CITY OF ST. AUGUSTINE, FLORIDA

Code Enforcement, Adjustments and Appeals Board Meeting
October 8, 2019

The Code Enforcement, Adjustments and Appeals Board met in formal session at 3:00 P.M., Tuesday, October 8, 2019, in the Alcazar Room at City Hall. The meeting was called to order by Martha Mickler, Chairman, and the following were present:

1. ROLL CALL

Martha Mickler, Chairman
Noel Mahr
CeCe Reigle
Larry Weeks
Thomas Day
William Masson

Absent: Stephen Simmons, Vice Chairman - excused

Staff Present: John Cary, Esq., Assistant City Attorney
David Birchim, Director, Planning & Building Department
Richard Schauland, Building Official & Code Enforcement Manager
Cutis Boles, Code Enforcement Inspector
Sandra Partin, Administrative Coordinator, Recording

The City staff was sworn in.

2. APPROVAL OF MINUTES (September 10, 2019)

MOTION

Mr. Day moved to APPROVE the minutes with correction to Page 3, Ayes should have included, Mrs. Mickler and not Mr. Day. The motion was SECONDED by Mr. Weeks and APPROVED BY UNANIMOUS VOICE VOTE.

3. DISCLOSURE OF EX-PARTE COMMUNICATIONS

Mr. Day received an email communication from Mrs. Sol regarding 36 Magnolia Avenue, which he then forwarded to Mrs. Mickler, who forwarded it to City Staff for the record.

Public comment for items not on the agenda was opened, however there was no response.

4. VARIANCES/TREE REMOVAL

None.

5. REVIEW OF PREVIOUSLY HEARD CASES

Item 5 (a) 2019-0328

Neil Sexton
36 Magnolia Avenue
City Code, Chapter 8, Section 8-301
International Property Maintenance Code, Section(s) 304.2, 304.7 and 304.13
Property Maintenance

Property in state of disrepair. A blue tarp on the roof was weathered and torn, exposing roof damage. A previously boarded up window on the north side of the house was open and the plywood had fallen off. A fence panel at the northeast corner of the house had fallen to the ground, leaving the property open to trespass.

Mr. Schauland read the staff report and gave recommendation that considering the recent sale of the property, the case be closed. And any further code violations would be addressed as new violations to the new owner.

The Board discussed:

- Recent permit applications made.
- The previously ordered fine by this Board running with the property.
- The amount of the accrued running fine.

Mr. Cary responded that the fine runs with the property, and he read the Florida Statute into the record.

Mr. Birchim informed the Board that their previous order was imposed against the previous owner, as this board was unaware of the new owner. And that the running fine to date would be $2,750.

Public comment was opened, however there was no response.

Mr. Weeks commented that should this Board apply staff recommendation; they could bring this case before the Board at the next meeting and make a ruling.

MOTION

Mr. Masson moved to ALLOW the fine to continue to run until the property was brought into compliance. The motion was SECONDED by Mr. Mahr and APPROVED BY UNANIMOUS VOICE VOTE.

Item 5 (b) 2019-0314

George A. Allen
47 Abbott Street
City Code, Chapter 19, Section 19-4
Certain growth prohibited

Rear property overgrown and not maintained in accordance with city code.

Mr. Schauland read the staff report and recommended that Board find the property to be in repeat violation of City Code, Chapter 19, Section 19-4, and that a fine in the amount of $500 per day, and each day thereafter, be imposed until the property was brought into compliance. He further recommended that the Board's

previously ordered fine of $750.00, in CEAAB Case Number 2018-0416, be recorded with the St. Johns County Clerk of Courts, as the property owner failed to comply with this Board's stipulations of that Order.

The Board discussed:

- Whether staff had been able to make contact the respondent.
- Whether the respondent was physically able to maintain the property.

Public comment was opened.

Marie Ostrund, Abbott Street, commented to the following:

The property had been vacant for 12 years. It attracted vagrants. In the past, the owner had cut the grass from time to time, but it had not been taken care of for some time. A couple of years ago a tree fell during the Hurricane and damaged her fence. The owner did not have the money to remove the tree, and she had to pay for the removal of the tree and repairs to her fence. That she has had a few rats entering her property from the adjacent property.

Public comment was closed.

Mr. Weeks agreed with staff recommendation.

Ms. Reigle commented that if there was an elderly person living in the home, she would be inclined to reduce the fine. However with the property having been vacant for 12 years, she was in favor of the maximum repeat violation fine of $500 per day.

MOTION

Mr. Weeks moved to APPROVE an Order Finding Violation and impose a fine in the amount of $500 per day, for the repeat violation, until the property was brought into compliance. And further ordered that the previously imposed fine in the amount of $750.00 be filed with the Clerk of Court. The motion was SECONDED by Mr. Day and APPROVED BY UNANMOUS VOICE VOTE.

6. REVIEW OF NEW CASES
Item 6 (a) 2019-0381

Roman Catholic Church
101 San Marco Avenue
City Code, Chapter 22, Section 22-16 (b)(1)(i)
Use of and/or construction in city rights-of-ways

A new fence, constructed on the south property line of the above address, along Pine Street, was installed in the City Right-of Way.

Mr. Schauland read the staff report and recommended that the Board continue the case until the City Commission had an opportunity to review the License Agreement application that had been submitted.

