

CITY OF ST. AUGUSTINE, FLORIDA

Code Enforcement, Adjustments and Appeals Board Meeting
February 9, 2021

The Code Enforcement, Adjustments and Appeals Board met in formal session at 3:00 P.M., Tuesday, February 9, 2021, in the Alcazar Room at City Hall. The meeting was called to order by Stephen Simmons, Chairperson, and the following were present:

1. ROLL CALL

Stephen Simmons, Chairperson
Larry Weeks, Vice Chairperson
Charles Pappas
Karen Valachovic
Thomas Day

CeCe Reigle - Absent

Staff Present:

Denise May, Esq., Assistant City Attorney
David Birchim, Director, Planning & Building Department
Richard Schauland, Building Official
Curtis Boles, Code Enforcement Inspector
Robert van Mierop, Code Enforcement Inspector
Sandra Partin, Administrative Coordinator
Meredith Randolph, Administrative Coordinator,
Recording

The City staff was sworn in.

3. ELECTION OF CHAIRMAN AND VICE-CHAIRMAN

MOTION

Mr. Weeks moved to nominate Stephen Simmons as Chair. Motion was seconded by Mr. Pappas. Motion carried unanimously.

Mr. Day moved to nominate Larry Weeks as Vice Chair. Motion was seconded by Mr. Pappas. Motion carried unanimously.

4. APPROVAL OF 2021 BOARD MEETING CALENDAR

MOTION

Mr. Pappas moved to APPROVE the 2021 Code Enforcement Board meeting calendar as presented. Motion was seconded by Mr. Day. Motion carried unanimously.

5. GENERAL PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA

None.

6. APPROVAL OF MINUTES **(November 10, 2020)**

MOTION

Mr. Pappas moved to APPROVE the minutes. Motion was seconded by Mrs. Valachovic. Motion carried unanimously.

7. DISCLOSURE OF EX-PARTE COMMUNICATIONS

Mr. Pappas disclosed he watched the HARB meeting for 97 Masters Drive.

8. BUILDING CODE VARIANCES

Item 8 (a) **2021-0040**

46 Avenida Menendez Inc.
46 Charlotte Street
Variance of Floodplain Management
Code
City Code Chapter 8, Section 8-446

Representative for the property owner was present.

Sammy Hale, representative, at 4 Eugene Place spoke on the project and explained the significance of the building. Mr. Hale confirmed the property did not flood in previous hurricanes.

Mr. Schauland reported the following:

- The property had an active building permit and it had been determined the proposed work to be a substantial improvement.
- The property is within flood zone AE with a base flood elevation (BFE) of 8-foot NAVD.

- One of the flood requirements for new construction was for the finished floor elevation to be one foot above the BFE, or 9-foot NAVD 1988 for this structure.
- The finished floor elevation was approximately 3 inches below the required elevation for new construction.
- The building did not receive flood damage during Hurricanes Matthew, Irma, or Dorian.
- The applicant requested a variance to the requirement of elevating the finished floor of the structure as authorized by CoSA Ord. Sec. 8-450 – Historic buildings, which authorized the variance if requirements are met.
- The building is a contributing resource within a National Register of Historic Places listed district.
- The proposed work would not preclude the building's continued designation as an historic building. All proposed work for the building had been approved by the Historic Architectural Review Board.
- This variance was only for elevating the building; all other requirements will be complied with.
- Staff recommended the approval of this variance with the following findings:
 1. The building meets the criteria of an historic structure as it is listed on the St. Augustine Historic District Site Inventory as a contributing building.

Public comment was opened. No one spoke.

MOTION

Mr. Pappas moved to APPROVE the variance, to include the findings as provided by staff. Motion was seconded by Mrs. Valachovic. Motion carried unanimously.

9. REVIEW OF PREVIOUSLY HEARD CASES

None.

10. REVIEW OF NEW CASES

Item 10 (a)	2020-0463
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Barbara W. Teisan
47 Grove Avenue

City Code, Chapter 3, Section 3-2
Attaching advertising matter to poles,
trees, etc.

City Code, Chapter 17, Section 17-72
Engaging in business without a receipt; failure to comply.

