

A Code Enforcement Board Hearing was held on **December 9, 2021**,
was called to order at 1:30 PM, Adjourned 5:24 PM.

Code Enforcement Board Members Present:

Nicholas Coppola, Chair
Christina Godbout, Vice Chair
Michael Schiff
Samuel Spear, Jr.
Robert Resnick
Stephen Butera
Ingrid E Lee
Kevin Wagner, Code Enforcement Board Attorney

City Staff Present:

Thomas Story, Code Enforcement Officer.
Jude Leconte, Code Enforcement Officer
Enrique Fernandez, Code Enforcement Administrator
Rebekah Dasari, Senior Planner
Lawonda Warren, Assistant City Attorney

Owners and/or Respondents Present:

Jennifer Roselli, respondent
Jeff Costella, Hired by respondent
Karalleni, witness
Elizabeth McCue, witness
Gary Wulf, witness
Gary Rosenblum, Contractor
Randy Goldberg, respondent

Cases Dismissed:

21-8274; 21-8773; 21-9293; 21-9469; 21-9521; 21-9526; 21-9557; 21-9760; 21-9766; 21-9948;
21-9960; 21-9962; 21-9965; 21-10056; 21-10085; 21-10123; 21-10124; 21-10277; 21-10316;
21-10407; 21-10469

Cases Postponed:

21-3817; 21-9528; 21-9540; 21-9688; 21-9708; 21-9825; 21-11466

Case 21-4504 – 820 SE 5th Avenue A & B

Code Officer Thomas Story testified regarding a Modified Site & Dev. Plans and Commercial & Industrial uses violation, which is a violation of 2.4.5 (G)(1)(A to D); 4.6.6 (A)(1 to 3). Three photographs were presented as evidence, they were introduced as City Exhibit 1-3 without

objection. Remaining 8 photographs were presented as evidence, they were introduced as City Exhibit 4-11 without objection. Mr. Story testified to what activity he has seen outside and inside the property and explained what the website shows in reference to daycare, boarding and play areas. Beach Dog website entered, into evidence as City's exhibit 12 with no objection. Beach Dog Instagram Page was entered into evidence as City's exhibit 13 and board was polled. Motion Passes 6-1

Board Polled

<i>Nicholas Coppola</i>	Yes
<i>Christina Godbout</i>	Yes
<i>Michael Schiff</i>	Yes
<i>Samuel Spear</i>	No
<i>Robert Resnick</i>	Yes
<i>Stephen Butera</i>	Yes
<i>Ingrid Lee</i>	Yes

City recommends 30 days to apply and obtain a site plan modification and 14 days to cease outside activity or \$100.00 daily fine.

Randy Goldberg, Attorney for Respondent, testified that the original general contractor hired by respondent disappeared and that a new contractor was hired. Mr. Goldberg questioned officer about what the photos depict and questioned whether the photos were actuals photos of Beach Dog. Mr. Goldberg is stating that the photos on the website are not actual photos of the business, but photos used for marketing purposes. Mr. Goldberg stated that photos on Instagram are not time stamped and can not be verified on dates taken.

Gary Rosenblum, General Contractor for respondent, testified that he was hired 10 to 12 months ago by respondent to apply for the site plan modification. Mr. Rosenblum testified to the process to apply for site plan modification and change the zoning for Beach Dog. The plan must first go in front of city council, then to beautification committee prior to a permit being applied for and obtained.

Rebekah Dasari, Senior Planner for the City of Delray Beach, testified to the conditional use approval process and waivers, regulations, and analysis.

Jeff Costella, retained by the respondent to obtain a site plan modification, current survey and engage an architect.

Ms. Kalleni, neighboring property owner, testified that she can hear dogs barking and playing outside day and night.

Jennifer Roselli, owner of Beach Dog Daycare explained grooming and how she runs her business. Explained that the business is not a daycare but care for dogs during the day. Ms. Roselli explained her groom philosophy. The animals are not caged and are allowed to run free while

waiting to be groomed. Her business is Spa Baths which can be completed within 10 to 15 minutes. Spa baths include shampoo, conditioning, nail and ear clippings. There are 11 people employed by Ms. Roselli to complete the spa baths. Ms. Roselli testified that she has not used the outside area since notified by animal control and code enforcement. Ms. Roselli stated that her primary business is grooming and only access to other activities if the dogs are scheduled for grooming.

Lawonda Warren, Assistant City Attorney, explained the permit process, time given and denial of current permit with a failed inspection.

Samuel Spear made a motion that violation exist and the property owner has 40 days to obtain an approved site plan modification and 14 days to cease outside activity or a \$100.00 daily fine for each violation. Second by Robert Resnick. Board was polled and motion passes unanimously. 7-0

****(5 Minute Break was taken from 3:05 to 3:10)****

Case 21-6524 – 820 SE 5th Avenue A & B

Code Officer Thomas Story testified regarding a Principle uses violation, which is a violation of 4.4.9 (B)(1 to 6). Fifteen photographs were presented as evidence, they were introduced as City Exhibit 1-15 without objection. City recommends 14 days to cease boarding and daycare activity or \$150.00 daily fine. Board was polled and Motion passes 4 to 3.

