



**CODE ENFORCEMENT HEARING
MINUTES**

**Monday January 7, 2019
TOWN HALL**

The meeting was called to order at 2:03 pm by Special Magistrate for the Town of Astatula, Grant Watson. Also present was John Calhoun, Code Enforcement Officer for the Town and Graham Wells, Town Clerk. Mr. Watson outlined that the Town would bring its case forward and the respondent would have the opportunity to put their side of the story before a decision is made in their case.

Approval of Minutes from September 10, 2018 Code Enforcement Hearing

Attorney Watson stated that he had reviewed and approved the minutes.

Officer Calhoun was then sworn in by the Special Magistrate and asked to bring the first case.

Case 1 - #CE 18-05-003 - 13404 New York Avenue, Astatula, FL 34705

Officer Calhoun presented the details of the complaint.

Type of Complaint: Violation of Section 23.4 and 23.2 "Tree branches, chairs, tires, metal, and back of shed is falling, tool boxes and trash, rats & snakes.

Below shows the findings and decision from Special Magistrate from the minutes of the September 10, 2018 Code Enforcement Hearing.

Based on the evidence provided and the gravity of the violation he found that the property was in violation of Section 23-4 and 23-2 of the Town of Astatula code and would provide forty-five days for the property owner to clear any remaining tree limbs and junk accumulation on the property and to maintain the property in the future. If the problem is not resolved within forty-five days, then a fine of \$25.00 per day would be levied for each violation; the junk accumulation and the overgrowth on the property and will accumulate until the property is cleared. He reiterated to the homeowner that cooperation with code enforcement to get the situation resolved would be in her best interest. They should contact Officer Calhoun as soon as the problem has been resolved.

Officer Calhoun stated that much of the trash and debris had been removed from the back yard and requested that Counsel grant an additional period of time to remove the remaining tree limbs and a sink.

Attorney Watson asked the respondent Celina Smith to come forward and she was sworn in. Her name and address were stated for the record. Attorney Watson said that she had made substantial progress in clearing the debris and asked how much time she needed to clear the tree limbs and sink. It was agreed that a one-week period was sufficient.

Procedurally, Counsel said that the case would continue until the remainder of the debris has been removed and Ms. Smith was to call Officer Calhoun when it was completed so that a reinspection could be conducted. If it is not cleared, then a further hearing would be required.

A brief recess was taken at 2:13 pm and the hearing resumed at 2:15 pm.

Case 2 - # CE18-03-003 - 25946 Zinnia Lane, Astatula, FL 34705

Officer Calhoun stated that the property owner was Bobby Lee Young and that the property was in violation of the setback requirements in the Land Development Regulations. The property owner, some years ago had erected a car port on the west side of the property and the structure was right on the property line. The setback requirement is five feet. The complaint was received from a resident and after speaking to Mr. Young, he had stated that the structure had been there for a long time and that a variance was received from Clerk Olive Ingram. Mr. Young was unable to provide a copy of the variance and an extensive search of town hall also did not find it.

Officer Calhoun stated the dates that notices had been served and that the procedure had been done correctly including notice of this hearing. Mr. Young had engaged an attorney who made a public records request regarding a permit issue in 2009 which turned out to be not in connection with this structure. Ofc. Calhoun said that he had taken a photo earlier in the day which showed that the carport was still there.

Town Clerk Wells was sworn in to give testimony that he has had conversations with Mr. Young's attorney and that a variance was based on hardship (not financial) and that it would not have been granted then and would not be granted now. Mr. Young did provide a receipt for a permit application but could not provide the actual permit. It is unlikely that due to the setback requirement that one would have been issued.

Ofc. Calhoun stated that the structure was in violation of Chapter 4.9.4 Sect. 6 (e)(2)(a) of the Land Development Regulations. The town is requesting that the owner removes the structure to bring it into compliance with the required setback. A demolition permit would be required at a cost of \$180.00 and the turnaround would be a week. Ofc. Calhoun requested thirty days for the carport to be removed.

Mr. Young was not present at the hearing and Mr. Watson concluded that based on the evidence presented there is an existing violation of Chapter 4.9.4 Sect. 6 (e)(2)(a) of the Land Development Regulations as to the five-foot setback requirement; that there is a carport constructed on the property over the setback line. He added that the notice of the violation was hand delivered and in consideration of the gravity of the violation and the efforts made to bring it into compliance, that thirty days is a reasonable amount of time to be given to obtain a demolition permit and demolish the offending carport structure.

