

**CITY OF ANNA MARIA
CODE ENFORCEMENT BOARD
MEETING HELD AT ANNA MARIA COUNCIL CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
MONDAY, JANUARY 11, 2010
5:00 P.M.**

CALL TO ORDER

Chair William Iseman called the Code Enforcement Board Meeting to order at 5:00 p.m.

ROLL CALL: Boardmember Alternate Michael Selby, Boardmembers Shirley O'Day, Chair William Iseman, Carl Pearman, and Jeff Murray.

ABSENT: Boardmember Carol Lewis.

Staff Present: City Clerk Alice Baird, Code Enforcement Officer Gerry Rathvon, Building Official Bob Welch, City Attorney Jim Dye, and Minutes Clerk Stacey Johnston.

Press: Sun and Islander.

Approve Minutes of the October 26, 2009 Code Enforcement Board Meeting.

MOTION: Boardmember O'Day moved that the Minutes of the Code Enforcement Board Meeting held October 26, 2009, be approved as written. Boardmember Pearman seconded the motion. Motion carried – All Aye.

City Clerk Baird officially swore-in all persons wishing to speak or provide testimony.

OLD BUSINESS

**1. Case Number 2009-017 – Turtle Lighting – 201 S. Bay Blvd.
Code Enforcement order – Reginald and Sherry Flagg**

Code Enforcement Officer Rathvon reminded that the Code Enforcement Board was informed at the last meeting that Mr. and Mrs. Flagg planned to have all turtle lighting installed and that the property would be in compliance no later than December 31, 2009.

Ms. Rathvon presented an update on the status of the case informing that the new lighting will be installed by a contractor as soon as the new lights are received – hopefully within the next week.

Ms. Rathvon recommended that the compliance date be extended past the December 31, 2009 time period and no later than the next Code Enforcement meeting date.

It was agreed that the Code Enforcement Board would plan to meet on Monday, February 8, 2010, 5:00 p.m. and the following action was taken:

MOTION: Boardmember O'Day moved to accept the recommendation of the Code Enforcement Officer to extend the deadline for compliance relating to Case Number 2009-017 (Turtle lighting – 201 S. Bay Blvd – Reginald and Sherry Flagg, owners) until the February 2010 meeting date. Chair Iseman seconded the motion. Motion carried – All Aye.

NEW BUSINESS**1. Case Number 2009-018B – Pedro Fernandez – 309 Hardin Ave.
Work done without a permit.**

Chair Iseman questioned what the correct Case Number was. He pointed out that at the October 2009 meeting the Board reviewed a Turtle Lighting case @ 111 S. Bay Blvd/Waterfront Restaurant with the 2009-018 number.

Code Enforcement Officer Rathvon informed that two projects had been given the same case number in error. She suggested that the 111 S. Bay Blvd/Waterfront Restaurant Case Number be changed to 2009-018A and the Case being discussed that evening changed to 2009-018B.

Ms. Rathvon presented pictures of the Fernandez property to the Code Enforcement Board for their review. She explained that an anonymous complaint was received and followed up on by the Building Official. After review, the Building Official placed a stop work order on a deck and stairway replacement at the property on July 28, 2009. No Building Permit had been obtained by the property owner and the work did not meet the Building Code. Hearing no response from the property owner, a notice of violation was sent both by regular mail and by certified mail/return receipt requested. The green certified mail card was signed and returned to the City.

The Building Official was to meet at the property with Mr. Fernandez and a contractor he had hired. However, Mr. Fernandez did not show up for the meeting.

A Notice of Hearing was mailed by Ms. Rathvon in October 2009 both by regular mail and by certified mail/return receipt requested. The signed green certified mail card was returned to the City.

Ms. Rathvon informed that she had no discussions with the property owner that her only involvement pertained to the Code violation process itself.

Building Official Welch verified that the property owner had not applied for a Building Permit. Building Official Welch met with the contractor – Hughes Construction - hired by Mr. Fernandez. However, Mr. Fernandez did not show at the meeting. The owner was in violation of the City Ordinance that requires a Building Permit must be obtained and also with the Florida Building Code relating to the work itself. Building Official Welch said it was his understanding that a young gentleman had performed the work and unfortunately it was not built to Code. All work needed to be removed and reworked. He also pointed out that the property was a rental property - therefore requiring that work be completed by a licensed contractor.

Building Official Welch explained how the structure did not comply with the Building Code. He stated that primarily the entire structure was not in compliance and that a major reconstruction was required. A Building Permit is required prior to any work being performed or the property owners should at least speak to the Building Official prior to any work beginning. He noted that work began approximately two weeks prior to the City receiving the anonymous complaint.

Explanation followed by Building Official Welch as to how the stairway and deck were currently being supported and how a safety hazard now exists. He further stated that the proposed stairway and deck structure of the home was the only passage way to the second story and that Florida Building Code would not allow the primary entry as being into the garage. A home must have one entry, but it cannot be inside the home.

Building Official Welch informed that the City is currently working on the unsafe structure Ordinance. There is no signage on the stairway that prohibits its use, however, no unsafe structure violations have been placed on the construction.

City Attorney Dye recommended that the Code Enforcement Board determine that the property is in violation. As part of the order, the Code Enforcement Board should require that the property be kept vacant until the property was brought into compliance.

