



TOWN OF PALM BEACH POLICE DEPARTMENT

A NATIONAL AND STATE ACCREDITED LAW ENFORCEMENT AGENCY



CODE ENFORCEMENT BOARD MINUTES 2:00 P.M. THURSDAY, JUNE 19, 2008 AT THE TOWN COUNCIL CHAMBERS, 360 S. 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 Joel P. Koepfel, Member Larry Ochstein, Member Catherine M. Duemler, Member Cynthia Van Buren, Member James M. Ballentine, Jr., First Alternate
Absent:	Harris S. Fried Madelyn Greenberg William P. Vanneck, Second Alternate
Staff:	John Randolph, Town Attorney Captain Kirk Blouin, Support Services Rob Walton, Lead Code Enforcement Officer Nick Gerry, Code Enforcement Officer Bryant Weymer, Code Enforcement Officer Raychel Houston, Recording Secretary

III. **Approval of the Minutes of May 15, 2008:**

MOTION BY MR. OCHSTEIN FOR APPROVAL OF THE MAY 15, 2008 MINUTES
MOTION SECONDED BY MS. DUEMLER
MOTION PASSED UNANIMOUSLY

IV. **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 Raychel Houston.

V. Public Hearings:

- A. Case # 08-2431, 434 Seaspray Ave., Christopher Kaufman
Violation of Chapter 18, Section 18-242, Subsection 1 (104.1.1) of the Town of Palm Beach Code of Ordinances, building permits required to construct, install, repair or alter any building or building system.

Lead Code Enforcement Walton requested the case be postponed until the July 17, 2008 hearing date as the case is going to come before the Town Council again on July 8, 2008.

MOTION BY MR. KOEPPPEL TO POSTPONE THE CASE UNTIL JULY 17, 2008

SECONDED BY MS. DUEMLER

MOTION PASSED UNANIMOUSLY

- B. Case # 08-2501, 256 Orange Grove Rd., Allen Tomlinson
Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of Ordinances, appurtenances such as driveways be maintained in good condition

Lead Code Enforcement Officer Walton requested the case be dismissed as the violation was corrected within the time allowed by the Code Enforcement Officer.

MOTION BY MR. KOEPPPEL TO DISMISS THE CASE

SECONDED BY MS. DUEMLER

MOTION PASSED UNANIMOUSLY

- C. Case # 08-2502, 1055 N. Ocean Blvd., Mamdouha S. Bobst Trust
Violation of Chapter 42, Section 87 of the Town of Palm Beach Code of Ordinances, appurtenances such as swimming pools, driveways, walls, gates and fences to be kept in a safe condition and a good state of repair; unsafe and unsanitary conditions and accumulation of discarded, unusable material not permitted and Chapter 18, Section 241, electrical wiring and fixtures to be maintained in a safe condition

Code Enforcement Officer Weymer presented the facts of the case and said it originated from a citizen's complaint. The property owner has provided a copy of a contract with Batten Construction Company for all needed repairs on the property. Work commenced on June 18, 2008 and the pool violation is going to be addressed by a professional pool company. Batten Construction is requesting until July 16, 2008 to complete the repairs. The Town's recommendation is a finding of non-compliance, administrative costs in the amount of \$150.00 and the property owner be given until July 16, 2008 to comply.

MOTION BY MS. DUEMLER TO FIND THE VIOLATOR IN NON-

COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE HIM UNTIL JULY 16, 2008 TO COME INTO COMPLIANCE

**SECONDED BY MS. VAN BUREN
MOTION PASSED UNANIMOUSLY**

D. Case # 08-2503, 201 Pendleton Ave., Kenneth M. Welch

Violation of Chapter 106, Section 106-159 of the Town of Palm Beach Code of Ordinances, a clearance of eight (8) feet measured vertically from the edges and extending the full width of all sidewalks and bike trails shall be maintained for the unobstructed passage of pedestrians and others using sidewalks and bike trails

Code Enforcement Officer Weymer presented the facts of the case and said it originated from a citizen's complaint. This particular hedge was overhanging the sidewalk well over a foot in certain areas. The hedge was cut after the warning notice but not enough to bring it into compliance. The hedge remains in violation with six (6) to ten (10) inches overhanging the sidewalk. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and the property owner be given until June 26, 2008 to come into compliance.