Respondent was present.

Jeremy Adam Teisan of 47 Grove Avenue spoke as a witness for

this case. Mr. Teisan had not submitted owner authorization to represent and speak for Mrs. Teisan, the witness' mother. Mr. Teisan stated he was covering for an employee of Mr. Patel's to park cars on a property adjacent to 47 Grove Avenue. He explained that the cars at the property were for his AirBnb at 78 Spanish Street and residents at 47 Grove Avenue. He explained he was not the person to post the signs or park any cars for 47 Grove Avenue.

Mr. van Mierop reported the following:

- On December 28, 2020 a complaint was received from a property owner near 47 Grove Avenue who advised the resident at 47 Grove Avenue was selling parking spaces, parking cars at that address, and attached signs advertising the sales of parking spaces to a Southern Red Cedar tree and to a street sign, both of which are located in the City right of way.
- On December 28, 2020 at 6:45pm, Staff visited the Respondent's address and saw two signs on a Cedar tree located in City right of way along Castillo Drive; and one sign attached to a "No Parking on Grass" sign. On one sign the letter "P" was circled at two locations on the sign, and it had "10.00" in between the two circled letters. The other sign was attached to a "No Parking on

- Grass" sign, and it displayed "15.00" with an arrow, and "10."
- On December 28, 2020, Mr. van Mierop removed the signs located in the right of way and spoke to the resident Jeremy Teisan. Mr. Teisan commented he has no other way to make money due to Covid. As of December 28, 2020, there was no record of a Business Tax Receipt for this address. Staff presented photo evidence of the signs.
 - On January 10, 2017, Case Number 2016-4488, the property owner was found to be in violation of Engaging in business without a receipt and a fine was imposed in the amount of \$250.00.
 - On May 14, 2019, Case Number 2019-0170, the property owner was found to be in violation for attaching advertising matter to poles, trees, etc. and a fine in the amount of \$250.00 a day for two days of violation was imposed. Also on that date, the property owner was found to be in repeat violation of engaging in business without a receipt and a fine was imposed in the amount of \$500.00 a day for two days of violation.
 - Staff defined Florida Statute 162.04 (5) of "Repeat Violation."
 - Staff recommended that the CEAAB find the Respondent to be in violation of City Code, Chapter 3, Section 3-2, Attaching advertising matter to poles, trees, etc., that the Board find this to be

a repeat violation, and that a fine in the amount of \$500.00 be imposed.

- Staff recommended the CEAAB find the Respondent to be in violation of City Code, Chapter 17, Section 17-72, Engaging in business without a receipt, that the Board find this to be a repeat violation, and that a fine in the amount of \$500.00 be imposed.

Mr. Simmons asked Staff if any ordinance had been changed to permit the Respondent to have a license to park at the property.

Mr. Day asked if the present respondent, Mr. Teisan, was the same individual from the case for 2017. Staff confirmed.

Mr. Weeks questioned the witness about the owner of 78 Spanish Street.

Mrs. Valachovic questioned the witness and Staff about the direction of the signs. Staff clarified the sign with the arrow was positioned on the sign behind the property on the right-hand side of the road at 47 Grove Avenue.

Mr. Day asked Staff if the property had a business license to operate the parking of cars. Staff confirmed no business license for either Mr. Teisan or Mr. Patel.

Mr. Simmons stated a business license would not be allowed for parking due to zoning requirements.

Public comment was opened. No one spoke.

The Board discussed the case and past violations for the property. Mr. Simmons clarified that this violation occurred for one day.

FIRST MOTION

Mr. Pappas moved to find the Respondent in repeat violation of City Code, Chapter 17, Section 17-72 and impose a fine of \$500 for one day of repeat violation. Motion was seconded by Mr. Day. Motion carried unanimously.

SECOND MOTION

Mr. Weeks moved to find the Respondent in repeat violation of City Code, Chapter 3, Section 3-2 and impose a fine of \$500 for one day of repeat violation. Motion was seconded by Mr. Day.

