

**CODE ENFORCEMENT BOARD MINUTES
2:00 P.M. THURSDAY, DECEMBER 21, 2006
AT THE TOWN COUNCIL CHAMBERS, 360 SO. COUNTY ROAD**

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

II Roll Call: Present: Timothy Hoffman, Chairman
 Richard A. Raffo, Vice-chairman
 Larry Ochstein, Member
 Martin I. Klein, Member
 Harris S. Fried, Member
 Catherine M. Duemler, Member
 Madelyn Greenberg, Alternate Member
 John C. Randolph, Town Attorney

 Absent: Joel P. Koeppel, Member (unexcused)

 Staff: Robert S. Walton, Chief Code Compliance Officer
 Deborah A. Morakis, Recording Secretary

Let the record reflect that Ms. Greenberg will vote today.

III Administration of the Oath to all persons who wish to testify:
Let the record show that all persons wishing to testify were sworn in at this time by Recording Secretary Debby Morakis.

IV Approval of the Minutes of November 16, 2006:
MOTION BY MR. RAFFO FOR APPROVAL OF THE MINUTES AS CORRECTED.
MOTION SECONDED BY MR. OCHSTEIN.
MOTION PASSED UNANIMOUSLY.

V Public Hearings:

A Case #06-2060, 1100 So. Ocean Blvd., Mar-a-Lago Club
Violation of Chapter 134, Section 134-791 (b)(3) of the Town of Palm Beach Code of Ordinances: an unenclosed accessory structure, such as a flagpole, is required to comply with the same open yard requirements as the principal structure, which includes a setback of a minimum of thirty five feet (35'), or two feet (2') for every one foot (1') in building height, whichever is greater (Section 134-793 (5) & (7)).
Violation of Chapter 134-796 (a) of the Town of Palm Beach Code of Ordinances: provides a maximum height not to exceed 40 percent above the building height limit for the district in which it is located.
Violation of Chapter 54, Section 54-71 (a) of the Town of Palm Beach Code of Ordinances: no exterior feature on a landmark site under the jurisdiction of the Landmark Preservation Commission may be erected until after a certificate of appropriateness has been approved by the Landmarks Preservation Commission.
Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances: requires a building permit to install any building or building system.
Violation of Declaration of Use Agreement with the Town of Palm Beach, The Mar-a-lago Club, Inc., and Donald J. Trump, dated August 10, 1993, as amended.

Chief Code Compliance Officer Robert Walton read the violations for the record.

Attorney Skip Randolph advised the Board that the Town has retained Attorney L. Louis Mrachek of Page, Mrachek, Fitzgerald & Rose, PA to represent the interests of the Town since he would be unable to represent both the Town and the Code Enforcement Board. Lou Mrachek will present the case through witnesses.

Attorney Mrachek deferred to Mr. Trump's attorney, John Marion, who wished to address the Board first. Attorney John Marion, stated he does not believe that the Mar-a-Lago Club nor Mr. Trump could receive a fair hearing in this or any of the Town's tribunals with regards to this particular issue. He has reviewed the flag regulations of the Town of Palm Beach and found them to be unconstitutional. In particular, the permitting portions are also unconstitutional. And further, he believed the Town used selective enforcement of the flag and flagpole regulations at 1100 So. Ocean Blvd. Today, a complaint was drafted and filed with the circuit court and the state court of the 15th judicial circuit here in Palm Beach County, for declaratory and injunctive relief, relating to the enforcement of the regulations of the Town of Palm Beach relating to the flag and flagpole.

Let the record show that after filing a copy of the complaint with the clerk and giving a brief statement, Mr. Marion left the Council Chambers.

Mr. Mrachek stated that he had not yet seen a copy of the complaint. There is a court reporter here provided at Mr. Trump's expense. It was stated that we should prepare a record, render a decision as usual and then let the legal system take its ordinary and normal course. A copy of the summons was handed to the clerk to become part of the record. Chairman Hoffman stated that we would accept this book into evidence and take notice of the Code of Ordinances.

Mr. Mrachek stated that there are four witnesses he will question, the first of which is Robert Walton.

Let the record reflect that a short break was taken to give the court reporter an opportunity to move up to the dais.