**MOTION BY MR. KOEPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE HIM UNTIL JUNE 26, 2008 TO COME INTO COMPLIANCE
SECONDED BY MS. DUEMLER
MOTION PASSED UNANIMOUSLY**

E. Case # 08-2504, 132 Royal Palm Way, U. S. Trust Co.

Violation of Chapter 38, Section 38-35 (b), alarm fines not paid within thirty (30) days of first billing

Code Enforcement Officer Weymer presented the facts of the case and said the outstanding balance still has not been paid. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and the violator be given until July 16, 2008 to pay all fines and late fees.

**MOTION BY MS. DUEMLER TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL JULY 16, 2008 TO COME INTO COMPLIANCE
SECONDED BY MR. KOEPPEL
MOTION PASSED UNANIMOUSLY**

F. Case # 08-2505, 290 S. County Road, Thomas Campaniello

Violation of Chapter 42, Section 42-87 of the Town of Palm Beach Code of

Ordinances, appurtenances such as awnings to be maintained in a good state of repair

Lead Code Enforcement Officer Walton presented the facts of the case and said the case originated from a routine inspection. Guy (Guido) Tamasi was present on behalf of the property owner. Mr. Walton said some of the awnings had been pressure cleaned and some were removed. The property is now in compliance but compliance was not achieved within the time frame allowed by the Code officer. Ms. Duemler asked if the awnings were going to be replaced as they are still down. Mr. Walton said Guido, who is the property manager, wanted to leave the awnings down and he had referred Guido to Tim Frank. Mr. Frank approved this but there is now further discussion internally about whether the awnings can remain down or have to be re-installed. Mr. Frank's decision to grant permission to take down the awnings is being reviewed. Guido said the reason compliance was not achieved by the date requested was because he has a handyman who comes from Miami and he can not always get him when he needs him. Guido said they plan on getting new awnings in a different color as the green ones are in bad shape. He said the broken tiles on the roof that the pigeons were nesting in have been replaced and there are only two or three pigeons left so that issue should be resolved. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and no further fines be imposed.

**MOTION MADE BY MR. KOEPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND NO FURTHER FINES BE IMPOSED
SECONDED BY MS. DUEMLER
MOTION PASSED UNANIMOUSLY**

- G. Case # 08-2506, 221 Orange Grove Rd., Christopher & Alice Holbrook
Violation of Chapter 18, Section 18-205 of the Town of Palm Beach Code of Ordinances, the Architectural Commission may attach conditions to any approval it grants

Lead Code Enforcement Officer Walton presented the facts of the case and said it was the result of a citizen's complaint. The inspection, which occurred back in 2007, found the fence not covered with vegetation per permit requirements. Mr. Walton said he had just been informed by Tim Frank, who inspected the property today, that the fence is now screened. Based on this, the Town recommends the case be dismissed. Imogene Willis, 229 Orange Grove Road, addressed the Board and said that prior to the fence being installed, there was a beautiful eight (8) foot ficus hedge that ran the length of the property line and screened both properties from view. She said she would have preferred having that hedge instead of the fence. Ms. Willis said she wanted to address several violations of the Code regarding the placement of the fence. Mr. Walton said the only violation that was cited was the screening of the fence. Mr. Hoffman asked Ms. Willis to only address the cited violation and to discuss any other issues with Code Enforcement. Ms. Willis said the hedge which screened the fence was placed on the owners' side of the property because they did

not want to look at the fence. Code required the hedge to be placed two (2) feet from the fence, which was not done. She also said some of the supporting poles for the fence were on the property line and on her property. Ms. Willis said Code required six (6) foot hedges be planted, which was also not done. She said the fence could still be seen from Orange Grove Road and the hedge had never once been trimmed.

