

CITY OF ST. AUGUSTINE, FLORIDA

Code Enforcement, Adjustments and Appeals Board Meeting April 12, 2022

The Code Enforcement, Adjustments and Appeals Board met in formal session at 3:00 P.M., Tuesday, April 12, 2022, in the Alcazar Room at City Hall. The meeting was called to order by Larry Weeks, Chairman, and the following were present:

1. ROLL CALL

Larry Weeks, Chairman
Thomas Day, Vice Chairman
Jan Marie Kelly
Marilyn Meade Garrett
CeCe Reigle, absent
Karen Valachovic, absent

Staff Present:

Richard Thibault, Assistant City Attorney
Amy Skinner, Director, Planning & Building Department
Richard "Buddy" Schauland, Building Official
Barry Fox, Code Enforcement Manager
Robert van Mierop, Code Enforcement Officer
Curtis Boles, Code Enforcement Officer
Morganne Pratten, Administrative Coordinator, recording
Elyse Wiemann, Recording Secretary

2. SWEARING IN OF STAFF

The City staff was sworn in.

why the City Attorney was so slow to respond with legal advice.

3. GENERAL PUBLIC COMMENTS FOR ITEMS NOT ON AGENDA

BJ Kalaidi stated the meeting should not be televised; she clarified everything is available to the public via minutes.

Ed Slavin disagreed with Ms. Kailadi that the meetings should be televised. He questioned why someone was only fined \$3700 for removing a tree. He quoted COVID and lack of respect and welcoming spirit within the City, the County, and St. Augustine Beach. He questioned

Lauren Giber questioned the salaries of the fire inspector and why isn't the job per diem? She questioned short term rental officer salaries. She stated there are 91 short term rentals registered in Lincolnvillle.

Thomas Day questioned the number of short-term rentals in Licolnvillle; Ms. Giber responded 91. She stated there is no mandate declaring you must turn yourself in if you are operating as a short-term rental; there is no way to prove if/when a property is a short-term rental. She reiterated the inspectors should be

paid per diem, not a full-time salary.

4. APPROVAL OF MINUTES
(March 8, 2022)

MOTION

Thomas Day moved to accept the minutes. Karen Valchovic seconded the motion.

**MOTION APPROVED UNANIMOUSLY
BY VOICE VOTE.**

5. DISCLOSURE OF EX-PARTE
COMMUNICATIONS

Thomas Day stated he had received several emails from multiple people regarding case CE2022-0208.

Jan Kelly stated she talked with the parking lot attendant when she drove her bicycle by to see the trees that case CE2022-0208 was referring to.

6. VARIANCES/TREE REMOVAL

a. Item 6(a) CE2022-0210

First Baptist Church
89 St. Francis Street
Chapter 28, Section 28-29(b)
Application for Variance.

Buddy Schauland introduced the case and explained the Floodplain management ordinance for variances. He explained the monetary value improvements for First Baptist Church, he found using the County property

appraiser's price and then add ten (10) percent. He stated the improvement percentage was just over 245%. He stated what the requirements are to request a variance from the Floodplain ordinance. He explained what the Board may consider approving the variance application.

Larry Weeks asked if the Board had any questions for the the Building Official, "Buddy" Schauland, they did not.

Sarah Ryan stated that there will be an elevator added to the plan in Phase Two of construction. She spoke upon the building's flooding during Hurricane Matthew.

Mr. Weeks opened the floor for public comments on the case; there were none.

Thomas Day recalled a previous case of variance and stated he would be in favor of granting the variance.

Mr. Weeks **MOVED** to approve the variance for case CE2022-0210 and allow the City's recommendations. Thomas Day seconded the motion.

MOTION APPROVED UNANIMOUSLY

7. REVIEW OF NEW CASES

Item 7(a) CE2021-0208

Trinity Episcopal Parish
City Code: Chapter 25, Section 25-56
Tree Removal/ Replacement

Mr. Fox introduced the case; He read Section 25-56; subsection (d), subsection (4)- Tree removal and replacement.

