

CITY OF DeBARY
REGULAR CODE ENFORCEMENT BOARD MEETING
WEDNESDAY, March 8, 2006
6:00 P.M., Florence K. Little Town Hall
12 Colomba Road, DeBary, Florida

MINUTES

CALL TO ORDER

Vice-Chair Rosemary Obenland called the meeting to order at 6:00 P.M.

ROLL CALL

Present: Rick Dwyer, Marcia Becker, Robert Duncan, Vice-Chair Rosemary Obenland, John Harvey, and Gertrude DeSantis

Absent: Chairman Don Pulver (excused), Bob Rini (excused), and Dave Mendenhall (excused)

City Staff: City Planner Anita Gonzalez and Assistant City Attorney Dan Langley

County Staff: Debbie Waggoner, Dave Hooker, Bryan Jiles, Ginger Martin, and Brant Kruger

Ms. Gonzalez swore in new alternate member Gertrude DeSantis.

ADOPTION OF MINUTES

The minutes of the regular Code Enforcement Board hearing of January 11, 2006, were presented for adoption. Mr. Harvey moved to accept the minutes as presented. Ms. Becker seconded the motion. The motion passed unanimously.

Witnesses Sworn In:

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

UNFINISHED BUSINESS:

1. **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 – Debbie Waggoner)

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

*1st Amended Order of Non-Compliance issued at the September 14, 2005, hearing;

*2nd Amended Order of Non-Compliance issued at the November 9, 2005, hearing;

Hearing to Impose Fine/Lien

2. **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 illegal access over landscape buffer and parking on landscape buffer at 5 Sanctuary Avenue in DeBary.

(Zoning Compliance – Debbie Waggoner)

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

*1st Amended Order of Non-Compliance issued at the September 14, 2005;

*2nd Amended Order of Non-Compliance issued at the November 9, 2005, hearing;

Hearing to Impose Fine/Lien

Debbie Waggoner, Zoning Code Compliance Officer, recommended that DEB-05-026 and DEB-05-023 be continued until July. She stated that the owner has been working on the landscape buffer in the front of the property. She added that Scott Ashley, Volusia County Planning Manager, would need time to review the plans that were submitted by the owner on March 7th.

Mr. Duncan made a motion to amend the 2nd amended order of non-compliance to have the compliance date changed to July 12th. Mr. Harvey seconded the motion. The motion passed unanimously.

3. **DEB-05-036 – LYON, Robert S.** [Served]
Complaint No. 040618039

Violation of City of DeBary Code of 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 238 Colomba Road in DeBary.

(Building Division – Dave Hooker)

*Order of Non-Compliance issued at the November 9, 2005, hearing;

Hearing to Impose Fine/Lien

Dave Hooker, Building Code Compliance Officer, distributed a packet to the Board, which consisted of the pictures presented at the November 9th meeting and the minutes from the meeting. He stated that the owner had not submitted a building permit application, and he recommended that the Board impose a fine of \$100 per day to begin on March 9, 2006.

Mr. Harvey made a motion to impose a fine of \$100 per day to begin on March 9, 2006. Mr. Dwyer seconded the motion. The motion passed unanimously.

4. **DEB-05-051 – BAUERLE, Donald C.** [Served]
Complaint No. 051026014

Violation of City of DeBary Code of 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 – Debbie Waggoner)

*The Enforcement Official continued this case from the November 9, 2005, hearing;

*Order of Non-Compliance issued at the January 11, 2006, hearing;

Hearing to Impose Fine/Lien

5. **DEB-05-052 – BAUERLE, Donald C.** [Served]

Complaint No. 051026095

Violation of City of DeBary Code of 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 – Debbie Waggoner)

*The Enforcement Official continued this case from the November 9, 2005, hearing;

*Order of Non-Compliance issued at the January 11, 2006, hearing;

Hearing to Impose Fine/Lien

Ms. Waggoner recommended that the Board allow the owner until July 19, 2006, to come into compliance.

Mark Watts, attorney for Mr. Bauerle, gave the Board some background information on the cases and stated that they should have all of the permit applications on file with Volusia County by July 19th.

Mr. Duncan made a motion to amend the order of non-compliance for DEB-05-051 and DEB-05-052 to allow the owner until July 19, 2006 to obtain permits, and to allow the owner until January 18, 2007 to obtain final inspection approvals. Ms. Becker seconded the motion. The motion passed unanimously.