Tim Frank, Planner and Projects Coordinator, said this case was brought to the Board because the fence was not totally screened but as of this afternoon, the fence meets the Town's minimal requirements for screening. He said he was not qualified to address any of the other discrepancies with the Code.

Charles Hickman, attorney for Mr. and Mrs. Holbrook, addressed the Board and presented pictures of the fence facing east and west and said it was in compliance. He said one of the problems being discussed was whether or not the fence was in compliance at the rear of the property. ARCOM was only concerned with the portion of the fence which could be seen from the street. He said he also wanted to go into some detail of the history of the fence because of the comments which were made. Mr. Randolph advised the Chair had ruled that any other violations mentioned here today were not before them. Mr. Randolph said what is before the Board is whether or not the fence is screened. Mr. Randolph said it would be out of order to discuss any violations not before the Board. Mr. Hickman said his comments concerned only the fence and the screening of the fence. Mr. Hickman said he was interested in having the Board put an end to the harassment being conducted by Ms. Willis against him, the staff, their contractor, their architect, their landscaper, and the Holbrooks. Mr. Randolph told Mr. Hickman the Board had no jurisdiction over that. Mr. Hickman said he was looking for the Board to find the fence in compliance and as long as it exists the way it is today, it would not be brought before the Board again. He wanted the Board to instruct staff to ignore any complaints regarding the condition of the fence. Mr. Randolph said staff could not do that but the code enforcement officer had testified the fence was in compliance today. He said the Board could not do anything about not citing the fence in the future, that it would be up to code enforcement to cite the fence if it came out of compliance in the future.

Mr. Hoffman asked Mr. Walton for the Town's recommendation. Mr. Walton said the Town recommends the case be dismissed for compliance. Mr. Hoffman asked if there were any administrative costs involved and Mr. Walton said since the case had not come into compliance until today, the Town would also ask for the administrative costs of \$150.00 and no further action be taken.

MOTION BY MR. KOEPPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND NO FURTHER ACTION BE TAKEN
SECONDED BY MS. DUEMLER

Mr. Hickman asked to speak again and was advised by Mr. Hoffman that the Board was in executive session. Mr. Hickman said he needed to address the issue of whether a fine was appropriate because the history of the fence had a bearing on the

issue. Mr. Hoffman told Mr. Hickman this was not a fine, it was administrative costs. Mr. Hickman said the administrative costs were only being imposed because the fence was found in non-compliance in the time set by code enforcement and the reason for that involved the complainant. The complainant was the one substantially responsible for the fence not being screened and until the Board heard those details, he did not believe it was appropriate for the Board to vote to establish a fine that was not the fault of the homeowner. Mr. Hoffman asked for Mr. Randolph's comment on this issue and Mr. Randolph said he would leave it up to Mr. Hoffman as to whether he wanted to hear it. Mr. Randolph said the costs are imposed because the matter had to come to hearing because the violation was not corrected before the hearing. Mr. Randolph advised Mr. Hoffman if he wanted to briefly hear why they could not comply between the time they were cited and the hearing, that this might be relevant but they did not need to go into a great deal of the history. Mr. Hoffman asked Mr. Randolph if it was appropriate to continue since there was a motion and a second on the floor. Mr. Randolph said since Mr. Hickman did not hear the recommendation prior to the motion being made and did not have an opportunity to address it, the Board had the right to hear Mr. Hickman but the motion could remain on the floor. Mr. Hoffman asked Mr. Hickman to deal directly with this issue and nothing else. Mr. Hickman said the fence and the hedge had been in place for some time. The requirement for screening of the fence was not specific as to time. It did not say the fence had to be screened immediately upon installation. The hedge is not as full on the other side of the fence as it has not grown through. The Holbrooks had offered to plant hedges on the other side of the property and that was denied by the adjoining property owner. They had people go out and try to pull the hedge through the fence so there would be better screening on the other side but they had been harassed and driven off the property. Mr. Hoffman asked Mr. Hickman to discontinue further comments and the Board went back into executive session. Ms. Van Buren asked Mr. Hickman what he wanted the Board to do and he said he wanted them to agree with the staff's recommendation that the fence is in compliance but to oppose the recommendation of the administrative costs because of the difficulties the Holbrooks had faced in trying to bring the fence into compliance.