If this has not been accomplished within the thirty-day period, then notice will be given to attend a further hearing where a fine will be imposed. It will be the responsibility of the respondent to notify code enforcement that the structure has been removed within that period so that a reinspection can be made.

Case 3 - # CE17-07-001 - 13429 Midway Ave, Astatula, FL 34705

Officer Calhoun stated that the property was in Violation: Sec 23-2; Excessive or untended growth of vegetation and Sec 23-4; Accumulation of Junk and presented details of the case.

The attorney's decision from the minutes of the September 10, 2018 Code Enforcement Hearing is shown below.

Mr. Watson concluded that based on the evidence presented and the efforts made to resolve the situation he found that the property is in violation of Section 23-4 of the Town of Astatula code of ordinances and would allow forty-five days from the debris to be removed from the property and the inoperable van. If they are not removed within forty-five days, then a fine of \$25.00 per day would be imposed and would accrue until the rubbish and the van were removed from the property.

Officer Calhoun stated that some of the undergrowth had been removed, however it revealed additional junk in the yard. He showed photos that he had taken that morning. A notice of hearing was sent to Mr. Burnett on November 11th and a notice was posted on the front door. A notice of this hearing was posted on the bulletin board at town hall. The respondent was not present, and the Town seeks to impose the fine of \$25.00 per day as set at the September 10th hearing, to accrue until the property is brought into compliance.

Mr. Watson stated that based on the evidence put forward he found the property was in violation of having excessive junk and still continuing to accumulate more junk. He further found that a notice of hearing was properly given and based on the non-compliance and the gravity of the violation, the respondent would be required to pay a fine of \$25.00 per day starting today and continuing until such time as the violation in the previous order is corrected.

It will be the responsibility of the respondent to notify the city that the violation has been corrected so that a reinspection can be made to confirm that the property is in compliance.

Case 4 - # CE17-03-003 - 25529 County Road 561, Astatula, FL 34705

Mr. Watson concluded at the September 10, 2018 hearing that *"based on the evidence provided, the gravity of the violation and lack of effort to cure he found that the property was in violation of Section 11-1 for the unsafe structure and 23-2 of the code for the excessive overgrowth on the property. He gave twenty days for the respondent to demo the mobile home or bring it up to code making it a habitable structure and removal of the overgrowth and maintain the property. If it is not cured within the Twenty days, then a fine of \$25.00 per day for each violation would accrue until the property was brought into compliance"*.

Officer Calhoun requested that the fine of \$25.00 be imposed for noncompliance. Mr. Watson stated that nothing had changed since the case was brought to him in September last year and therefore based on the evidence of the unsafe structure and the excessive overgrowth, the gravity of the violation and that the notice had been properly given; he ordered the respondent to pay a fine of \$25.00 per day for each violation, commencing today until the property is brought into compliance.

It will be the responsibility of the respondent to notify the town that the violation has been corrected so that a reinspection can be made to confirm that the property is in compliance.

Case 5 - # CE18-05-004 - 24846 County Road 561, Astatula, FL 34705

Officer Calhoun explained that this was similar to the last case with the violation of an unsafe structure, and overgrown yard. He had sent certified letters and posted on the property.

At the September 10 hearing, Special Magistrate concluded that *"based on the evidence provided, the gravity of the violation and lack of effort to cure he found that the property was in violation of Section 11-1 based on the inspector's report for the unsafe structure and 23-2 of the code for the excessive overgrowth on the property. He gave twenty days for the respondent to bring the structure up to code and removal of the overgrowth and maintain the property. If it is not cured within the Twenty days, then a fine of \$25.00 per day for each violation would accrue until the property was brought into compliance"*.

He concluded that based on the evidence today, there has been no effort to cure the violations stated in the September hearing, and ordered the respondent to pay a fine of \$25.00 per day, for each violation, commencing today. The fines will continue to accrue until such time as the respondent cures the violations. It will be the responsibility of the respondent to notify the town that the violation has been corrected so that a reinspection can be conducted to confirm that the property is brought into compliance.

ADJOURNMENT

With no further business the meeting was adjourned at 2:48 pm

Respectfully submitted,



Mr. Grant Watson, Special Magistrate

ATTEST:



Graham Wells, Town Clerk

