way, but his mother offered it back to the city. They found out that property belonged to Florida Hospital.

Mr. Johnson asked Mr. Clark Sr. if he lived at the property. Mr. Clark said yes. Mr. Johnson noted that the right of way issue was discussed during the first hearing. Mr. Johnson asked Mr. Clark Sr. if any of the items shown in Officer Wade's presentation were on his property, or only the right of way. Mr. Clark Jr. responded that everything is on the right of way, and Mr. Clark Sr. concurred. The fence separates his property from the right of way. Mr. Johnson thanked both gentlemen for attending, and asked the Board if there were any other questions for the Clarks before he called the city back for additional questions.

Deputy City Attorney Rick Geller noted that there may be some confusion of terminology. He believed that this easement that allows access to the church is not city right of way. Mr. Johnson asked if this was not the Clark's property, but an easement to the church. Mr. Geller responded that was his understanding.

Mr. Mandelkern asked Mr. Geller if the property is an easement, that means it is still the property of the Clarks. Mr. Geller said yes.

Charles Newton of 631 W. Swoope Ave., Winter Park, FL 32789 approached the podium. Mr. Newton offered that Mr. Clark Jr. was a really hard worker, that he sees him around the neighborhood cleaning up houses, including 630 W. Swoope Ave., which in his opinion would have moved to a Massey Hearing if not for Mr. Clark Jr. He stated he witnessed Mr. Clark Jr. working at the Swoope Ave. address on Saturdays and Sundays, even during his violation period, prioritizing someone else's needs over his own. Mr. Newton asked if the Board's purpose was to move items off the agenda, then stated that he has witnessed less trash on Mr. Clark's property when he walks his dog. He felt that the Clarks were moving in a positive and if given more time the issue would resolve itself.

Mr. Johnson asked Mr. Newton how close he lives to the Clark's property. Mr. Newton responded one block east and three blocks south. Mr. Johnson asked if he knew if the work Mr. Clark was performing at 630 W. Swoope Ave. was voluntary or if he was being paid. Mr. Newton did not know, just that he saw Mr. Clark there one weekend, maybe two, that there are a lot of violations at the Swoope property. He stated that this was during August, when he was in violation on his own property.

Mr. Bond asked Mr. Newton if there was any time since August that he witnessed Mr. Clark's property completely free of trash and debris. Mr. Newton said maybe August 31st, he couldn't be sure, and it was at night, and that the debris oscillates, but in a positive direction. Mr. Bond asked Mr. Newton if he witnessed the Dodge truck, the bronze car or the brother? Mr. Newton said he has observed the car, but not the dumping; he only walks over that way occasionally.

Board Discussion:

Ms. Blaney asked for the Orange County Property Appraisers map that shows how the property is situated to be displayed for the Board. Officer Wade obliged. She then asked if the area in question was considered an easement if Mr. Clark is within his rights to block it or limit access to it. Mr. Geller stated he would have to see the easement, what the terms of it are, but typically the answer is no, you cannot block an easement. Ms. Blaney asked if there were some sort of agreement, referring to part of the map being displayed. Mr. Geller noted that the blue square was Mr. Clark's property (Lot 3), and the way he understands it the green area next to it is the easement. Ms. Blaney then asked if the easement belonged to another property owner, perhaps the Church. Division Manager Susanne Porras responded to Ms. Blaney, noting that it belongs to Metro Winter Park, LLC. Ms. Blaney questioned if Mr. Clark owned the property designated as Metro Park, LLC. Officer Porras said no. Ms. Blaney asked for confirmation that it is separate property. Officer Porras said yes. Ms. Blaney asked if the easement belonged to the back-property owner. Officer Porras said yes, to the church. Ms. Blaney noted that the way the map is laid out the easement does not appear to belong to Mr. Clark. Officer Porras said no, but that he is responsible for maintaining anything adjacent to his property, including easements and right of ways.

Ms. Blaney said she didn't understand, if the property was owned by another. Mr. Geller interjected that it was his understanding that the easement was on the Clark's property, but the map does not make it clear that it is. Officer Porras added that the church was cited before and a lot of the trash and debris were cleaned up. Ms. Blaney noted this, but stated that Mr. Clark is struggling to keep the area clean, but it sounded like it was not in Mr. Clark's power to do so. Ms. Blaney was trying to understand if Mr. Clark couldn't block it off to keep his brother from accessing it. Mr. Heller interjected that it's not Mr. Clark's property. Ms. Blaney asked if it's not Mr. Clark's property, why...Officer Porras offered that it is considered illegal dumping, that Mr. Clark would have to get law enforcement involved.

Mr. Geller stated that what was not clear to him is if the Clarks do not own that easement, then they are not responsible. His understanding from testimony was that some of the debris was on the Clark's property and some was not. The order issued was for what was on the Clark's property. Now there is an issue of clarity about what was and wasn't on their property. Officer Porras stated that some of the debris is being moved from the back yard of Mr. Clark's property, which is why the gate stays open.

Ms. Blaney stated that was not her understanding, that another individual was bringing trash and debris onto the property. Mr. Clark was using his back yard to move things back and forth, but the predominance of the trash or debris is from a separate individual that is dumping on the easement.

Mr. Geller and Officer Porras noted that the easement belongs to Winter Park, LLC. Mr. Geller noted that the property is not being used as a church anymore.

Mr. Hiatt noted that there is a new project being built on the property that is indicated as Metro Winter Park LLC. Mr. Arguelles asked the city which easement the new project would get. He noted there is also an easement from Webster Ave., and asked if it was used to access the Clark's back yard. Officer Porras said yes, it is a long driveway.