Mrs. Mickler added to the record, that two emails with attachments had been received by staff from neighbors adjacent to the subject property, which communicated they were unable to attend the meeting as they were out of town, and that placement of the fence in the city right-of-way precluded a safe area for pedestrians to access when walking along Pine Street. [1]

*Joanna Starke***,** 27 Ocean Avenue, St. Augustine, was present and testified to the following:

- Present to represent the respondents in the case.
- That when they originally obtained the permit, it stated that the new fence would be placed where the existing older fence had been, except for areas around trees, in which they placed the fence back further than the original fence. They were not given any indication that anything different would need to be done.
- So, at a large expense, with an approved permit, they placed the new fence where the existing fence had been, with exception of working around trees. And that there was a visual that had been submitted with the application.
- The original permit was approved by the city, and clearly stated that it would be placed where the old fence had been.

[1] Attached to original minutes

The Board discussed:

- Was there a copy of the permit that had been issued by the City in the material provided that day.
- It was noted that surveyors had been seen on the property that day.
- Whether the Ordinance override a mistake on a survey or would the survey hold.
- Whether there was documentation showing the fence on the city right-of-way.
- Was the City seeking for the entire fence to be moved, or only the portion on Pine Street.

Ms. Starke advised that the property was being surveyed.

Mr. Birchim stated that the permit description was to construct fence and gates around perimeter of grounds.

Mr. Cary advised that the Ordinance would be the rule, as there could be an error in the survey or by a city employee, and the Ordinance could not be overridden.

Mr. Schauland stated that the only portion being looked at was Pine Street.

Public comment was opened.

B. J. Kalaidi, West City, commented that in the record there was an email from the church's attorney to city staff. That the fence was installed illegally, and she encouraged the Board to visit the site. That the case was to be continued until

the City Commission could review the application, and she was unsure why the case had come before the Board at this time.

Charles Pappas, 315 Aqua Vista Lane, encouraged the Board to ask the City Commission to order the fence to be removed. That the permit should never had been issued in the beginning. That he did not understand a contractor placing a fence of this size without a survey prior to installation.

John Carres, 27 Ocean Avenue, Operations Manager, he stated that the permit application had the survey and plans that showed the placement of the fence. That a new survey was being done that day.

Mr. Weeks asked about the statement made in the email communications between Ms. Clayton where it was stated that the fence must be 5 feet from the curb.

Mr. Carres stated that the email was received after the fence had been placed.

Mr. Mahr commented that this Board was hearing the case to be moved onto the City Commission for review of the Licensing Agreement Application. And asked Mr. Carres if he would be willing to move the fence.

Mr. Carres stated that they would not be looking to move the fence if it were not required, as it was a large expense.

Chris van Horn, 7 Waldo Street, with Matthews Design Group, commented that their firm did not assist with the fence, but did assist with the Licensing Agreement Packet, and that the survey was received quickly after having been requested.

George Miller, former owner of 15 Pine Street, commented that the measurement shown in the photos conflicted with what was shown on the plans. He agreed that the fence was beautiful, however it was not safe for the residents/pedestrian traffic on Pine Street. That if he had placed a fence at 3 feet, he believed that the city would make him move the fence back to 5 feet. He encouraged the Board Members to visit the site.

Robert Rifco, 221 N. Churchill Drive, commented that it seemed to him that the church was trying to drag the city into a conflict between the fence contractor and themselves. That it was not the fault of the city, this board, or the church. And the church was failing to recognize the placement of the fence to the curb.

Public comment was closed.

Mr. Weeks asked staff and counsel if the Board could make recommendation with the application going to the City Commission.

Mr. Cary replied that the Board could make recommendation, but it would not have any legal affect.

Mr. Birchim stated that the case would remain open until the City Commission made a ruling on the Licensing Agreement Application, or the Commission could remand it back to the Board. And he advised there may be some wisdom to allow the City Commission to hold a hearing before opining your final decision.

MOTION

Mr. Masson moved to CONTINUE the case until such time as the City Commission has had an opportunity to review the Licensing Agreement Application. The motion was SECONDED by Mr. Day and APPROVED BY UNANIMOUS VOICE VOTE.

7. CITY ATTORNEY ITEMS

In response to the Board's request at the previous meeting, *Mr. Cary* produced a memo regarding the enforcement of tree companies and offered a brief description of the content in the memo. [2]

Mr. Mahr complimented Mr. Cary on the report and information provided. And added that to his recollection, there were no tree companies located within the City limits of St. Augustine.

Mr. Cary confirmed that was correct.

Ms. Reigle commented that Counsels report addressed many of the difficulties in enforcement of tree removal without a permit, and that the Board needed to take steps to ensure that property owners are educated on the requirement of permitting.

Mrs. Mickler and Mr. Masson expressed agreement that the public did need to be educated on the requirements.

Mr. Day suggested that it could be placed on the City's Website and brought up during City Workshops.

Mr. Birchim stated that we could look into options for educating the community.

8. OTHER BUSINESS

(None).

9. REVIEW OF CONFLICT STATEMENTS FROM PREVIOUS MEETING

(None).

10. ADJOURNMENT

Meeting was adjourned at 4:05 P.M.

Martha Mickler, Chairperson

Sandra Partin, Administrative Coordinator

[2] Copy of memo attached to original minutes