The Code Enforcement Officer Mr. Boles explained that on 1/28/22 he responded to the property in question about two trees being removed. He quoted Eddie Conlon about the arborist report he received; stating the trees were recommended for removal based on condition of the trees. He cited the plans that were submitted to the Development Review Committee for the parking lot expansion that referenced the trees in question. Mr. Boles stated that he deferred any questions that the Board may have at this time to Mr. Fox.

Mr. Fox stated there is no additional information he wishes to add, but noted there is an additional individual present to give testimony as required.

Mr. Weeks asked if there as anyone present to represent the respondent; Eddie Conlon of 71 Anastasia Lakes Drive, St. Augustine, FL, 32080 was sworn in.

Edward Conlon spoke upon the trees in question; they had been in question for years, he spoke about protecting people and properties from tree damage. He stated that he sent the arborist report to the City before the trees were cut down, explaining the emergent need to cut them down. He stated the Magnolia Tree had fallen on the house next to the trees. He showed photos of the tree that

was cut down and noted the structural integrity loss of the tree, via lateral cracks. He stated most of the canopy was dead wood, covered in mistletoe.

Marilyn Garret questioned if that was the Magnolia tree in the photos; it was.

Mr. Conlon explained the cracks in the trunk; and the cavity within the canopy, explaining the lack of structural integrity of the tree. He explained codominance in the tree trunk; the most dangerous situation a tree can be in; of which he claimed to notify the City via email prior to the removal of the trees that morning.

Jan Kelly asked Mr. Conlon if he knew the tree were diseased/damaged for some time. Mr. Conlon replied he did, and that in partnership with the Church, they had trimmed and reduced the trees to the best of their ability in the past to try to make the trees as safe as possible. He stated the Church did not want to take out the trees at first.

Jan Kelly asked about the timing of when Mr. Conlon notified the city of the removal of the tree.

He responded he notified the City the morning of the tree removal, approximately 6:30am.

Mr. Conlon stated the only way to make the trees safe was to take them down. Additionally, he expressed that according to the Governor, he had the authority to remove trees without the City's approval if he, being a certified arborist, deemed the tree unsafe.

Jan Kelly deferred to legal counsel.

Mr. Thibault stated his arborist report would only be relevant on a residential property.

Mr. Conlon cited the residence next door to the Church.

Mr. Thibault clarified the statute Mr. Conlon was referring to and stated again that the Church was on commercial property, not residential, and that the Board needed to distinguish between the two.

Richard "Buddy" Schauland reiterated Mr. Thibault's point and clarified anything zoned non-residential must get approval from the Planning and Zoning Board.

Mr. Weeks asked if there was anyone directly from the Church present for questions, Fr Matt Marino approached.

Father Matt Marino of 13 Ballard Avenue, was sworn in.

Larry Weeks asked about the notes from the Friday Review Meeting dated October 15th regarding the parking lot expansion indicated that those trees would need to be removed, and he asked what happened?

Fr Matt explained the problems with the parking lot and parent pick up and possible solutions via driving and different routes. He stated he had been informed back in October that the trees

were not allowed to come down; he stated the Church had been driving between the trees for some time, they would just continue to do so. He stated Mr. Conlon came to trim the trees in January, and Fr Matt received a call from a property manager at the Church that morning stating the trees needed to come down. Fr Matt explained to the property manager that the City advised the trees were not able to be cut down; to which the property manager replied that was before the trees were diseased.

Thomas Day asked if the trees must come down by law if they are diseased and unsafe.

Richard Thibault stated he was unsure and would research to find an answer and get back to him.

Thomas Day reinstated that Mr. Conlon deemed the trees unsafe and had been asking the Church to take down the trees for some time, and that the decision to take the trees down was made almost three months after the Church discovered they needed to alleviate the parking situation.

Fr Matt stated the parking situation has been ongoing ever since people have had cars.