**MOTION BY MR. KOEPPPEL TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND NO FURTHER ACTION BE TAKEN
SECONDED BY MS. DUEMLER
MOTION PASSED UNANIMOUSLY**

- H. Case # 08-2507, 3450 S. Ocean Blvd., # 203, Antonia Manente
Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances, building permits required to construct, install, repair or alter any building or building system

Lead Code Enforcement Officer Walton presented the facts of the case and said it was the result of a citizen's complaint. There is now a contractor involved who has applied for permits. Dante Antolini was present on behalf of her parents, the homeowners, and said her sister had hired someone to do the work who had not

obtained permits. Ms. Antolini said her parents were unaware of this because they are disabled and live in New Jersey. Ms. Antolini said she had flown down here from Minnesota to straighten everything out. The contractor she hired, Mr. Miranda, said he believed the project could be completed in ninety (90) days. Mr. Walton said this would include all final inspections. The Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and the violator be given until September 17, 2008 to come into compliance.

MOTION BY MR. BALLENTINE TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL SEPTEMBER 17, 2008 TO COME INTO COMPLIANCE

SECONDED BY MS. VAN BUREN

MOTION PASSED UNANIMOUSLY

- I. Case # 08-2508, 227 Brazilian Ave., #2F, Hillen J. Smith
Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances, building permits required to construct, install, repair or alter any building or building system

Lead Code Enforcement Officer Walton presented the facts of the case and said it had resulted from a citizen's complaint. Mr. Smith was present with his contractor, Steve Campanelli who said he had his permits and architectural drawings. Mr. Campanelli said he believed the job could be completed in about four weeks. Mr. Walton said the Town recommends a finding of non-compliance, administrative costs in the amount of \$150.00 and the violator be given until July 16, 2008 to come into compliance.

MOTION BY MS. DUEMLER TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE HIM UNTIL JULY 16, 2008 TO COME INTO COMPLIANCE.

SECONDED BY MR. KOEPEL

MOTION PASSED UNANIMOUSLY

- J. Case # 08-2509, 3460 S. Ocean Blvd., #315, Filadelfio Oliveri
Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances, building permits required to construct, install, repair or alter any building or building system

Lead Code Enforcement Officer presented the facts of the case and said it was also the result of a citizen's complaint. Mr. Oliveri was doing much of the work himself and said he did not know permits were required. He immediately stopped work and hired a contractor. Philip Maragos from Athens Construction was present and said he had applied for permits. Mr. Maragos said he was requesting a ninety (90) day extension because new kitchen cabinets had been ordered and he was not certain when they would be delivered. The Town recommends a finding of non-compliance,

administrative costs in the amount of \$150.00 and the violator be given until September 17, 2008 to come into compliance.

MOTION BY MR. OCHSTEIN TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE HIM UNTIL SEPTEMBER 17, 2008 TO COME INTO COMPLIANCE

SECONDED BY MS. DUEMLER

MOTION PASSED UNANIMOUSLY

- K. Case # 08-2510, 350 S. County Road, Three 50 Realty Corporation
Violation of Chapter 42, Section 42-228 of the Town of Palm Beach Code of Ordinances, allowable noise limit for non-vehicular noise in geographic area 2 of 64 dBA during the day and 58 dBA at night and Chapter 134, Section 134-1607 (1), air conditioning equipment on the roof top area to be sight screened

Lead Code Enforcement Officer Walton requested this case be dismissed due to compliance.

MOTION BY MR. OCHSTEIN TO DISMISS THE CASE

MOTION SECONDED BY MR. KOEPEL

MOTION PASSED UNANIMOUSLY

VI. Old Business:

- A. Case # 07-2097, 333 Sunset Ave., Royal Poinciana South
Violation of Chapter 134, Section 134-416 (d), Section 134-417 and Section 134-418 of the Town of Palm Beach Code of Ordinances, when any building or structure or part thereof which is nonconforming is altered, changed or replaced, the non-conforming building or structure or part thereof shall thereafter conform to the regulations of the district in which such building or structure is located and the terminated nonconformity shall not thereafter be resumed nor shall any additional nonconformity be permitted.

