

CITY OF ST. AUGUSTINE, FLORIDA

Code Enforcement, Adjustments and Appeals Board Meeting
May 10, 2022

The Code Enforcement, Adjustments and Appeals Board met in formal session at 3:00 P.M., Tuesday, May 10, 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 Kelly
Marilyn Garrett
CeCe Reigle, absent
Karen Valachovic, absent
Irvin Rubin, 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

2. SWEARING IN OF STAFF

**3. GENERAL PUBLIC COMMENTS
FOR ITEMS NOT ON AGENDA**

None

**4. APPROVAL OF MINUTES
(April 12, 2022)**

MOTION

Thomas Day moved to approve the minutes. The motion was seconded by Marilyn Garrett and approved by a unanimous voice vote.

**5. DISCLOSURE OF EX-PARTE
COMMUNICATIONS**

(None)

6. BUILDING CODE VARIANCES

(None)

7. REVIEW OF NEW CASES

(a) CE2022-0211

Luis and Monica Wallpher
19 Martin Luther King Avenue

City Code: Chapter 25, Section 25-56,
Tree Removal and Replacement

Mr. Fox corrected the case number and introduced the case. He referenced the tree removal City code.

Mr. Robert van Mierop presented his staff report about responding to 19 Martin Luther King Avenue. He spoke about talking with the property owner and the tree removal company. He quoted from the City code; Chapter 25, Section 25-56 tree removal and replacement. He stated all trees in question are considered significant due to their size.

Mr. Fox described the size parameters of significant trees.

Luis Wallpher, of 19 Martin Luther King Avenue was sworn in. He stated he had been away from St. Augustine due to working overseas. He stated after returning home about three months ago he noticed the three trees in front of the house were excessively trimmed by the previous renters he had; he showed pictures of the trees before they were cut down*. He quoted how the trees were a danger to people walking around and the roots were damaging to the foundation of his home. He said he didn't want to cut down the trees but felt he needed to because of the damage/ danger. He stated he called the tree trimmer and asked if they had a permit; the tree company stated they (the homeowner) needed to apply for the permit. He expressed his dissatisfaction

with the tree company's unprofessionalism and the City's lack of communication. He stated the tree company told him they should cut all the trees down because it was a health hazard. He stated he believed that the professionals that he hired to do the job should have known that they needed a permit, or else tell the homeowner they need to apply for a permit.

Larry Weeks stated he agreed but there is no action the Board can take against the vendors, only against the homeowners.

Monica Wallpher was sworn in, she stated her husband wasn't clear about one point- her husband called the companies to trim the trees, not to cut them down. She showed photos of damage to the foundations of the house*. She stated as of 2021, owner's rights state that if trees are damaging your property, you can have them cut. She expressed her frustrations on trying to access the tree removal permit page without a computer, as they just moved from overseas; they were having some issues trying to access the City's website for information.

Mr. Weeks opened the stand for public comment.

Charles Pappas approached the stand and was sworn in; he stated he felt bad for the homeowner, but the fact remains the procedure was not followed. He stated anyone could google from their

*Pictures that were presented before the Board by Luis and Monica Wallpher were submitted to the original packet.

phone and find out they did in fact need a permit to cut down the trees. He expressed his opinion on the health of the trees and again reiterated the procedure was not followed.

BJ Kalaidi approached the stand, was sworn in, and stated that this case was started by a citizen complaint. She referenced the law that Monica Wallpher brought up does not say you can cut down any trees that you want. She stated it is not the City's problem that the tree company did not file for a permit; that they will need to take that up with them via civil court.

Mr. Fox read Florida state statute 163.045.

Marilyn Garret asked if Mr. van Mierop had expressed that they needed a permit the first time he visited the property and if she understood the sequence of events correctly. Mr. van Mierop clarified he could not say the additional trees were cut down after he had been to the property the first time as he did not go to the back of the property at that time.

Thomas Day asked about the arborist report statute: Mr. Fox read Florida state statute 163.045 again.

Mr. Thibault stated if a licensed arborist states the trees need to come down, there is nothing we can say about that, if they are on residential property.

Mr. Fox reiterated the arborist report that we received was not for any of the trees brought before the Board today.

Jan Kelly asked what fines were possible for each tree.

Mr. Thibault answered the fines were consistent with the Florida State Statute 162.09, and the factors the Board should consider when imposing a fine.

Mr. Weeks asked if they are also required to replace the trees. Mr. Thibault responded it is something the Board can require in their motion.

Thomas Day stated he thought there should be a fine. He stated tree removal is not allowed without a permit. He understood why the trees were taken, but that still does not make it acceptable. He expressed he would entertain a fine and replacement.

Larry weeks said he thought everyone would agree the policy wasn't followed.

Mr. Fox stated an imposition of fine should be considered, pertaining to the facts of the case. He explained the next steps the Board could take in imposition of fines. He read chapter 25, subsection (g) of the City code.

Mr. Weeks asked if we needed to do a motion per violation. Mr. Thibault answered it was not mandatory, but ultimately would be up to the Board.

Ms. Kelly stated she felt it sad that these cases come to the Board after the fact; she stated the ramifications for the community and flooding due to the removal of trees.

Mr. Weeks stated he would like to entertain a motion that reflects the fine amounts and the fact that the case was irreparable and irreversible in nature, considering replacement trees and time frames.

MOTION

Mr. Weeks motioned to find case CE2022-0211 in violation on all five counts, and impose a fine of \$2,500.00 per tree, requiring replacement consistent with the options outlined in the City code chapter 25, section 25-56.

Jan Kelly stated it would align with previous tree removal fine amounts within the city.

Mr. Fox questioned Mr. Weeks if the replacement options would be specifically stated within the motion, or if he would prefer to leave it up to the code enforcement Department to handle administratively. Mr. Weeks agreed it should be administrative within Code Enforcement.

Jan Kelly seconded the motion.

Motion carried.

VOTE ON MOTION

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

Nayes: none.

8. REVIEW OF PREVIOUSLY HEARD CASES

(None)

9. CITY ATTORNEY ITEMS

(None)

10. OTHER BUSINESS

Thomas day stated the tree issue should be brought up to the City Commission about literature being published that states what the rules are about tree removal/replacement because there are so many people that don't know the rules. He stated the only real recourse a homeowner has in situations regarding unauthorized tree removal is to sue the tree company in court.

Mr. Fox stated he and his staff have recognized those issues and are working to put together a user-friendly way to distribute that information, through the online portal and in person.

Mr. Thibault stated all the ordinances are current and available on the City's

website, and City Hall can be reach via
phone as well.

11. REVIEW OF CONFLICT
STATEMENTS FROM PREVIOUS
MEETING

(None)

12. ADJOURNMENT

Meeting was adjourned at 3:56 P.M.



Larry Weeks, Chairperson



Morganne Pratten, Administrative
Coordinator, Recording