



Code Compliance Board Minutes

November 3, 2022 at 3:00 p.m.

City Hall, Commission Chambers
401 S. Park Avenue, Winter Park, Florida

Call to Order

Chairman Mandelkern called the meeting of the City of Winter Park Code Compliance Board to order at 3:00 p.m. on November 3, 2022, in the Commission Chambers, Winter Park, Florida.

Code Compliance Board Members: Paul Mandelkern, John Schmalz, Wayne Johnson, and Larry (Chris) Tabor, and Mark Van Valkenburgh were present. Todd Boyer and Douglas Bond were absent.

Assistant City Attorney: Richard Geller from Fishback Dominick Law Firm.

Staff: Safety & Code Compliance Manager Susanne Porras, and Recording Secretary Neena Ramjit.

Chairman Mandelkern read the statement of purpose into the minutes.

Swearing In of Witnesses

All witnesses were sworn in.

Consent Agenda

Motion made by Wayne Johnson and seconded by Chris Tabor to approve the July 7, 2022 minutes.

Minutes from the July 7, 2022 Code Compliance Board were approved unanimously.

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

There were no general public comments.

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

CCB# 22-930 - 2661 Via Tuscany, Winter Park, FL 32789

Violations: Unsecured abandoned construction site, creating unsafe and unsightly conditions for neighboring properties. Construction materials and debris stored on the property in plain view.

Codes Cited: Chapter 22, Sections 22-176 (adopting the International Property Maintenance Code, 2021 edition), 22-177 (amending the International Property Maintenance Code), Sec. 202 Nuisance; sec. 108.9 Vacant Buildings; Sec. 108.1.12 Unsafe Structures; Sec. 302.1 Sanitation and Storage and Sec. 108.7 Public Nuisances of the City of Winter Park Property Maintenance Code. Article II. - Building Code; Sec. 22-26. Short Title.; Sec. 22-27. - Codes adopted by reference.; Sec.22-28.- Amendments to the Florida Building Code.; Sec.105.4.1 Conditions of a permit, permit term and intent and Sec. 105.4,.1.1 of the City of Winter Park Building Code.

A presentation of the property's history was given by Safety & Code Compliance Manager, Susanne Porras, and Building and Permitting Manager, Renata Minoga.

Officer Porras presented the Property's details and description according to records obtained from Orange County Property Appraiser office.

Renata Minoga presented an overview of the permits pulled during the construction of the Property:

- Initial permit for New Construction was issued in 2018
- Fence/Wall permit issued in 2020
- Swimming Pool permit issued in 2021
- New Construction permit issued on August 24, 2022

Renata Minoga explained her Department's permitting process in regard to New Construction. Due to the COVID-19 pandemic, her Department allowed extra time to accommodate the Contractor delays. Renata Minoga emphasized that she is not confident that the Contractor for the Property will abide by the deadlines they previously submitted to the Building and Permitting Department regarding the progression of construction.

Officer Porras and Renata Minoga answered Board members' questions regarding the details of the case and what actions are needed from the Respondent for the Property to achieve compliance.

The following spoke on behalf of the Respondent:

Richard Stubbs, Stubbs Architecture, spoke on behalf of the Respondent. Mr. Stubbs is the Contractor for the New Construction project at the Property; he gave a detailed overview of the progression of the construction. Richard Stubbs stated that the construction of the dwelling is currently 90-95% completed. Mr. Stubbs apologized for not meeting prior deadlines and expressed they are willing to take the necessary steps to complete the project. However, Mr. Stubbs stated that 30 days is a tight deadline but stated more confidently they can accomplish the work within 60 days.

Discussion transpired between Mr. Stubbs and the Board members regarding the time needed to complete the project.

Fernando Bermudez, a representative from the Respondent, Developer and Builder Group LLC, spoke on its behalf. Mr. Bermudez explained one of the principal investors passed away making the construction difficult. The Developer and Builder Group has hired a Project Manager to ensure the project's completion.

Discussion transpired between Mr. Bermudez and the Board members regarding Developer and Builder Group LLC's level of involvement with the construction timeline.

The following offered public comment:

Barry Render, 2630 Via Tuscany, and Nancy Freeman, 1055 Tuscany Place, both participated in person. Barry Render stated they represent 100 citizens in North Winter Park. Mr. Render stated this project has been going on for 4 years, and he does not believe the Developer will finish the project by the given deadline. Nancy Freeman expressed that the Property is an eyesore and is affecting the neighbors' property values.

There were no additional public comments.

Chairman Mandelkern closed the public portion of the hearing for Board discussion.

Further discussion transpired between Board members and Assistant City Attorney Richard Geller regarding the fine total and when the fines would be set.

Wayne Johnson made a motion that, from the evidence presented, to find the Respondent, Developer and Builder Group LLC, Code Compliance Board Case, #22-943, owners of 2661 Via Tuscany, Winter Park, FL 32789 in violation of Chapter 22, Section 22-176 (adopting the International Property Maintenance Code, 2021 edition), 22-177 (amending the International Property Maintenance Code), Sec. 202 Nuisance; Sec. 108.9 Vacant Buildings; Sec. 108.1.12 Unsafe Structures; Sec. 302.1 Sanitation and Storage and Sec. 108.7 Public Nuisances of the City of Winter Park Property Maintenance Code as adopted and amended. Article II. - Building Code; Sec. 22-26. Short Title; Sec. 22-27. - Codes adopted by reference; Sec. 22-28. - Amendments to the Florida Building Code; Sec. 105.4.1 Conditions of a permit, permit term and intent and Sec. 105.4.1.1 of the City of Winter Park Building Code.

The respondents are ordered to obtain a Certificate of Occupancy, secure the Property, and remove construction debris within 60 days of this hearing date. Failure to comply with this order will result in fines of up to \$250 per day for each day the violation continues. The Respondents are further ordered to contact the Building Department and the Safety and Code Compliance Officer and provide documentation of action taken by January 2, 2023. John Schmalz seconded the motion.

Discussion transpired between the Board members and Assistant City Attorney, Richard Geller regarding the motion needing to include a reference to obtaining any necessary building permit inspections.

A motion to amend the pending motion by Larry Chris Tabor and seconded by Mark Van Valkenburgh was made that from the evidence presented today to find the Respondent, Developer and Builder Group LLC, Code Compliance Board Case, #22-943, owners of 2661 Via Tuscany, Winter Park, FL 32789 in violation of Chapter 22, Section 22-176 (adopting the International Property Maintenance Code, 2021 edition), 22-177 (amending the International Property Maintenance Code), Sec. 202 Nuisance; Sec. 108.9 Vacant Buildings; Sec. 108.1.12 Unsafe Structures; Sec. 302.1 Sanitation and Storage and Sec. 108.7 Public Nuisances of the City of Winter Park Property Maintenance Code as adopted and amended. Article II. - Building Code; Sec. 22-26. Short Title; Sec. 22-27. - Codes adopted by reference; Sec. 22-28. - Amendments to the Florida Building Code; Sec. 105.4.1 Conditions of a permit, permit term and intent and Sec. 105.4.1.1 of the City of Winter Park Building Code.

The respondents are ordered to obtain a Certificate of Occupancy, secure the Property and remove construction debris, and apply for and obtain any necessary extension of the existing building permit for the Property within 60 days of this hearing date. Failure to comply with this order will result in fines of up to \$250 per day for each day the violation continues. The Respondents are further ordered to contact the Building Department and the Safety and Code Compliance Officer and provide documentation of action taken by January 2, 2023.

There was no further discussion on the motion to amend. The motion to amend passed unanimously 5-0. The motion as amended passed unanimously 5-0.

CCB#s 22-1086 - 1274 Richmond Road, Winter Park, FL 32789 and #22-1087 - 1276 Richmond Road, Winter Park, FL 32789

Violations:

CCB# 22-1086: Accumulation of rubbish and garbage located on the driveway of the Property.

CCB# 22-1087: Accumulation of rubbish and garbage located on the driveway of the Property. Unidentified stains on the garage door creating unsanitary conditions.

Codes Cited:

CCB# 22-1086: Chapter 22, Sections 22-176 (adopting the International Property Maintenance Code, 2021 edition), 22-177 (amending the International Property Maintenance Code), and 308.1 Accumulation of Rubbish of the International Property Maintenance Code.

CCB# 22-1087: Chapter 22, Sections 22-176 (adopting the International Property Maintenance Code, 2021 edition), 22-177 (amending the International Property Maintenance Code), 308.1 Accumulation of Rubbish, and 302.1 Sanitation and Storage of Materials of the International Property Maintenance Code.

Chairman Mandelkern proposed that both cases CCB# 22-1086 and CCB# 22-1087 be heard at the same time to conserve time due to the fact that both cases have the same property owners and have similar alleged violations. The Board will issue separate Orders for each case.

The Board agreed to hear both cases CCB# 22-1086 and CCB# 22-1087 together.

A presentation of the history of the alleged violation was given. Susanne Porras, Safety and Code Compliance Manager, and Neena Ramjit, Safety & Code Compliance Coordinator, spoke in regard to these cases.

Officer Ramjit presented the Properties' details and description according to records obtained from Orange County Property Appraiser office. Officer Ramjit clarified for the record that the property is a duplex and shares one Parcel ID.

While stating the codes cited for CCB# 22-1086 and CCB# 22-1087, Officer Porras has requested to strike Section 22-177 (amending the International Property Maintenance Code) due to lack of specificity as to the subsection at issue within the Notice of Hearing and not find the Respondents in violation of this section.

Neena Ramjit, Safety & Code Compliance Coordinator, presented the history of the case and gave a brief timeline:

- Initial inspection of the Property occurred on June 16, 2022.
- Notice of Violation was issued on June 17, 2022.
- Notice of Hearing was issued on July 5, 2022.
- Amended Notice of Hearing was issued on September 1, 2022.

Discussion was held amongst Board members, Officer Ramjit, and Assistant City Attorney Richard Geller regarding the omission of Section 22-177 as a basis for finding a violation.

Respondents were not present at the meeting and did not send anyone to speak on their behalf.

No individuals appeared at the hearing to give public comment.

Chairman Mandelkern closed the public portion of the hearing for Board discussion.

The Board discussed the details of CCB# 22-1086 first.

Mark Van Valkenburgh made a motion that from the evidence presented today, to find the Respondents, Shmuel Sasonkin and Chaya M Dubov, Code Compliance Board Case #22-1086, owner of 1274 Richmond Rd., Winter Park, FL 32789 in violation of Chapter 22, Sections 22-176 (adopting the International Property Maintenance Code, 2021 edition) and 308.1 Accumulation of Rubbish of the International Property Maintenance Code. The Respondents are ordered to remove all rubbish and garbage from the property per City Code within 5 days of this hearing date. Failure to comply with this order will result in fines of up to \$250 per day for each day the violation continues. The Respondents are further ordered to contact the Safety and Code Compliance Officer and provide documentation of action taken by November 8, 2022. John Schmalz seconded the motion.

Further discussion transpired between Assistant City Attorney Richard Geller and the Board members. Assistant City Attorney Richard Geller explained that Florida Statutes chapter 162 and the City Code allows the Board to find that a violation has occurred, even if corrected before the Code Board hearing. If the violation reoccurs, Code Inspector can present the case to Code Board for a Massey hearing to determine fines.

Chairman Mandelkern made a motion to amend the proposed motion: To impose a \$500 fine for repeat violations. Larry Chris Tabor seconded the motion.

Upon a roll call vote, the amended motion failed (3-2). (In Favor: Paul Mandelkern and Larry Chris Tabor. Opposed: Wayne Johnson, John Schmalz, and Mark Van Valkenburgh)

No further discussion on the original motion.

Upon a Roll Call vote, the original motion passed (4-1). (In Favor: Paul Mandelkern, Larry Chris Tabor, John Schmalz and Mark Van Valkenburgh. Opposed: Wayne Johnson)

The Board discussed case CCB# 22-1087.

Discussion transpired between Assistant City Attorney and Board Members regarding the stains on the garage door. Mr. Geller stated that the Board could, if it wished, find that the stains violated the requirement that the property owners keep their property in a clean and sanitary manner.

Mark Van Valkenburgh made a motion that from the evidence presented today, to find the Respondents, Shmuel Sasonkin and Chaya M Dubov, Code Compliance Board Case #22-1087, owner of 1276 Richmond Rd., Winter Park, FL 32789 in violation of Chapter 22, Sections 22-176 (adopting the International Property Maintenance Code, 2021 edition) and 308.1 Accumulation of Rubbish of the International Property Maintenance Code. The Respondents are ordered to remove all rubbish and garbage from the property per City Code within 5 days of this hearing date. Failure to comply with this order will result in fines of up to \$250 per day for each day the violation continues. The Respondents are further ordered to contact the Safety and Code Compliance Officer and provide documentation of action taken by November 8, 2022. John Schmalz seconded the motion.

No further discussion on the motion. **Motion carried unanimously 5-0.**

Staff Updates

Compliances

The properties listed below have corrected the cited violations and are now in compliance. Brief summaries were given by Officer Porras.

- CCB#s 22-611, 22-173, and 22-109 790 Douglas Avenue, Winter Park, FL 32789
- CCB#s 22-1103 662 Callahan Street, Winter Park, FL 32789
- CCB# 22-1430 343 Harris Avenue, Winter Park, FL 32789

Prior Case Reports

CCB# 19-1411 1400 South Denning Drive, Winter Park, FL 32789

Assistant City Attorney Rick Geller updated the Board Members on the appeal pending in the Orange County Circuit Court. The reply brief by the appellants, Florida Federation Garden Club, was filed on February 16, 2021. Due to the length of time the appeal has been pending without a decision, the City drafted a Motion to Expedite the appeal. Mr. Geller sent the proposed Motion to Expedite Appeal to the Attorney for the Florida Federation Garden Club and asked that the Garden Club join in the motion.

Officer Porras confirmed that as of today's Code Board Meeting, there have been no additional noise disturbance reports received.

CCB# 21-1430 2212 Azalea Place, Winter Park, FL 32789

Assistant City Attorney Rick Geller informed the Board Members that FG Schaub filed a Reply Brief on September 6, 2022, to the Orange County Circuit Court. The Reply Brief contained arguments not made during the initial brief nor brought before the Code Compliance Board during the Hearing. The City, therefore, filed a motion to the Court requesting permission to file a Surreply to address FG Schaub's new arguments. FG Schaub is opposing most of the motion.

CCB#18-870 1260 Whitesell Drive, Winter Park, FL 32789

Assistant City Attorney Rick Geller informed the Board Members of the progress with the current unlawful detainer action brought by the City in the Orange County Circuit Court to remove the resident from the condemned house. Mr. Geller gave a brief summary of the case management conference held with Judge Starr and the resident. The resident signed a contract with a licensed demolition company, Rock and Roll Demolition, to avoid the City taking further action and placing a potential lien on the resident's property. The City has not received an application for a demolition permit submitted from Rock and Roll Demolition for the Property as of today's Code Board Meeting. The City prepared a proposed Settlement Agreement with the resident requiring Rock and Roll Demolition to apply for and obtain a permit, and complete the demolition by set dates. The Orange County Circuit Court has rescheduled the Trial date to January 12, 2023.

Board Comments

No comments.

Upcoming Agenda Items

No upcoming agenda items mentioned.

Adjournment

There being no further business, Mark Van Valkenburgh made a motion to adjourn the meeting at 4:42 p.m. John Schmalz seconded the motion and it passed unanimously.

Next meeting is December 1, 2022 at 3:00 p.m.

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Approved by the Board 12/01/2022.

/s/ Neena Ramjit, Recording Secretary