

**Town of Palm Beach
Code Enforcement Board
Minutes**

Thursday, August 16, 2012, 2:00 p.m.

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com or may obtain an audio recording of the meeting by contacting Joan Dunn, Secretary to the Code Enforcement Board at (561) 227-6388. As a point of reference, you will find the recording times listed on these minutes at the beginning of each item.

I. Call to Order:(1:59:35 p.m.)

The meeting was called to order by Chairman Hoffman at 2:00 p.m.

II. Roll Call:(1:59:59 p.m.)

Upon roll call, the following Board members were present: Chairman Timothy Hoffman, Vice Chairman Harris S. Fried, Members Larry Ochstein, Madelyn Greenberg, Cynthia Van Buren, James Ballentine, W. Anthony Dowell and alternate members Scotch Peloso and Alan S. Golboro.

Mr. Hoffman congratulated Mr. Dowell on his appointment as a regular member and Mr. Golboro on his appointment as an alternate member.

Staff present: Town Attorney John Randolph, Code Enforcement Manager Raychel Houston, Lead Code Enforcement Officer Robert Walton, Code Enforcement Officer John Moriarty, Patrol Officer David Nault and Recording Secretary Joan Dunn.

Mr. Hoffman welcomed and thanked Councilman Diamond for his presence at the hearing.

III. Approval of the Minutes of July 19, 2012 (2:00:20 p.m.)

**MOTION BY MS. GREENBERG TO APPROVE THE JULY 19, 2012 MINUTES
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

IV. Administration of the Oath to Town Staff: (2:00:36 p.m.)

The Town staff were sworn in by Recording Secretary Dunn.

V. Public Hearings:

A. Case # CE 12-824, 312 Cherry Ln., Calico Air Conditioning

Violation of Chapter 18, Section 18-242 of the Town of Palm Beach Code of Ordinances, building permits required to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure or install, alter, repair, remove, convert or replace any electrical, mechanical or plumbing system

Code Enforcement Officer Moriarty advised this case was postponed from the July 19, 2012 hearing. The Town recommended the Board dismiss this case for compliance.

**MOTION BY MR. FRIED TO DISMISS THE CASE
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

B. Case # CE 12-879, 210 Brazilian Ave., John Haas & Jeffrey Ray & Assoc.

Violation of Chapter 114, Section 114-31 and Section 114-32 of the Town of Palm Beach Code of Ordinances, business tax receipt required

Lead Code Enforcement Officer Walton advised this case was postponed from the July 19, 2012 hearing. He advised the Business Tax Receipt has been obtained. The Town recommended the Board dismiss this case for compliance.

**MOTION BY MS. GREENBERG TO DISMISS THE CASE
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

C. Case # CE 12-991, 200 Block of Worth Ave., Lopez Group

Violation of Chapter 42, Section 42-230 of the Town of Palm Beach Code of Ordinances, leaf blower before allowable hours

Lead Code Enforcement Officer Walton briefly reviewed the facts of the case and advised Officer Nault was present to testify about the violation. Officer Nault reviewed the facts of the case. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and order them to pay the \$500.00 fine.

Mr. Lopez was present for Lopez Group and testified that they were not aware of the hours of operation for leaf blowers and requested the fine be lowered.

MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO PAY THE \$500.00 FINE

**SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

- D. Case # CE 12-961, 190 N. County Rd., Temple Emanu-El of Palm Beach, Inc.
Violation of Chapter 134, Section 134-945 of the Town of Palm Beach Code of Ordinances, churches, synagogues and other houses of worship are special exception uses in the R-C medium density residential district and as such require a site plan and review by Town Council as provided in Chapter 134, Section 134-329

Lead Code Enforcement Officer Walton advised Maura Ziska, attorney for the Temple, was present to speak about this case. Ms. Ziska testified the Temple will be going before the Town Council to request a variance for the seating and parking issues. She advised her conversation with Mr. Castro indicated that the gift shop violation would be dropped as it appears on a previously approved Town document. After consulting with Mr. Castro, Mr. Walton concurred that this violation would be dropped.

**MOTION BY MR. FRIED TO POSTPONE THIS CASE UNTIL THE
OCTOBER 18, 2012 HEARING
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

- E. Case # CE 12-965, 301 Australian Ave., CSC Brazilian LP
Violation of Chapter 134, Section 134-948 of the Town of Palm Beach Code of Ordinances, minimum landscaped open space requirement for property located in the R-C medium density residential district is 35% and artificial turf is permitted only in areas exceeding the open space minimum; Violation of Chapter 18, Section 18-242, building permits required to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure or install, alter, repair, remove, convert or replace any electrical, mechanical or plumbing system; Violation of Chapter 54, Section 54-71 no building or site planning feature within a historic district shall be erected, altered, restored, moved or demolished without an approved Certificate of Appropriateness for the Landmarks Preservation Commission

Lead Code Enforcement Officer Walton reviewed the facts of the case and submitted photographs into evidence. He advised this case was a result of a citizen's complaint. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and give them until August 30, 2012 to comply.