VOTE ON SECOND MOTION:

AYES: Weeks, Day, Valachovic, Simmons

NAYES: Pappas

**MOTION NOT CARRIED
UNANIMOUSLY**

Item 10 (b) 2021-0028

97 Masters LLC

97 Masters Drive

**City Code, Chapter 25, Section 25-56
Tree removal and replacement.**

Respondent was present.

Property owner, Todd Wilson of 1015 Poinsettia Road, spoke. Mr. Wilson explained their plans are to build commercial use on the property. Mr.

Wilson confirmed he knew the property was zoned commercial, but the arborist assumed the property was residential and that it was an honest mistake. He explained the demolition, as well as the City's fiber optics, caused damage to the root system and the proposed building would further damage the tree.

Mr. Boles reported the following:

- On January 14, 2021, staff received an arborist report dated October 27, 2020 from Jack Leake, Affordable Tree and Landscape LLC, recommending the removal of a 29" d.b.h. Eastern Red Cedar Tree which stated they would proceed with removal, citing that the tree would die post construction.
- On January 15, 2021, staff conducted an inspection of records and found that a tree removal permit had not been submitted or approved. In accordance with House Bill 1159, residential properties are not required to obtain a tree removal permit if the property owner obtains documentation from an arborist certified by the International Society of Arboriculture or a Florida licensed landscape architect that the tree presents a danger to persons or property.
- This property is zoned Commercial-low one (CL-1).
- On January 21, 2021, staff sent an Official Notice of Violation to the respondent at both the physical address, which was

returned unclaimed, and the address of record, which was received January 23, 2021, via certified mail.

- On January 21, 2021, staff sent an Official Notice of Hearing to the respondent at both the physical address, which was returned unclaimed, and the address of record, which was received January 23, 2021, via certified mail.
- On January 22, 2021, a Posting Affidavit of the February 9, 2021 meeting was posted at the property, as well as the City Clerk's office.
- Staff recommended that the Board find violation for the irreparable or irreversible damage to the 29" d.b.h. Eastern Red Cedar tree and issue an "Order Finding Violation and Imposing a Fine" up to \$5,000, in accordance with Florida Statute 162.09.
- Staff put into record the June 22, 2020 Planning and Zoning Board order for approval of Use by Exception.

The Board asked staff about the proposed plans for the property. Staff could not confirm the intentions for the property, but confirmed the owners were approved for commercial use by PZB.

In response to Board questions about the Statute, Mr. Schauland clarified the Florida Statute 162.09 and the language of the arborist report received.

The Board discussed the tree replacement options and penalty for tree removal without a permit.

Mr. Weeks asked the Respondent if the demolition contractor placed protection around the tree. The Respondent was not sure if this occurred.

Mrs. May clarified the law for this case, which was for the Board to determine if the tree was removed without a permit.

Public comment was opened.

Jack Leake, arborist at 520 Wood Chase Drive, provided testimony. He explained that he made a mistake because he assumed the property was a residential use. Mr. Leake wrote the arborist letter but clarified he did not cut down the tree. He also explained the street was ripped up from the city water department as well.

The Board discussed the need for a permit to remove a tree, the penalties for tree removal, and the HARB meeting for the demolition application for 97 Masters Drive.

Mr. Pappas explained the significance of the removed Cedar tree and he would move for the maximum penalty.

MOTION

Mr. Day moved to find Respondent in violation of Chapter 25, Section 25-56 for irreparable and irreversible damage and impose a fine of \$2,500. Motion was not seconded and failed.

MOTION

Mr. Pappas moved to find Respondent in violation of Chapter 25, Section 25-56 for irreparable and irreversible damage of removal of a tree without a permit and impose a fine of \$5,000. Motion was seconded by Mrs. Valachovic.

VOTE ON MOTION:

AYES: PAPPAS, VALACHOVIC, WEEKS, SIMMONS

NAYES: DAY

**MOTION NOT CARRIED
UNANIMOUSLY**

11. CITY ATTORNEY ITEMS

None.

12. OTHER BUSINESS

None.

**13. REVIEW OF CONFLICT
STATEMENTS FROM PREVIOUS
MEETING**

None.

14. ADJOURNMENT

Meeting was adjourned at 4:03 P.M.



Stephen Simmons, Chairperson

Meredith Randolph, Administrative Coordinator