

TOWN OF PALM BEACH CODE ENFORCEMENT BOARD MINUTES

THURSDAY, NOVEMBER 19, 2009, 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 (tape or CD) of the meeting by contacting Raychel Houston, Secretary to the Code Enforcement Board at (561) 227-6386. 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: (2:00:12 p.m.)

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

(Mr. Hoffman welcomed Town Clerk Joanna Cunningham as the recording secretary for the meeting.)

II. Roll Call: (2:00:17 p.m.)

Upon roll call, the following Board members were present: Chairman Timothy Hoffman, Vice Chairman Harris S. Fried, Joel P. Koeppel, Madelyn Greenberg, Cynthia Van Buren, James M. Ballentine, Jr. and alternate members, W. Anthony Dowell and Scotch Peloso. Board member Larry Ochstein was absent (unexcused).

Staff present: Attorney John Randolph, Captain John Maio, Captain Fred Hess, Sgt. Curtis Krauel, Lead Code Enforcement Officer Robert Walton and Town Clerk Joanna Cunningham.

Chairman Hoffman announced that Mr. Dowell would be a regular voting member at today’s meeting.

III. Approval of the Minutes of October 15, 2009: (2:00:54 p.m.)

Chairman Hoffman advised the Board there was an error in the maker and seconder of the motion on page seven which had been corrected. With that correction, he asked for a motion to approve the minutes.

**MOTION BY MS. GREENBERG FOR APPROVAL OF THE OCTOBER 15, 2009
MINUTES**

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

IV. Administration of the Oath to all persons who wish to testify: (2:01:27 p.m.)

All persons wishing to testify were sworn in at this time by Town Clerk Joanna Cunningham.

V. Public Hearings: (2:01:48 p.m.)

- A. Case # 09-2672, 2842 S. Ocean Blvd., 2401 2301 00 Trust
Violation of Chapter 134, Section 134-1702 of the Town of Palm Beach Code of Ordinances, no structure of any nature shall be constructed closer than 150 feet to the designated ocean bulkhead line unless a proper ocean bulkhead exists

Lead Code Enforcement Officer Walton requested a postponement of this case. He said Zoning Administrator Paul Castro is attempting to resolve the issue with the violator and come to an amicable conclusion.

**MOTION BY MR. KOEPPPEL TO POSTPONE THIS CASE UNTIL
JANUARY 21, 2010
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

- B. Case # 09-2680, 765 Hi Mount Road, George Kantor, M.D.
Violation of Chapter 38, Section 38-35 (b) of the Town of Palm Beach Code of Ordinances, burglar alarm fines not paid

Sgt. Krauel advised the fines had been paid but after the agenda was published. The violator is now in compliance.

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

- C. Case # 09-2681, 251 Sunrise Ave., 251 Partners LLC
Violation of Chapter 42, Section 42-196 of the Town of Palm Beach Code of Ordinances, creating noise that annoys and disturbs the comfort and peace of a considerable number of persons

Captain Hess advised that the attorney for 251 has requested a continuance. The Town recommends hearing the case today.

Scott Wortman, a partner in the business, said he is requesting the continuance because the previous violation was appealed and is pending in circuit court. They have the same objections to the current violations regarding the constitutionality of the ordinance. He told the Board that 251 filed for a permit earlier today with the Town to install the soundproofing insulation and requested a deferral until the court case is decided.

Ms. Greenberg asked the Town Attorney for his opinion. Town Attorney Randolph advised the Board is not responsible for interpreting the constitutionality of the Town's rules and ordinances. It is up to the courts to decide that. The issue today is not the pending court case or the fact they are attempting to install soundproofing, but that 251 was cited for violating Town ordinances.

Mr. Ballentine said they were told at the last Board meeting that the soundproofing would be installed by this meeting and it still has not been. Mr. Wortman said they have been in negotiation with the hotel homeowners' association and the landlord to sign an agreement. He added that even though they do not have an agreement with the HOA, they went ahead and filed the permit with the Town this morning. Mr. Ballentine indicated he was opposed to any continuance.

