

CONSTRUCTION AND PROPERTY MAINTENANCE CODE BOARD OF APPEALS

The Construction and Property Maintenance Code Board of Appeals meeting was held on February 18, 2026, at 3:30 p.m., with Mr. Boggerty presiding. The members present were Mr. Martin and Mr. Neil. Mr. Campana and Mr. Rocha were absent. Staff members present were Mr. Kopp, Ms. Brown, Mr. England, and Ms. Wheeler.

ADOPTION OF AGENDA

Mr. Boggerty stated that prior to accepting the agenda, there was a request for modification of Item #2, Residential Code Violation Appeal (Chapter 22 - Buildings and Building Regulations, Article XII - Vacant Buildings, Section 22-403 - Registration and Registration Fee) - Appeal of Registration Fee - 406 South Governors Avenue would be moved to Item #1.

Mr. Neil moved for approval of the amended agenda, seconded by Mr. Martin, and unanimously carried.

RESIDENTIAL CODE VIOLATION APPEAL: Property Maintenance Code Citation (Chapter 22 - Buildings and Building Regulations, Article XII - Vacant Buildings, Section 22-403 - Registration and Registration Fee) - Appeal of Registration Fee - 406 South Governors Avenue

Mr. John England, Code Enforcement Officer, reviewed the case history for 406 South Governors Avenue.

Mr. Kelly stated that the property has been listed for sale but has not received any offers. He explained that, as noted in his appeal letter, his family became ill in December, and he does not recall signing for the certified letter. He emphasized that the signature on the certified mail receipt was not his; however, he is not disputing receipt of the letter, as he did receive it.

Responding to Mr. Kelly, Mr. England clarified that the charge in question was not a fine, but rather a vacant building registration fee, which was currently \$5,000 for the fifth year. He confirmed that he had a copy of the vacant building registration documentation and noted that the Clerk also had the signed registration fee displayed on the computer screen.

Responding to Mr. England, Mr. Kelly emphasized that the signature on the certified mail receipt was not his; however, he was not disputing receipt of the letter, as he did receive it.

Responding to Mr. Neil, Mr. Kelly clarified that the property was a house and that his wife had an antique shop, and unfortunately, stopped business when they got custody of their grandchildren five (5) years ago. He noted that she was doing the business on a part-time basis and had to be specific hours for that to be considered not vacant, so they would not allow a building permit for her to be open on a part-time basis. He also mentioned that all the antique items were still in the property.

Responding to Mr. Neil, Mr. England clarified that this was the fifth year that he could qualify to be eligible for next year.

Responding to Mr. Neil, Mr. England stated that the fee was due on the fifth and that it was never presented to the city. He noted that it was out of his hands on the sixth when he had sent the fee to the Customer Service Department, and then they billed Mr. Kelly on the 20th.

Responding to Mr. Martin, Mr. England clarified that the \$5,000 vacant building registration fee would be per year. He noted that each year the fee had increased from, \$375, \$750, \$1,500, \$3,000, \$5,000 and now every year after that would be \$5,000 going forward per the ordinance.

Responding to Mr. Martin, Mr. Kelly stated that the property has been for sale for the past three (3) years.

For clarification, Mr. Eddie Kopp, Chief Code Enforcement Officer, stated that, reviewing the business records, the last time that the property had a business license was 2022. He noted that the city would not prohibit anyone from having a business license unless it was a zoning restriction. He further noted that the city does not regulate hours.

Responding to Mr. Kopp, Mr. Kelly stated that he was told that his wife was not able to get a business license. He noted that if an individual came to the city, they would not be able to do anything they want with a building, because it would have to be a business that occupied or had to be able to rent.

Responding to Mr. Kelly, Mr. Kopp stated that it all came down to zoning, and depending on what zoning and what an individual could do on the property. He noted that they could not hinder his business unless it was causing grief and concern to the neighborhood, such as noise, then there would be zoning codes that would prohibit that.

Mr. Neil stated that they were not interested in punishing him, and if his wife was interested in wanting to get her business license so that the property was no longer abandoned, he would be back in business.

Responding to Mr. Kelly, Mr. Kopp stated that if the building were vacant, then the building could not be used as storage. He noted his comment that there were antiques and items in the building, and according to the ordinance, those would need to be removed from the building. He explained that either the building is occupied as a business or it needs to be cleared out because it cannot be used as storage, as it is a fire hazard. He recommended that the business be opened back up because then the items would not have to be removed.

Mr. England stated that the way they base their vacant building structure was on utilities, electric, and water usage, so it was just minimal.

Responding to Mr. Boggerty, Mr. Kelly stated that he would like to have some time and apply for the forgiveness of the fifth year, and then hopefully by the time next year comes around, he would have everything squared away.

