



City of Stuart

MAGISTRATE HEARING DOCKET

**CITY OF STUART, FLORIDA
121 S.W. FLAGLER AVENUE
STUART, FLORIDA 34994**

**AUGUST 19, 2022 AT 10:00 AM
COMMISSION CHAMBERS**

Agenda items are available on our website at <http://www.cityofstuart.us>
Phone: (772) 288-5306. Fax: (772) 288-5305. E-mail: mkindel@ci.stuart.fl.us

In compliance with the Americans with Disabilities Act (ADA), anyone who needs a special accommodation to attend this meeting should contact the City's ADA coordinator at 772-288-5306 at least 48 hours in advance of the meeting, excluding Saturday and Sunday.

If a person decides to appeal any decision made by the Board with respect to any matter considered at this meeting, he will need a record of the proceeding, and that for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

WHAT IS CIVILITY? Civility is caring about one's identity, needs and beliefs without degrading someone else's in the process. Civility is more than merely being polite. Civility requires staying "present" even with those persons with whom we have deep-rooted and perhaps strong disagreements. It is about constantly being open to hear, learn, teach and change. It seeks common ground as a beginning point for dialogue. It is patience, grace, and strength of character. Civility is practiced in our City Hall.

PLEDGE OF ALLEGIANCE

VIOLATION HEARINGS

- 1. CITY OF STUART VS. ROBERT STANCAVICH** Michael Mortell
CASE NO: CE 21010007
ADDRESS OF VIOLATION: 1251 Sw Norton's Lane, Stuart, FL 34994
CODE SECTION: 10-69(c)(3)f - Parking on approved surface
10-61(j)(2) - no accumulation or storage visible from public view.
10- 69(B)(3) - no dump trucks, motorized shovels, special equipment, commercial vehicles or machinery unless active permit.
DESCRIPTION OF VIOLATION: No permit: Florida Building Code 105.1
No Certificate of Occupancy: Florida Building Code 111.1

Stipulated and Agreed Order dated February 18, 2021
- 2. STIPULATION AND AGREED ORDER-DRIFTWOOD REAL ESTATE LLC** Vito Lorenzo
CASE NO: CE22060024
ADDRESS OF VIOLATION: 320 SE Denver Ave.
CODE SECTION: 10-61, 22-61
DESCRIPTION OF VIOLATION: The Exterior and Interior of a Structure shall be maintained in good repair. Failure to comply with Florida Fire Prevention Code
- 3. STIPULATION AND AGREED ORDER-ROBERT J HAAS JR.** Deborah Carrasco
CASE NO: CE22080003
ADDRESS OF VIOLATION: 228 SE Ila Street, Stuart, FL 34994
CODE SECTION: 105.1 Work Without Permits
DESCRIPTION OF VIOLATION: Work without a permit

ADJOURNMENT

**CITY OF STUART
OFFICE OF THE CITY ATTORNEY**



MEMORANDUM 2022

STAFF REPORT REGARDING 1251 NORTON's WAY

SUMMARY: This staff report is generated as an addendum to the August 2022 Magistrate Hearing to supplement the Agenda Item and provide a detailed history of the events.

HISTORY

In October, 2015, Mr. Stancavich applied for a variance to the City of Stuart Board of adjustment asking for a reduction of certain setbacks required by City Code. If the setback reductions were granted, Mr. Stancavich claimed that he would have enough land to subdivide it into two legal parcels. However, the house he wanted to build on the vacant lot was over 3,000 square feet and he needed a variance based upon its design. Mr. Stancavich was not requesting a variance reducing or changing the minimum lot size or granting a lot split and assigning a new parcel ID for a non-conforming lot. The application specifically stated that it was a request for *a front setback reduction to 15 feet for an existing residence and an inland buffer requirement of 8 feet with an average of 15 where a minimum of 50 is required.* According to the agenda item, if these variances were granted, it would *allow him to split his land into two lots and construct a new single-family home on the second lot.* The Board of Adjustment did not address the legal size or requirements of the lots. The board of adjustment hearing was limited to the buffer and setback reduction requests. The report stated that the variance was required "to allow for an existing single-story on the proposed Lot 1 after a legally dimensioned lot split; ..."