Adam Schlesinger, president of CSC Brazilian, appeared on behalf of the business and advised they are planning on coming before the Town Council at their October meeting to request a variance for this artificial turf. He requested to be postponed to the November Code Enforcement Board hearing.

Mr. Castro confirmed that they would be meeting with him tomorrow to request the variance.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL NOVEMBER 9, 2012 TO COMPLY
SECONDED BY MR. OCHSTEIN
MOTION PASSED 6 TO 1 WITH MS. VAN BUREN OPPOSED**

F. Case # CE 12-882, 225 Arabian Rd., Antoine Ohannessian

Violation of Chapter 134, Section 134-892 of the Town of Palm Beach Code of Ordinances, no accessory structure in the R-B low density residential district to be used as or converted to a dwelling unit; Violation of Chapter 134, Section 134-887, only single family dwellings allowed in R-B low density residential district; Violation of Chapter 18, Section 18-242, permits required to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure or install, alter, repair, remove, convert or replace any electrical, mechanical or plumbing system

Code Enforcement Officer Moriarty reviewed the facts of the case and submitted photographs into evidence. He advised this case was a result of a citizen's complaint. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and give them until October 12, 2012 to comply.

Robert Moore appeared on behalf of the property owner and advised they are working toward compliance and believed they would be able to comply by the October 12, 2012 deadline.

**MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL OCTOBER 12, 2012 TO COMPLY
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

G. Case # CE 12-909, 106 Hammon Ave., 106 Hammon Avenue LLC

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, windows to be in such a condition to exclude weather elements or insects from entering, all appurtenances to be kept in a state of good repair, all exterior surfaces to be painted and in good repair; Violation of Chapter 42, Section 42-86, accumulation of debris or grass greater than 8 inches in height not allowed; Violation of Chapter 106, Section 106-159, a clearance of 8 feet, measured vertically from the edges and extending the full width of all sidewalks and bike trails to be maintained at all times

Lead Code Enforcement Officer Walton reviewed the facts of the case and submitted photographs into evidence. He advised this case was a result of a citizen's complaint. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and give them until August 24, 2012 to achieve compliance on violations of Chapter 42, Section 42-87 and Chapter 106, Section 106-159 and give them until September 14, 2012 to achieve compliance on violation of Chapter 42, Section 42-87.

Elliot Russian was present on behalf of the property owner and testified they are working toward compliance and should be able to comply by the dates set forth by the Code officer.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL AUGUST 24, 2012 TO COMPLY ON VIOLATIONS OF CHAPTER 42, SECTION 42-87 AND CHAPTER 106, SECTION 106-159 AND GIVE THEM UNTIL SEPTEMBER 14, 2012 TO COMPLY ON THE VIOLATION OF CHAPTER 42, SECTION 42-87
SECONDED BY MR. BALLENTINE**

There was discussion on this motion. Mr. Fried requested to shorten the time frame to secure the electricity. Mr. Fried amended his motion.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL AUGUST 17, 2012 TO COMPLY ON VIOLATIONS OF CHAPTER 42, SECTION 42-87 AND CHAPTER 106, SECTION 106-159 AND GIVE THEM UNTIL SEPTEMBER 14, 2012 TO COMPLY ON THE VIOLATION OF CHAPTER 42, SECTION 42-87
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

H. Case # CE 12-925, 165 Seminole Ave., Coudert Institute

Violation of Chapter 134, Section 134-889 of the Town of Palm Beach Code of Ordinances, commercial or quasi-commercial use of any property in a residential district prohibited

Lead Code Enforcement Officer Walton advised the Board the business owners are out of Town and requested a postponement of this case until the November hearing. Mr. Walton said they have agreed not to have any more functions and he would not oppose the postponement with the stipulation that if any institute functions are held at 165 Seminole Ave. prior to the November 13, 2012 hearing, this case would be brought before the next regularly scheduled Board hearing.

MOTION BY MR. FRIED TO POSTPONE THIS CASE UNTIL THE NOVEMBER 13, 2012 HEARING PROVIDED NO FUNCTION IS HELD AT

**165 SEMINOLE AVE. BEFORE THAT DATE. HE FURTHER MOTIONED IF A FUNCTION IS HELD AT 165 SEMINOLE AVE. BEFORE NOVEMBER 13, 2012 THIS CASE WILL BE BROUGHT BACK BEFORE THE BOARD AT ITS NEXT REGULARLY SCHEDULED BOARD HEARING
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

I. Case # CE 12-951, 219 Indian Rd., Mort Kaye

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, appurtenances to be maintained in a safe condition and in good repair; Violation of Chapter 42, Section 42-86(15) pools to be maintained in a clean and sanitary condition; Violation of Chapter 106, Section 106-159(b), a clearance of 18 feet, measured vertically from the edges of the pavement and extending the full width of all streets and roadways to be maintained at all times; Violation of Chapter 42, Section 42-86 dead or dying hedges/trees nor hedges/trees infested with pests such as whitefly not allowed

Mr. Hoffman announced that Mr. Peloso will be a voting member for this case as Mr. Dowell momentarily left the Chambers.

