

JUNE 12, 1991

The Code Enforcement Board, Manatee County, Florida, met in REGULAR session in the Administrative Center, 1112 Manatee Avenue West, Bradenton, Florida, Wednesday, June 12, 1991 at 9:15 a.m.

Present were:

E. Jane Long, Chairman
Richard S. Kesten, Vice-Chairman
Robert L. French
Rev. David Green
Robert B. Whitehead

Absent was: Richard Fawley

One seat was vacant.

Also present were:

Paul Bangel, Assistant County Attorney
Susan G. French, Deputy Clerk, representing
R. B. Shore, Clerk of Circuit Court

News media notified, but not present.

The meeting was called to order by Chairman Long.

All witnesses/staff giving testimony were duly sworn.

CODE ENFORCEMENT CASES

CE1030038T - CENTRAL BUSINESS CORPORATION

Violation of Section 703.2.21 (Parking or Storage of Junk Vehicles or Refuse Prohibited) of the Manatee County Comprehensive Zoning and Land Development Code (LDC) at 5411 26th Street West, Bradenton.

Burt Thomas, Code Enforcement Division Manager, advised that the case must be continued for proof of service.

CE0080417C - LESTER G. SCHOTT

Violation of Section 204I2 (Sale of Alcoholic Beverages - Other Sales) of the Manatee County Comprehensive Zoning and Land Development Code at 1112 Whitfield Avenue, Sarasota.

Mr. Thomas stated this case was to be considered by the Hearing Officer for a determination of a Special Permit request which will bring the case into compliance. If the permit is not approved, the case will then be brought before the Code Enforcement Board.

CE0050326J & CE0050327T - JOHN HOWELL

Violation of Sections 204J (Parking or Storage of Junk Vehicles) and 204A3s (Outside Storage) of the Manatee County Comprehensive Zoning and Land Development Code at 2408 4th Avenue East, Palmetto.

Mr. Thomas advised that Mr. Howell requested placement on the agenda to express gratitude for the reduction in his fines; however, he was not present. Both cases have complied and no action is required.

CE0050297J & CE0050298T - CHRISTINE WILLIAMS SANDERS

Violation of Sections 204J (Parking or Storage of Junk Vehicles), 204A4a (Accessory Uses Not Permitted), and 204A3s (Outside Storage) of the Manatee County Comprehensive Zoning and Land Development Code at 502 23rd Street East, Palmetto.

Mr. Thomas stated Ms. Sanders asked to be placed on the agenda to discuss a reduction of fines/liens placed on her property: October 1984, \$6,025; September 1986, \$250; October 1990, \$225; and December 1990, \$30 (Total \$6,530).

Ms. Long stated that the two fines for October 1984 (\$6,000 and \$25) should be deducted from the total as they were imposed under the five-year limitation set by state law in 1984.

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Paul Bangel, Assistant County Attorney, stated he could not provide a legal opinion on the matter. He stated the issue should be addressed by Ms. Sanders or her attorney.

Mr. Thomas explained that Ms. Sanders has come into compliance in both cases. She is attempting to procure a loan to repair a damaged roof on her home, but cannot close a loan until all liens have been resolved. It was noted that Ms. Sanders paid \$25 of the \$225 October 1990 lien.

Christine Sanders, respondent, stated she is willing to pay the fines, after whatever reductions are granted, in order to obtain the loan.

Ms. Long stated the balance of the liens total \$505.

John Waltz, Code Enforcement Officer, stated that major improvements were done to the property the day after Ms. Sanders was told of the violation; however, further improvements were slow due to the work involved to remove certain items. The County placed two dumpsters on the property to assist the Sanders and surrounding neighbors in cleaning up the area.

Motion was made by Mr. Whitehead to impose a reduced fine totaling \$240 (for cases CE0050297J & CE0050298T), derived by the \$505 amount less the \$25 paid and divided by two, if paid within the next thirty (30) days. Motion was seconded by Rev. Green and carried 5 to 0.

(Court Reporter, Beverly Foor, present)

CE1010192X - WILLIAM PUGH

Violation of Section 602.2, Figure 6-1, (Page 12 of 16) and (Page 16 of 16 - (Permitted, Administrative, and Special Uses by District) of the Manatee County Land Development Code at 5500 Juel Gill Road, Myakka City.