For the record, Robert Walton identified himself as Chief Code Compliance Officer for the Town of Palm Beach. Mr. Walton verified the address of the subject property as 1100 So. Ocean Blvd. and stated that he had been notified that there was a new flagpole with a flag on it at the subject property. Upon investigation, the pole did appear to be in violation of the code, it is too tall, too close to the road and it was not approved by the landmarks commission. There is no record of a building permit to erect the pole having been applied for or issued. In a letter from Mr. Trump, it was stated that the pole was 80' tall and based on Mr. Walton's observations it appears to be 15 or 20' within the front yard setback.

Mr. Mrachek then called Paul Castro to testify and he identified himself as the Zoning Administrator for the Town of Palm Beach. Mr. Castro explained that his responsibility as Zoning Administrator is for the interpretation of zoning codes. Flagpoles and chimneys cannot exceed 40% of the maximum height allowed in the zoning district in which they would be located. Based on the R-AA zoning district, the height limitation would be 30' making the maximum height 42'. While the flagpole is 80' from grade it may be higher from the crown of road. The most stringent setback requirement for the principal structure is 35'. Based on the height of the pole, the setback would have to be 160', or more if above the crown of road. Mr. Castro also stated that approval from the Landmarks Commission would be necessary for any modifications to a land marked property.

Harry Ackerman, Acting Building Official for the Town of Palm Beach testified that based on the Florida Building Code, the construction of a flagpole would require a building permit. A permit has not been applied for. Although an engineer had made contact regarding the flag pole and the requirements, a signed and sealed letter from an engineer has not been received by the Town to satisfy the requirements.

Jane Day, Landmark Preservation Commission Consultant for the Town of Palm Beach testified that a Certificate of Appropriateness from the Landmarks Commission would be required based on Chapter 54, Section 54-71 (a) of the Town of Palm Beach Code of Ordinances. Mr. Trump signed a Declaration of Use Agreement in 1993 which acknowledged this requirement.

Mr. Mrachek concluded his questioning and residents and other concerned parties were invited to speak.

Wendy Victor, Secretary of the Landmarks Commission entered into the record the fact that she had a conversation with the National Trust for Historical Preservation on the matter of the flag pole being in the easement which was given over to the National Trust.

Cynthia Van Buren, resident of the Town of Palm Beach, addressed the Board concerning the fundamental issue of fairness and equality under the law. She stated that selective enforcement could be the enforcement of certain ordinances but not others, but it could also be against certain citizens and not others. She asked the Board to retroactively impose fines.

Attorneys Mrachek and Randolph reminded the Board to consider only those matters that have been cited and presented by Mr. Mrachek.

After comments from members of the Board, the following motion was made:

MOTION BY MR. FRIED THAT THE DEFENDANT IS FOUND IN NON COMPLIANCE OF EACH OF THE FIVE VIOLATIONS, ORDERED TO PAY ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND IS GRANTED FIFTEEN (15) DAYS TO CORRECT THE VIOLATIONS BY REMOVING THE FLAG POLE.

MOTION SECONDED BY MR. OCHSTEIN.

MOTION AMENDED TO REFLECT THAT ANY FINES IMPOSED WOULD BE RETROACTIVE.

AMENDED MOTION SECONDED BY MR. OCHSTEIN.

MOTION CARRIED UNANIMOUSLY.

Let the record reflect that a 5 minute break was taken at this time.

B

Case #06-2061, 215 Brazilian Avenue, Ajit Asrani Trust

Violation of Chapter 42, Sections 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances: unsightly, unsafe and unsanitary conditions are unlawful and constitute a nuisance.

Violation of Chapter 18, Section 18-617 and 18-747 requires swimming pool barriers and clarity of water be maintained.

Chief Code Compliance Officer Walton requested that this case be dismissed for compliance.

MOTION BY MR. RAFFO TO DISMISS CASE #06-2061 FOR COMPLIANCE.

MOTION SECONDED BY MR. KLEIN.

MOTION CARRIED UNANIMOUSLY.

- C Case #06-2062, 135 Chilean Avenue, Ms. Rosalie Carr
Violation of Chapter 18, Section 18-747 of the Town of Palm Beach Code of Ordinances: requires swimming pools to have an approved barrier of at least forty-eight inches in height with all gates with self-closing and latching devices to prevent children from entering your pool.
Violation of Chapter 18, Section 18-241, 18-547 and Florida Building Code, Section 104 requires permits to erect, install, alter, repair structures or pools and such equipment.

