

CITY OF DeBARY
REGULAR CODE ENFORCEMENT BOARD MEETING
WEDNESDAY, September 14, 2005
6:00 P.M., Florence K. Little Town Hall
12 Colomba Road, DeBary, Florida

MINUTES

CALL TO ORDER

Chairman Don Pulver called the meeting to order at 6:00 P.M.

ROLL CALL

Present: Alan Williamson, Jack Lenzen, Chairman Don Pulver, Bob Rini, Greg France, Marcia Becker, Robert Duncan, City Manager Maryann Courson, City Planner Anita Gonzalez, and Assistant City Attorney Dan Langley.

Excused: Rosemary Obenland

Unexcused: Linda Padgett.

County Staff in Attendance: Bryan Jiles, Tammy Proulx, Phil Solano and Dave Hooker.

Ms. Gonzalez introduced new regular member Marcia Becker and swore her in. Ms. Gonzalez introduced new alternate member Robert Duncan and swore him in.

ADOPTION OF MINUTES

The minutes of the regular Code Enforcement Board hearing of July 13, 2005, were presented for adoption. Mr. Rini moved to accept the minutes as presented. Mr. Lenzen seconded the motion. All members voted to approve the motion.

Witnesses Sworn In:

City Planner Anita Gonzalez swore in all witnesses who intended to testify.

UNFINISHED BUSINESS:

1. **DEB-05-006** – **RUSSO, Melane & RUSSO, Elio** **JTWROS RUSSO, Daniel**
[Sheriff Served]

Complaint No. 040330005

Violation of City of DeBary Ordinance 80-8, as amended, Section I-1 for having a business without the required licenses, permits and/or site approval at 558 South US Highway 17-92 in DeBary.

(Zoning Compliance – Tammy Proulx)

*The May 11, 2005, hearing cancelled due to a lack of quorum for the Board and continued to the July 13, 2005, hearing;

*Order of Non-Compliance issued at the July 13, 2005, hearing;

Finding of Compliance

Tammy Proulx, Code Compliance Officer, recommended that the Board find the property in compliance. Mr. Rini motioned to find the property in compliance. Mr. Williamson seconded the motion. All members voted to approve the motion.

2. **DEB-05-014 – KERR, James** **[Sheriff Served]**

Complaint No. 041115007

Violation of City of DeBary Ordinance, Florida Building Code Section 3401.6 for an improperly maintained structure 72 Alano Road in DeBary.

(Building Division – Dave Hooker)

*The May 11, 2005, hearing cancelled due to a lack of quorum for the Board and continued to the July 13, 2005, hearing;

*Order of Non-Compliance issued at the July 13, 2005, hearing;

Hearing to Impose Fine/Lien

Dave Hooker, Code Compliance Officer, distributed photos of the property to the Board. He informed the Board that the roof had not been completed as ordered at the July 13, 2005, regular meeting. Mr. Kerr, owner of the property, told the Board that he hired a contractor on August 31st for the re-roof. Mr. Kerr distributed copies of the roofing contract to the Board. Mr. Hooker said that a permit application had not been submitted to the County for the re-roof.

Mr. France made a motion to impose a fine of \$15 per day beginning September 14, 2005. Mr. Rini seconded the motion. The motion passed 6-1, with Ms. Becker dissenting.

3. **DEB-05-016 – HERRMANN, Russell B. LF/ESTATE** **[Posted]**

Complaint No. 050111002

Violation of City of DeBary Code of Ordinances, Section 22.32 - Florida Building Code, Sections 104.1.1 and 105.6, for construction of a fence for which the required building permit(s) and inspection approvals have not been obtained or maintained at 230 Lakewood Drive in DeBary.

(Zoning Compliance – Tammy Proulx)

*Order of Non-Compliance issued at the July 13, 2005, hearing;

Finding of Compliance

Ms. Proulx recommended that the Board find the property in compliance. Mr. Lenzen motioned to find the property in compliance. Mr. Rini seconded the motion. All members voted to approve the motion.

4. **DEB-05-023 – ALTMAN, Gary D.** **[Served]**

Complaint No. 050426125

Violation of City of DeBary Ordinance 80-8, as amended, Article VII, Section B-5 for violating the approved Site Plan at 5 Sanctuary Avenue in DeBary.