Mr. Bangel stated he met with Caleb Grimes, representing Mr. Pugh, to discuss resolving the case. He stated Mr. Pugh is willing to correct the violation, but needs more than the amount of time originally agreed.

Rita Mooney, Code Enforcement Officer, stated that upon receiving a complaint from adjoining property owners that a junkyard, with daily deliveries of vehicles and tire dumping, was being established. Code Enforcement visited the site January 22, 1991, and approximately 80-100 vehicles were observed. A video taken April 1, 1991, revealed the same. Pollution Control became involved in the case due to the possibility of mosquito breeding.

Mr. Bangel requested continuation until later in the meeting to discuss the matter with Mr. Grimes and Mr. Pugh.

The Chairman deferred Case No. CE1010192X until later in the meeting.

CE1030161H - JAMES EDWARD COKER

Violation of Section 505.1 (Special Permits-Purpose) of the Manatee County Comprehensive Zoning and Land Development Code at 9502 Wauchula Road, Myakka City.

Ms. Long stated this case was heard before the Special Master (5/30/91), and the respondent pleaded not in violation.

James Edward Coker, respondent, stated he is unsure as to the nature of the violation.

James McDonald, Code Enforcement Officer, stated the case arises from a Special Permit (SP-89-26) approved in July 1989, to allow a mobile home in addition to a residence. The permit was granted with stipulations, including a requirement for installation of legal access to the mobile home site in the form of an approved private street.

A mobile home was placed on the site and a Certificate of Occupancy (CO) was issued based upon a driveway permit which was being processed;

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however, it had come to the attention of Planning staff that the private street, as stipulated, was never provided.

The driveway permit to install the private access runs from the road to a triangular parcel which is not owned by Mr. Coker, but by BB Manatee. Records submitted by Mr. Coker showed his land abutting onto Wauchula Road, but did not identify the private land because of the Section lines. Mr. Coker is, therefore, in violation for not providing an approved private access street to the mobile home.

Joaquin Servia, Planning and Zoning, stated Mr. Coker applied for a special permit, and submitted a drawing of his property depicting ten acres and an easement which was to service the mobile home; however, Mr. Coker sold a portion of the land in 1982, and therefore, did not have the required acreage. Mr. Servia further stated that County maps did not show an easement or other means to access the mobile home except by a private street.

Discussion: Source of the complaint; a recorded easement was never found in public record; an application for a private street was never filed; respondent obtained a CO without full compliance of the special permit; if respondent can obtain access over the portion of private property; who owns the private parcel; litigation is presently underway with neighbors; the amount of time that should be granted for compliance; examine the survey of the site.

Mr. McDonald distributed photographs (3) taken from Wauchula Road showing Mr. Coker's home and the existing driveway.

Mr. Coker submitted a survey of his property.

Gary Brott, representing Jerry and Mary Lewis, owners of a one-acre parcel cut from the Coker property, stated the only access shown in public records is the portion of land proposed for the private street, which is owned by Mr. and Mrs. Lewis.

Discussion: If other property can be acquired to provide Mr. Coker with the ten acres as required; if there is other property on which a private street could be granted; dispute regarding use of the driveway, etc.

In the case of CE1030161H, Mr. Whitehead moved to find the respondent to be in violation, and that respondent be given six months to comply. If respondent is not in compliance within the six month period, a fine of \$10 per day is to begin for every day after that. The \$150 fine is to be reserved for six months from now if the property is not brought in compliance. Motion was seconded by Mr. Kesten and carried 5 to 0.

CE1010290X & CE1010291H - CLYDE AND LILA ST. LEON

Violation of Manatee County Ordinance No. 77-1 and Manatee County Ordinance No. 77-4 (Minimum building elevation requirements for flood hazard areas) and Section 512 (Building Permits) and/or Section 103 (Permits Required) of the Manatee County Standard Building Code at 1620 Palma Sola Boulevard, Bradenton.

Mr. Thomas stated a request was made by the Assistant County Attorney and attorney for the respondents, to continue the cases.

Chuck Bauer, Federal Emergency Management Agency (FEMA) Coordinator, stated that continuing the cases will not jeopardize the situation with FEMA.

Motion was made by Mr. French to continue the cases to July 10, 1991. Motion was seconded by Rev. Green and carried 4 to 0.

Mr. Kesten declared a conflict of interest and abstained from voting. He stated the proper documentation had been entered into the record from the last Code Enforcement meeting (5/8/91).