Thomas Day suggested that they move the school at the Church; to which Fr Matt replied that it would be very difficult to move the school, and is easier in theory than in reality.

Mr. Conlon explained the safety issue with the tree; reiterating the lack of structural integrity and the need for the tree to be removed. He cited his honorable reputation with thirty-one years of experience within the City. He stated his arborist report had nothing to do with the parking lot expansion plans, and that he was unaware of any plans to expand the parking lot.

Mr. Fox reinstated Mr. Conlon's integrity within the City and stated the case was about the removal of the trees; not the validity of the arborist report. He then stated he felt it was important to bring up the testimony of the staff member that spoke with the Church in October of 2021 specifically regarding the trees in question.

Jacob Frederickson, of 59 Saragossa Street was sworn in.

Mr. Frederickson explained his Friday review comments and stated his report specifically outlined the necessity of appearing before the Planning and Zoning Board for the removal of the trees.

Ms. Garrett questioned why he didn't wait until the City opened to cut the trees down.

Mr. Conlon responded the tree could not wait, as it was added risk to safety of persons/ property. He referenced an email from June 25, 2019 stating the tree had dropped limbs onto the parking lot.

Mr. Day stated the discussion started in

October; He stated the Board was not questioning if the trees were diseased or the validity of the arborist report. The question was why the process wasn't followed.

Fr Matt stated the permit was not pursued because the original plan was never to take the trees down; it wasn't until he received the phone call from the property manager that morning and understood the emergent need to remove the trees that it was necessary.

Mr. Fox talked about the trees coming down and noted the brush was also gone from the lot, he asked that the board focus back to the case; as to why the trees/brush were removed.

Mr. Conlon showed an email going to Mr. Boles about the removal of the trees on January 28, 2022 at 6:28am.

Ms. Garrett questioned if Mr. Conlon stated in his email sent 1/28/22 that he was getting ready to cut the trees down.

Mr. Conlon quoted the email, saying yes; recommendation was immediate removal.

Mr. Weeks questioned why the trees were removed without City approval.

Mr. Conlon stated there was no time to wait to remove the trees; they were a danger. He continued to say the City should remove hazardous trees and plant new trees to grow with the City.

Mr. Schauland stated the tree still must

go before the Planning and Zoning Board for approval.

Mr. Weeks stated the City cannot give permission to the arborist to remove the tree if it is preserved and/or of a certain size; the Planning and Zoning Board holds that responsibility.

Mr. Thibault confirmed Mr. Weeks was correct.

Mr. Fox confirmed for the Board that the information regarding the Planning and Zoning Board approval was relayed to the property owner in October 2021.

Ms. Kelly questioned why the Church did not apply for a permit to remove the trees.

Fr Matt stated they were not going to remove the trees.

Jan Kelly questioned the email from Mr. Conlon in 2019.

Mr. Conlon explained the Church was trying not to take the trees down; and the 2019 email Ms. Kelly questioned resulted in the trees left as is.

Mr. Day questioned Mr. Conlon on if he was aware there is a difference between residential and commercial property.

Mr. Conlon responded he understood completely.

Fr Matt stated his original plan to take the trees out.

Mr. Weeks clarified that Mr. Frederickson did not testify the trees could not be taken down; he instead testified they would need Planning and Zoning Board approval for the proper removal of the trees.

Fr Matt stated he was told in 2019 that the trees had to stay.

PUBLIC COMMENT

Irvin Rubin from 224 St. George Street, was sworn in.

He reported he was a neighbor to the Church; his home is zoned HP-1 with no lot line because there is no buffer between his home and the property.

Mr. Thibault stopped the meeting after Jan Kelly excused herself because quorum was not met with 3/7.

The meeting continued and Mr. Rubin reported the Church was motivated to remove the trees to make room for more parking.

September 2021, Mr. Rubin claimed Trinity removed additional landscaping to park cars. He claimed the Church excavated the area to remove all remaining vegetation in the lot; he stated he witnessed the bucket of the excavator digging.

