



"A City for All Ages"

CITY OF PORT ST. LUCIE

Neighborhood Services Department

MEMORANDUM

To: Planning & Zoning Department / P&Z Board

Thru: Michael B. Lubeck, Neighborhood Services Assistant Director

From: Wesley Armstrong, Code Compliance Supervisor

Re: 657 SW Carter Ave – Variance Hearing

Date: November 16, 2020

On 1/18/2018, Code Compliance received an anonymous call in complaint concerning 657 SW Carter Avenue regarding a possible unpermitted fence. A case was generated, #18-00349. Upon inspection, a decorative fence was found in the front yard which exceeds the allowable height limit and without the required breaks as per ordinance SEC. 158.216(H).

Code Compliance held off enforcement as we were contacted by the property owner, Fairouz Guerrouj, and her attorney, Glenn Webber. Over the course of eighteen months, the case was placed on hold for the following reasons:

- The homeowner stated she lives in France and must be given enough time to travel to Florida to attend the hearing in person.
- The attorney stated he could not attend a magistrate hearing as he had another trial scheduled.
- The attorney stated a variance application would be submitted to Planning & Zoning, after 4 months, an application was received. Over the following 8 months, Planning & Zoning were unable to schedule a variance hearing date with the property owner, so the application was withdrawn.

Staff continued with the case, bringing the property to a Special Magistrate Hearing on 7/3/2019. The Special Magistrate found the property was in violation and a Certification of Fines hearing on 8/7/2019 assessed a lien to the property. That lien maxed out on 1/9/2020 and a new case was opened, #20-00211.

A Notice of Violation letter was sent to the property owner on 1/10/2020. The property was not brought into compliance; therefore, the case was scheduled for a Special Magistrate Hearing on 3/11/2020. The case was postponed due to a Variance Hearing being scheduled in May 2020. In October 2020, the decision was made by the City Attorney's Office (CAO) to move forward with the case due to the amount of times the Variance Hearing was postponed by the homeowner. On 11/2/2020, the CAO was contacted by Glenn Webber. He inquired about a variance date and pending Code hearing. It was explained to him that a Variance Hearing could be scheduled for 12/1/2020, but the Code hearing would proceed on 11/4/2020. To allow time for a possible Variance

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Hearing, Code requested if the property was found in violation, that 45 days be given to bring the property into compliance.

On 11/3/2020, the CAO received a Motion to Continue from Glenn Webber asking to postpone the code case from the Special Magistrate Hearing scheduled for the following day. He stated he must be given time to review the case prior to hearing. Later that day, Fairouz Guerrouj stated in an email that Glenn Webber did not represent her and that she did not want the city to speak to him regarding her case.

On the morning of 11/4/2020, the front pickets were removed from the fence. As the property was still in violation due to the gate being closed and the fence being too tall, the case went to Special Magistrate. The Special Magistrate denied the Motion to Continue and found the property owner to be in violation of the City code. The property owner was given the option of attending virtually due to being in France but declined. No one attended the hearing on her behalf. On 11/5/20, the front pickets were placed back on the fence.

The City has given the homeowners until 12/19/2020 to bring the property into compliance, otherwise the case will go to a Certification of Fines Hearing on 1/13/2021.

The current violations of the fence are:

- Height: 5 ft (in the front)
- Height: 5 ft 2 inches (on the front left side)
- No break: pickets installed between fencing allowing no breaks
- No break: when the front gate is closed, there is no break for 51ft 8 inches.

Code Compliance has determined that the fence be removed or reduced to a height that does not exceed 4ft. That the pickets be removed between fence panels to allow for a 2ft break, every 20ft. Also, the front gate must be removed or remain in the open position as the fence panel on either side is roughly 17ft long.