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CE1010192X - WILLIAM PUGH

(Continued from earlier in the meeting)

Mr. Bangel stated he consulted with Mr. Grimes who stated that Mr. Pugh has agreed to plead in violation under the condition that the County agrees to grant Mr. Pugh a period of eight months to come into compliance, and with other conditions to resolve the violation:

- = All tires on the property must be removed within thirty days.
- = All vehicles must be locked and secured for safety purposes.
- = No outside work/repairs permitted on the vehicles.
- = All vehicles must be removed from the property within eight months at a rate of ten per month.

Motion - Violation

Having heard all the testimony and evidence in the case of William R. Pugh, and the agreement by the neighbors considering Mr. Pugh's admission of non-compliance, motion was made by Mr. Kesten, to find the respondent to be violation, to give the respondent eight months to bring the property into compliance with stipulations that all the tires be removed in thirty days; that the cars be removed at a rate of at least ten per month; that no outside work be done on the automobiles, and that all of the automobiles be secured for safety measures so they cannot be entered by children.

Upon concern expressed by Mr. Grimes that the wording addressing the rate of car removal was not agreed upon, it was eliminated from the motion.

Mr. Kesten stated the motion is predicated upon the admission of violation by the respondent.

Motion was seconded by Mr. Whitehead and carried 5 to 0.

Motion - Assess Fine

Motion was made by Mr. Whitehead and seconded by Mr. Kesten, that the respondent be fined \$10 a day for every day the tires remain on the property after thirty days, and \$25 per day for every day total compliance is not achieved after the eight month period.

Mr. Bangel stated the reason that a higher fine for the tires is appropriate is because of concern over mosquito breeding problems.

Motion - Amendment

Motion was amended to \$25 for every day the tires remain on the property after the first thirty days.

Motion, as amended, carried 5 to 0.

CE1010226X - RICHARD WASYLOWSKI

Violation of Section 703.2.7 (Fences) and Section 512 (Building Permits) of the Manatee County Land Development Code at 1924 81st Street Northwest, Bradenton.

Jerry Bryant, Code Enforcement Officer, stated this case was continued from May 8, 1991, to allow the respondent time to obtain a fence permit and come into compliance; however, the property remains in violation.

Joe Finelli, representing Mr. Wasylofski and Mr. Wesley (brother), stated the six-foot-high chain link fence, in front of the property ten feet from the street, would be in violation of the LDC if a permit was acquired to replace it with a new fence. The fence is 15 years old and repairs have been a made section at a time. He stated that although the fence was originally a legal non-conforming use, a fence permit has not been obtained as it is grandfathered. He stated it is his opinion that no permit is required and a violation does not exist.

Mr. Bryant drew a diagram to show the location of the fence and those portions which were replaced.

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Dan Conley, Building Official, stated the amount of fence repairs exceeds a threshold of 50 percent which is considered as substantial improvements; therefore, a special permit is required.

Karen Redler, Redler Construction Company, stated she observed chain link fencing being replaced on the south, east and west sides of the property in November 1990.

Mr. Bryant stated the home was built in 1979, during which time fence permits were not required. The original fence was six feet high and was legal under the 1981 LDC.

Mr. Finelli clarified that the only portion replaced was the chain link mesh. None of the original posts or framing were removed.

Rob Rossi, Manager of Manatee Fence, Inc., testified as to the costs involved to replace three sides of a six-foot fence (\$2,500) compared to the \$800 paid by Mr. Wesley for repairs. He stated the cost to install a six-foot fence is \$3.25 per linear foot.

Discussion: Cost to install an entire new fence versus the cost to replace only mesh; fair market value of the fence when replaced; 490 linear feet of mesh was replaced; corner posts, top railing and swing gate were not replaced; reason for the property owner maintaining a six-foot fence; fencing was replaced because of rusting; repairs improved appearance of the fence.

Mr. Servia advised that the fence is a legal non-conforming structure erected prior to the 1981 LDC and that it met the regulations in effect at that time. He stated the LDC addresses non-conformance in terms of (1) the repair/reconstruction of a non-conforming structure involving maintenance and minor repairs, and (2) the alteration, enlargement or movement of a non-conforming structure where substantial improvements are performed. He stated the work performed on this fence falls under the term of "repair".

Mr. Finelli submitted copies of canceled checks from Mr. Wesley made payable to Manatee Fence showing the total cost of the fence repairs.