Mr. Weeks stated he was only here to discuss the tree removal, not the parking lot excavation.

Mr. Rubin stated there were other trees that were improperly removed. He also suggested the area could have been roped off instead of immediately cutting down the trees.

Charles Pappas, of 46 Macaris Street was sworn in.

Charles Pappas stated he thought he saw sufficient proof that the trees were removed but the process wasn't followed to remove them. He questioned the focus of the discussion. He stated instead of trying to figure out how we got here, we needed to find a way forward.

Eddie Conlon stated he could not rope off the tree because the house adjacent was in danger.

Lauren Giber, of 257 Riberia Street was sworn in.

Ms. Giber stated she was concerned with the process and that it must be followed, and if it is not followed, penalties must be incurred. She stated the church was very motivated to remove the trees based upon the money made with parking revenue. She stated there were other trees and shrubs that were improperly removed. She stated they were given instruction in October to go to PZB for removal of the trees. She stated the trees could've been roped off until the proper permits were obtained.

Maddie Harms of 307 St George Street was sworn in.

Ms. Harms stated the importance of trees for oxygen and flooding, and the new construction taking more and more trees down; she stated the trees were important for tourism. She expressed the statement the City makes today is the statement to other residences and businesses in the future.

Lee Geanuleas, of 233 N Forest Dune Drive was sworn in.

Mr. Geanuleas showed a photo of before the trees were removed; the area was flattened, paved with gravel, and the parking lot was expanded. He quoted how the Church was told in October that they needed to go to Planning and Zoning Board. He asked that the Board keep in mind that the Church did all these changes without any approval.

Ed Slavin, of 19 Casanova Road, was sworn in.

Mr. Slaven stated the Church committed a crime by removing the trees; he suggested the board postpone the motion and group the trees together with the other cases for the Church. He asked if the Church gets away with this, who else can get away with it? He stated the importance of trees for drainage within the City and expressed his support for Barry Fox and the Code Enforcement Department for enforcing the law. He recalled a bar that was torn down because of "immediate danger" and questioned why Mr. Conlon did not call John Regan the morning the trees

were torn down.

BJ Kalaidi of 8 Newcomb Street was sworn in.

Ms. Kalaidi stated there was a concerned citizen that filed a complaint that brought us all here today; she expressed the Board give credit to the public that called the complaint in.

Larry Weeks questioned if Mr. Fox stated he had anything to add; he stated he did not.

Tom Day stated there should be some penalty, but stated there were other things going on that needed to be addressed as a whole.

Mr. Schauland stated the Church has met with Staff and they have directed them as to the steps they need to take to resolve the other issues in accordance with the City.

Mr. Weeks stated he wanted to settle the case today; he explained to the Board they were present to discuss the procedure that was not followed in relation to the removal of two trees.

Mr. Fox stated the cases needed to be separated. And this case was an irreparable/irreversible violation up to a \$5k fine per tree.

Mr. Thibault stated the fine options and considerations, including the gravity of the violation, any action taken by the violator to correct the violations, or any previous violations.

Mr. Fox stated the tree case was very co-mingled with other active cases, which is why Staff was dealing with one case specifically at a time.

Tom Day stated he was inclined to fine the Church the \$5,000 per tree; and two tree replacements for every one that is removed.

Mr. Weeks asked Buddy if the replacement requirements were correct at up to two replacements per tree. Mr. Schauland confirmed.

Mr. Fox suggested they require if the church does not proceed with the plan to expand the parking lot, and thus comply with parking lot landscape requirements, they come back with specific replacements at that time.

Larry Weeks stated he believed the Board should require replacement trees, regardless of the parking lot expansion plan and subsequent landscape requirements.

Thomas Day suggested they follow up with replacement options for the trees.