Ms. Van Buren said she found it very curious that after hearing for months now that the insulation would be installed, the permit application was only filed today. She said she was also opposed to a continuance. Mr. Koeppel stated if this complaint is for the same issues as last month and if a continuance would allow for the soundproofing to be installed, it would be a waste of the Board's time to hear the case. Mr. Wortman said the Town indicated they would expedite the permit but he did not advise if they had paid the fee for that. He said the reason the permit was not filed sooner was because the HOA and the owners of 251 had been in negotiations. Mr. Koeppel said it was a contentious issue with the residents and the Club and if a continuance is granted, he wanted an assurance there would be enough time to make sure the insulation worked. Mr. Wortman advised 251 had reduced the volume by over 60% and it is locked down and cannot be changed.

Vice Chairman Fried asked if there were residents from the hotel who wanted to speak on the issue and there were some present. Captain Hess advised the Board heard the first case in August and said if the case were continued and any new complaints received, it would be difficult to enforce, knowing that the Code Enforcement Board would not want to hear the case.

Town Attorney Randolph advised that before hearing testimony from residents or anyone else, they should have a motion to continue or not continue the case.

MOTION BY MR. FRIED TO HEAR THE CASE

SECONDED BY MS. GREENBERG

MOTION PASSED 6-1 WITH MR. KOEPPEL DISSENTING

Captain Hess presented the facts of the case. Town Attorney Randolph advised that Officer Adam Zeller should provide testimony since he was the officer who responded to the complaints. Officer Zeller identified himself and described the call on October 18, 2009. He said a Notice of Violation was issued based on the four complaints received that evening and affidavits from four residents, Cynthia Simonson, Alexander Hanover, Ellen Pettie, and Maura McCune were submitted into the record.

Mr. Fried asked about the language in the ordinance that addressed the people's comfort. Town Attorney Randolph indicated the noise ordinance was a separate issue and was addressed in the next violation. Mr. Fried asked if the noise could still be disturbing if the decibel level did not reach a level of 58 and Captain Hess replied that it could. Mr. Fried also inquired if a building has 250 people and three people complain, would that be a "considerable number". Town Attorney Randolph advised that throughout the history of the Code, the Town has treated a "considerable number of people" as three or more.

Mr. Koeppel pointed out that the complainants are the same three people each time. He said 251 is trying to run a business in these economic times and explained his reason for wanting to grant a continuance is due to the fact that 251 appears to be trying to correct the problem and should be allowed to do so. Mr. Ballentine noted that the dBA (decibel) readings before used to be over 58 and they are now below 40 dBA and said there does seem to be some resolution.

Mr. Fried mentioned that the record of the last meeting reflected the business is Town serving. With the Code Board's authority, he said he is inclined to fine them again since they appear to be inhibiting the owners' ability to also have a business, which is rental income.

Officer Zeller noted there have been many other times the police have responded to the location regarding noise complaints.

Chairman Hoffman informed the Board members that Mrs. Ellen Pettie submitted a letter into the record. He asked the Board to take a few minutes to read her letter. Captain Hess also submitted the affidavits of the three residents as well as the police report into the record. Mr. Ballentine asked if the affidavits were from the same people as before and Captain Hess replied in the affirmative.

Mr. Koeppel said the issue is that this is a residential zone that also has a business attached. Captain Hess clarified that the area is not residential, it is commercial. Mr. Koeppel did not feel it was appropriate for the Board to fine the Club when they are trying to cooperate with the hotel and they are in a commercial zone. He again said he believed the case should be continued. Ms. Van Buren said she took issue with her colleagues. She saw no evidence of cooperation by 251 and in the several years of service on the Board, she has continually heard complaints and violations by the same establishment. She said the court issue is totally separate.