6. **DEB-05-056 – VARNEY, Larry A.** [Sheriff Served]
Complaint No. 050923012

Violation of City of DeBary Code of Ordinances, Chapter 13, Article III, Section 30-103 and 30-104, for junked, wrecked or abandoned vehicle(s) that is inoperative and/or without current license tag at 215 Clara Vista Street in DeBary.

(Zoning Compliance – Tammy Proulx)

*Order of Non-Compliance and Order Imposing Fine/Lien issued at the January 11, 2006, hearing;

*Report & Affidavit of Compliance was issued with a compliance date of February 22, 2006;

Order of Compliance

Ms. Waggoner stated that the property is in compliance. Ms. Becker made a motion to find the property in compliance. Mr. Duncan seconded the motion. The motion passed unanimously.

7. **DEB-05-058 – JECKOVICH, David J.** [Served]
Complaint No. 050805002

Violation of City of DeBary Ordinance 80-8, as amended, Article VII, Section R4 for a business where not allowed at 247 Toms Road in DeBary.

(Zoning Compliance – Debbie Waggoner)

*Order of Non-Compliance and Order Imposing Fine/Lien issued at the January 11, 2006, hearing;

*Report & Affidavit of Compliance was issued with a compliance date of January 25, 2006;

Order of Compliance

Order Dismissing & Releasing Fine/Lien

8. **DEB-05-059 – JECKOVICH, David J.** [Served]
Complaint No. 050805026

Violation of City of DeBary Ordinance 80-8, as amended, Article VIII, Section 811.02 and 811.021

for a trailer improperly parked at 247 Toms Road in DeBary.

(Zoning Compliance – Debbie Waggoner)

*Order of Non-Compliance and Order Imposing Fine/Lien issued at the January 11, 2006, hearing;

*Report & Affidavit of Compliance was issued with a compliance date of January 25, 2006;

Order of Compliance

Order Dismissing & Releasing Fine/Lien

9. **DEB-05-060 – JECKOVICH, David J.** [Served]

Complaint No. 050805027

Violation of City of DeBary Ordinance 80-8, as amended, Article VII, Section R4 for heavy equipment stored/parked where not permitted at 247 Toms Road in DeBary.

(Zoning Compliance – Debbie Waggoner)

*Order of Non-Compliance and Order Imposing Fine/Lien issued at the January 11, 2006, hearing;

*Report & Affidavit of Compliance was issued with a compliance date of January 25, 2006;

Order of Compliance

10. **DEB-05-061 – JECKOVICH, David J.** [Served]

Complaint No. 050716014

Violation of City of DeBary Ordinance 80-8, as amended, Article VII, Section R4 for having a junkyard where not permitted at 247 Toms Road in DeBary.

(Zoning Compliance – Debbie Waggoner)

*Order of Non-Compliance and Order Imposing Fine/Lien issued at the January 11, 2006, hearing;

*Report & Affidavit of Compliance was issued with a compliance date of January 25, 2006;

Order of Compliance

Order Dismissing & Releasing Fine/Lien

Ms. Waggoner stated that the renter moved out, and the property was in compliance immediately following the previous Board hearing. Ms. Becker made a motion to issue Orders of Compliance for cases 05-058, 05-059, 05-060, and 05-061. Mr. Duncan seconded the motion. The motion passed unanimously. Ms. Becker made a motion to issue Orders of Dismissal for cases 05-058, 05-059, 05-060, and 05-061. Mr. Duncan seconded the motion. The motion passed unanimously.

HEARINGS AND PRESENTATION OF FILED NOTICES OF VIOLATIONS:

1. **DEB-05-004 – DYESS, JR., Donald W.** [Served]

Complaint No. 040511003

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 161 Oak Tree Drive in DeBary.

(Building Division – Dave Hooker)

*The Enforcement Official continued this case from the May 11, 2005, hearing;

*The Enforcement Official continued this case from the November 9, 2005, hearing;

Vice-Chair Obenland informed the Board that the case was continued until September 13, 2006.

2. **DEB-05-050 – OLVER, Debby G. & Benjamin** [Served]

Complaint No. 050728048

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 203 Colomba Road in DeBary.