Rebekah Dasari, Senior Planner with the City of Delray Beach, testified in reference to pet services, pet grooming, boarding and kennels. Opinion of planner that boarding is considered any extended day or night stay.

Randy Goldberg, Attorney for Respondent, testified that the City of Delray Beach does not have a clear definition of Grooming, Boarding or Kennels. Mr. Goldberg questioned code officer on photos date, time, boarding and whether they were taken during day or night. Mr. Goldberg questioned Rebekah Dasari in reference to the definition of kennel and stated that there was no definition in the city code of kennel, boarding or pet grooming prior to the new regulation of October 2021. Mr. Goldberg questioned Mr. Wulf about the video presented and where he was standing when video was taken. Mr. Goldberg is stating that his client is being charged with violations that are not defined in the code.

Gary Wulf, witness for the city, testified that he lives behind Beach Dog and that he hears dogs barking all hours of day and night. Mr. Wulf presented a video taken on his phone to the board which was entered as city's exhibit 16, without objection.

Elizabeth McCue testified for the respondent, stating that she is a neighbor a block away from Beach Dog. Ms. McCue went door to door with Ms. Roselli to get statements from surrounding

neighbors about Beach Dog. Ms. McCue was questioned by attorney, Randy Goldberg about whether she has ever heard dogs barking. Ms. McCue stated that she has never heard any of the dogs.

Gary Rosenblum, Contractor for respondent, testified that he has worked on many homes in the general area and has completed work in the restaurant next to Beach Dog and has never heard any dogs barking at any time.

Enrique Fernandez, Code Enforcement Administrator, testified that he has met with Jennifer Roselli one time and did not hear dogs at that time and was only on the outside of the business.

Jennifer Roselli, owner of Beach Dog Daycare testified that she had made a video of neighbors about the business. The board stated to Ms. Roselli that they will not be hearing video due to not being able to cross examine the neighbors on the video. Ms. Roselli stated that there is no noise coming from the outside back of the building. Five or Six employees stay overnight to clean the business. Jennifer Roselli stated that she has only has dogs stay overnight if they were a rescue or accompany the employees.

Lawonda Warren, Assistant City Attorney, explained that the business was doing activity that was outside of the approved use of grooming and retail.

Ingrid Lee made a motion that a violation exist and the property owner has 14 days to stop all activities that are being conducted on the property that are not permitted uses within the general commercial zoning district or \$150.00 daily fine for the violation. Second by Stephen Butera. Code Board was polled and motion passes 4 to 3.

Board Polled

<i>Nicholas Coppola</i>	Yes
<i>Christina Godbout</i>	No
<i>Michael Schiff</i>	Yes
<i>Samuel Spear</i>	No
<i>Robert Resnick</i>	No
<i>Stephen Butera</i>	Yes
<i>Ingrid Lee</i>	Yes

09.

Case 21-9518 – 1201 Old Dixie Highway

Officer Jude Leconte testified regarding a unscreened in driveway violation, which is a violation of 4.6.13 (B)(3) + (B)(8). Five photographs were presented as evidence, they were introduced as City Exhibit 1-5 without objection. City suggests 14 days to screen boat trailer or \$50.00 daily fine.

Ingrid Lee made a motion that a violation exist and the property owner has 14 days to come into compliance or a \$50.00 daily fine. Second by Michael Schiff. Motion passed unanimously.

The Board ruled unanimously that a violation exists, gave the property owner 14 days to correct the violation or a \$50.00 daily fine. 7-0

Case 21-9689 – 320 & 330 N. Congress Avenue

Officer Thomas Story testified regarding a Permits, Procedures & Approvals violation, which is a violation of 2.4.6 (B)(1 to 5). Seven photographs were presented as evidence, they were introduced as City Exhibit 1-7 without objection. City suggests 30 days to come into compliance or \$100.00 daily fine.

Robert Cohen, Registered Agent, testified that the structure inside the building was built over 20 years ago. A fire inspection was completed and this is when the structure was noticed and told that it was built without permit.

Property Owner, testified that when he purchased he was told that there were no violations on the property. The owner does not believe there is a violation it has been as-is for over 25 years.

Samuel Spear made a motion that a violation exist and the property owner has 30 days to come into compliance or a \$100.00 daily fine. Second by Robert Resnick. Motion passes unanimously.

The Board ruled unanimously that a violation exists, gave the property owner 30 days to correct the violation or a \$100.00 daily fine.

Case 21-11392 – 626 SE 4th Avenue

Officer Enrique Fernandez, Code Enforcement Administrator, testified regarding Lighting Cutoff Luminaire violation, which is a violation of 4.6.8 (A)(2). Thirteen photographs were presented as evidence, they were introduced as City Exhibit 1-13 without objection. City suggests 7 days to come into compliance or \$100.00 daily fine.

Ingrid Lee made a motion that a violation exist and the property owner has 7 days to come into compliance or a \$100.00 daily fine. Second by Samuel Spear.

The Board ruled unanimously that a violation exists, gave the property owner 7 days to correct the violation or a \$100.00 daily fine. 7-0

Adjournment – 5:24pm