PROPERTY MAINTENANCE CODE BOARD OF APPEALS

The Property Maintenance Code Board of Appeals met on September 19, 2014 at 11:00 a.m. with Mr. Scott Koenig, City Manager, presiding. Mr. Martin was present.

Mr. Martin moved for approval of the agenda as presented, seconded by Mr. Koenig, and unanimously carried.

Property Maintenance Code Citation (Chapter 3 - General Requirements, Section 302 - Exterior Property Areas, 302.2 - Grading and Drainage of the 2009 International Property Maintenance Code) - Appeal of Decision - 1554 Little Creek Road (Rojan Meadows, LLC, c/o Henry Mast)

Mr. David McGinnis, Inspector I, explained that staff received a complaint from a resident of Lexington Glen, located directly across the street from 1554 North Little Creek Road, about a large pile of dirt and construction debris on the Rojan Meadows property. Mr. McGinnis stated that on April 24, 2014, staff issued a notice of violation requesting the property owner to remove all excess dirt and construction debris from the property and to regrade and seed the lot. No response was received. A second notice was sent on July 1, 2014 and a third on August 4, 2014, after which time an appeal was received from Mr. Henry Mast, Managing Member, Rojan Meadows, LLC, stating that Kent County Public Works was planning to do sewer work at the location and would be using the dirt. The appeal was referred to the Planning Department for review and to discuss the matter with Kent County Public Works.

Mrs. Ann Marie Townshend, Director of Planning and Community Development, referred members to an email dated September 4, 2014 from Mrs. Sharon Duca, Director of Public Works, which indicated that the Kent County sewer line installation project was complete and construction of a stormwater maintenance pond would not be required by Kent County. Mrs. Townshend advised members that further follow-up from Kent Conservation District indicated that stormwater plans were not fully approved at this point and no construction was imminent in the immediate future.

Responding to Mrs. Townshend as to whether the fine associated with this violation was the first fine imposed, Mr. McGinnis explained that two previous (2) citations were issued. He was uncertain if fines for this violation had been paid.

Mr. Mast stated that he was also unsure.

Mr. McGinnis advised members that grass fines associated with the property had been paid.

Mr. Mast explained that Rojan Meadows is in need of a great deal of fill dirt. A Kent Conservation District inspector was aware of this and, knowing that the City was looking for a place to dump excess dirt from construction of the Dover Public Library, the inspector suggested that it be brought to Rojan Meadows. The City, or its contractor, asked if they could dump excess fill at Rojan Meadows.

Mrs. Townshend stated her recollection that the Kent Conservation District had required that the dirt pile at Rojan Meadows be addressed by Mr. Mast's company prior to approving the Certificate of

Occupancy for the YMCA project that Mr. Mast was working on, since both projects were under the same contract.

Mr. Mast stated that this could well be the case and this may have happened without his knowledge. He informed members that when Mast Construction built Advance Auto Parts, a place was needed to put excess dirt. Since dirt was still needed at Rojan Meadows, it was hauled to this location, with the concurrence of the Kent Conservation District. Mr. Mast stated that dirt was still needed at Rojan Meadows and expressed his hope that it could be left there to be utilized when work resumes. He indicated that this project was affected when Wilmington Trust "went bust." For the past three (3) years, his company had been working on project funding and finally had reached an agreement. Mr. Mast stated that the property would be retained and was in the process of settlement. When this is accomplished, he planned to obtain final approval. He offered to construct a fence around the dirt pile or take other measures. He expressed his belief that if he was required to haul the dirt, the City should be also prepared to haul the dirt that they had left at the site, since there was a lot of dirt there that belonged to the City of Dover.

Mr. Koenig emphasized that the work for the City was completed by a third-party contractor whose contract required disposal and stated his understanding that the contractor worked out a deal with Mr. Mast for disposal; therefore, the dirt did not belong to the City.

Mr. Martin questioned if the dirt would be spread in some fashion. Responding, Mr. Mast stated that the dirt would be needed in the area of a sediment control pond.

In response to Mr. Koenig regarding the code requirements, Mrs. Townshend stated that the property maintenance code states that "all premises shall be graded and maintained to prevent the erosion of soil and prevent the accumulation of stagnant water thereon or within any structure located thereon." She indicated that the language was fairly broad and she did not have an issue with a situation like this on a short-term basis; however, at this point, the dirt had been there for multiple years.