Captain Hess said the Town recommends 251 be found in non-compliance, ordered to pay a fine of \$500.00 and assessed administrative costs in the amount of \$150.00. Mr. Koeppel asked if the previous fines had been paid and Sergeant Krauel said the August fine was paid but the September fine had not been paid and the case is being appealed. Mr. Koeppel again noted the area is a commercial zone and felt it was unfair.

Maura McCune spoke about the noise. She said she does not own the unit but is staying in a friend's unit. She said she has called in complaints to the police department about the noise. Ms. McCune advised she was speaking on behalf of the owner who is unable to rent the unit due to the noise. It has affected the owner's sleep and also the ability to collect a business income. She invited the Board to stay in the unit on a weekend and experience the noise first hand.

Cynthia Simonson, owner of units 1107, 1108 and 1109 on the second floor stated she purchased it for the purpose of leasing it. Shortly after her purchase, 251 opened and since that time, she has not been able to lease the unit out. She has incurred several thousand dollars in expenses and HOA fees. She said she checks the decibel levels herself and they have consistently been over the limit. Ms. Simonson asked the Board to consider a change to the zoning compliance laws. She said she has three children and her 16 year old is losing respect for the law because the laws are not being enforced.

Randolph Inman, condominium manager, spoke on behalf of the Palm Beach Hotel and said the hotel keeps an internal complaint log and there have been ten more complaints since the last meeting. Today was the first he heard about the permitting for insulation moving forward. Mr. Inman said that the hotel has been working with 251 to resolve the issue since last July and the noise still remains too high. There are 26 other businesses in the building. Mr. Wortman said Mr. Inman agreed that the volume was decreased previously and today he was indicating it was too loud and accused Mr. Inman of making inconsistent statements. Ms. Greenberg said she believed coexistence with the residents is the heart of the matter.

**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 MS. GREENBERG
MOTION PASSED 6-1 WITH MR. KOEPEL DISSENTING**

D. [Case # 09-2682, 251 Sunrise Ave., 251 Partners LLC](#)
[Violation of Chapter 42, Section 42-196 of the Town of Palm Beach Code of Ordinances, creating noise that annoys and disturbs the comfort and peace of a considerable number of persons](#)

Captain Hess presented the facts of the case and said the complaint was very similar to the one just heard. This complaint occurred on October 24, 2009. Captain Hess clarified for the record that they did go into Ms. Simonson's unit on the first violation but did not take a dBA reading. They did take a reading on this particular call and it was 60.1 dBA in Ms. Simonson's unit.

Officer Charles Reed said he responded to the call and described the readings he took. The readings in the first unit were up to 60.1 dBA and then decreased when they went into the other units. He said 251 was issued a notice of violation and a fine of \$500.00. Mr. Ballentine asked how a reading is taken and Officer Reed described how the digital reader is used. Captain Hess added that officers follow procedure for use of the equipment and wait until there is no ambient noise other than what is emanating from the club before taking a reading. He said the Town recommends a finding of non-compliance, a fine of \$500.00 and administrative costs in the amount of \$150.00.

Chairman Hoffman advised he has an issue with the noise because 58- 60 decibels is supposed to be normal conversation. Mr. Wortman noted it needed to be restated that the noise appears to be emanating from outside the club where they have no control. Maura McCune said it may not be the decibel which is measurable and people would not be calling the police if there was no problem. She was in unit 2005 and testified that the "boom boom boom" was from the music inside the club, not outside.

Town Attorney Randolph wanted to make sure that the affidavits were new ones and Captain Hess assured him they were. Captain Hess said there were different dates from each complaint call.

Vice Chairman Fried asked Mr. Hoffman about decibel levels and said if it was the level of normal conversation, it should not be disturbing people as it appeared to be doing. He said it is assumed something loud and boisterous is going on. Chairman Hoffman had documentation regarding decibels which indicated normal conversation was between 58-60 decibels, a vacuum cleaner was 80 decibels and a lawnmower was approximately 90 decibels. Mr. Hoffman said it must be something else that is bothering people. Captain Hess advised that the "boom ba boom ba boom" does not exceed the decibel levels but it sure is annoying. He cited an example of his wife working on the computer and playing music while he is trying to sleep. He said it may not exceed a decibel level but it could still be annoying. Captain Hess said the restaurant in this location prior to 251 did not have any complaints.