In the case of CE1010226X, motion was made by Mr. Whitehead that Mr. Wasykowski be found not in violation because of the fence appearing to be grandfathered and because of testimony that the fence repairs appear to be less than 50 percent of the replacement value.

Mr. Servia suggested the Board consider in the motion that work done on the fence was repair/reconstruction of a non-conforming structure, and there is no requirement to prove the substantial improvement argument.

Mr. Whitehead concurred. Motion was seconded by Mr. Kesten. Voting "Aye" were Mr. Whitehead, Mr. Kesten, Mr. French and Rev. Green. Mrs. Long voted "Nay". Motion carried.

(Depart Rev. Green)

CE0090X421 - MARGARET STARLING

Violation of Section 203Ac(1)(c) (Special Permit Uses - Agricultural Uses - Mobile Home Dwelling) of the Manatee County Comprehensive Zoning and Land Development Code at O'Neill Road, Palmetto.

Mr. Thomas pointed out the case number was incorrect on the agenda and stated the correct case number is CE0090X421.

Peter Peak, Attorney representing Ms. Starling, reported that a violation still exists; a mobile home is still on the property and an administrative permit has not been issued as of this date.

Since the last meeting (3/13/91) on this case, he stated it was the intention of his client to seek an administrative permit for the mobile home under LDC Section 703.2.35 as a security and caretakers residence.

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It had been determined the Starlings would have to purchase additional property. He stated that a problem arose after an agreement had been reached with the neighbor, but was resolved. He stated that conveyance of the additional 3.3 acres would give Mrs. Starling the minimum 6.6 acres required to obtain the permit.

Mr. Peak stated he is aware that a survey is required for both parcels along with the application for the administrative permit. He advised that his client has not been able to generate the funds for the surveys.

Mr. Servia advised that a sealed survey is not required to obtain an administrative permit, and that Plot Plan Standards may be used. He stated that a survey may be required to physically locate the mobile home on the site as it ties into the installation of a septic system which is a requirement of the Department of Health and Rehabilitative Services.

In the case CE0090X421, motion was made by Mr. Whitehead and seconded by Mr. French, to continue the case to August 16, 1991, based upon the testimony presented on this date. Motion carried 4 to 0.

CE905X247 - CHARLES AND MARGARET SHORTEN

Recurring Violation of Section 710 (Off-Street Parking) which was formally Section 205F.2; and Section 508.2.3 (Final Site Plan Required) of the Manatee County Land Development Code, which was formally Section 4.3B.3 of the Manatee County Comprehensive Zoning and Land Development Code at a vacant lot (DP 9666.1005/7) in Ellenton.

Charles Shorten, respondent and owner of the Casa Mia restaurant, stated he is not in violation.

Mr. McDonald submitted into the record, a sworn affidavit from Joseph Karkowski, adjacent property owner, attesting to a violation of LDC regulations at the Casa Mia restaurant in Ellenton.

Joseph Karkowski, adjacent property owner, stated he alerted Code Enforcement in 1989, that semi-trucks were being parked and left running in a vacant lot next to the Casa Mia restaurant. He stated Mr. Shorten was found in violation, charged a fine, and was advised of compliance requirements. Mr. Shorten complied for a period of time; however, the violation is recurring.

He submitted pictures (4) of semi-trucks parked in the vacant shell lot, which is not designed to County standards to be classified as a parking lot. Mr. Karkowski stated that semi-trucks continue to illegally park in the unpaved vacant lot behind his home and the noise and gas fumes are disturbing. He stated Mr. Shorten should be required to erect signs prohibiting overnight parking of trucks.

Discussion: The only barrier between Mr. Karkowski's property and vacant lot is a chain link fence; require Mr. Shorten to erect a six-foot wooden fence between both properties and place signs on vacant lot; if a fence and signs would eliminate the disturbance; prohibit trucks from parking on back portion of vacant lot and allow parking on front portion only; violation is longstanding; Mr. Shorten should pay fines dating back to 1989.

Marge Shorten, respondent, offered to construct a fence to serve as a buffer between the lots and to place signs if necessary.

Inasmuch as the property is zoned commercial, Mr. Kesten stated the trucks are permitted to park and be left running in the Casa Mia parking lot. The Shortens can continue to allow the trucks to park in the vacant lot under the condition that a complete site plan with a truck parking area showing landscaped buffers, paving, etc., be submitted.