Mr. Mast stated that the dirt had been there multiple years because it started when the City began building the library. He stated that Advance Auto Parts in north Dover opened in December 2013; therefore, the dirt from this project was placed on the site less than one (1) year ago.

Mrs. Townshend advised members that the City did not have final approved construction plans for Rojan Meadows. In her view, if the dirt pile were allowed to remain, it should be left for a finite period of time and must be maintained to prevent erosion. Having driven by the location today, she stated that it was vegetated; therefore, there was probably no erosion currently occurring. However, if dirt were added or removed, it would be necessary to make sure there was no erosion. Mrs. Townshend stated that the code case dated back to April 2014. She reminded members that this property was adjacent to residential houses across from the entrance of the subdivision, and it would cause a problem if the dirt pile was there in perpetuity.

Responding to Mr. Koenig regarding the location on the site where fill was needed, Mr. Mast stated that the fill was needed on the back of the site. He stated that when the dirt was brought in, the site was too wet to access the back of the property and the fill was left at the only accessible place.

In response to Mr. Koenig regarding what staff was requesting, Mrs. Townshend stated that parameters were needed that would allow the fill to be present for a period of time, as long as controls were in place so that it does not erode.

Mr. Martin questioned if Mr. Mast had an estimated time frame when he would anticipate resuming work at the site location. Responding, Mr. Mast stated that a settlement with M & T Bank was scheduled for approximately October 8-10, 2014 and nothing would be done before that time. After that point, his company would be willing to spend money on finishing the plans, but currently he was unwilling to spend any money in case the project was derailed.

Responding to Mr. Koenig, Mrs. Townshend stated her belief that the City considered the plan for Rojan Meadows to be active. She stated that the preliminary subdivision application had been received and check prints had been submitted, which staff considered under the subdivision code to be an application for final plat.

Mr. Mast stated that Kent Conservation District also considered the plan to be active.

Noting that the dirt pile was vegetated, Mr. Koenig questioned if dirt was being tracked onto the highway.

Responding to Mr. Koenig regarding the current condition of the dirt pile, Mrs. Townshend stated that there had been changes in the dirt pile since April; however, if dirt were added or removed, it would be necessary to ensure that controls were in place.

Mr. Mast stated that silt construction fencing could be placed along the entire front and down the sides of the pile.

Responding to Mr. Martin regarding the neighbor's complaint, Mr. McGinnis stated that the original complaint was in regard to unsightliness and the presence of the dirt pile and construction debris.

In response to Mr. Martin, Mr. McGinnis stated that debris was not visible any longer, there were natural weeds which had expanded, and no effort had been made for stabilization.

Mr. Martin questioned whether a six (6) month time frame would be sufficient for Mr. Mast to resolve the situation with M & T Bank and submit plans. Responding, Mr. Mast stated that the project had been very close to obtaining final approvals when the problems occurred. He noted that he had been keeping the matter "alive" with Kent Conservation District but was unsure if the District would make him adapt to new rates. Mr. Mast felt that if the project went back into engineering by November 2014, the final plan would be ready within six (6) months.

Responding to Mr. Mast, Mrs. Townshend confirmed that there was not much more to be done as far as the City was concerned. Mr. Mast stated his recollection that the only two (2) large remaining issues were the final entrance permit and Kent Conservation District requirements, in addition to smaller City requirements.

Mr. Koenig questioned whether Mr. Mast expected the subdivision to be under construction in the next year. Responding, Mr. Mast stated that he would be "all in" if the economy turned around; however, if it remained at its current status, he was unsure if he would be willing to commit to it. He indicated that he was unsure what six (6) months would bring.

Mr. Martin questioned if (8) months from today's date were provided to have plans finalized, if this would allow sufficient time for Mr. Mast to resolve matters with Kent Conservation District. Responding, Mr. Mast expressed his hope that it would be and noted that Kent Conservation District would "grandfather" the project rather than requiring him to "go all the way to zero again."

Mr. Martin moved that a silt fence be placed around the entire stockpile within 30 days, that eight (8) months be allowed to complete development plans for this property, and that any change in the size or location of the stockpile must be approved in writing by the City.

Mr. Mast stated his willingness to pay the associated fine and questioned where the silt fence should be installed. Mr. Koenig indicated that the fence should go all the way around the stockpile and that dirt should not be added or taken away from it without the City's written authorization.