(Zoning Compliance – Tammy Proulx)

*Order of Non-Compliance issued at the July 13, 2005, hearing;

Hearing to Impose Fine/Lien

5. **DEB-05-026 – ALTMAN, Gary D.** [Served]
Complaint No. 050303030
Violation of City of DeBary Ordinance 80-8, as amended, Article VIII, Section 808.06 for for illegal access over landscape buffer and parking on landscape buffer at 5 Sanctuary Avenue in DeBary.
(Zoning Compliance – Tammy Proulx)
*Order of Non-Compliance issued at the July 13, 2005, hearing;
Hearing to Impose Fine/Lien

Ms. Proulx asked Chairman Pulver if she could discuss DEB-05-023 and DEB-05-026 simultaneously. Chairman Pulver approved her request. Ms. Proulx stated that the owner has made significant progress in bringing his property into compliance. She asked the Board to approve an amended order to continue the hearings to November 9, 2005. Mr. France made a motion to amend the order of noncompliance for both cases to allow the owner until November 9, 2005, to bring the property into compliance. Mr. Rini seconded the motion. All members voted to approve the motion.

HEARINGS AND PRESENTATION OF FILED NOTICES OF VIOLATIONS:

1. **DEB-05-011 – KERR, James** [Sheriff Served]
Complaint No. 041123019
Violation of City of DeBary Ordinance 80-8, as amended, Article VII, Section R-4 for having a junkyard where not permitted at 72 Alano Road in DeBary.
(Zoning Compliance – Tammy Proulx)
*The Enforcement Official continued this case from the May 11, 2005, hearing;
*The Enforcement Official continued this case from the July 13, 2005, hearing;

Chairman Pulver informed the Board that the case was continued until the November 9, 2005, regular meeting.

2. **DEB-05-031 – KERR, James** [Sheriff Served]
Complaint No. 050503026
Violation of City of DeBary Ordinance 80-8, as amended, Article VIII, Section 807.01 and 807.05 for violating the Home Occupation Regulations at 72 Alano Road in DeBary.
(Zoning Compliance – Tammy Proulx)

Chairman Pulver informed the Board that the case was continued until the November 9, 2005, regular meeting.

3. **DEB-05-033 – WHEATLEY, Gregory A.** [Served]
Complaint No. 040908004
Violation of City of DeBary Code of Ordinance, Florida Building Code, Sections 104.1.1 and 105.6, for construction for which the required building permit(s) and inspection approvals have not been obtained or maintained at 16 Columbine Trail in DeBary.
(Building Division – Dave Hooker)

Chairman Pulver informed the Board that the case was withdrawn.

4. **DEB-05-034 – BAUERLE, SR., Donald C. TR** [Served]

Complaint No. 050609082

Violation of City of DeBary Code of Ordinance, Florida Building Code, Sections 104.1.1 and 105.6, for construction for which the required building permit(s) and inspection approvals have not been obtained or maintained at 488 Highbanks Road in DeBary.

(Zoning Compliance – Tammy Proulx)

Ms. Proulx stated that the four pictures she distributed to the Board were a sampling of the list of 42 lots referenced in the case that did not have building permits or that had building permits cancelled without inspection approvals.

Mark Watts, attorney for the owner, stated that he had a meeting with County and City staff on August 2nd and agreed to a list of alleged violations. He added that the list submitted to the Board by County staff included additional lots that were not referenced in the meeting of August 2nd.

Chairman Pulver asked Ms. Courson if the information provided by Mr. Watts was accurate with regards to the meeting of August 2nd. She answered that it was.

Terry Cumberledge, 24 River Bluff Trail, distributed a copy of an email to the Board sent by Carol Kerrigan to Mary Robinson and Maryann Courson in March of 2005. She voiced her concern regarding the resolution of the code enforcement issues and the buffer that is not being maintained.

John Cumberledge, 24 River Bluff Trail, expressed his displeasure with the Board and the campground.

Jay Erndl, 74 River Bluff Trail, said that the River Bluff Homeowner's Association is not concerned with lack of building permits so much as the setback violations on the campground. Mr. Langley said that any setback or site plan violations would have to be discussed at a later time when there would be a case for those violations brought before the Board.

Larry Fink, 47 River Bluff Trail, gave the Board some history on prior code enforcement action that occurred against the campground that he initiated by complaint in 1997. He added that due to terms of a lawsuit settlement, he was unable to pursue any further action against the campground. He asked the Board to be firm in enforcing the zoning and building codes of DeBary.

Ms. Gonzalez asked Mr. Watts if the City has permission to enter the campground to compile a photographic inventory of what exists there in its entirety. Mr. Watts answered that the City does have permission to do that.