Lead Code Enforcement Officer Walton presented a brief history of the case. The case was heard by the Board in May, 2007 and the violator was found in non-compliance, assessed administrative costs in the amount of \$150.00 and given ninety (90) days to come into compliance. The costs were never paid and the Board's ruling was appealed to the circuit court within the ninety (90) day period. The circuit court remanded this case back to the Code Enforcement Board. The issue which was brought up in the appeal was that the building thought the a/c units should be grandfathered in. Mr. Randolph asked Mr. Walton to explain why the case was remanded to the Town and Mr. Walton read that portion of the court order as follows: "The court finds that the Town departed from the essential requirements of law by raising Sections 134-416, 134-417 and 134-418 for the first time at appeal. We reverse and remand with the direction to address the grandfathering issue in

order to provide the building with the opportunity to respond to the application of the aforementioned sections.”

Jeff Taylor, Building Official, said he had researched the case (he was a plans examiner at the time) and it was an unusual one. The original building permit for the roofing was issued April 21, 2005. A final inspection was received September 8, 2005. The permit for the new air conditioning stands which are required by the Florida Building Code was pulled 4 days later, the 12th of that month. He said he spoke to the inspector who vaguely remembers it and he believes the stands were not brought up during the original roofing permit. They finished the roof with the understanding they would pull a permit to raise the stands up. Those stands received a final inspection in March of 2006. The permit for the second re-roof was pulled in February of 2006. The stands had not received their inspection until a month after the second permit was issued. Final inspection on the roofing was done in August of 2006. He said there was a roof that was completed, a permit for the a/c stands was pulled and before that permit was completed, the roof was damaged and a second roofing permit was pulled and then those got their final inspections together. The Town's position is that since the stands, which are required by Code, raised the units up, the non-conformity of the units has been increased. They are more visible than they were before and the Town is asking that the screening now be addressed and that the units be screened from view. Mr. Walton entered photographs and the plans which have the requirement for screening on them into the record.

Maura Ziska was present on behalf of Royal Poinciana South. She said Mr. Walton had accurately depicted the history of the case. She said they had appealed the last decision and won it, resulting in it being remanded back to the Board. Ms. Ziska said they still feel confident their legal arguments support their position that they should not be forced to screen the units. She introduced and turned the meeting over to their litigation appellate attorney, Devon Coughlan.

Mr. Coughlan entered some material into the record. He said the case was remanded by the appellate court because the grounds for the initial finding of violation were not sufficient. In order to try and prevail on appeal, the attorney representing the Town tried to present three (3) code provisions which were never discussed at the original hearing and the appellate court did not permit that. Based on the record before it, the appellate court reversed the finding of violation and sent the case back to the Board. Mr. Coughlan said one important fact is that they are not here today on the prior notice of code violation. There was a new notice of code violation issued by the Town and that is why they are before the Board today. Even though this is coming before the Board on a remand, it is almost like they are starting over because they have a new notice of violation, dated January 3, 2008. Mr. Coughlan says there is language in the notice and on the agenda that sets forth the violation but the language is not what is in the code. Mr. Coughlan said the property manager would be able to provide background and a little of the history of what happened between the property and the Town. Mr. Coughlan said this is not a situation where the property did not do what they were told to do; they did everything they were told to do. There were multiple permits and multiple inspections and everything passed. The property was

not informed about a sight screening requirement until almost two (2) years after the first permit was issued. The permits themselves do not have anything on them about sight screening.