The Justification Letter attached to Variance Application stated that the owner would seek the subdivision of the parcels at a later date. The City of Stuart does not subdivide parcels. The subdivision or assignment of a new parcel ID is performed by the Martin County Property Appraiser.

The application was submitted in October as a prospective purchaser, but the hearing took place on December 9, 2015. Mr. Stancavich closed on the property on November 24, 2015 and was the owner at the time of the hearing. It is unknown what disclosures were made between the seller of the property and the potential buyer at that time of sale but the transaction closed as a single parcel. It is also unknown if Mr. Stancavich obtained Title Insurance or performed a Title Search of the property prior to purchase or before applying to the Board of Adjustment for the variance. If Title insurance was issued or a title search was performed, Mr. Stancavich was aware of three separate deed restrictions recorded on the property preventing its subdivision. When the Closing did occur (prior to the Board of Adjustment

At the time this report was drafted, the Respondent had removed a trailer from being stored on the property which was part of the original proceeding. However, there is no open permit on the property. Electricity was temporarily granted as part of the permit, but it remains on even though the permit is long since void. In addition, the Respondent is using the structure without a certificate of occupancy by storing his office equipment inside. There is no roof on the structure and not all of the windows have been installed. This can create a dangerous condition during hurricane season. Until such time as the Owner subdivides the lots, the structure under construction is illegal and non-conforming. The City is honoring the variances granted in 2015 but they were conditioned on representations by Mr. Stancavich which have not been fulfilled.

TIMELINE

October 2015: Application to Board of Adjustment for variance granting setback variances.

December 2015: Board of Adjustment grants variance with requirement construction of new structure that would impact the original buffer zone be constructed by January 2017 or Variance Order is void. For reasons unknown, Mr. Stancavich never signed the acceptance line on the Order nor returned it and therefore it was not rendered or recorded.

December 2016: Agent of Stancavich emails Mr. Meyer objecting to language requiring completion by the end of December 2016 and the email discussed the variance order with the deadline which demonstrates that Mr. Stancavich and his consultant were in possession of the order and aware of the condition. For reasons unknown the land planner modified the order and changed the conditional language to state that Mr. Stancavich needed to pull a permit by December 9, 2016, instead of completing the entire construction project or the Variance would be void. Mr. Stancavich immediately pulled a permit but again did not sign the order and as a result it was not rendered or recorded.

2017-2020 – Mr. Stancavich – acting as an owner builder very slowly worked toward constructing the house. The City did not notice that the Board of Adjustment Order had not been recorded because the permit for construction had already been issued and the buffer inspections were completed initially. In addition, the variance order does not have any impact on the matters pending before the code enforcement magistrate. It is essentially a distraction created to defer responsibility.

February 2021: On February 18, 2021, the Magistrate entered a Stipulation signed by Mr. Stancavich which included several deadlines for completion of certain work.

February 2022: Mr. Stancavich was noticed for hearing for Violation of the Stipulated Order.

March 2022: Mr. Stancavich raised the issue of the variance and claimed that it provided relief that was not being considered. Because the city did not have the order, the matter was continued until April.

April 2022: A final order on the code enforcement violation was rendered by the magistrate. The evidence presented included a calculation that a fine in excess of \$150,000 dollars had accrued based upon the conditions in the stipulated order and that the property remained in disrepair without a permit or any construction activity taking place. In addition, evidence was presented that Mr. Stancavich was

Lots 1 and 2, Norton's Landing, according to the Plat thereof, recorded in Plat Book 11, Page(s) 7, of the Public Records of Martin County, Florida.