Mr. Schauland corrected his previous statement; it is one for one replacement if they come to the Planning and Zoning Board, to which Mr. Day responded he believed for preserved trees it was two for one. Mr. Schauland clarified, if the applicant is able to receive a permit legally, then the requirement is one for one.

Jan Kelly stated the problem was the removal of trees. She recommended a fine of \$5,000 per tree.

Ms. Garret suggested in the motion they address the replacement options.

Mr. Weeks stated he was hesitant to motion for \$5k per tree.

Ms. Garrett stated \$5k for both trees.

Mr. Weeks stated to the Board the fine was against the property owner, and had nothing to do with the Vendor, or the tree company.

MOTION

Jan Kelly **MOTIONED** to find the Church in violation and impose a fine of \$5,000 per tree for a total of \$10,000, further requiring the property owner to replace the trees with two approved shade trees if they do not further continue their parking lot expansion and subsequent landscape requirements.

Thomas Day **seconded the motion.**

VOTE ON MOTION

Ayes: Jan Kelly, Thomas Day
Nayes: Marilyn Garrett, Larry Weeks

MOTION DOES NOT CARRY.

Larry Weeks MOTIONED they fine the Church \$5,000 with replacement of two trees required.

Marilyn Garrett seconded the motion.

Ayes: Larry Weeks, Marilyn Garrett, Jan Kelly
Nayes: Thomas Day

MOTION APPROVED

8. REVIEW OF PREVIOUSLY HEARD CASES

Item 8(a) CE2021-0227

Augustine Development Group LLC
215 Anastasia Boulevard
Alteration/ Construction without Permit.

Mr. Fox introduced the case; he stated the corrective action the Board may take.

Scott Russom of 237 E Pisa Place was sworn in.

He introduced the case and explained all the improvements they made to the property. He stated they did not make any changes to the structural integrity of the building and were unaware they needed permits to change the water flow of the building. He questioned exactly what the problem was.

Brian Griener, of 215 Anastasia Blvd was sworn in.

Brian Griener stated they made no structural changes; he stated he did submit changes to Mr. Schauland, who

had made comments to the plans. He explained the brand required the opening of the bar, and further expressed the need to get the property back online after being closed due to COVID-19.

Mr. Fox stated Mr. Griener is working with City staff to obtain permits and expressed to the Board that this case was solely being brought to their attention as an update; stating the violator was still in violation, and the fine is continuing to accrue. He stated in the event the permits are issued, or Mr. Griener comes into compliance, he would then be brought back to the Board to discuss the fine in question.

Mr. Weeks stated Mr. Griener was aware permits were required in building this bar.

Mr. Thibault asked if they could propose a date to return to the CEAAB Board for discussion of the fine,

Mr. Fox asked the Board to be cognizant of the fact that there are outside factors that may keep the respondent from meeting a deadline, such as permitting approval etc. He stated the case was only brought before the board as an update; the fine was continuing to accrue up to \$250 per day.

Item 8 (b) CE2022-0219

James A. Philcox
111 Zoratoa Avenue
City Code: Chapter 19, Section 4
Certain growth and conditions prohibited.

Mr. Fox introduced the case. And explained the violations against the property; the property came into compliance on February 10, 2022. He informed the Board find that the fine remains unpaid and asked that they approve the motion that the fine remains unpaid and assign the lien.

Thomas Day stated he had no further questions.

MOTION

Larry Weeks **MOTIONED** to find that the fine has not been paid by the respondent and the Board move to file a lien on the property in the amount of \$5,000. **The motion was seconded** by Thomas Day.

Ayes: Larry Weeks, Thomas Day, Marilyn Garrett, Jan Kelly.
Nayes: None.

7. CITY ATTORNEY ITEMS

(None)

8. OTHER BUSINESS

(None)

9. REVIEW OF CONFLICT STATEMENTS FROM PREVIOUS MEETING

(None)

10. ADJOURNMENT

Meeting was adjourned at 4:41 P.M.



Larry Weeks, Chairperson



Morganne Pratten, Administrative
Coordinator