Mr. Fried asked if the HOA is cooperating with 251 and inquired about the pending agreement. Mr. Dowell asked Chairman Hoffman if this is a mockery of the Town Code and if turning down the volume of the music is all that is required, why 251 did not comply. Mr. Dowell said they are wasting too many Staff hours and Board members' time. Mr. Koeppel noted there are two competing ventures, a restaurant business and a leasing business. Chairman Hoffman said this is a serious problem which needs to be resolved. He said he would hate to see a harassment suit from the residents and was strongly disappointed the issue has not been resolved by now.

Ellen Pettie, a resident at 235 Sunrise Ave. said the building is made out of wood and because of its age, it is not accommodating to today's music. She said she cannot sleep even if she puts her pillow over her head and doubts the insulation will help.

Mr. Wortman said he wanted to correct false statements that were made. Club 251 has no bass and the subwoofer was removed a few months ago. The volume is locked in at the level agreed upon by Mr. Spielberg, president of the HOA. He accused the residents of following a playbook to concoct a scheme to shut down the business. He also indicated the complaints are about the outside of the premises. Mr. Wortman said Ms. Simonson testified she conducted her own sound readings and refuted her testimony since she is not an engineer. He said her testimony should be thrown out. Mr. Wortman stated that a resident owner called in from Nantucket to make a complaint. He also said the permit being filed has been in the works since last month. He does not see any violations and his opinion is traffic and noise from patrons outside is beyond their control. Mr. Wortman said Ms. Simonson was the cause of the apocalypse and she has been in the establishment at all hours of the night and said how wonderful it was. He said the installation will be installed as soon as the Town approves the permit.

Ms Van Buren took offense to Mr. Wortman's referral of Town residents as "the usual suspects" and informed him he was off-base with his statements. They are dealing with the issue of failure to pay the fine. The issue at hand is the origin of the noise being from the interior of the building and coming from the club. Mr. Wortman apologized for his use of the term and said the noise is emanating from outside of the establishment.

Town Attorney Randolph read part of the ordinance regarding the noise. He informed the Board that is what the fine was issued for and the noises coming from inside the establishment and not to focus on the street noise.

**MOTION BY MS. VAN BUREN 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 6-1 WITH MR. KOEPPEL DISSENTING**

E. [Case # 09-2683, 215 Brazilian Ave., 215 Brazilian Holding LLC](#)
[REPEAT Violation of Chapter 42, Section 42-86 of the Town of Palm Beach](#)
[Code of Ordinances, unsightly, unsafe or unsanitary conditions not permitted and](#)
[yard grass to be maintained](#)

Lead Code Enforcement Officer Walton presented the facts of the case and said this was a repeat violation as the property owner was previously found in violation of the same ordinance on July 16, 2009. Mr. Walton advised the violator has come into compliance and mowed the yard grass but was out of compliance for 31 days. Mr. Walton showed photos of the overgrown grass and the construction fence that was in disrepair with torn tennis screening. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00, and fine of \$125.00 a day for 31 days for a total of \$3875.00.

Robert Moore spoke on behalf of the owner and apologized for the non-compliance. He indicated a landscaper had been hired and was paid in advance for the work but was waiting for a call to start. There was miscommunication between the owner and the landscaper. Mr. Moore noted the screens were ripped from a recent storm. Mr. Moore argued that a \$4000 fine is significant for not cutting the grass as that was the violation and not the appearance of the fence. Chairman Hoffman asked if the fence screening was a requirement and Mr. Walton said it was not but also reminded the Board this was a repeat violation. Mr. Moore advised the screening was a condition by the Town Building Department for granting an extension of time.