Mr. Koenig questioned what would happen in eight (8) months if the pile remained. Responding, Mr. Mast indicated that if it the area becomes dry enough, the dirt could be moved further back on the site.

Noting her feeling that communication would be key, Mrs. Townshend suggested that an arrangement be worked out in eight (8) months time "if we are not where we think we need to be."

Mr. Koenig requested that the motion be amended to state that if the eight (8) month time frame expires, staff will work out a plan with Mr. Mast as to how to move forward, and Mr. Martin concurred.

The motion that a silt fence be placed around the entire stockpile within 30 days, that eight (8) months be allowed to complete development plans, that any change in the size or location of the stockpile must be approved in writing by the City, and that if the eight (8) month time frame expires, staff will work out a plan with Mr. Mast as to how to move forward was seconded by Mr. Koenig and unanimously carried.

Property Maintenance Code Citation (Chapter 3 - General Requirements, Section 307 - Handrails and Guardrails, 307.1 - General of the 2009 International Property Maintenance Code) - Appeal of Decision - 1061 S. Little Creek Road 93 *(Francine Larue Bennett)*

Mr. David McGinnis, Inspector I, advised members that he works annually with the management of Dover East Estates Mobile Home Park, 1061 South Little Creek Road, to inspect 254 lots on the property, which was accomplished between May 7 and 9, 2014. A notice of violation was issued on May 8, 2014 for the property at Lot #93 requiring that the unstable handrail on the front steps be repaired or replaced.

Mr. McGinnis apologized for not having a picture of the original handrail that he observed, noting that at the time of these inspections he is typically working on more than 150 cases. He noted that the original handrail ran approximately two (2) feet beyond the end of the steps and each post was secured to the steps by a mound of concrete, which was "almost put together like putty" to hold it in place. The handrail was loose and unstable and a notice was issued requiring that it be repaired or replaced in a workmanlike manner, as required by International Property Maintenance Code Section 102.5 Workmanship, which states that "Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions." Mr. McGinnis stated that no response was received to the initial notice, compliance was not achieved, and there was no change.

Mr. McGinnis advised that a second notice was issued on June 9, 2014. A third inspection took place on July 22, 2014, when it was observed that the handrail had been completely removed and a citation was issued with an addendum to the initial violation stating that a handrail was required on any stairway with four (4) or more steps and that a handrail may not be removed without being replaced by a properly installed handrail. Mr. McGinnis advised members that this citation was returned by the post office unclaimed and was posted on the door on August 18, 2014.

Mr. McGinnis stated that he received the first contact from the property owners after posting the citation. He advised that he spoke with Mr. Craig Bennett, the husband of the property owner, Mrs. Francine Larue Bennett. Mr. Bennett advised him that he had spoken to someone in the Attorney General's Office who gave him a legal opinion that the City of Dover could not order him to install a handrail because the property was purchased in that condition. Mr. McGinnis requested Mr. Bennett to provide a copy of the opinion from the Attorney General's Office and to schedule a meeting to discuss the matter; however, the meeting never took place.

Mr. McGinnis stated that he made contact with the Delaware Attorney General's Office and was assured that no lawyer would provide such a legal opinion and that someone with this type of inquiry would be referred to a private attorney. Mr. McGinnis stated that Mr. Bennett had advised him that the steps did not belong to him but were the property of Dover East Estates. Mr. McGinnis made contact with Ms. Karen Kemp, Manager, Dover East Estates, who provided a portion of the lease which indicated that steps for both the front and back door must be present and there was no provision in the lease indicating that the steps are the responsibility of the park. Mr. McGinnis advised members that the lease had been signed by Mrs. Bennett and Ms. Wendy Bowser and the

initial violation was sent to Ms. Bowser since the property's electric service was in her name. Mr. McGinnis indicated that he had spoken only with Mr. Bennet throughout the process and he is not listed on any of the City's paperwork involving the property.

Mr. McGinnis noted that while researching the property's history, he discovered that the mobile home license had not been transferred when the property was purchased; therefore, it would be necessary to obtain a current mobile home license for the property.

