

SAN JOSE APPEALS HEARING BOARD MINUTES
THURSDAY, FEBRUARY 26, 2009
6:30 P.M., COUNCIL CHAMBERS

1. The meeting of the San Jose Appeals Hearing Board convened this date at 6:30 p.m., Council Chambers, City Hall, with the following members in attendance: Chairperson Clark Williams, Commissioners Sonja Etienne, Jose Hernandez, Judy Jones, Karen Parsons, and Susan Ruscigno. Commissioner Troy Overton was absent.

Staff Present: Evet Loewen, Chief Deputy City Attorney
Michael Hannon, Deputy Director Code Enforcement
Sandy Bouja, Appeals Hearing Board Secretary
Eusebio Espitia, Code Enforcement Supervisor
Al Morales, Acting Code Enforcement Supervisor
William Gerry, Code Enforcement
Garry McLeod, Code Enforcement
Greg Peacock, Code Enforcement
Bob Mori, Building Department
Betty Mitre, Code Enforcement

2. **Opening Remarks and Approval of Minutes**

Chairperson Clark Williams read a statement to the public requesting that speakers identify themselves and state their address. There was a motion by Commissioner Hernandez, seconded by Commissioner Etienne, to approve the minutes of January 26, 2009.

3. **Request for Excused Absence**

4. **Public Hearings Consent Calendar**

- a. **2090 Manassas Court (481-35-045) Summary Abatement**
(Garry McLeod, Inspector / Countrywide Bank, Property Owner)
- b. **1502 Hervey Lane (434-28-085) Summary Abatement**
(Luis Arevalo, Inspector / Barbara Arata, Property Owner)
- c. **383 Atlanta Avenue (264-47-093) Summary Abatement**
(Garry McLeod, Inspector / Ramon Rivas & Tania Martinez, Property Owners)
- d. **1512 Midfield Avenue (486-07-013) Summary Abatement**
(Garry McLeod, Inspector / Bank of New York TR / CWALT Inc. Tr. Series 2006OA10, Property Owners)

- e. **1823 Walker Court (477-30-100) Summary Abatement**
(Garry McLeod, Inspector / American Home Mortgage Servicing, Inc. Property Owners)

There were no separate discussions on hearing items regarding 2090 Manassas Court, 1502 Hervey Lane, 383 Atlanta Avenue, 1512 Midfield Avenue and 1823 Walker Court. The hearing items were considered to be routine and were adopted in one motion.

There was a motion by Commissioner Parsons, seconded by Commissioner Ruscigno, to order as follows:

To approve the Consent Calendar.

AYES: Etienne, Hernandez, Jones, Parsons, Ruscigno, Williams
NAYS:
ABSENT: Overton

5. **Deferred and/or Continued Items**

6. **Public Hearings**

- a. **348 N 20th Street (249-62-063) Proposed Abatement**

Code Enforcement Inspector Garry McLeod testified and stated that all correspondence to the property has been returned and that the property was purchased through identity theft.

The property owner was not present at the meeting.

There was a motion by Commissioner Parsons, seconded by Commissioner Hernandez, to order as follows:

To uphold the proposed abatement on the subject property.

AYES: Etienne, Hernandez, Jones, Parsons, Ruscigno, Williams
NAYS:
ABSENT: Overton

- b. **1825 Phelan Court (477-30-093) Proposed Abatement**

Code Enforcement Inspector Garry McLeod stated he has made several inspections and observed overgrown weeds, debris and an inoperable vehicle on the property. Inspector McLeod stated that all correspondence to the property owner has been returned to Code Enforcement as undeliverable. Inspector

McLeod stated that he inspected the property today and the weeds are taller than before.

There was a motion by Commissioner Hernandez, seconded by Commissioner Parsons, to order as follows:

To uphold the proposed abatement on the subject property.

AYES: Etienne, Hernandez, Jones, Parsons, Ruscigno, Williams
NAYS:
ABSENT: Overton

f. 5718 Allen Avenue #3 (694-20-015) Administrative Remedy

Code Enforcement Inspector Greg Peacock stated that the property owner requests the case to be deferred to the next meeting on March 12, 2009, due to the death of the property owner's father.

There was a motion by Commissioner Parsons, seconded by Commissioner Etienne, to order as follows:

To defer the case to the next Appeals Hearing Board meeting to March 12, 2009.