Code Enforcement Officer Moriarty reviewed the facts of the case and submitted photographs into evidence. He advised this case was a result of a citizen's complaint. The Town recommended the Board find the violator in non-compliance, assess administrative costs of \$150.00 and give them until August 24, 2012 to comply.

No representative for this property was present at the hearing and Mr. Moriarty advised he has had contact with the owner's son.

**MOTION BY MS. VAN BUREN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL AUGUST 24, 2012 TO COMPLY
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

Mr. Dowell returned to the meeting

J. Case # CE 12-966, 365 S. County Rd., Palm Beach Inn LLC

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, all exterior surfaces to be painted and in good repair; Violation of Chapter 42, Section 42-86, dead or dying vegetation, accumulation of debris, storage of building materials or stagnant water not allowed

Lead Code Enforcement Officer Walton reviewed the facts of the case and submitted photographs into evidence. He advised it was a result of a citizen's complaint. The Town recommended the Board dismiss the violation of Chapter 42, Section 42-86

for compliance and find the violator in non-compliance, assess administrative costs of \$150.00, and give them until September 14, 2012 to comply on the violation of Chapter 24, Section 42-87.

Eric Ohando was present on behalf of the property owner, testified that they are working toward compliance and requested more time, until October 12, 2012.

Ms. Van Buren asked Mr. Walton if he would be opposed to the new compliance date. He advised he was not opposed.

**MOTION BY MR. OCHSTEIN TO DISMISS THE VIOLATION OF CHAPTER 42, SECTION 42-86 FOR COMPLIANCE AND FIND THE VIOLATOR IN NON-COMPLIANCE FOR THE VIOLATION OF CHAPTER 42, SECTION 42-87, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL OCTOBER 12, 2012 TO COMPLY
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

VI. Fine Consideration

A. Case # CE 12-854, 440 Royal Palm Way, Palm Beach Park Centre 1-6 LLC

Violation of Chapter 18, Section 18-175(a) of the Town of Palm Beach Code of Ordinances, changes in materials or appearance to an approved ARCOM plan requires additional ARCOM approval

Lead Code Enforcement Officer Walton briefly reviewed the case. The Town recommended the Board assess a fine in the amount of \$250.00 a day starting August 1, 2012 and continue until compliance is achieved.

Maura Ziska, attorney for the property owner, reviewed her client's attempts to reach compliance and requested more time to comply, until September 14, 2012. Ray Royce, attorney for the Brazils Home Owners Assn., advocated his client's position and requested the Board accept the Town's recommendation. Mr. Schneider, one of the Brazils Home Owners Assn. members, gave his input in this case. Planning Administrator Lindgren spoke about the ARCOM aspect of this case. Robert Moore was present representing two other neighbors and requested the Board accept the Town's recommendation.

**MOTION BY MS. VAN BUREN TO ORDER THE VIOLATOR TO PAY A FINE IN THE AMOUNT OF \$250.00 A DAY COMMENCING ON AUGUST 1, 2012 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED BY OBTAINING ALL REQUIRED APPROVALS AND PERMITS AND PASSING ALL REQUIRED INSPECTIONS
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

B. Case # CE 12-902, 231 Kenlyn Rd., Robert A. Roddy

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, all exterior surfaces to be painted and in good repair; Violation of Chapter 42, Section 42-86 dead or dying vegetation or accumulation of debris on private property not allowed; Violation of Chapter 42, Section 42-87(7), all appurtenances such as swimming pools to be kept in a safe and good state of repair; Violation of Chapter 18, Section 18-617, swimming pool filters shall be capable of maintaining the clarity of the water

Lead Code Enforcement Officer Walton briefly reviewed the case and advised upon last inspection the pool was being filled with clear water and the pump operational. He advised Attorney George Ord was present on behalf of his client and will request more time to comply. Mr. Walton requested if the Board does grant more time to comply that a fine in the amount of \$250.00 a day commence after that time.

George Ord, attorney for the property owner, advised the pool has been filled with water and is operational. He advised they are working toward compliance on the other issues and asked whether or not accumulated leaves constitute debris.