Responding to Mr. Kelly, Mr. Boggerty stated that even if they forgave the fifth year, he would still be liable, and according to Mr. Kopp, there were still issues, such as items being considered storage in the building. He noted that other little nuances would hinder their decision to completely forgive the fifth year. He emphasized that they always want to find a way to help their constituents or those who choose to do business with the city. He mentioned that there seemed to be a possible solution, but the acceptance of the solution was on him. He explained that either he could reopen and restore utilities, and operate a business while the building was up for sale, or pay the \$5,000 vacant registration fee.

Mr. Kopp stated that when it came to life safety, he would be very hesitant for the board to rule against the code officials on that due to life safety. He noted that by ruling against that and allowing Mr. Kelly to continue to use the building with it being stored, they were taking the liability in the event something could happen. He further noted that if they were to remove the fee or grant part of the appeal, he would recommend that the building be cleared within 30 days if it was not going to be returned to a business due to the life safety concern of storage being in there.

Responding to Mr. Martin, Mr. Kelly stated that the only utilities turned on were the electricity.

Responding to Mr. Kelly, Mr. Kopp stated that the payment of the \$5,000 to be delayed till next year would be the decision of the board, but code enforcement would have to come out and do an inspection within 30 days to verify that the building was cleared out, because it would need to be documented.

Responding to Mr. Martin, Mr. Kopp clarified that every year the vacant registration fee was \$5,000 that a building was vacant.

Mr. Neil moved to suspend for a year if, within 30 days, the building is clear. The motion was seconded by Mr. Martin.

Mr. Kopp asked for clarity that if the items were not removed within 30 days, the vacant registration fee of \$5,000 would be reinstated, and if so, Mr. Kelly would face additional citations, since the building would not be cleared due to being a life safety situation. He noted that, regardless of the board's decision, the situation at hand was a life safety violation, and it would continue to add citations.

Responding to Mr. Martin, Mr. Kopp stated that the citations started at \$100 and work up to \$1,000 per incident. He noted that they cite per month, but the code stated that they could be fined \$1,000 a day. He also mentioned that the whole intent behind that was to rectify the violation, not to issue citations, but to get it removed.

Mr. Kopp explained that, due to the severity of the items being stored inside the property, there was a life safety concern that fell under the Fire Code. He noted that the Fire Code was significantly stricter and allowed far less flexibility than the Building or Property Maintenance Codes. For that reason, he advised the Board accordingly. He emphasized that his position was not personal, but that matters involving fire and life safety carried greater weight. As a City official, he stated that he must ensure decisions were made in the best interest of the City, which was why he provided the Board with that recommendation.

Mr. Neil moved to suspend the \$5,000 vacant property fee, allowing the property owner up to thirty (30) days to either vacate the property and/or apply for a business license to open and operate a business. Failure to comply within the thirty (30) days will result in reinstatement of the \$5,000 vacant property fee. The motion was seconded by Mr. Martin.

Responding to Mr. Kelly, Mr. Kopp stated that the business license could be received over the counter.

Mr. Neil moved to suspend the \$5,000 vacant property fee, allowing the property owner up to thirty (30) days to either vacate the property and/or apply for a business license to open

and operate a business. Failure to comply within the thirty (30) days will result in reinstatement of the \$5,000 vacant property fee. The motion was seconded by Mr. Martin and unanimously carried.

RESIDENTIAL CODE VIOLATION APPEAL: Property Maintenance Code Violation (2009 International Property Maintenance Code - Chapter 3 - General Requirements, Section 302.4 – Weeds.) - Appeal of Citation and Fines - 118 Mitscher Road

Mr. Eddie Kopp, Code Enforcement Officer, reviewed the case history for 118 Mitscher Road.

Responding to Mr. Neil, Mr. Kopp clarified that Albert Jones was a character that the appellant was describing in her letter, and that most of the information that they have gathered has been unfounded. He noted that there were current concerns in addition to the overgrowth, and they have made the proper agency aware of it.

Ms. Wheeler stated that the appellant had called yesterday and was going to try to call in, but did state she would like to reschedule if possible. She noted that she wanted to see what the board would decide, but emphasized that the appellant would try to call in for the meeting.

For clarification, Mr. Kopp stated that they were at the point of abatement, which meant that they would hire a contractor to go out and remove the overgrowth. He noted that due to the age of the case and several attempts of noncompliance, the question was whether the interpretation of the case, whether it was considered an overdose of weeds or flowers, as the appellant has described. In his opinion, it was an overgrowth to the point where it was affecting the quality of life for neighbors and their fencing.

Mr. Neil moved to deny the appeal for 118 Mitscher Road. The motion was seconded by Mr. Martin and unanimously carried.

Mr. Boggerty moved for an adjournment of the Construction and Property Maintenance Code Board of Appeals meeting, seconded by Mr. Neil, hearing no objection, the meeting adjourned at 4:13 p.m.

The meeting adjourned at 4:13 p.m.

Andre M. Boggerty
Chairman

AB/cw