(Town Clerk Cunningham provided the oath to Mr. Paul Castro)

Paul Castro, Zoning Administrator, said he spoke with attorney Maura Ziska regarding the fence screening. He agreed the screen was in disrepair and said people are now parking there and there has not been any recent construction activity. Mr. Castro recommended removal of the fence and to discuss the matter with the Building Director. Mr. Moore told the Board the fence was there at the Town's request and said the grass has been mowed.

Mr. Dowell asked if the fine of \$4000 fine was due now and Mr. Walton replied that the fine was just Staff's recommendation today. Mr. Koeppel asked about the reason for the first violation since this was a repeat offense and Mr. Moore said the contractor, Hedrick Brothers, was responsible for cutting the grass at that time but they are no longer working on the project. Mr. Dowell asked if this would be a continuing problem. Mr. Moore advised a landscaper has been hired and will continue to maintain the property but also assured the Board his own son would cut the grass if necessary.

Mr. Fried said he would accept Staff's recommendation but believed the fine should be decreased to \$50.00 per day.

MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ASSESS A FINE OF \$50.00 A DAY FOR 31 DAYS (\$1550.00)

SECONDED BY MS. VAN BUREN

MOTION PASSED UNANIMOUSLY

Mr. Dowell added he found it odd the violators can hire attorneys and landscapers but do not have the money to pay the Town.

- F. [Case # 09-2684, 215 Colonial Lane, Susan C. Lee Trust](#)
[REPEAT Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, stagnant water or unsightly, unsafe or unsanitary conditions not permitted and properties to be maintained in good order and Chapter 42, Section 42-87, appurtenances such as swimming pools to be kept in a good state of repair and the water maintained in a clean and sanitary condition](#)

Lead Code Enforcement Officer Walton presented the facts of the case along with photographs of the pool and said compliance has not been achieved. The Town recommends a finding of non-compliance as a repeat violator, a fine of \$500.00 a day beginning on October 15, 2009 and administrative costs of \$150.00.

Chairman Hoffman asked if there was anyone in the audience who wished to address the issue and no one came forward.

Ms. Greenberg asked about another current fine running on the property and was informed that was not under consideration today. Mr. Fried asked if the pool was gated and fenced and Mr. Walton said it was. He said the house is vacant but the owner lives elsewhere in the Town. Mr. Walton advised he had been informed by the owner he was not to go onto the property and he has not spoken to the owner.

MOTION BY MR. KOEPPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO PAY A DAILY FINE IN THE AMOUNT OF \$500.00 A DAY, COMMENCING ON OCTOBER 15, 2009

SECONDED BY MR. FRIED

MOTION PASSED UNANIMOUSLY

- G. [Case # 09-2685, 130 Algoma Road, Carson Creek Corp.](#)
[Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances, address numbers to be posted with 4 inch letters in a contrasting color from their background and visible from an adjacent street](#)

Lead Code Enforcement Officer Walton advised the Board that compliance has been achieved and the Town recommends the case be dismissed. *(Mr. Koeppel had requested Form 8B from Town Clerk Cunningham but it was not filed due to the fact the case was being dismissed.)*

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

- H. [Case # 09-2686, 300 Dunbar Ave., Phyllis Small](#)
[Violation of Chapter 106, Section 106-159 \(b\) of the Town of Palm Beach Code of Ordinances, a clearance of 18 feet, measured vertically from the edges of the pavement and extending the full width of all streets and roadways is to be maintained at all times for the unobstructed passage of vehicles and a clearance of 8 feet, measured vertically from the edges and extending the full width of all sidewalks and bike trails in the Town is to be maintained at all times for the unobstructed passage of pedestrians and others using such sidewalks and bike trails](#)

Lead Code Enforcement Officer Walton presented the facts of the case and said the property is now in compliance but did not come into compliance in the time allowed by the Town. The Town recommends a finding of non-compliance and no administrative costs be assessed in this case.