Carol Somerville said she had been the property manager at Royal Poinciana for the last fifteen (15) years. She said when they pulled the permit with Colonial Roofing in 2005, there was nothing on the permit about sight screening. The only requirement was that they raise the stand for the air conditioners. Precision Air Conditioning fabricated the stands and it took some time to manufacture them so the roof was installed but the stands were not ready. Hurricane Wilma came along and their roof ended up in Bradley Park. They contracted with National Roof to replace the roof and at the same time, the stands were ready and were installed. Once again, there was never any stipulation about sight screening. If there had been, it would have been incorporated into the roof job and their insurance would have covered it. Shortly after the roof and stands was installed, she received a call from one of the residents at the Biltmore who asked if the stands had been raised and she explained to him that it was a requirement to bring them up to code. He asked if they were going to be sight screened and she told him the Town did not require it. She was served with the code violation from the Town shortly after that. Ms. Somerville said she had two (2) estimates for the screening of the roof and Mr. Hoffman said the Board was not concerned with the economics of the issue. Mr. Randolph said it was relevant to the case as they had been placed with the burden of showing equitable estoppel per the final judgment. Ms. Somerville presented two proposals from Nicon Contracting & Engineering through Ed Williams Roof Consultant, one in the amount of \$324,173 for screening just the interior portion and the other for \$588,351 which would go all around the roof and involve making 24 cuts in the brand new roof. The second proposal was for \$783,351 from JB Construction. This estimate was two (2) years old and she had been told to add 10% for today's prices.

Mr. Coughlan said there was a provision in the code for a structure that was not conforming to continue and they believe this one should continue. Mr. Coughlan argued that the violation they were being cited for was not applicable because the air conditioning units do not occupy a portion of land but are on the roof of the building. He said the ordinance referred to a building or structure and he did not believe it referred to roof top equipment. He extensively discussed the sections of the Code violations and explained why he did not believe they applied to his client. He closed by saying that the Town should be estopped from trying to change its position on whether or not this work was in compliance.

Maura Ziska went through photographs she had taken of existing roofs in Town with roof top air conditioning units which are not sight screened. Mr. Coughlan said this was an example of selective enforcement.

John Eubanks from Moyle, Flanagan who represents the Biltmore addressed the Board next. He argued that raising the air conditioning units two (2) feet made them much more visible. The stands themselves were never grandfathered in because they were not there before. Mr. Eubanks said they were asking for the code to be

enforced. Carter Pottash also addressed the Board and said he had contacted the manager of Royal Poinciana and was also present as a representative of the Board of Directors. He said he was disappointed in the testimony of the manager which was simply untrue. Mr. Pottash said the manager had told him she was getting quotes for the screening after he inquired when that was going to be done.

Mr. Taylor said a drawing was submitted with the permit application. The drawing was stamped "subject to compliance with all codes and ordinances in effect in the Town of Palm Beach Florida." There is also a handwritten note, "If units can be seen, they must be screened". This drawing is part of the permit package. Permit and drawings must be posted on the site. Mr. Taylor said the codes are available online and it is not incumbent on the Town to explain to contractors all code and ordinances they must follow. Mr. Taylor said it is Town policy that any handwritten notes on the office copy is reproduced on the job site copy.

In response to Mr. Ballentine's question, Mr. Coughlan said the code, as he read it, did not require sight screening. Mr. Walton said the Town's position is that the air conditioning units need to be screened. Mr. Koeppel asked Mr. Coughlan if he had a copy of the original permit to see if the handwritten note was on it and he said he did not believe he had it in his possession. He said if the Board would consider it after the fact, he would go to the contractor and the owner and see if it was available. Mr. Taylor clarified that the handwritten note would be on the permit drawing, not the permit itself. Mr. Koeppel questioned the definition of building or structure as to whether the air conditioning units and stands would fall into that category. Mr. Taylor read the code as "any building or structure or part thereof" and said the Town's contention is that raising the air conditioning units caused an additional non-conformity which brought in the requirement for screening. Mr. Koeppel inquired again if there was a definition of building or structure in the code, something that might bring some clarity as to whether or not this equipment is part of the structure. Mr. Taylor read the definition of structure as "anything constructed or erected, the use of which requires permanent location on the land or attachment to something having permanent location on the land". Mr. Koeppel said this would seem to include air conditioning equipment.

Mr. Hoffman asked if it was common practice for the Town when it reviewed plans to mark corrections or modifications on the plan with approval and Mr. Taylor said it was.