Mrs. Francine Larue Bennett, the property owner, stated that when she inspected the property when it was listed for sale in February 2014 there was no handrail on the front of the mobile home and park management was aware of this. She indicated that the home had been vacant for possibly two (2) years while it was being remodeled. After purchasing the home on March 4, 2014, the Bennetts began doing construction on the inside of the home and a couple of months later received a letter stating that a handrail must be installed. Mrs. Bennett's husband contacted the park office and asked why the Bennetts were responsible for the handrail when it was not there when the mobile home was purchased and no handrail had been there for two (2) years. Mrs. Bennett questioned why she was responsible for the cement steps that she does not own, expressing her belief that the trailer park owns the steps. She explained that she asked park management why she was now being held responsible for the railing and why the City of Dover did not require that this work be done before the home was purchased.

Mrs. Bennett stated that she began receiving notices of violation and she and her husband did everything they could to put a handrail on the steps, which was required for renter's insurance. An insurance adjuster approved the handrail and then another letter was received from the park office stating that the railing was not installed properly and was too high. She and her husband then removed it. Mrs. Bennett noted that they had contacted the Attorney General's Office and spoken to an attorney about the handrail and they were told that the steps belong to the trailer park. When she signed the contract at the mobile home park office, they did not mention anything about the need for a handrail. Mrs. Bennett emphasized that they did not ignore the violation; they put a handrail up and then had to take it down because it was not installed to standards.

Mr. Bennett stated that they purchased the home to rehabilitate it for their grandchildren, completely redid the inside, and were nearly finished with the outside. He noted that they had received letters stating that it needed to be repainted by October 28, 2014, although their home was one (1) of the best looking homes in the park. Mr. Bennett stated that the first notice sent by the City went to Ms. Wendy Bowser, who did not understand the problems. He stated that when the property was purchased, it was inspected and they were told they did not own the steps and they belonged to the park. After installing handrails and putting in cement, they were told that they were installed improperly. Mr. Bennett advised members that there were 30-60 properties in the park that had no rails at all and no paint. He stated that he paid the fine; however, he had been told that everything below and outside the trailer belonged to the trailer park. Mr. Bennett stated that he felt that the trailer park was trying to pass on the cost involved to him and his wife. He stated that if handrails were required he could put them back up, but expressed frustration about the trailer park's requirements.

In response to Mr. Martin, Mrs. Townshend stated that there was no requirement that trailers be inspected prior to being sold in the City of Dover.

Responding to Mr. Koenig, Mrs. Bennett explained that Ms. Wendy Bowser is her son's fiancé and the mother of his children and she co-signed for Ms. Bowser to purchase the trailer when she and her children moved to Delaware.

In response to Mr. Koenig, Mr. McGinnis stated that the notice was issued to Ms. Bowser and Dover East Estates was sent a copy, reiterating that the electric service was in Ms. Bowser's name. Mr. McGinnis stated that he did not research the mobile home license in the very beginning of the case or he would have found that there was no valid mobile home license, which must be obtained. He indicated that it was stated in the lease and paperwork that the owner must come to the City of Dover to obtain a City of Dover mobile home permit; however, this had not been done. Mr. McGinnis explained that the purchase and the deed are handled through the Division of Motor Vehicles (DMV) and he does not have the ability to research a DMV title. He explained that the Dover East Estates had this document but it is a separate business and not part of the City. Mr. McGinnis stated that the City works with Dover East Estates once a year on inspections and estimated that approximately 30-40 properties were identified with problems related to handrails when the inspections were done. He noted that there are many violations in the park, such as grass violations; however, this violation had nothing to do with others in the park. Mr. McGinnis stated that the initial violation was that the handrail was installed incorrectly. He indicated that violations are sent to property owners and a copy is sent to the Dover East Estates office. If staff is unable to reach compliance through the tenants, staff will fine property owners, since they are responsible for all of their tenants in the long run, as with an apartment complex. Management must either have their tenants come into compliance or begin the eviction process because the City will continue fining them as a rental community.

Responding to Mr. Bennett regarding other citations issued at the park related to railings, Mr. McGinnis estimated that he had issued approximately 30-40 citations related to railings and that less than 10 were still active cases, noting that there may be other violations in the park. He estimated that approximately 150 citations were issued in the park over the three (3) day period for a variety of violations.

Responding to Mr. Koenig regarding whether a building permit was required, Mr. McGinnis stated that the Chief Building Inspector's opinion was that a building permit was not required for installation of a handrail. This was not considered to be a structural repair, as long as it was installed in accordance with code requirements.