AYES: Etienne, Hernandez, Jones, Parsons, Ruscigno, Williams
NAYS:
ABSENT: Overton

g. 345 N 3rd Street (249-44-015) Administrative Remedy

Code Enforcement Inspector William Gerry testified and presented photos of the subject property. Inspector Gerry stated that during his routine inspection several violations were identified. Inspector Gerry stated one of the violations identified was that the windows were changed out on a historical building without permits. Inspector Gerry stated the property owner is in compliance except for the window violations, extra living unit and drain pipe.

Inspector Gerry stated that a Building Compliance inspection was conducted with Building Inspector Richard Hicks and Robert Mori on May 16, 2008. During the building compliance inspection, at that time, other violations were identified and noted on the compliance inspection report.

Inspector Gerry presented photos of the violations that were identified, including plumbing violations and a unit converted into an apartment unit.

Building Inspector, Bob Mori, testified and stated that the property owner would have to obtain a permit for unit 6 to convert the sleeping room into a separate unit. The Planning Department would have to approve the permit to convert the unit, if Planning Department does not approve, the unit would remain approved as a sleeping room.

Property Owner, John Carlson, testified and stated that he purchased the altered property in 1985. Mr. Carlson stated that the downtown historical district did not exist at the time of purchase. Mr. Carlson stated that the previous owner had changed the windows in 1983 and the 6th unit was already there. Mr. Carlson stated that he has been renting out the unit for 25 years. Mr. Carlson provided a photo of the drain pipe that has been in place for 25 years.

There was a motion by Commissioner Williams, seconded by Commissioner Hernandez, to order as follows:

To support the City Staff's recommendation and to change the Order to Correct dated to June 2, 2009; and change the date to pay Administrative Penalties to June 3, 2009.

AYES: Etienne, Hernandez, Jones, Parsons, Ruscigno, Williams
NAYS:
ABSENT: Overton

h. 3702 S. Bascom Avenue (421-01-104) Administrative Remedy

Code Enforcement Inspector Kerry Smith testified and presented photos showing the commercial Penske trucks parked at the subject property. Inspector Smith stated that the storage of commercial vehicles takes up 8 to 9 parking spaces. Inspector Smith also stated that the business of renting commercial vehicles is not zoned for this parcel. .

Business Owner, Jeff Horne, testified and stated that the work he performs does not affect his neighbors and that he has not received any complaints.

Deputy Director of Code Enforcement, Michael Hannon, stated that a Conditional Use Permit cannot be obtained for renting or leasing of trucks at this location. The renting and leasing of trucks at this location is not permitted. Mr. Hannon stated that the property owner would be able to apply for a rezoning of the property.

There was a motion by Commissioner Williams, seconded by Commissioner Parsons, to order as follows:

To support the City Staff's recommendation and reduce the penalties from \$20.00 a day to \$5.00 a day in the amount of \$515.00 and the Administrative Penalty date to be changed to March 28, 2009, if compliance is not achieved.

AYES: Etienne, Hernandez, Jones, Parsons, Ruscigno, Williams
NAYS:
ABSENT: Overton

i. 2446 Stokes Street (282-18-033) Administrative Remedy

Code Enforcement Inspector Greg Peacock gave the presentation in behalf of Inspector Luis Arevalo. Inspector Peacock testified and presented photos of the subject property. The pictures show that there was a modification to the garage conversion. Inspector Peacock stated that the wall between the garage and main house was sealed off to create a second unit.

Property Owner, Sohrab Ezaz, was not present at the meeting.

There was a motion by Commissioner Etienne, seconded by Commissioner Jones, to order as follows:

To uphold the City request of the Order to Correct and to request the property owner obtain a final permit on or before April 30, 2009. The Administrative Costs are due on or before March 27, 2009 in the amount of \$1137.63 and to uphold request for Administrative Penalties in the amount of \$595.00.

AYES: Etienne, Hernandez, Jones, Parsons, Ruscigno, Williams
NAYS:
ABSENT: Overton

7. Other Business

Chair Williams thanked Commissioner Hernandez for attending the City Clerk's focus group last night and said he felt it was beneficial.

8. Open Forum - Oral Communication from the Public

9. Adjournment

There was a motion by Commissioner Etienne, seconded by Commissioner Parsons to adjourn the meeting. Chair Clark Williams adjourned the meeting at 8: 15 p.m. The next regular meeting will be held on Thursday, March 12, 2009 at 6:30 p.m., at the City Hall Council Chambers.