**MOTION BY MR. FRIED TO FIND THE VIOLATOR IN NON-COMPLIANCE AND NO ADMINISTRATIVE COSTS BE ASSESSED
SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

- I. [Case # 09-2687, 313 1/2 Worth Ave., Bice Ristorante and Via 313 1/2 Worth Ave. Ltd.](#)
[Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, nuisance consisting of filth in the dumpster area](#)

Lead Code Enforcement Officer Walton presented the facts of the case along with photographs and said the Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and the violator be ordered to pay the fine.

Mr. Koeppel announced he was recusing himself as he had previously represented the client. *(Form 8b was filed and submitted to Town Clerk Cunningham.)*

Chairman Hoffman asked Town Attorney Randolph to address the recusal issue. While Town Attorney Randolph was researching the Town Code, Mr. Peloso noted there are three conflicts allowed per calendar year but the next meeting will be in a new year.

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

SECONDED BY MR. FRIED

MOTION PASSED 6-0 WITH MR. KOEPPEL RECUSED

Town Attorney Randolph read from the Town Code and advised there were three recusals permitted with an automatic dismissal on the third one.

- J. [Case # 09-2688, 313 1/2 Worth Ave., Bice Ristorante and Via 313 1/2 Worth Avenue Ltd.](#)
[Violation of Chapter 106, Section 106-40 of the Town of Palm Beach Code of Ordinances, unlawful to deposit offensive matter in the street](#)

Lead Code Enforcement Officer Walton presented the facts of the case along with photographs and said the Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and the violator be ordered to pay the \$250.00 fine.

Mr. Koepfel again recused himself as he previously represented the client. (*Form 8b was filed and submitted to Town Clerk Cunningham.*) Mr. Hoffman advised he was concerned with the recusals since this was two in a row from Mr. Koepfel.

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 FINE OF \$250.00.

SECONDED BY MS. GREENBERG

MOTION PASSED 6-0 WITH MR. KOEPPEL RECUSED

- K. [Case # 09-2689, 232 Worth Ave., Christopher Kaufmann Le Salon](#)
[Violation of Chapter 106, Section 106-1 of the Town of Palm Beach Code of Ordinances, obstruction of sidewalk](#)

Lead Code Enforcement Officer Walton introduced Officer Michelle Pagan to present the facts of the case. Officer Pagan said she observed pumpkins on the sidewalk in front of the store. She moved them and left her business card with a note indicating blockage of the sidewalk was not permitted. As she was patrolling the area later, someone had moved the pumpkins back onto the sidewalk area. On a third patrol, there was a small table with a pumpkin being carved on it as well as the pumpkins on the sidewalk again. Officer Pagan said she went into the store and spoke to the manager and the pumpkins were promptly removed. Mr. Walton said

the Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and to order them to pay the fine due of \$125.00.

**MOTION BY MS. VAN BUREN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND ORDER THEM TO PAY THE FINE OF \$125.00.
SECONDED BY MS. GREENBERG
MOTION PASSED UNANIMOUSLY**

VI. Fine Consideration:

- A. [Case # 09-2674, 300 Barton Ave., Jane H. Janssen](#)
[REPEAT Violation of Chapter 42, Section 42-86 of the Town of Palm Beach Code of Ordinances, unsightly, unsafe or unsanitary conditions not permitted and yard grass not to exceed 8 inches in height and Chapter 42, Section 42-87, all exterior surfacing material to be in good repair and windows and light fixtures to be maintained in good condition](#)

Lead Code Enforcement Officer Walton advised the Board that compliance had been achieved and no further action is required.