Ms. Somerville addressed the Board again and said she believed they were in full compliance because the Town came and inspected everything and never told them they needed to sight screen. Mr. Taylor said the issue is there is not just one inspector who inspects the entire job but different inspectors who may not be aware that there is no permit for the screening.

Mr. Walton said the Town recommends the building be found in non-compliance, administrative costs in the amount of \$150.00 be assessed and the building ordered to comply with the code by sight screening the air conditioners by September 17, 2008.

Mr. Koepfel inquired if the Town would amend their recommendation to give the building more time to come into compliance and that was agreed to.

MOTION BY MR. KOEPPLE TO FIND THE VIOLATOR IN NON-COMPLIANCE, ASSESS ADMINISTRATIVE COSTS IN THE AMOUNT OF \$150.00 AND GIVE THEM UNTIL DECEMBER 17, 2008 TO COME INTO COMPLIANCE

SECONDED BY MS. DUEMLER

MOTION PASSED UNANIMOUSLY

B. Case # 08-2484, 515 N. County Road, Trump Properties, LLC

Violation of Chapter 18, Section 18-205 of the Town of Palm Beach Code of Ordinances, the Architectural Commission may attach conditions to any approval it grants.

Lead Code Enforcement Officer Walton requested this case be postponed until the July 17, 2008 since the case is going to be going back to ARCOM for further consideration.

MOTION BY MS. DUEMLER TO POSTPONE THE CASE UNTIL THE JULY 17, 2008 MEETING

SECONDED BY MR. KOEPPLE

MOTION PASSED UNANIMOUSLY

VII. Fine Consideration:

A. Case # 08-2432, Beachfront Vista Property, Nightingale Beach Club Association
Violation of Chapter 134, Section 134-1472 (3) of the Town of Palm Beach Code of Ordinances, no additional walls, fences, hedges or other structures or growth shall be erected or be grown eastwardly of Ocean Boulevard to a height greater than four (4) feet above the surface of the Ocean Boulevard.

(Ms. Duemler recused herself as part of a previously declared conflict)

Lead Code Enforcement Officer Walton requested a postponement until the July 17, 2008 meeting as the Department of Environmental Protection had issued a permit but it had been mailed and Mr. Walton had not received it. Mr. Walton said he needed to review the conditions of the permit.

MOTION BY MR. KOEPPLE TO POSTPONE THE CASE UNTIL THE JULY 17, 2008 MEETING

SECONDED BY MS. VAN BUREN

MOTION PASSED UNANIMOUSLY

B. Case # 08-2489, Peruvian Ave. Parking Lot, Love III LLC

Violation of Chapter 134, Section 134-2172 and Section 134-2174 of the Town of Palm Beach Code of Ordinances, off street parking areas and parking lots must meet requirements relating to paved surfaces, markings, landscape and drainage and Chapter 42, Section 42-87, appurtenances such as parking lots to be kept in good condition.

Code Enforcement Officer Gerry said this case had come before the Board and the violator was given until June 16, 2008 to come into compliance. An inspection of the property on June 17, 2008 found the parking lot repairs not completed. The Town's recommendation is a fine of \$250.00 a day commence on June 17, 2008 and continue until all parking lot violations are corrected and a final inspection obtained. Brian House was present on behalf of Love III LLC and said they have been held up because of the rain. The contractor promised him he will have the job finished by the end of next week but they are at the mercy of the weather.

Mr. Koeppel said he was sympathetic as the weather was a factor and suggested more time be given, perhaps a couple of weeks. Mr. Gerry requested that a fine be attached at this time if compliance was not achieved by the time given for compliance by Mr. Koeppel's motion.

**MOTION BY MR. KOEPEL TO GRANT AN EXTENSION OF TIME
UNTIL JULY 3, 2008 TO COME INTO COMPLIANCE AND TO ASSESS A
FINE OF \$250.00 A DAY BEGINNING ON JULY 3, 2008 IF COMPLIANCE
WAS NOT ACHIEVED
SECONDED BY MR. BALLENTINE
MOTION PASSED UNANIMOUSLY**

C. Case # 08-2490, 350 S. County Road, Three 50 Realty Corp.

Violation of Chapter 134, Section 134-2172 and Section 134-2174 of the Town of Palm Beach Code of Ordinances, off street parking areas and parking lots must meet requirements relating to paved surfaces, markings, landscape and drainage and Chapter 42, Section 42-87, appurtenances such as parking lots to be kept in good condition.