Chief Code Compliance Officer Walton reported that a pool heater was installed without a permit. A permit has since been obtained for the installation of the pool heater and pump but no inspections have taken place. Also, the pool fence is shorter than the code requires. The Town would recommend a finding of non compliance, \$150.00 costs and allow (7) days to comply by completing the fence repair with a permit, if required and obtain all required inspections.

MOTION BY MR. KLEIN THAT THE DEFENDANT IS FOUND IN NON COMPLIANCE, ORDERED TO PAY COSTS IN THE AMOUNT OF \$150.00, AND ORDERED TO COMPLY WITHIN SEVEN (7) DAYS.
MOTION SECOND BY MR. FRIED.
MOTION CARRIED UNANIMOUSLY.

- D Case #06-2063, 150 El Vedado Road, Mr. Bernard Weingarten, Ms. Donna Shalek
Violation of Chapter 18, Section 18-747 of the Town of Palm beach Code of Ordinances: requires swimming pools to have an approved barrier of at least forty-eight inches in height with all gates with self-closing and latching devices to prevent small children from entering your pool.
Violation of Chapter 42, Section 42-86 Environment: does not allow unsightly, unsafe or unsanitary conditions and requires dead trees be removed.

Chief Code Officer Walton reported to the Board the facts in this case and advised that the dead tree has been removed. The fence on the east property line is falling down. There is a hedge but it is not a sufficient barrier.

Donna Weingarten Shalek addressed the Board stating that she received one estimate and will receive a second estimate next week. The work should be done within thirty (30) days.

MOTION BY MR. RAFFO THAT THE DEFENDANT IS FOUND IN NON COMPLIANCE, ORDERED TO PAY COSTS IN THE AMOUNT OF \$150.00 AND IS GRANTED THIRTY(30) DAYS TO COMPLY.
MOTION SECONDED BY MS. GREENBERG.
MOTION CARRIED UNANIMOUSLY.

- E Case #06-2064, 3230 So. Ocean Blvd., #407, Theodoros & Kathryn Agelopoulos
Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code 2001, Section 104 Building Permits required.

Chief Code Officer Walton reported the facts in this case. The apartment was renovated without benefit of a permit.

Yanni Agelopoulos, the owner's son, addressed the Board and advised that he did remove the kitchen cabinets and vanity, not realizing that a permit was required. Surfside Contracting has been retained to complete the renovation. A notice of commencement has been signed and the permit application will be submitted shortly. The project will take 45 to 60 days.

MOTION BY MS. DUEMLER THAT THE DEFENDANT IS FOUND IN NON COMPLIANCE, ORDERED TO PAY COSTS IN THE AMOUNT OF \$150.00 AND IS ORDERED TO APPLY FOR THE PERMIT BY DECEMBER 22, 2006. THE DEFENDANT IS GRANTED FORTY-FIVE (45) DAYS TO COMPLETE THE PROJECT.

MOTION SECONDED BY MR. KLEIN.

After addition comments,

MOTION CARRIED UNANIMOUSLY.

- F Case #06-2065, 3250 So. Ocean Blvd., #507N, Blaser Family
Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code 2001, Section 104: Building permits required to install, repair or alter any building or building system.

Code Officer Walton testified the facts in this case. The apartment is being remodeled. A permit for floor tile was obtained, but it did not include the remodel of the apartment. The permit has since been updated.

After comments were heard by members of the Board and Veronica Close, Director of Planning, Zoning & Building Department, the following motion was made:

MOTION BY MS. GREENBERG THAT THE DEFENDANT IS FOUND IN NON COMPLIANCE, IS ORDERED TO PAY ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00, AND IS ORDERED TO COMPLY BY OBTAINING THE REQUIRED INSPECTIONS WITHIN TWENTY (20) DAYS

MOTION SECONDED BY MR. KLEIN.

MOTION CARRIED UNANIMOUSLY.

- G Case #06-2066, 1045 So. Ocean Blvd., Mr. Daniel Borislow
Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances: permits are required to install, repair or alter any building or building system. These permits must be obtained prior to commencing work.

Code Officer Walton testified the facts in the case. A complaint had been received about bright lights on the field next to the house. It was determined that lights had been put up without a permit or inspections.

Let the record reflect that William White, property manager for the owners, was sworn in and testified that he will do whatever is required to obtain any necessary permits.