Chairman Pulver asked Ms. Gonzalez if there was anything she wanted to add as far as what occurred in the August 2nd meeting. Ms. Gonzalez answered that she wanted the Board to know that she had recommended to Mr. Watts that he file the application as soon as possible for an amendment to the special exception or pursue a rezoning of the property to a PUD.

Chairman Pulver asked Ms. Proulx her recommendation for the case. She stated that she would like the Board to find the property in noncompliance and impose a fine beginning on November 9th. Mr. Rini made a motion to find the property in noncompliance and impose a fine of \$250 per day if the property is not in compliance by the next meeting. Mr. Lenzen seconded the motion. Chairman

Pulver and Mr. France recused themselves from voting because of a conflict of interest. The motion carried 5-0.

REQUESTS FOR DISCUSSION OF ACCUMULATED FINES

1. **DEB-04-009** – **SMITH, Sheldon L. & Bonny F.** **[Posted]**
Complaint No. 040325005
Violation of City of DeBary Code of Ordinance 58-84, Florida Building Code Section 3401.6 for an unsafe and dilapidated building at 792 Fort Florida Road in DeBary.
(Building Division – Dave Hooker)
*Order of Non-Compliance issued at the May 12, 2004, hearing;
*Order Imposing Fine/Lien issued at the July 14, 2004, hearing;
*Report & Affidavit of Compliance was issued with a compliance date of August 2, 2004;
*Order of Compliance issued at the November 10, 2004, hearing;
Request for Recommendation to City of DeBary Council to Waive Fine - \$1,800.00

Mr. Hooker gave the Board a brief synopsis of the case. Mr. France made a motion to recommend reduction of the lien to \$150 to cover the administrative costs of the staff. Ms. Becker seconded the motion. All members voted to approve the motion.

NEW BUSINESS:

1. Tally Sheets
2. As Entertained by Chairman
3. As Entertained by Board Attorney

1. **DEB-05-008** – **BAUERLE, SR., Donald C. TR** **[Served]**
Complaint No. 050127072
Violation of City of DeBary Ordinances, Florida Building Code Sections 104.1.1 and 105.6, for construction for which the required building permit(s) and inspection approvals have not been obtained or maintained at 488 West Highbanks Road in DeBary.
(Zoning Compliance – Tammy Proulx)
*Order of Non-Compliance issued at the March 9, 2005, hearing;
*The May 11, 2005, hearing was cancelled due to a lack of quorum for the Board and continued to the July 13, 2005, hearing;
*Order Imposing Fine/Lien issued at the July 13, 2005, hearing;
Request by Code Enforcement Board Attorney for Amended Order Imposing Fine/Lien

2. **DEB-05-019** – **BAUERLE, Sr., Donald C.** **[Served]**
Complaint No. 050412007
Violation of City of DeBary Code of Ordinances, Section 22.32 - Florida Building Code, Sections 104.1.1 and 105.6, for construction for which the required building permit(s) and inspection approvals have not been obtained or maintained at 488 West Highbanks Road in DeBary.
(Zoning Compliance – Debbie Waggoner)
*Order of Non-Compliance/Order Imposing Fine/Lien issued at the July 13, 2005, hearing;

Request by Code Enforcement Board Attorney for Amended Order of Non-Compliance and Order Imposing Fine/Lien

Mr. Langley recommended that the previous orders for both cases, DEB-05-008 and DEB-05-019, should be clarified by specifying the lots involved in each case. He suggested that all three cases involving construction without permits be combined into one fine of \$250 per day. Mr. Rini agreed with the suggestion and stated that it had been his intent all along to apply the \$250 per day fine to all three cases for construction without permits. Mr. Langley said the orders would be amended to reflect the \$250 per day cap if it was agreeable with the Board. Chairman Pulver polled the five Board members that voted on the cases involving the Bauerle property, and they all agreed with Mr. Langley.

Chairman Pulver asked the Board if they would like the \$250 per day fine to begin immediately. Mr. Williamson made a motion to find the property in non-compliance, to follow the suggestions of Mr. Langley to combine the three cases into one fine of \$250 per day, and for the fine to begin September 15, 2005. Mr. Rini seconded the motion. The motion carried 5-0.

ADJOURNMENT

The meeting adjourned at 8:20 P.M.

**APPROVED November 9, 2005
CITY OF DeBARY
CODE ENFORCEMENT BOARD**

Don Pulver, Chairman