Code Enforcement Officer Gerry requested this case be dismissed as it came into compliance by the date set forth in the Board order.

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

D. Case # 08-2491, 160 Reef Road, 160 Reef Road LLC

Violation of Chapter 18, Section 18-241 of the Town of Palm Beach Code of Ordinances and Florida Building Code, Section 105, zoning approval and building permits required for any structure or building erected or constructed.

Code Enforcement Officer Gerry said the case had been presented to the Board and the violator was given until June 6, 2008 to come into compliance. The Town recommends a fine of \$250.00 a day begin on June 7, 2008 and continue until all permits are obtained and final.

Maura Ziska was present on behalf of the property owner and said a general contractor, Nick Saponara from Titan Construction, had been hired. She said she believed he told her he had received permits and inspections on everything that had been cited except for the awning structure. Joe Mattei from American Awnings presented photographs to the Board of the old awning and the existing awning. There was a discrepancy in what the permit application stated and the plans and what was built. The Town would not inspect the awning because there was an issue with the zoning. Ms. Ziska met with Paul Castro, the Zoning Administrator, who told her they could replace the awning that was there the same way or they could put the new awning up as long as it was not higher than the original awning. In order to get an inspection, they have to go back and re-do the application and the plans. Ms. Ziska said they are asking for an additional thirty (30) days to do the paperwork to make the new awning legal and be able to get an inspection.

Jeff Taylor, Building Official, said the Town had no objection in allowing the additional time to complete the project.

Mr. Gerry said there were some additional issues relating to the property, some existing open permits for work which had been done previously that had been open for several years. He said he also had not heard anything about the fence permit being finaled out. Mr. Saponara said the old a/c permit had been finaled out and the fence had a site inspection today but it might not be in the computer yet. Mr. Saponara said the building permit could not be finaled out until the awning issue was addressed. He said everything they had been cited for had been inspected and the work had passed.

Mr. Gerry said he wanted to bring to the Board's attention that this property had not gotten permits throughout the years. He said he would like to recommend the fine begin on June 7, 2008 and they could come back at a later time and request a fine reduction. Ms. Ziska said her client had owned the house for less than a year and should not be penalized for things that had happened in the past.

**MR. KOEPEL MADE A MOTION TO GRANT THE VIOLATOR AN
ADDITIONAL 30 DAYS TO COME INTO COMPLIANCE
SECONDED BY MR. OCHSTEIN
MOTION PASSED UNANIMOUSLY**

- E. Case # 08-2492, 110 Angler Ave., Stephen J. Macari
REPEAT Violation of Chapter 42, Section 42-86 and Chapter 42, Section 42-87,
grass not to exceed eight (8) inches in height and exterior surfaces to be kept painted
and in good repair

Code Enforcement Board Meeting Minutes 06/19/08

Code Enforcement Officer Gerry said this case had been presented to the Board on May 15, 2008 and the violator had been found in non-compliance and had been given a compliance date of May 16, 2008. An inspection of the property on May 17, 2008 found the grass and landscape was trimmed but there were no signs of work on the exterior paint or repairs of the soffits. An additional inspection was done on June 16, 2008 and found no additional work completed. The Town recommends a fine of \$500.00 a day beginning on May 17, 2008 and continuing until compliance is achieved.

MOTION BY MR. KOEPEL TO ASSESS A FINE OF \$500.00 A DAY, BEGINNING ON MAY 17, 2008 AND CONTINUING UNTIL COMPLIANCE IS ACHIEVED.

SECONDED BY MR. BALLENTINE

MOTION PASSED UNANIMOUSLY

VIII. Comments:

There were no comments from the Board.

IX. Adjournment:

The meeting was adjourned without benefit of a motion.