MOTION BY MS. GREENBERG THAT THE DEFENDANT IS FOUND IN NON COMPLIANCE, ORDERED TO PAY COSTS IN THE AMOUNT OF \$150.00 AND IS ORDERED TO OBTAIN THE PERMIT AND CALL FOR ALL REQUIRED INSPECTIONS WITHIN TWENTY (20) DAYS.

MOTION SECONDED BY MR. KLEIN.

MOTION CARRIED UNANIMOUSLY.

VI New Business:

NONE

VII Old Business:

- A Case #06-2012, 221 Oleander Avenue, Marina Petrou
Violation of Chapter 42, Sections 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances: requires buildings be maintained in a good condition and not to show decay or dangerous condition.
Violation of Chapter 18, Section 18-964 of the Town of Palm Beach Code of Ordinances: street numbers must be located on the building visible from the street.

Chief Walton reported to the Board that Mrs. Petrou telephoned today reporting vehicle problems. She cannot be here today. Mr. Walton reported that he has received several letters from her indicating the progress she has made. He would support her request for additional time to complete the project.

MOTION BY MR. KLEIN TO GRANT AN ADDITIONAL SIXTY (60) DAYS TO COMPLETE THE PROJECT.

MOTION SECONDED BY MS. DUEMLER.

MOTION CARRIED UNANIMOUSLY.

- B Case #06-2034, 231 Kenlyn Road, Robert A. Roddy
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances: all exterior walls, roofs, doors and windows shall be reasonably free of cracks, painted and shall be kept in sound condition and good repair.

Chief Walton reported that this project is now 30 days past due. There is a small amount of painting that still needs to be done to complete the repairs.

Mr. Roddy addressed the Board and requested an additional 31 days to complete the project and advised that the painting would be completed by tomorrow. More rotten wood was uncovered and required additional work to repair.

MOTION BY MR. KLEIN TO GRANT THE ADDITIONAL 31 DAYS FOR COMPLIANCE.

MOTION SECONDED BY MR. FRIED.

MOTION CARRIED UNANIMOUSLY.

- C Case #06-2041, 300 Barton Avenue, Ms. Jane Janssen
Violation of Chapter 42, Sections 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances: requires properties be maintained in good condition.

Chief Walton read a letter from Attorney Peter Broberg requesting an extension until the January 18, 2007 Code Enforcement Board Hearing.

MOTION BY MS. GREENBERG TO GRANT AN EXTENSION UNTIL THE JANUARY 18, 2007 CODE ENFORCEMENT BOARD HEARING.

MOTION SECONDED BY MR. KLEIN.

MOTION CARRIED UNANIMOUSLY.

- D Case #06-2042, 232 Cherry Lane, Robert & Louisa Dean
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances:
requires properties be maintained in good condition, does not allow unsightly, unsafe or
unsanitary conditions and requires roofs be maintained in good condition and not to leak.

Chief Walton advised the Board that he had spoken with the roofing contractor. The roof is
not completed. Mr. Walton requested that the Board grant until the January meeting to
complete the roof work.

**MOTION BY MS. GREENBERG TO GRANT AN EXTENSION UNTIL THE JANUARY 18,
2007 CODE ENFORCEMENT BOARD HEARING.
MOTION SECONDED BY MR. KLEIN.
MOTION CARRIED UNANIMOUSLY.**

- E Case #06-2043, 324 Cherry Lane, Cheryl Minikes
Violation of Chapter 42, Sections 42-86 and 42-87 of the Town of Palm Beach Code of
Ordinances states unsightly, unsafe and unsanitary conditions constitute a nuisance and
requires properties be maintained in good condition.

Maura Ziska, Attorney for the homeowner reported that the site has been cleaned and the fine
has been paid. She requested additional time to obtain the required ARCOM and variance
approvals. Demolition approval was granted by ARCOM on Friday.

After further discussion, the following motion was made:

**MOTION BY MR. KLEIN THAT THE DEFENDANT IS ORDERED TO APPLY FOR THE
DEMOLITION PERMIT WITHIN THIRTY (30) DAYS AND SEED AND IRRIGATED THE LOT
IMMEDIATELY.
MOTION SECONDED BY MS. DUEMLER.
MOTION CARRIED UNANIMOUSLY.**

- F Case #06-2054, 261 Nightingale Trail, Ronald & Marlene Jaffe
Violations of Chapter 42, Sections 42-86 and 42-87 of the Town of Palm Beach Code of
Ordinances: unsightly, unsafe and unsanitary conditions constitute a nuisance.

