



Code Compliance Board Minutes

December 5, 2019 at 3:00 pm

City Hall, Commission Chambers
Regular Meeting

Meeting Called to Order

Daniel McIntosh, Chairperson, called to order the regular meeting of the City of Winter Park Code Compliance Board at 3:00 pm, on December 5, 2019, in the Commission Chambers, Winter Park, Florida.

Roll Call

Those present were: Daniel McIntosh, Chairperson, Clay Roesch, Kyle Sanders, Paul Mandelkern, Daniel Butts and Todd Boyer. Terry Rooth was absent.

Daniel McIntosh read statement of purpose into the minutes.

Approval of Minutes

Motion made by Kyle Sanders; seconded by Clay Roesch to approve the November 7, 2019 minutes. The motion passed 6-0.

Swearing in of Witnesses

All witnesses were sworn in.

Compliances

None

Non Agenda Item

Clay Roesch explained that he received two ex parte communications related to this case and they were addressed to other members of the board. The first is an email dated November 29th, 2019 from Mr. John Skolfield and it summarizes Mr. Skolfield's understanding of the facts underlying this case and also contains requests for the board to take action (that communication came via email and had a number of attachments). The attachments were titled Mayor and Commissioners letter, Order of events 1331 Aloma, Jeff to City Manager, Letter to Officer Porras, and 1331 Aloma follow up to Mayor and Commissioners. The second ex parte communications dated December 3rd, 2019, was an email from Mr. Jim Fitch and it stated that Mr. Fitch's belief is that the property/house in question had been purchased for resale and it also proposed a resolution to the case (this email did not have attachments). Mr. Roesch asked the Chairman that the two ex parte communications be made part of the record of this proceeding.

The City Attorney added that there was a link to a dropbox from Mr. Skolfield that had photos of the house on Aloma and asked Mr. Roesch if that was part of the documents he is submitting. Mr. Roesch agreed there is a link to a dropbox, but he did not access the dropbox. The City Attorney asked if any board member looked at the photos and requested that they be submitted as part of the record. Mr. Sanders stated that he looked at the photos in the dropbox. The City Attorney provided copies of the photos to Mr. Sanders. Mr. Sanders confirmed that they were the photos he reviewed. The photos in the dropbox were also to be made part of the record of this proceeding.

Mr. McIntosh only received the email from Mr. Fitch and the other board members received both emails from Mr. Skolfield and Mr. Fitch.

The emails and photos were submitted to the Recording Secretary for the record.

New Business

CC#19-1259, 1331 Aloma Avenue, Winter Park, FL 32789. Presentation of the alleged violation was given. Susanne Porras, Winter Park Safety and Code Compliance Officer, and Rick Geller, City Attorney spoke in regards to this case.

George Wiggins, Director of Building and Permitting Services, stated that on July 13th, 2019 the City was notified that the front and rear porches of this home were removed. At that point in time an application for a permit to perform some demolition had been applied for, but had not been approved because this home is on the registry of Historic Buildings. He then sent an inspector to post a stop work order on this home to ensure no further demolition would proceed. He provided the board with a chronological report of the work at 1331 Aloma Avenue.

The following offered public comment:

Kevin Donaghy, Donaghy Law, (Respondent's counsel) gave a brief overview of 1331 Aloma Avenue. He addressed that Ms. Dunaway had a mishap with the upstairs porch and they submitted an emergency demolition permit on July 5th, 2019 and the porches were removed that weekend prior to issuance of any permit. The Dunaways consulted with a structural engineer and it was determined that the porches were rotted and it would need \$400,000 - \$500,000 in structural repairs. This is not feasible to the Dunaways and they will gladly sell the house to the City, donate or have it moved. He added that this house has the second largest camphor tree in the state which is having an impact on the foundation.

Respondent, Ms. Dunaway stated that she was on the porch and pushed on a pillar which gave way. They submitted the permit and received an email from the City on July 8th, 2019 stating that an owner permit is required since they personally did the work. She stated that it would cost one million dollars to restore the house to a livable condition and they purchased the house for four hundred and eighty thousand dollars and have estimates to restore the porches. She added that the previous owners had work done to the house without a permit and the repairs were not structurally sound. They discussed the work with the City Architect (Weiss, Brooks). Mr. John Skolfield was the licensed contractor and he is on the Historical Board. Ms. Dunaway responded to questions from the board.

Joe Holland, Orlando Constructors LLC, (Respondent's contractor) commented that the previous contractor (John Skolfield) pulled no permits and did not submit plans because the house would have to be deconstructed in sections. He added that there was termite damage and submitted for the record pictures of the post that collapsed, Skolfield Homes, LLC invoices, and the engineers report.