Mrs. Townshend explained that the code specifies that the height cannot be less than 30 inches or higher than 42 inches. The International Residential Code (IRC) would require guards or spindles that can be a maximum of four (4) inches apart.

Mr. McGinnis stated that, of all the violations he had issued, he had not had another tenant allege that the stairs did not belong to them. It was the position of management that steps are required but

nothing in the lease indicated that it is the responsibility of the park. He explained that this would be a landlord/tenant issue which the City would not be involved in.

Responding to Mr. Martin regarding the requirement for steps, Mr. McGinnis stated that steps were required for anything above 30 inches in grade. He indicated that if a newly constructed structure has an elevated door, a guard is put over the door so that the door cannot be opened. Mr. Martin questioned if this was an option for the Bennetts. Responding, Mr. McGinnis stated that two (2) points of egress were required.

In response to Mr. Martin regarding a written opinion from the Attorney General's Office, Mr. Bennett stated that he could obtain the opinion from his attorney.

Mrs. Bennett asked if there was paperwork stating that the Bennetts own the steps. Mr. McGinnis stated that he could only go by what was provided in the Mobile Home Set Up portion of the lease. Mrs. Bennett noted that the lease did not state that she owned the steps and was required to put handrails in. Mr. McGinnis reiterated that this was a legal issue.

Mr. Bennett stated that the legal issue was not with the Bennetts but with the City and the trailer park because the Bennetts do not own the steps. Mr. McGinnis respectfully disagreed but stated that this was a matter for the Board to decide. Mr. Bennett stated that he would be willing to buy the railing if the park would install it.

Ms. Bennett questioned how property owners would know the exact height, width, and dimensions required for handrails. Mr. McGinnis stated that the information was included on the front page of violations and he encouraged the Bennetts to contact the Planning and Inspections Department if there were any questions.

Mrs. Bennett noted that when the home was first purchased, there was no way to know about the handrail requirements. Mr. McGinnis stated that he contacted a certified home inspector to inspect the home before purchasing his own home.

Mr. Bennett stated that they had the home inspected before purchase by a certified home inspector and were told that everything was fine. He stated his understanding that the area outside and underneath the trailer and underneath was rented and would be the park's responsibility. Mr. McGinnis stated that this was a matter between the Bennetts and the park.

Responding to Mr. Martin regarding whether handrails were installed at the urging of their insurance company, Mr. Bennett said the insurance company advised them to tell the trailer park to install them. When the trailer park "gave them problems," they did it themselves and park staff stated that it was not done correctly. The Bennetts then went back to what the Attorney General's Office had said and took them down. He indicated that he spent $250 buying handrails and renting a cement drill.

Mr. Koenig questioned why 4" x 4" posts were not purchased and recessed into the ground next to the steps, which would have cost less than $100. Mrs. Bennett indicated that the park management wanted the steps to be replaced in the same manner that they were originally set up, which was on the cement. Mr. Martin asked if the City would be satisfied if the posts were securely put in the ground and a railing was erected. Responding, Mr. McGinnis stated that the railing must be installed in a workmanlike manner, per the manufacturer's specifications. He stated that if the Bennetts wished to put 4" x 4" posts in the ground and ensure the work was up to code, this would be permissible, or they could install a handrail directly to the concrete, per manufacturer specifications. He indicated that the City enforces only the minimum code.

Mr. Bennett stated that half of the trailer park is on a peninsula and the insurance company did not want to insure the trailer for this reason. He explained that there is water beneath the land on the side with the steps and when he put the posts in the dirt, they lasted for approximately two (2) weeks, then water underneath the trailer rose and the posts started loosening. Mr. Bennett felt that this was why the trailer park was trying to put this cost on the owners. He indicated that he would pay someone to address the problem and that the park had staff to address the problem. Mr. Bennett stated that he felt that this issue was the park's responsibility and if the Bennetts had to meet them halfway, they would.

Mr. Martin stated that this issue would be between the Bennetts and the park and not a City of Dover matter. He questioned, when a violation is issued, if the owner is given a certain amount of time to correct the violation. Mr. McGinnis stated that 30 days is the standard amount of time for follow-up and by the time the third notice is issued, the case is a minimum of 60 days old.