Chief Walton advised that he has met with the Jaffe's on the site and Mr. Jaffe is here to
request additional time.

Ronald Jaffe addressed the Board and advised the status of the project. He requested relief
from the previous Board order and an additional amount of time to obtain plans and complete
the project. After further discussion, the following motion was made:

**MOTION BY MR. KLEIN THAT THE OWNER IS ORDERED TO, WITHIN NINETY (90)
DAYS, TO OBTAIN A BUILDING PERMIT FOR THE RENOVATION OR A DEMOLITION
PERMIT. IT IS FURTHER ORDERED THAT THE YARD AND POOL BE MAINTAINED ON
A WEEKLY BASIS.
MOTION SECONDED BY MR. FRIED.
MOTION CARRIED UNANIMOUSLY.**

- G Case #06-2057, 357 Seabreeze Ave., First Palm Beach Prop Inc.
Violation of Chapter 42, Sections 42-86 and 42-87 of the Town of Palm Beach Code of Ordinances: does not allow unsightly, unsafe or unsanitary conditions are unlawful and constitute a nuisance.
Violation of Chapter 18, Section 18-242, 104.5, small projects of 3,999 sq. ft. or less under roof must be completed within thirteen (13) months o the permit issued date.

Mr. Walton reminded the Board that this case was heard in November and the Defendant was found in non compliance, ordered to pay costs, make repairs and supply us with a written schedule.

Paul Riley reported that a detailed, written schedule has been submitted and that within two to three weeks, the house would look much better. After further discussion, the following motion was made:

MOTION BY MR. KLEIN TO SUPPORT THE SUBMITTED COMPLETION SCHEDULE WITH THE CAVEAT THAT IF NOT COMPLETED ON TIME, THE FINE WOULD BE RETROACTIVE TO THE DATE OF NON COMPLIANCE. IT IS FURTHER ORDERED THAT PAYMENT OF THE PREVIOUSLY ORDERED COSTS MUST BE MADE WITHIN SEVEN (7) DAYS.
MOTION SECONDED BY MS. GREENBERG.
MOTION CARRIED UNANIMOUSLY.

VIII Reports:

- A Case #06-1957, 143 Clarendon Avenue, Elias Management & Const., Inc./Robert C. Echele
Violation of Chapter 18, Section 18-242, Subsection 104.5.1.6, Medium Projects, all new or remodel construction projects of 4,000 sq. ft. to 8,999 sq. ft. under roof be allowed 20 months.

Mr. Walton reported that work is moving along on schedule. The koi pond has been finished. They are approaching the deadline in January and think they will make that.

- B Case #06-2003, 2295 So. Ocean Blvd., Harbour House of Palm Beach
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances: all exterior walls, doors and windows shall be reasonably free of cracks, painted and shall be kept in sound condition and good repair.

The project is proceeding according to their supplied schedule. They have approached the Town Council requesting they be permitted to use some air powered equipment and have also requested extended hours throughout the season.

- C Case #06-2015, 302 Eden Road, William & Lisa Kaye
Violation of Chapter 18, Section 18-242, Subsection 104.5.1.6, of the Town of Palm Beach Code of Ordinances: Medium Projects, all new or remodel construction projects of 4,000 sq ft to 8,999 sq ft under roof be allowed 22 months.

Mr. Walton reported this project is on schedule.

IX Comments:

Chairman Hoffman asked if a notice could be sent to the Division of Professional Regulation to report contractors working without a permit. Veronica Close advised the Board that staff does this now, but it is very unproductive.

Veronica Close suggested we go back to the web site and be more specific in identifying the types of work that requires a permit. Also, the Building Board of Adjustments and Appeals may be a mechanism that the Town could use as a vehicle to sanction those caught working without a permit.

Ms. Marix addressed the Board and asked if the building managers could be contacted and advised that they must notify their residents of the requirement of permits or the building manager would have to appear before the Code Enforcement Board to address these permitting issues. Also, she suggested we contact other neighborhoods to ask how long they take to issue permits.

Mr. Walton reported that additional plan review staff has been added to speed up the review process. A large volume of permits application were submitted after the hurricanes.

X Adjournment: The meeting was adjourned without benefit of a motion.