Property owner *Pedro J. Fernandez* addressed the Board and presented pictures of the former stairway and deck structure. He explained that the structure was old and was falling down. He had hired a friend who was a licensed sub-contractor and under his supervision was rebuilding the structure exactly like the one being replaced. He said he was unaware that a Building Permit was required whenever a property owner was replacing the structure in the exact and identical way.

Mr. Fernandez informed that within ten days of the Stop Work Order, he met with the Building Official. At that time, he explained and presented a set of plans to the Building Official and was told that no building permit could be issued on the property unless the City could inspect the inside of the home. Mr. Fernandez declined, feeling it was a violation of his rights. He stated that the property was not a rental property.

A certified building contractor from New Port Richey was then hired by Mr. Fernandez. Mr. Fernandez said approximately ten days ago the contractor went to the City Hall for the purpose of obtaining a Building Permit. He was informed of the requirements for being issued the Building Permit that included an architectural design, and signed Engineer plans. He was also informed that no Building Permit would be issued by the City unless the City could go inside the home to inspect a possible illegal bathroom. Mr. Fernandez said he again refused entry into the home feeling it was invasion of his privacy.

Mr. Fernandez informed there are another set of steps and doors on the outside of the house. An additional set of steps are located inside the home. He reiterated that the property was not a rental and that it was not currently occupied.

Chair Iseman asked Mr. Fernandez how much time he felt would be necessary for him to obtain a Building Permit.

Mr. Fernandez did not feel he would need any longer than one week.

Building Official Welch responded to the testimony provided by Mr. Fernandez. He explained that when the contractor came into the office, he was informed that upon the City's receipt of the construction plans, a permit would be issued. He said the request to access the inside of the home involved verifying other possible work inside the home without a Building Permit. The City has now determined that the verification is no longer necessary to pursue.

Building Official Welch informed that a rental sign was posted on the property at the time of his initial inspection. It was later explained that the sign was placed in front of the home only as a favor for a friend. The sign has since been removed.

Building Official Welch explained that a licensed contractor was required to perform all work on a rental property. If the property is an owner's primary residence, on the other hand, the work can be performed by the property owner.

City Attorney Dye addressed the Board. He informed that the City is asking that the Board find that a violation is due. He further suggested that the Board administer administrative costs in the amount of \$150 be awarded to the City for having to bring the case to the Code Enforcement Board.

City Attorney Dye commented that Mr. Fernandez appeared to be angry with the Building Official; however, the City was only trying to seek compliance with the Code. He informed that the possible violation on the ground floor inside the home has since been worked out.

Mr. Fernandez stated that the meeting would not have been held that evening if the Building Permit application had not been denied due to him not letting access to the inside of the home. He said he was only trying to replace the structure with the exact design and did not even know a permit was required.

Building Official Welch stated that the City had felt that renovations were also made to the inside of the home without a permit. However, the City had decided not to pursue the possible violation inside the home. He informed that the contractor was actually from Tarpon Springs rather New Port Richey and was never told that a permit would not be issued if the City could not enter the home. However, the contractor had asked that Building Official Welch meet him and Mr. Fernandez at the home and that access would be given to the inside. Mr. Fernandez did not show for the meeting.

Mr. Fernandez said he had informed his contractor he would not be present at the meeting because he was told by him that a permit would not be issued unless there was access to the inside.

Code Enforcement Board Discussion

- 1) *Chair Iseman* suggested, and it was the Board's unanimous consensus, that the case be extended to allow time for the property owner to obtain a Building Permit and bring the property into compliance.
- 2) Chair Iseman further asked for discussion as to whether or not there was a safety issue and if occupancy should or should not be allowed.
- 3) The issue of the \$150 administrative costs would also need to be discussed.

Board discussion followed. It was agreed that the property owner should be allowed to stay at the property but renters should not be allowed until the property was in compliance.

The Board then discussed the \$150 administrative cost as recommended by City Attorney Dye.

City Attorney Dye explained how the City's Code allows for the Board asking for an administrative cost. He pointed out that City staff had to go outside of their normal duties for this violation.

Boardmembers O'Day and Murray felt that the process was part of the City's responsibilities and that no costs should be required.

MOTION: Motion was made by Boardmember O'Day and seconded by Chair Iseman to table the request for requesting an administrative cost until the February 2010 meeting. Motion failed – no vote taken.

After further discussion, the following action was taken:

MOTION: Motion was made by Boardmember O'Day and seconded by Chair Iseman that a finding of violation is determined relating to Case Number 2009-018B – Property owner Pedro Fernandez. The board further moved to extend the compliance until the February 2010 meeting– to allow time for the property owner to obtain a Building Permit. The property owner would not be allowed to rent the property until compliance is met and the City would not impose a \$150 Administrative Cost at this time.
Motion carried – All Aye.

Chair Iseman informed Mr. Fernandez that he would have until the February 2010 Code Enforcement Board meeting to obtain a Building Permit from the City.

SET DATE FOR NEXT MEETING

The next meeting is scheduled for Monday, February 8, 2010, 5:00 p.m.

PUBLIC AND PRESS COMMENT – None.

Adjournment

Chair Iseman adjourned the meeting at 6:00 p.m.

William Iseman, Chair

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____