Mr. Martin stated that the code requires a handrail; therefore, one must be installed; however, he did not have an answer as to whose responsibility it was. He stated that citations were issued to other property owners who did not question who owned the steps and that a handrail must be installed for the safety of the Bennett's grandchildren. Mrs. Bennett stated that they should have been informed of the required dimensions when the park told them to put up a handrail. Mr. McGinnis stated that he could print specific dimensions out of the IRC.

Mr. Bennett stated his feeling that it would be only fair to be shown who actually owns the steps and who is responsible. Mr. Koenig stated that the City did not have that information and that this was a legal question that must be worked out between the Bennetts and the park owner.

Mrs. Bennett requested the City to waive payment of the $50 fine since the Bennetts did not ignore or avoid the violations and they signed for receipt of certified notifications. She indicated she was not only a tenant listed on the lease, she was also the owner of the trailer. Mrs. Bennett stated that she felt that notification should have been sent not only to Wendy Bowser, whose name was on the electric account, but to Mrs. Bennett. Mrs. Bennett reiterated that when the first notice was sent, they should have been provided the dimensions required for proper installation of the handrails. She stated that they should not be required to pay a fine when they tried to properly install handrails, were later told that they were not good enough, and then tried to fix them.

Mr. Koenig asked if the Bennetts had made any attempt to meet with City staff to resolve this issue before the current meeting. Responding, Mr. McGinnis stated that he had spoken with the Bennetts by phone and had requested a meeting, as well as the documentation that the Bennetts had received from the Attorney General's office. He noted that this information had not been provided.

Mr. Bennett indicated that, due to conflict of interest, the Attorney General's Office had advised the Bennetts to contact the City, noting that the Attorney General's Office would not "come up against" code enforcement.

Mrs. Bennett indicated that she did not have a problem with hiring someone to put up the handrails. Mr. Martin stated his understanding that Mrs. Bennett was willing to see that a handrail is installed within 30 days if the fine were waived and the $50 payment returned. Mrs. Bennett concurred, as long as the Bennetts have the correct dimensions and information regarding the type of handrail required and where it has to be located.

Mr. Bennett requested something that shows that this is the Bennett's responsibility.

In response to Mr. Koenig regarding total fines paid, Mr. Bennett stated that one (1) $50 fine had been paid. Mr. Koenig agreed that a handrail should be put up; however, he stated that the issue of who does it is a matter of the lease, which the City of Dover could not determine. He indicated that it was not the City's issue to give prescriptive specifications on the length or specific dimensions, noting that there was guidance in the code and that staff could provide the citation. Mr. Koenig stated that a great deal of work had been done on, in his opinion, a minor issue and that the Bennetts could have looked to see a rail that was in compliance and contacted the resident to obtain measurements, perhaps asking the park's handyman to assist. Mrs. Bennett explained that they had used the steps in the back of the trailer as a model.

Responding to Mr. Martin, Mr. McGinnis stated that when the violation is issued, the code reference for the section of the property maintenance code that has been violated is provided, as well as contact information for the inspector. He stated that he always encourages parties to call him if there are any questions.

Mr. Bennett stated his belief that within 30 days the Bennetts and the park office could determine whose responsibility it was to put up the railing. Mrs. Bennett stated that she needed to know the exact height and dimension in writing.

Mr. McGinnis stated that he could provide the code documentation and the IPMC code; however, staff could not prepared drawings or give the Bennets exact specifications. He indicated that the IPMC and the IRC specify minimum/maximum heights.

Mr. Martin moved that handrail specifics be given to Mr. and Mrs. Bennett and, provided within 30 days they have satisfied code requirements that the handrail be installed in a workmanlike manner, that the $50 fine be refunded.

Mr. McGinnis requested that the motion be amended to require Mr. and Mrs. Bennett to obtain a current mobile home permit. Mrs. Townshend stated that this matter was unrelated to the case and could be discussed following the meeting.

The motion that handrail specifics be given to Mr. and Mrs. Bennett and, provided within 30 days they have satisfied code requirements that the handrail be installed in a workmanlike manner, that the $50 fine be refunded was seconded by Mr. Koenig and unanimously carried.

