



SHERMAN CRAIG
Chairman

TERRY MARTINO
Executive Director

**ENFORCEMENT COMMITTEE MEETING
MARCH 9, 2017**

The Enforcement Committee convened at 2:45 p.m.

Enforcement Committee Members Present:

Karen Feldman, Chair, John Ernst, Arthur Lussi, William Thomas

Other Members and Designees Present:

Sherman Craig, Chairman

Local Government Review Board:

Frederick Monroe

Agency Staff Present:

Terry Martino, James Townsend, Jennifer Hubbard, John Burth, Sarah Reynolds, Fritz Aldinger, Milt Adams, Robyn Burgess, Keith McKeever, Rick Weber

Enforcement Program Report:

John Burth gave a brief review of the activities of the Enforcement Program for the month of February, 2017. There was an increase in the number of open cases from past years for the month of February. Review of new subdivisions in the Park through the Salesweb database showed 16 new subdivisions in February, which is also a large number. The division is active in cross training and interdivision coordination, with 7 permits issued with Enforcement staff as the assigned project review officer.

Enforcement Case:

E2016-0006

Matter of Snow

Town of Moriah, Essex County

Junkyard Violations

Ms. Feldman opened the meeting. Ms. Feldman asked if the Respondent, Mr. Leroy Snow, or a representative was present. The answer was no. Ms. Feldman stated that the Notice of Apparent Violation (NAV), affidavits, and supporting papers were distributed to the Enforcement Committee, and the materials were forwarded to Mr. Snow in January, with no response received.

Agency Senior Attorney Jennifer Hubbard presented the matter on behalf of Agency staff, involving the establishment of a junkyard on Mr. Leroy Snow's property in the Town of Moriah, Essex County. She noted that Mr. Snow was not in attendance, and

he did not respond to the NAV that was forwarded to him on January 13, 2017. Therefore, she stated that she would provide only a brief presentation of the facts related to this matter based solely on the NAV and associated materials, which Mr. Snow received by certified mail and were included in the packet received by the Board in the mailing.

Ms. Hubbard presented a PowerPoint slide depicting a map of the property. The property is located in a Moderate Intensity land use area west of the Village of Port Henry on Broad Street, and is approximately one acre in size with no wetlands or water bodies. In order to determine a junkyard violation exists, staff must prove that the Respondent is operating a junkyard without the necessary permit. The APA Act defines a junkyard in part as any open lot or area for the dismantling, storage or sales as parts, scraps or salvage of used or wrecked motor vehicles.

Staff investigation indicates that, between 2010 and 2015, the Respondent accumulated over 60 motor vehicles, used tires, and other automotive parts on the property. Agency staff's site inspection indicated that most if not all of the vehicles are unregistered. Mr. Snow stated to staff that he purchased the vehicles at auctions for parts and then dismantles the vehicle and sells the remainder for scrap metal. Section 809 of the Act requires an Agency permit prior to the establishment of a junkyard in a Moderate Intensity Land use in the Park. No permit was obtained prior to the establishment of this junkyard

Ms. Hubbard presented a Google Earth air photo taken in 2015 showing the property, which includes a preexisting auto repair garage. She stated that the Act separately defines junkyard and commercial use. The auto repair garage is a lawful commercial use for Agency purposes and the junkyard requires a permit.

The Google Earth image also shows single family dwellings on properties adjacent to Mr. Snow's property and a shared driveway that is not on Mr. Snow's property. Ms. Hubbard noted that the property to the east contains an RV park campground that was authorized by the Agency with Permit P2005-91.

Ms. Hubbard showed photos taken in October 2016 of the site driving East and West on Broad Street. The photos show that there is no screening of the junkyard from off-site.

In conclusion, Ms. Hubbard stated that Agency staff request the Committee find this violation and require the Respondent to immediately cease adding materials to the junkyard and lawfully dispose of the materials pursuant to an approved plan. Ms. Hubbard pointed out that disposal of the materials for Agency purposes would include removal of the materials to a lawful location.

Members of the Enforcement Committee asked Ms. Hubbard the following questions:

Mr. Lussi asked if Mr. Snow had permits for the sale of cars.

Ms. Hubbard responded that he did not have a DMV dealer license. She noted that it is legal in New York to have less than three cars for sale at a time without a dealer license. Mr. Snow does have a DMV license for an auto repair shop, but not for the junkyard.

Mr. Lussi asked how long Mr. Snow has been in business. Ms. Hubbard responded that he purchased the property in 2009.

Mr. Lussi asked if the property had ever been two lots. Ms. Hubbard responded that she was not aware of the property ever being two lots, and the committee members noted the deed that was included in the mailing packet.

Ms. Feldman asked if the property as shown in the 2015 google air photo is still the same. Ms. Hubbard responded that on January 10, 2017, staff did a drive-by and confirmed it was the same.

Mr. Lussi asked if the Agency had received notice from a town code enforcement officer about the junkyard. Ms. Hubbard responded that staff received a complaint. Staff had contact with the Town Supervisor who expressed his concerns, but the town has not taken any enforcement action.

Mr. Lussi asked if the Town has any zoning law. Ms. Hubbard responded that the Town of Moriah does not have zoning.

Mr. Ernst asked if there has been any response from Mr. Snow. Ms. Hubbard responded that in May 2016, a settlement agreement was forwarded and Mr. Snow called staff in June when he received it, but there has been no contact since.

Mr. Lussi asked who in the Agency did Mr. Snow have contact with. Ms. Hubbard responded Fritz Aldinger.

The Enforcement Committee adjourned for Executive Session at 3:00 p.m.

New Business:

Old Business: