



Code Compliance Board Meeting Minutes

March 02, 2023 at 3:00 p.m.

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

1) Call to Order

Chairman Paul Mandelkern called the meeting to order at 3:02 p.m.

a. Roll Call

Present: Paul Mandelkern, Mark Van Valkenburg, Douglas Bond, Todd Boyer, Wayne Johnson.

Absent: John Schmalz, Larry (Chris) Tabor.

Staff Present: Safety & Code Compliance Manager Susanne Porras; Director of Building & Permitting Services Gary Hiatt; Assistant City Attorney Richard Geller from Fishback Dominick Law Firm; Board Coordinator Tatia Ghviniashvili.

b. Statement of Purpose

Chairman Paul Mandelkern read the statement of purpose into the minutes.

2) Swearing in of Witnesses

All witnessed were sworn in by Ms. Ghviniashvili.

3) Consent Agenda

a. Approve the minutes of regular meeting, February 02, 2023

Motion made by Todd Boyer to approve the minutes as drafted and presented; seconded by Douglas Bond.

Chairman Mandelkern suggested the following revisions:

- Capitalize the word *board* throughout the minutes when referencing the Code Compliance Advisory Board.
- Edit the first sentence of the third paragraph on page three to read "at the request of the Respondent, Chairman Mandelkern...". Indicating that Chairman Mandelkern did not unilaterally open the floor- but did so because the Respondent asked.
- On the top of page four, change "with the deletion" to read as "on the revised motion".

- Under item 6 (Non-Action Items), include the term “none” or “none were presented” as opposed to leaving the item blank.

Todd Boyer and Douglas Bond agreed to incorporate the revisions stated above. Motion passes unanimously with a 5-0 vote.

4) Public Comments (for items not on the agenda):

There were no public comments.

5) Public Hearings

- a. Old Business: **CCB# 22-943 2661 Via Tuscany, Winter Park, FL 32789**

Violation Description: Unsecured abandoned construction site, creating unsafe and unsightly conditions for neighboring properties. Construction material 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 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.

Chairman Mandelkern provided a few brief statements on the history of the case. This case was brought before the Board in November 2022, and an Order was issued finding that the Respondent was in violation of various City Codes and Provisions. Sixty days were given to the Respondent to correct the problems on the property. An affidavit was submitted by the City’s Code Enforcement officer, indicating that the Respondent is not in compliance following those 60 days, thus a second hearing is required under Florida Law to impose fines and give the Respondent an opportunity to speak.

Susanne Porras, Safety & Code Compliance Manager, presented a brief overview of the property details and accompanying violations. The Notice of Hearing was mailed through regular certified mail and posted at City Hall and the property in time to meet Florida Statute requirements. The deadline to meet compliance requirements was January 02, 2023.

Ms. Porras provided a few photographs of the property, dating to February 23, 2023, and February 24, 2023. The Board proceeded to asking questions regarding the details of the case presented, and Ms. Porras made the necessary clarifications.

Gary Hiatt, Director of Building & Permitting Services, spoke before the Board as a witness for the City. A list of all permits under the property in question (expired and unexpired) were handed out to the Board.

The floor opened for discussion and questions. Mr. Hiatt made all necessary clarifications.

No one spoke on behalf of the Respondent.

The following offered public comment:

Robert Halback, 1160 Howell Branch Road, next-door neighbor to the property in question, shared his concerns with the construction- or the lack of. He explained how drawn out the construction process has been, with little to no communication between the property owner and contractor, and the neighbors. He noted some questions he has for the Board such as what would happen if the Respondent does not pay the fines, does the property get condemned after a certain point, etc.

Mr. Halback answered a brief question the Board had about the fencing/wall surrounding the pool of the property.

Chairman Mandelkern closed the public portion of the hearing, and the floor opened for a brief Board discussion. A revised recommended motion was provided to the Board prior to the meeting.

Based on the evidence presented, Mr. Geller suggested the Board remove the citation to section 302.1 of the IPMC ("Exterior property and premises shall be maintained in a clean, safe and sanitary condition.") in the recommended motion to reflect the Respondents compliance with cleaning the exterior of the property.

Motion made by Wayne Johnson to issue an Order finding Respondent, Developer and Builder Group, LLC, owner of 2661 Via Tuscany, Winter Park, FL 32789 (the "Subject Property"), in violation of the Order issued by the Code Compliance Board on November 3, 2022. Respondents were ordered to: (1) obtain a Certificate of Occupancy; (2) secure the property and remove all construction debris; and (3) apply for and obtain any necessary extensions of the existing building permits for construction on the Subject Property within 60 days of the hearing date, that is, no later than January 2, 2023.

As of the mandated compliance date, January 2, 2023, Respondent failed to obtain the Certificate of Occupancy and apply for and obtain the necessary extensions of the existing building permits for construction of the subject property within 60 days of the hearing date of January 2, 2023. These violations continued to the hearing date of, March 2, 2023. Respondent did secure and remove all construction debris.

Therefore, Respondent remains in violation of: Chapter 22, Sections 22-176 of the Winter Park Code (adopting the International Property Maintenance Code, 2021 edition (the "IPMC") and establishing the Winter Park Property Maintenance Code); 22-177 of the Winter Park Code (amending the International Property Maintenance Code) to include "Public Nuisance" as defined in Section 202 "General Definitions") and as prohibited in Sec. 108.7 of the Winter Park Property Maintenance Code, Sec. 108.9 of the Winter Park Property Maintenance Code (Vacant Buildings); Sec. 108.1.1 of the IPMC (Unsafe Structures), as well as Article II. -Building Code; Sec. 22-26 (Short Title establishing the Winter Park Building Code); Sec. 22-27 (adopting the Florida Building Code, 7th edition, by reference); Sec. 22-28 (amending the Florida Building Code); Sec. 105.4.1 and Sec. 105.4.1.1 of the Winter Park Building Code (Conditions of a permit, permit term, and intent).

Accordingly, the Board imposes a fine of \$250 per day, per violation for each day the violation continues, for a total daily fine of \$250. The fine is retroactive to January 2, 2023, the date mandated for compliance. In setting the amount of the fine, the Board has considered the factors set forth in Florida Statutes § 162.09(2)(b) and section 2-107 of the City Code, which are: (1) the gravity of the violation; (2) Any actions taken by the violator to correct the violation; and (3) any prior violations committed by the violator. These fines shall continue to accrue until Respondent establishes compliance with the November 3, 2022 Order.

The Board further finds that the City's service of the Notice of Hearing complied with the notice requirements set forth in Florida Statutes § 162.12 and section 2-109 of the City Code.

Motion seconded by Douglas Bond.

A discussion ensued and Mr. Valkenburg raised a question to clarify how many individual violations there are and by how many times does the fine of \$250 get multiplied by. At the request of Mr. Geller, Chairman Mandelkern allowed Mr. Hiatt to make some clarifications about the properties permits and their expiration dates. It was explained that following the November hearing, the Respondent did obtain the necessary extensions, however, the permits have expired again due to lack of management and progress on the property in question, and were consequently out of compliance. Per this discussion, amendments were made to the motion.

With the motion pending, Wayne Johnson read the following amendment to the motion into the record.

Accordingly, the Board imposes a fine of \$250 per day, per violation for each day the violation continues. The fine is retroactive to (a) January 2, 2023 as to failure to obtain a Certificate of Occupancy; and (b) the Board imposes an additional fine of

\$250 per day retroactive to February 21, 2023, for failure to obtain existing building permits on the subject property.

Revised motion accepted by Wayne Johnson and Douglas Bond.

Mr. Valkenburg raised a concern regarding the clarity of the record in terms of the total fine imposed. Mr. Geller made the necessary clarifications explaining that there are two separate violations, each having a fine of \$250 per day, with a daily maximum of \$500.

Upon a roll call vote on the amended motion, Mark Van Valkenburg, Douglas Bond, Todd Boyer, Paul Mandelkern, and Wayne Johnson voted yes. Motion carried unanimously with a 5-0 vote.

6) Non-Action Items

There were no non-action items.

7) Staff Updates

CCB#22-921 1714 Westchester Avenue, Winter Park, FL 32789

Ms. Porras gave a brief update stating that the case is continuing to be monitored, and is currently in compliance.

8) Board Attorney Report

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

A stipulated final judgement has been obtained with the property owner, who has agreed to demolish the property by March 04, 2023 and if not, the City will be able to obtain a writ of possession and be entitled to demolish the property, charging that amount against the property. An application has been submitted for demolition, and as it stands now, the City will be demolishing the property as soon as the writ of possession is obtained on March 09, 2023.

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

The City had made a motion to file a Surreply and is awaiting response from the Circuit Court.

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

A joint Motion to Expedite the appeal has been filed by the City and the Florida Federation Garden Clubs, but a response from the Circuit Court has yet to be received.

9) Board Comments

There were no board comments.

10) Upcoming Agenda Items

There were no upcoming agenda items to report at this time.

11) Adjournment

Douglas Bond made a motion to adjourn the meeting at 3:54 p.m.; seconded by Mark Van Valkenburg. Motion carried unanimously with a 5-0 vote.

Next meeting is scheduled for April 06, 2023.

Minutes approved by the Board on June 1, 2023.

/s/ Susan Pruchnicki, Board Coordinator