Mr. Shorten stated he placed barriers (logs and curbs) along both lots to prevent trucks from parking near the property of adjacent neighbors.

Mr. McDonald visited the site and stated the existing barriers are insufficient.

Motion was made by Mr. Kesten to continue case CE905X247 to July 10, 1991, to give the respondents time to work out a solution to erect a barrier that will prevent semi-trucks from parking on the adjacent lot. Motion was seconded by Mr. Whitehead and carried 4 to 0.

CE1030293H - FRANKLIN D. CHRISTOPHER

Violation of Section 602.5.2.3 (Special Permit Uses) of the Manatee County Land Development Code at 13920 Seminole Trail, Parrish.

Mr. Thomas stated the correct case number is CE1030293H and not 294H.

Franklin Christopher, respondent, stated he does not know the reason why he is in violation as he paid for a special permit and held up a receipt (postcard) as proof.

Larry Borrer, Code Enforcement Officer, stated he was unaware the respondent had a receipt for the permit. As of June 7, 1991, there was no valid permit for the property.

The receipt was dated June 2, 1991, but was for something other than the special permit.

As to the current fee for a special permit for a mobile home, Mr. Servia stated the prior LDC labeled the mobile home permit as a special permit; however, the LDC identifies it as an administrative permit. The required administrative permit is for a period of 60-90 days and costs approximately \$400.

Mr. Borrer stated that a 30x30 pole barn was built on the property in March 1991. A trailer was also on the property at that time. An application for a permit was completed, but the permit was never issued. Permits for a residential structure were obtained April 28, 1986; however, construction never started. Other permits for the property were obtained (electrical, etc.).

Mr. Christopher stated he thought the postcard he received from the Planning and Zoning Department was a receipt for the special permit.

After brief discussion, it was determined that Mr. Christopher does not have the necessary permit for the mobile home and should make application.

Motion - In violation

In case CE1030293H, Mr. Whitehead moved to find Mr. Christopher to be in violation of Section 602.5.2.3, Special Permit Required, and give him until December 9, 1991, to come into compliance. Motion was seconded by Mr. Kesten.

It was pointed out this particular case only addresses a violation for not having a special permit for a mobile home, and does not address the pole barn issue.

Mr. Servia reiterated that this case involves an administrative permit not a special permit, and that LDC Section 506, Administrative Permits, should be cited.

Motion - Amendment

Mr. Whitehead amended his motion to reflect that Mr. Christopher needs an Administrative Permit as cited under Section 506 of the LDC. Mr. Kesten agreed. Motion, as amended, carried 4 to 0.

CE0080122X - DOUGLAS AND SHANNON MASHKE

Violation of Sections 403B1 (Site Plan Required) and 203Nd(2) (Outside Storage and Sales) of the Manatee County Comprehensive Zoning and Land Development Code at 2151 Whitfield Park Drive, Sarasota.

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Mr. Thomas advised that on May 8, 1991, the Board found this case in violation and gave respondent until June 10, 1991, to comply. If not complied by June 10, a fine of \$100 per day was to be assessed effective June 11, and a minimum fine of \$150 was to be imposed if the violation went beyond the set date of compliance.

A telephone call was received from an employee of Mr. Mashke who advised that Mr. Mashke was ill and would not be at the hearing. Mr. Thomas stated he advised the person the Board would make a ruling whether or not Mr. Mashke was present.

Mr. McDonald reported the respondent is operating a boat business involving boat and motor repairs. A final site plan has not been submitted, and the property remains in violation. He stated he visited the property on several occasions and did not observe off-street parking; however, there was no room to park on the property due to the boats and equipment on site.

Mr. Kesten explained that the \$100/day fine was based upon the safety hazard of off-street parking; however, it was discontinued. He spoke against assessing \$100/day, but advised that under the LDC, the fine can only be alleviated up to a maximum of 50 percent.

Mr. Kesten moved to impose a fine of \$150, and assess a fine of \$25 per day for every day this violation continues. Motion was seconded by Mr. French and carried 4 to 0.

CODE ENFORCEMENT DIVISION

Mr. Thomas was commended on the reorganization and upgrading of the Code Enforcement Department.

MEETING ADJOURNED

Motion was made by Mr. Kesten, seconded by Mr. Whitehead and carried 4 to 0, to adjourn the meeting.

Attest:

APPROVED:

Clerk

Adj: 12:15 p.m.

/rll

Chairman 10/4/91