Mr. Arguelles asked about the long piece of property to the left of Mr. Clark's property on the map. Mr. Geller interjected for clarity that this was Lot 4. Officer Porras offered that lot was part of the new project. Mr. Arguelles then asked if Lot 4 would be the entrance to the new development. Mr. Hiatt answered that he didn't remember the exact design of the project, but knew that demolition had started.

Ms. Blaney's bottom-line question is who is responsible for the easement next to the Clark's property. If its not his property the onus doesn't follow him. If there is an individual causing the debris collection, that it's the church or whoever owns the easement would call and say they had an individual illegally dumping. Mr. Geller said they could call the police for trespass. Mr. Bond asked if it a public or private easement. Mr. Geller answered he has not read the easement, but his understanding. He noted that looking at the map his best guesstimate is that it is a private easement allowing access from Webster to Metro Winter Park, LLC, and the church beyond that. He felt that is a reasonable assumption.

Mr. Mandelkern offered in his opinion it looked like its more than an easement, that it's the same color as the Metro Winer Park, LLC property, so they might own that strip. Mr. Geller offered that maybe easement is the wrong word, but he didn't know. His understanding is that if these are different properties, that the easement belongs to the church property, so the small green area that goes to Webster Ave. would be owned by Metro Winter Park, LLC. as part of that parcel that would provide a driveway easement all the way to the church. Mr. Mandelkern then noted that it would not be Mr. Clarks. Mr. Geller agreed that it would not be from what he sees. Mr. Heller suggested that Metro Winter Park, LLC purchased the easement so they would be complaint and have access on more than one street, so the map clearly shows that they are the owner of that land.

Mr. Mandelkern noted that for the Board's purposes it is not Mr. Clark's property. Mr. Geller added that the board did not want to fine Mr. Clark for something not happening on his property. Mr. Geller noted that perhaps more clarity was needed from the city, repeating that it was his understanding that some debris was on Mr. Clark's property and some was not.

Mr. Mandelkern noted that since this is a Massey Hearing, the issue is still what is on Mr. Clark's property, and what is not, and asked if there still debris on Mr. Clark's property that violates the order from August, and what is on the other side of the fence is, so to speak, not part of this Massey hearing. Mr. Geller noted he would agree, and that outside the fence should be an issue for Metro Winter Park, LLC to be dealing with.

Mr. Mandelkern asked if during a Massey Hearing the Board was only able to vote yes or no, or if the time period could be extended. Mr. Geller confirmed that the Board could extend the time period. Ms. Blaney suggested an extension to obtain clarification if the property in violation is Mr. Clark's. Mr. Geller said he doesn't know if the officers are prepared to give that clarity today, or if the Board wants to table the hearing and come back next month. Officer Porras stated the city could table the case. Mr. Hiatt agreed that the case should be tabled, but offered in the meantime, we have heard testimony that it is Mr. Clark's family member is the one dumping. The city will notify the developer at Metro Winter Park, LLC. They can post signs or take police action, Mr. Hiatt wants to warn them about it.

Mr. Mandelkern suggested there might be a better map on the Property Appraisers website, perhaps a plat that shows more detail. Mr. Geller noted that there is a recording of any easements with the Comptroller's Office and that he would have the Real Estate partner in his office look into it to get the clarity needed. Mr. Mandelkern thanked Mr. Geller.

Ms. Blaney added that if the developer is the owner they could block off the property to prevent the dumping in lieu of Police action. Mr. Johnson offered that Ms. Blaney could offer a motion to table the case.

MOTION:

Melissa Blaney made a motion as follows:

I move to table the case until the January 2025 Board Meeting. Mr. Johnson seconded. The motion passed 6-0.

Mr. Johnson explained to the Clarks that the case is on hold until clarification of ownership is determined, that they were free to go, and no fines would be imposed at this time. Mr. Clark Jr. asked if they would need to come back. Officer Porras responded that Code Compliance would notify them.

5. Non-Action Items

None

6. Staff Updates

Officer Porras offered that the following cases, previously noticed and scheduled for this meeting, have come into compliance:

- a. CCB# - LDC-24-0086 847 Antonette Ave., Winter Park, FL 32789 (Short-Term Rental Violation)
- b. CCB# - OVR-24-0131 2827 Eastern Pkwy., Winter Park, FL 32789 (Overgrowth)
- c. CCB# - LDC-24-0341 1810 Parker Dr., Winter Park, FL 32789 (Short-Term Rental)

7. City Attorney Reports

Mr. Geller had no report to the Board for this meeting. He stated he should have an update on the foreclosure of 1260 Whitesell Dr., Winter Park, FL 32789 at the next meeting.

8. Board Comments:

None

9. Upcoming Agenda Items

Officer Porras informed the Board that there are four cases scheduled so far for the December 5, 2024, meeting.

Prior to adjournment, Mr. Mandelkern asked about a replacement for former Board Member Todd Boyer, who stepped down after moving out of the City of Winter Park. Officer Porras responded that there is a new applicant, who unfortunately could not attend today's meeting, but will hopefully be in attendance in December.

10. Adjournment

Paul Mandelkern made a motion to Adjourn at 4:54 PM. Seconded by Melissa Blaney. Motion passed 6-0.

ATTEST: *Susan Pruchnicki*

Approved by the board on December 5, 2024
/s/ Susan Pruchnicki, Board Secretary