Property Maintenance Code Citations (Chapter 3 - General Requirements, Section 302 - Exterior Property Areas, 302.1 - Sanitation of the 2009 International Property Maintenance Code, and Chapter 106 - Traffic and Vehicles, Article III - Stopping, Standing and Parking - Division 1 - Generally, Section 106-130 - Wrecked, nonoperating, or improperly parked or equipped vehicles of the Dover Code) - Appeal of Fines - 122 Linden Court *(Dorothy Novak)*
Mr. David McGinnis, Inspector I, stated that this case was initiated on August 15, 2014 when the owner was requested to remove all junk and debris from the external property area. A citation in the amount of $200 was issued since this was a repeat violation. Mr. McGinnis advised members that the citation was postmarked August 19, 2014, was not signed for, and was returned by the post office. Mr. McGinnis advised members that the City's code requires seven (7) days after mailing the citation to take the next action. A second citation was issued eight (8) days later on August 27, 2014, again requesting the owner to remove all junk and debris and an additional citation was included, since at the time of that inspection a vehicle parked on the grass was found to be in violation. Mr. McGinnis stated that the second citation was signed for and, subsequently, the property owner's son came to the office and was very agitated and aggressive, repeatedly cursing at staff to the extent that one (1) front office staff member moved to the back office because she felt uncomfortable. Mr. McGinnis indicated that this gentleman admitted that he engaged in scrap metal as a business and he was advised that the property was zoned residential and that scrapyards are not permitted in the City; therefore, scrap metal could not be stored there. The citation was not dismissed due to repeated violations and Ms. Novak's son was advised of the appeal process. Mr. McGinnis stated that there were 10 total code enforcement violations on this property dating back to March 27, 2009, as well as a case dating back to 2002 when the owner was requested to remove junk, debris, and an improperly stored trailer and was also cited for a vehicle parked on the grass. He indicated that staff had been issuing citations immediately upon receiving complaints for this property because there had been repeated complaints regarding this property.

Ms. Dorothy Novak, the property owner, apologized for her son. She stated that she was out of town when the junk and debris were deposited, explaining that her neighbor was having work done and propped a screen door against her son's trailer. Due to her absence, she did not receive the original citation and did not return until the second citation was sent. When she returned, she had an injured leg and was unable to move the door herself. Ms. Novak acknowledged that she had recurring violations and stated that she was sorry that the City of Dover was going through this. She was unsure when the City received the complaint call; however, she indicated that her neighbor advised her that he put the door out on the 14th and she felt that the City had probably received a call within an hour of the door being left. Ms. Novak stated that she was being harassed by her neighbors. As an example, she explained that she recently engaged a plumber who parked a six (6) wheel dump

truck with a trailer and equipment in her cul-de-sac and neighbors called the Dover Police Department. Ms. Novak stated that her son's truck was parked on the grass because when she and her son park somewhere other than right in front of her house, the City of Dover police are called, even though this is not a no-parking area. She asked for lenience this one (1) time in regard to the violation, stating that she had been trying to be very strict in preventing others from leaving materials at her house.

Responding to Mr. Koenig regarding the actual violation, Mr. McGinnis stated that the initial violation was for junk and debris and the complaint was called in to the City on August 8, 2014. It was assigned to Mr. McGinnis on August 12, 2014 and he issued the violation on August 15, 2014.

Mr. Koenig noted that Ms. Novak's property was chronically in violation and questioned why neighbors were bringing things to her house. In response, Ms. Novak stated that neighbors were trying to help her son, who does not have a job. She indicated that she typically requests her son to get this material moved out of sight; however, she was not there when the door was brought and her son did not take care of it.

Mr. Martin referred to the picture from August 15, 2014, noting the presence of a screen door, and then the subsequent picture from August 26, 2014 that showed a truck parked on the grass. Ms. Novak stated that this is her son's truck, which is parked on the grass because the police are called when they park on the road. Mr. Martin noted that the door was still present in the August 26, 2014 picture. Ms. Novak stated that the door had been moved from the front of the property to the side and subsequently removed.

Mr. Koenig inquired why the Police Department asked that the truck be moved when it was parked on the road. Ms. Novak responded that her neighbors complain when the vehicle is parked in front of their house. When her son comes home, he parks next to her because there are no other parking places available. Ms. Novak inquired if her son could park in the location pictured if she made a runner of pavers.

Responding, Mr. McGinnis stated that a permit must be obtained through the City of Dover Planning Department to expand the driveway, and he was unsure if pavers would be accepted. Mrs. Ann Marie Townshend, Director of Planning and Community Development, stated that pavers would be acceptable.