John Skolfield, 358 Vitoria Avenue, stated that he owns two historic homes and explained that he did minor cosmetic repair to the home for the former owner and clarified that the chimney was pushed away from the house and needed replacement).

Aida Rico-Arango, 1208 Lakeshore Ave, Tavares, FL, stated that the house was built in 1885, is an historic building, and requested that the Board find the Dunaways in violation.

Sue Masselink, 1308 Alberta Dr, believes the City must protect the historic assets of this community and ordinances are in place. She wanted the Dunaway's to be found to be in violation and to come into compliance with the City code.

Sally Flynn, 1400 Highland Rd, expressed that it is important to protect historic houses and they should have saved the wood from the porches so that it could have been reconstructed.

Bonnie Hansen, 400 Kilshore Lane, lives in a historic home and hopes the City will work compassionately with these home owners to find a solution that does not involve tearing down the home.

Christine Dalton, Florida Trust for Historic Preservation, stated that she is a historic preservation consultant and believes that "demolition by neglect" is occurring. She explained that this refers to the practice of allowing a

building to deteriorate to the point that demolition becomes necessary. She asked the board find the Dunaways to be in violation and to assess daily fines.

Joe Holland, Orlando Constructors LLC, (Respondent's contractor) stated that another reason they did not apply for a permit was because of the 300-year-old camphor tree. He added that due to the permit issue they would have to get rid of the tree or remodel the house.

Kevin Donaghy, Donaghy Law, (Respondent's counsel) stated that the Dunaway's believed that the home was structurally sound since repairs were previously done, but they cannot afford to repair the entire home. They would like an additional thirty days to apply for a demolition permit or work with the City to donate or have the City purchase the home.

The City Attorney read the Winter Park Land Development Code Section 58-497 pertaining to emergency conditions, Section 58 - 500 pertaining to violations, and Section 2-107 pertaining to fines. He stated that the provision of the Land Development Code has an error and it is not directing to the correct code. He recommended not imposing a fine which exceeds \$250.00 per day due to the inaccuracy of the Code provisions.

The Board members ended public testimony and discussed this matter.

Paul Mandelkern made a motion that based on the evidence presented today, the Board issue an order finding the Respondents David H. Dunaway and Deborah Upchurch Dunaway (owners) of 1331 Aloma Avenue, Winter Park, Florida 32789, Code Compliance Board Case #19-1259 in violation of the Winter Park Land Development Code. The Respondents are ordered to submit plans for the restoration of the porch areas removed without a permit within seven days. The Respondents are ordered to pay a fine in the amount of \$250.00 per day for each day the property is not in compliance and to contact the code compliance officer to confirm compliance.

The City Attorney addressed that there was a request by Mr. Wiggins to include language asking that the plans be submitted for restoration to come into compliance with the City's Historic Preservation ordinance.

Paul Mandelkern amended the motion (second sentence), the respondents are ordered to submit plans within seven (7) days of the date of this meeting for the restoration of the porch areas removed without a permit in compliance with the City's Historic Preservation ordinance. Seconded by Kyle Sanders.

To clarify the record, Dan McIntosh read into the record the second sentence of the amended motion: the respondents are ordered to submit plans within seven (7) days of the date hereof for the restoration of the porch areas removed without a permit into compliance with the City's Historic Preservation ordinance. Paul Mandelkern accepted the amendment.

Mr. Mandelkern asked for clarification of the back-porch area. The City Attorney addressed that Mr. Wiggins recommended that it should be all portions of the building in existence prior to the demolition. Paul Mandelkern accepted the amendment.

Mr. Mandelkern restated the motion. From the evidence presented today, **this Board is issuing an order finding the Respondents David H. Dunaway and Deborah Upchurch Dunaway, (owners) of 1331 Aloma Avenue, Winter Park, Florida 32789, Code Compliance Board Case #19-1259, in violation. The Respondents are ordered to submit plans within seven (7) days of the date hereof for the restoration of the porch areas and all portions of the building in existence prior to the demolition in compliance with the City's Historic Preservation ordinance. The Respondents are ordered to pay a fine in the amount of \$250.00 per day for each day the property is not in compliance and to contact the code compliance officer to confirm compliance. Seconded by Kyle Sanders.**

The motion passed 6-0.

Old Business

None

Other Business

None

Adjournment of Meeting: There being no further business, the Code Compliance Board meeting was adjourned at 4:51 pm

Respectfully submitted,

Nancy McLean, Recording Secretary

Dan McIntosh, Chairman