(Building Division – Dave Hooker)

*The Enforcement Official continued this case from the January 11, 2006, hearing;

Mr. Hooker explained the case involving a converted carport and clarified the packet he distributed to the Board. He recommended that the Board issue an Order of Non-Compliance and allow the owner time to secure a building permit.

Mr. Olver stated that he did not know that the carport had been illegally converted prior to his purchase of the home in 2001.

Mr. Harvey made a motion to find the property in non-compliance and allow the owner until the September Board meeting to bring the property into compliance. Mr. Duncan seconded the motion. The motion passed unanimously.

3. **DEB-05-065 – MADDEN, James G. & MADDEN, Graham P.** [Served]

Complaint No. 050901048

Violation of City of DeBary Code of 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 at 113 Bonita Road in DeBary.

(Building Division – Dave Hooker)

*The Enforcement Official continued this case from the January 11, 2006, hearing;

Mr. Hooker stated that he went to the property on March 6th to measure the distance from the shed to the property line and found it to be approximately seven feet too close to the line. He said that Mr. Madden would need to apply for a variance to keep the shed in its current location, as there is not another suitable location on the property. He recommended that the Board find the property in non-compliance.

Ms. Becker noted that there was a finding of fact that there was a permit, there was an inspection, and the property was in compliance Ms. Becker made a motion to dismiss the case. Mr. Duncan seconded the motion. The motion passed unanimously.

4. **DEB-05-066 – OGLE, Kevin L.** [Posted]

Complaint No. 050629001

Violation of City of DeBary Code of Ordinances, Volusia County Land Development Code Ordinance 88-3, Article XI, Section 1104 for altering a Volusia County Jurisdictional Wetland without a permit at 123 Bonita Road in DeBary.

(Environmental Management – Brant Kruger)

*The Enforcement Official continued this case from the January 11, 2006, hearing;

Brant Kruger, Volusia County Environmental Technician, recommended that the Board find the property in non-compliance. He said that the owner did not sign the agreement discussed at the January hearing, which stated that he would not alter the wetlands any further in the future.

Ms. Becker made a motion to dismiss the case, as the owner had brought the property into

compliance. She added that she did not feel it should be required for the owner to sign the agreement. Mr. Harvey seconded the motion. The motion passed unanimously.

5. **DEB-05-067 – HESS, Linda A. & BRANDENBURG, David A. JTWRS** [Served]
Complaint No. 050728045

Violation of City of DeBary Code of 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 at 11 Colomba Road in DeBary.

(Building Division – Dave Hooker)

Vice-Chair Obenland informed the Board that the case was withdrawn.

6. **DEB-06-002 – HOPE LAND INVESTMENTS LLC** [Posted]
Mark A. Gabriel, Registered Agent

Complaint No. 051017030

Violation of City of DeBary Ordinance, Volusia Land Development Code No. 88-3, Article X for not obtaining a tree removal permit as required at 217 Clara Vista Street in DeBary.

(Environmental Management – Brant Kruger)

Mr. Kruger stated that he sent the first violation notice on October 17, 2005, for the lot being cleared. He said that further complaints were received in January that additional clearing was taking place. He recommended that the Board find the property in non-compliance.

Basyle “Boz” Tchividjian, attorney for the owner, said that the builder misled the owner and has been fired. He asked for additional time to meet with the City and County to resolve the fine and tree replacement issues.

Mr. Dwyer made a motion to find the property in non-compliance and allow the owner until May 10, 2006, to obtain a tree removal permit and comply with the conditions of the permit. Mr. Harvey seconded the motion. The motion passed unanimously.

7. **DEB-06-003 – ALLEN, Larry** [Served]
Complaint No. 051103012

Violation of City of DeBary Ordinance 80-8, as amended, Article VII, Section A-1 for having a landfill without the required permits, exemptions and/or special exception at 10 Buckley Drive in DeBary.

(Zoning Compliance – Debbie Waggoner)

Vice-Chair Obenland informed the Board that the case was withdrawn.

NEW BUSINESS:

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

ADJOURNMENT

The meeting adjourned at 7:25 P.M.

**APPROVED May 10, 2006
CITY OF DeBARY
CODE ENFORCEMENT BOARD**

Chairman Don Pulver