MOTION BY MR. OCHSTEIN TO DISMISS THE VIOLATIONS OF CHAPTER 42, SECTION 42-87(7) AND CHAPTER 18, SECTION 18-617 FOR COMPLIANCE AND ORDER THE VIOLATOR TO PAY A FINE IN THE AMOUNT OF \$250.00 A DAY COMMENCING ON AUGUST 11, 2012 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED ON THE VIOLATIONS OF CHAPTER 42, SECTION 42-86 AND CHAPTER 42, SECTION 42-87

SECONDED BY MR. FRIED

A discussion ensued and Mr. Ochstein's motion was clarified. Mr. Fried withdrew his second of the motion.

MOTION BY MR. FRIED TO DISMISS THE VIOLATIONS OF CHAPTER 42, SECTION 42-87(7) AND CHAPTER 18, SECTION 18-617 FOR COMPLIANCE AND GIVE THEM ADDITIONAL TIME TO COMPLY, UNTIL SEPTEMBER 24, 2012 ON THE VIOLATIONS OF CHAPTER 42, SECTION 42-86 AND CHAPTER 42, SECTION 42-87. HE FURTHER MOTIONED THAT IF COMPLIANCE IS NOT ACHIEVED BY SEPTEMBER 24, 2012 A FINE IN THE AMOUNT OF \$250.00 A DAY WILL COMMENCE ON SEPTEMBER 25, 2012 RETROACTIVE TO AUGUST 11, 2012 CONTINUING UNTIL COMPLIANCE IS ACHIEVED

SECONDED BY MS. VAN BUREN

MOTION PASSED 6 TO 1 WITH MR. OCHSTEIN OPPOSED

C. Case # CE 12-910, 130 Dolphin Rd., Virginia O. Bussey Est.

Violation of Chapter 18, Section 18-242 of the Town of Palm Beach Code of Ordinances, building permits required to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure or install, alter, repair, remove, convert or replace any electrical, mechanical or plumbing system

Code Enforcement Officer Moriarty briefly reviewed the case. The Town recommended a daily fine commence on August 11, 2012 and continue until compliance is achieved. He advised Edwin Bussey was present at the hearing to request more time to comply.

Edwin Bussey, the son of the property owner, testified he is working toward compliance and requested more time, until September 10, 2012 to comply.

**MOTION BY MS. GREENBERG TO GIVE THEM ADDITIONAL TIME TO COMPLY, UNTIL SEPTEMBER 10, 2012. SHE FURTHER MOTIONED THAT IF COMPLIANCE IS NOT ACHIEVED BY SEPTEMBER 10, 2012 A FINE IN THE AMOUNT OF \$100.00 A DAY WILL COMMENCE ON SEPTEMBER 11, 2012 CONTINUING UNTIL COMPLIANCE IS ACHIEVED
SECONDED BY MR. DOWELL
MOTION PASSED UNANIMOUSLY**

VII. Fine Reduction

A. Case # CE 12-725, 2270 Ibis Isle Rd. E., Mark Remson

REPEAT Violation of Chapter 42, Section 42-86(3) of the Town of Palm Beach Code of Ordinances, unsightly, unsafe, unsanitary conditions and grass greater than 8 inches in height no allowed

Lead Code Officer Walton advised the Board there was a letter in their packet from Mr. Remson requesting a fine reduction but Mr. Remson was not present.

There was no motion and no action taken.

VIII. Foreclosure Hearing:

A. Case # CE 11-105, 151 Chilean Ave., E. Nordin Gilbertson

Violation of Chapter 42, Section 42-86, Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, accumulation of outside yard debris, inoperable boat trailer in side yard and inoperable fiberglass boat, vehicles parked on grass, shed structure not maintained in good condition, peeling paint and deteriorating wood trim not allowed; Violation of Chapter 134, Section 134-889, commercial use of land in the R-B low density residential district, installation of brick pavers and renting parking spaces not allowed; Violation of Chapter 18, Section 18-241 and Florida

Building Code, Section 105, permits required to construct, enlarge, repair, move or demolish any structure or building

Lead Code Enforcement Officer Walton briefly reviewed the cases on this property which were being considered with the foreclosure action. The Town recommended the Board forward these cases to the Town Council with the recommendation to proceed with foreclosure.

Attorney Randolph explained there may be circumstances which show that this is not a homesteaded property. Mr. Golboro asked if a title search had been done on the property.

**MOTION BY MR. DOWELL TO RECOMMEND THE TOWN COUNCIL
PROCEED WITH FORECLOSURE ON THIS PROPERTY
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

IX. Board Comments: (3:44:03 p.m.)

Mr. Golboro asked if he should have been sworn in today. Manager Houston said Mr. Golboro had already taken the same oath as a member of the Planning and Zoning Commission and she did not believe he was required to be sworn in again however, we could swear him in at the next regularly scheduled Code Enforcement Hearing.

X. Adjournment: (3:44:54 p.m.)

The hearing was adjourned without benefit of a motion.