

CITY OF DAYTONA BEACH MINUTES

SPECIAL MAGISTRATE HEARING

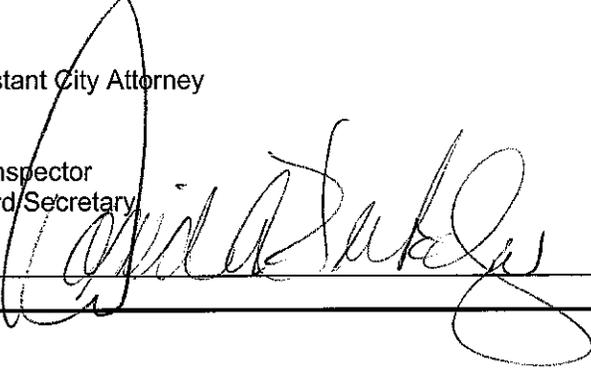
October 9, 2012 at 9:00 AM
City Commission Chambers
301 South Ridgewood Avenue,
Daytona Beach, Florida

ATTENDEES:

Mr. David Vukelja, Special Magistrate

STAFF:

Anthony E. Jackson, Assistant City Attorney
Ofc. Sherri Siracusa
Ofc. Cliff Recanzone
Mr. John Stenson, Code Inspector
Ms. Aimee Hampton, Board Secretary

Approval of Minutes by:  Special Magistrate

Mr. Vukelja called the Hearing to order at 9:07 a.m.

Mr. Vukelja approved the September 11, 2012 Meeting Minutes.

Ms. Hampton swore in members of staff.

Mr. Vukelja asked if there were any announcements.

Ms. Hampton advised there were no announcements.

CASE NO 1 SMG 03-12-41 – O'Neill Family W&H LP and John Burch is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC 105.1), at **755 Berkshire Road** - Violation(s) – Exceeding the scope of permits - First Notified – 2/7/2012 (posted).

Mr. John Burch came forward and was sworn. Mr. Burch stated he submitted a floor plan and the survey should be submitted within the week. Mr. Burch stated also stated he was cleaning out the trash from the house.

Mr. Stenson testified on behalf of the City and presented a letter from the Building department which listed items that needed to be obtained before Mr. Burch would be issued his permit. Mr. Stenson stated the information should have been communicated to Mr. Burch.

Mr. Vukelja reviewed the letter and stated the letter mentioned the entire roof system appears to be beyond repair, more than 50% of the floor system seems to be beyond repair, it also stated that signed and sealed architectural and structural plans need to be submitted; he needed show how the roof system and the floor system have been remediated and also an engineer has to certify everything will pass.

Mr. Burch stated what he was going to do was a complete remodel.

Mr. Stenson stated the city's position is that the permit should have already been obtained but the next cut-off date for the permit.

Mr. Burch stated he would submit his sealed plans by next cut-off date.

Mr. Vukelja stated to Mr. Burch that the City has stated he should have the permit by next cut-off date and inquired as to what Mr. Burch can do.

Mr. Burch stated he should have everything submitted to the City by next cut-off date.

Ruling

Mr. Vukelja amended the previous order of non-compliance to allow the Respondent until November 7, 2012 to come into compliance or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 2 SMG 10-12-66 – ARC of Daytona, LLC is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 4.3(10); Art. 18 Sec. 7.3; Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 302.8, 304.7 and 304.15), at **769 Alabama Street** - Violation(s) – Dumpsters, outside storage; junk vehicle; roof; exterior doors - First Notified – 7/19/2012.

Respondent was not present.

Mr. Stenson testified on behalf of the City and presented the case history, violations and exhibits. Mr. Stenson stated the violations consisted of dumpsters, outside storage, junk vehicle, and exterior doors. Mr. Stenson stated the property was in non-compliance and recommended the next cut-off date for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by November 7, 2012 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

CASE NO 3 SMG 10-12-67 – Elmer L. & Sarah A. Flanary is cited for failure to correct violations of the Land Development Code, Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.7), at **1356 Continental Drive** - Violation(s) – Roof damage - First Notified – 6/20/2012.

Mr. Elmer L. Flanary, Jr. and Elmer Flanary came forward and were sworn. Mr. Flanary, Jr. stated he did not agree with the violation and that there was no roof damage. Mr. Flanary stated he hung a clothesline from the board to hang rugs to dry from the line. He stated he has since removed the board.

Mr. Stenson testified on behalf of the City and presented the case history, violations and exhibits. Mr. Stenson stated that the Board has been removed from the roof. Mr. Stenson stated based on the testimony from the Respondents he would agree the roof appears to be satisfactory.

Ruling

Mr. Vukelja dismissed the notice of violation.

CASE NO 4 SMG 10-12-68 – Primus Maddox is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 7.3; Art. 19 Sec.1.1 (Ref. FBC Supp IPMC 304.7, 304.6, and 304.13), at **417 Fletcher Avenue** - Violation(s) – Outside storage; dilapidated roof; exterior surfaces; dilapidated garage door - First Notified – 6/23/2012.

Mr. Christopher Maddox, Primus Maddox and Annie Whitehead came forward and were sworn.

Mr. Christopher Maddox stated he agreed the violations existed. Mr. Maddox stated finances were an issue and he stated he just got back from Tallahassee to be able to help his dad. Mr. Maddox stated he has been cleaning out the trash but the all the rain in June held up progress.

Mr. Stenson testified on behalf of the City and stated the case history, violations and exhibits. Mr. Stenson stated the next cut-off should be enough time for compliance.

Ms. Annie Whitehead stated she stated she tried to get Mr. Maddox signed up for City assistance but since he does not have any homeowner's insurance so they could not repair the house.

Mr. Vukelja inquired as to how much time it would take to remove the outside storage.

Mr. Jackson stated he believes they have pursued the limits of the City's assistance but should seek elsewhere for other help.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance with the outside storage and exterior surfaces by December 5, 2012 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day. Mr. Vukelja further ordered a progress report at the December 11, 2012 meeting for determination of a compliance date regarding the roof and garage.

CASE NO 5 SMG 10-12-69 – Johnny McDonald is cited for failure to correct violations of the Land Development Code, Art. 18 Sec. 4.4(i), at **515 Walker Avenue** - Violation(s) – Dead tree - First Notified – 8/10/2012.

Mr. Johnny McDonald came forward and was sworn. Mr. McDonald stipulated to the violations. Mr. McDonald further stated the tree is a huge tree and it is going to cost a lot of money to remove and the insurance company won't remove it unless it does damage.

Mr. Stenson testified on behalf of the City and stated the property was in non-compliance and recommended the December cut-off for compliance.

Ruling

Mr. Vukelja found the Respondent in non-compliance and ordered the Respondent come into compliance by December 5, 2012 or be returned to a subsequent meeting for consideration of a fine up to \$1,000 per day until compliance is achieved.

Miscellaneous Business

There was no miscellaneous business.

Adjournment

The meeting was adjourned at 9:40 a.m.