

SAN JOSE APPEALS HEARING BOARD MINUTES
THURSDAY, MARCH 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, Troy Overton, Karen Parsons, and Susan Ruscigno.

Staff Present: Evet Loewen, Chief Deputy City Attorney
Michael Hannon, Code Enforcement Official
Shannon Smyth-Mendoza, Deputy City Attorney
Sandy Bouja, Appeals Hearing Board Secretary
Eusebio Espitia, Code Enforcement Supervisor
Garry McLeod, Code Enforcement
Margaret Lafferty, Code Enforcement
Michael Mena, Senior Planner
Todd Waltrip, Code Enforcement
James Young, Code Enforcement
Betty Mitre, Code Enforcement
Marcy Gentry, Code Enforcement
Maria Diaz, Code Enforcement
Regina Mancera, Code Enforcement
Mike Randolph, San Jose Fire Department

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 Ruscigno, seconded by Commissioner Hernandez, to approve the minutes of March 12, 2009. There was a correction to the minutes of March 12, 2009; Michael Hannon did not attend the March 12th meeting.

3. **Request for Excused Absence**

4. **Public Hearings Consent Calendar**

- a. **4861 Caroline Way (419-38-027) Summary Abatement**
(Garry McLeod, Inspector / John Turman, Property Owner)
- b. **1314 Gainsville Avenue (486-36-038) Summary Abatement**
(Garry McLeod, Inspector / Deutsche Bank Natl. Tr. Co., Property Owners)
- c. **348 N. 20th Street (249-62-063) Summary Abatement**
(Garry McLeod, Inspector / Angel Gonzalez, Property Owner)

There were no separate discussions on hearing items regarding 4861 Caroline Way, 1314 Gainsville Avenue and 348 N 20th Street. The hearing items were considered to be routine and were adopted in one motion.

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

To approve the Consent Calendar.

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

5. Deferred and/or Continued Items

6. Public Hearings

- e. 1655 Berryessa Road (241-03-015, 241-03-016) Administrative Remedy**
(Margaret Lafferty, Inspector / Howard Misle, Business Owner/Operator, Maureen Stickler, Robert B. Facchino & Robert B. Facchino Family Limited Partnership, JRDK LLC, Robert B. Facchino & Karisa S. Flores, Property Owners)

Deputy City Attorney, Shannon Smyth-Mendoza requested the item be deferred to the Appeals Board Meeting scheduled for June 25, 2009. Deputy City Attorney, Shannon Smyth-Mendoza stated that there is a proposed settlement agreement that has been signed by the involved parties and the continuance is conditional on the compliance of the agreement as to whether the item will be brought to the Board on June 25, 2009.

- a. 453 Aborn Road (670-15-024) Administrative Remedy**

Code Enforcement Inspector James Young testified and presented photos of the billboard on the subject property.

Jeff Moore, managing partner for Brandenburg, Staedler & Moore mobile home communities, stated that he develops, owns and operates the Woodbridge mobile home community located on Towers Lane and Capitol Expressway. Mr. Moore stated that there was a permit issued for a sign in the vicinity of the area and that there has been a sign on the property for about 32 years.

Senior Planner, Michael Mena, stated that if the billboard was legally established prior to current codes, the billboard could be given the legal non conforming use.

Fred Wilhelm, President of Leonard & Co., stated that his company has been subleasing the sign from Brandenburg, Staedler & Moore since 1977. Mr. Wilhelm stated that he had obtained a permit for a billboard at the intersection of Capitol and Silver Creek Road in 1966. The billboard was relocated more than 30 years ago. Mr. Wilhelm stated that the sign was originally permitted closer to the corner of King and Capitol.

Code Enforcement Official Michael Hannon stated that there is no appeal for a legal non-conforming determination. Mr. Hannon stated that the applicant could appeal the Board's decision in a court.

Senior Planner, Michael Mena, stated that the sign had to be legally established prior to the codes. The sign had since been relocated and re-erected without permits since the Site Development Permit in 1966.

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

To uphold the City Staff's recommendation.

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

c. 2382 Summer Street (484-40-013) Appeal Vacant House Monitoring Program

Code Enforcement Official Michael Hannon requested the Board deny the property owner's request to appeal the Vacant House Monitoring Program because the property owner is not present.

Code Enforcement Inspector Garry McLeod testified and stated that property owner was aware of the hearing.

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

To deny the appeal.

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

d. 382 N. 10th Street (249-52-074) Administrative Remedy

Code Enforcement Inspector Todd Waltrip gave his testimony and verified that the Property Owner, Mr. Lopez, did pay for the demolition reversion permit and the reversion of the garage is in the process.

Property Owner, Mr. Lopez, was present at the meeting. Commissioner Hernandez agreed to translate in Spanish for Mr. Lopez.

Commissioner Hernandez stated that Mr. Lopez understands everything that was explained by Code Enforcement Inspector Todd Waltrip. He is in agreement to tear down the accessory structure and convert the garage back to its original state. Mr. Lopez stated that he would be able to complete the work by July 27, 2009.

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

To uphold City Staff's recommendation to hold the Administrative Penalty of \$1,460.00 in abeyance if compliance is achieved by July 27, 2009. If compliance is not achieved by July 27, 2009, the property owner shall pay \$1,460.00 and additional Administrative Penalties in the amount of \$50.00 per day from July 28, 2009.

AYES: Etienne, Hernandez, Jones, Overton, Ruscigno, Williams

NAYS:

ABSENT: Parsons

7. Other Business

Chair Williams invited everyone to attend the Mayor's Reception for Boards and Commissions.

8. Open Forum - Oral Communication from the Public

9. Adjournment

There was a motion by Commissioner Etienne, seconded by Commissioner Ruscigno to adjourn the meeting. Chair Clark Williams adjourned the meeting at 8:20 p.m. The next regular meeting will be held on Thursday, April 9, 2009 at 6:30 p.m., at the City Hall Council Chambers.