- B. [Case # 09-2676, 249 Peruvian Ave., #R-2-1, Min Y Jo LLC](#)
[Violation of Chapter 18, Section 18-241 and Section 18-242 of the Town of Palm Beach Code of Ordinances and Florida Building Code 2004, Section 105, building permits are required to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure or to install, alter, repair, move, convert or replace any electrical, mechanical or plumbing system](#)

Lead Code Enforcement Officer Walton presented the facts of the case and said the property is still not in compliance as a permit has not been obtained and work has not commenced. The Town recommends granting the property owner an extension of time until November 30, 2009 to obtain the necessary permits and comply with the Board's order from the October hearing and if compliance is not achieved by that date, a \$150.00 a day fine begin accruing on December 1, 2009.

Paul Castro, Zoning Administrator, said the Town received a building application on October 15, 2009 but there were concerns and it was not approved. There were several discrepancies in the intended use of the building and the descriptions on the application were not adequate. The new owners are working with Debby Morakis but the current submitted plans are still incomplete. Mr. Castro said the owner is trying to save money and do the work herself but the plans need to be signed and sealed by a licensed architect and they were not.

Mr. Walton said the Board has a few options. There could be a daily fine from November 17, 2009 since the owner still has not obtained a permit or the Board

could grant the owner additional time, until the Monday after Thanksgiving to get a permit. Mr. Castro recommended they be given more time. Chairman Hoffman asked if the plans would be approved if they are not signed off on by a registered architect and Mr. Castro said they would not.

Mr. Dowell asked about the property and if it was the case they heard last month where the property was sold to a dentist and Mr. Castro said it was the same property.

(William Bucklew, Building Plans Examiner for the Town, was administered the oath by Town Clerk Cunningham.)

Mr. Bucklew said the work was originally done without permits. They have asked for an architect or engineer to provide a scope of work with exactly what they are going to do with regard to the plumbing and electrical. Mr. Bucklew said he sat down with the person who came into the department and told them exactly what they needed.

Jeff Taylor, Building Official, told the Board there was an expedited process that could take one business day if the plans were correct. Mr. Fried asked if there were any fire-safety issues. Mr. Walton said he could not testify to that. Mr. Koepfel asked if they had paid for an expedited permit and Mr. Taylor said they had not.

Chairman Hoffman was concerned about not having any professional name or guidance with the plans. He was not in favor of extending the time since the plans were not signed by a registered or licensed architect or contractor.

**MOTION BY MR. KOEPPLE TO GIVE THE VIOLATOR ADDITIONAL TIME TO COMPLY, UNTIL NOVEMBER 30, 2009 AND IF COMPLIANCE WAS NOT ACHIEVED, TO ORDER THEM TO PAY A FINE OF \$150.00 A DAY COMMENCING ON DECEMBER 1, 2009
SECONDED BY MR. FRIED
MOTION OPPOSED**

ROLL CALL VOTE:

MR. KOEPPLE	YES
MR. FRIED	YES
MS. GREENBERG	NO
MS. VAN BUREN	NO
MR. BALLENTINE	YES
MR. DOWELL	NO
MR. HOFFMAN	NO

MOTION FAILED

4-3

**MOTION BY MR. KOEPPLE TO GIVE THE VIOLATOR ADDITIONAL TIME TO COMPLY, UNTIL NOVEMBER 30, 2009 AND IF COMPLIANCE WAS NOT ACHIEVED, TO ORDER THEM TO PAY A FINE IN THE AMOUNT OF \$250.00 A DAY, COMMENCING ON DECEMBER 1, 2009
SECONDED BY MR. FRIED
MOTION PASSED UNANIMOUSLY**

VII. Board Comments:

Chairman Hoffman asked about the procedure of swearing people in at the beginning of meeting. There is a question of whether a person has been sworn in at a later point in the meeting. Town Attorney Randolph advised it would be best to swear them in at the beginning of each item. There were no objections from the Board and that will be the new procedure at the January meeting.

Sergeant Krauel said he was not sure what happened while he was away but due to the scheduling of the room while Town Hall is being renovated, there will not be a December Board meeting.

VIII. Adjournment: (4:07:01 p.m.)

The meeting was adjourned without benefit of motion.