Responding to Mr. Martin, Ms. Novak stated that she had paid past fines for violations.

Mr. Martin questioned why the fine for the violation had risen to $200. Responding, Mr. McGinnis stated that fines are $50 for the first offense, $100 for the second, $200 for the third, and $250 for each additional violation; therefore, the fine related to the second citation was $250. The total fine for this case would be $450.

Ms. Novak reiterated that she was on vacation and did not receive the citation with the $200 fine.

In response to Mr. Koenig regarding the current status of the property, Mr. McGinnis stated that the case had been closed on or around September 3, 2014. The door and debris were removed, and the truck was not parked on the grass.

Mr. Koenig questioned who had spoken with Ms. Novak from the Dover Police Department. Responding, Ms. Novak stated that there were three (3) different officers but she was unsure of their names. She stated that there are three (3) neighbors in her cul-de-sac who do not like her or her son. As an example, she indicated that neighbors had called Child Protective Services to report her at a time when her children were not living at her house, noting that she was investigated and there was nothing found to be wrong.

In response to Mr. Koenig, Mr. McGinnis stated that two (2) citations were outstanding with fines totaling $450. He indicated that he had held off on doubling the fines. Ms. Novak asked, if she were required to pay the fines, that a payment plan be implemented because she did not have the funds to pay the entire amount. In response to Mr. Koenig regarding the last violation prior to August 2014, Mr. McGinnis stated that the violation occurred on April 15, 2014 and was related to the presence of junk and debris, a trailer, and old tires. Previous violations occurred on January 7, 2014.

Responding to Mr. Koenig in reference to the trailer pictured in association with the April 2014 violations, Ms. Novak stated that the trailer belonged to her son and had been moved behind neighbors' bushes to a location that she believed to be acceptable. Mr. McGinnis stated that the trailer was behind the front set back and screened. He felt that this location met code requirements.

Mr. Koenig questioned, when looking at the pictures, if Ms. Novak knew why she was receiving violations. Ms. Novak confirmed that she understood; however, she explained that she was not home when the neighbor put the door out. She stated that no violations had occurred since the April 2014 violation because when she is home she ensures that the property is taken care of.

Mr. Martin asked if the first notice was signed for by the son. Mr. McGinnis stated that this notice was returned by the post office unclaimed and included the $200 fine.

Ms. Novak stated that she received a large pile of mail when she returned and signed for the notice on the next day. She again apologized for her son's conduct, stating that he was irritated with the neighbors and he took it out on the City of Dover, noting he had no right or reason to do so.

Mr. Koenig questioned if Ms. Novak's son understood why she was receiving violations. Responding, she stated that she was unsure if he comprehended the situation and she stated that she felt her son was blaming this situation on the neighbors. She advised members that a property located behind her on Acorn Lane and Division Street has four (4) vehicles on their property that are not on pavers.

Mr. McGinnis stated that this property was out of City limits.

Noting that Ms. Novak did not receive the initial citation that included a $200 fine, Mrs. Townshend suggested, as a show of good faith, that the $250 fine be dismissed but that it be made clear that the City would not be able to dismiss future fines for the same violations. Mr. Koenig questioned if the suggestion was to dismiss the $250 fine and enforce the $200 fine. Mr. Martin noted that Ms. Novak received a fine for $250 because the $200 fine was already owed. Mr. Koenig stated his understanding that the next time a violation occurred, a $250 violation fine would be imposed. Mr. McGinnis confirmed that there would be an automatic $250 fine for a subsequent violation.

Ms. Novak requested that payment plan arrangements be made. Mrs. Townshend stated that the City does not have a payment plan but would accept partial payment for fines.

Mr. Koenig moved to remove the $250 citation, enforce the $200 citation, and work out partial payments for this matter, with the understanding that the next violation would be a $250 violation. The motion was seconded by Mr. Martin and unanimously carried.

Mr. Koenig moved for adjournment, seconded by Mr. Martin and unanimously carried.

Meeting adjourned at 12:32 p.m.

Respectfully submitted,

Scott D. Koenig
Chairman

SDK/DD/js
S:\AGENDAS-MINUTES-PACKETS-PRESENTATIONS-ATT&EXH\Misc-Minutes\PROPERTY MAINTENANCE CODE BOARD OF APPEALS\09-19-2014 - Property Maintenance Code Board of Appeals.wpd