

HOWARD COUNTY BOARD OF APPEALS HEARING EXAMINER

In the Matter of

Civil Citation Nos. CE 13-032a-e

ERIK HUNT

Respondent

Final Order

FINAL ORDER

A compliance hearing was held on January 9, 2014 as mandated by the undersigned's October 21, 2013 Preliminary Order in Code Enforcement Case Nos. CE 13-032a-e, which Order is incorporated by reference into this Final Order. The underlying enforcement action concerned citations for five violations under the Howard County Zoning Regulations (HCZR), specifically Sections HCZR 101.0.0, 108.0.B&C, 108.0.C.7, 128.0.D.7, and 108.0.D.1.b on R-20 (Residential: Single Family) zoned property known as 9313 Vollmerhausen Road (the Property).¹

The five-count, October 21, 2013 civil citations alleged the violations as follows:

Citation No.	Violation	Description of Violation
13-032a	HCZR 108.C.7 & 128.D.7	Has continued to have off-street parking or storage of unregistered, inoperable, wrecked, dismantled or destroyed motor vehicles on R-20 (Residential: Single) zoned property
13-032b	HCZR 101.0 & 108.B&C	Has continued the operation of a construction company including storage of related vehicles, equipment and materials on a lot less than two acres in size on R-20 zoned property
13-032c	HCZR 101.0 & 108.B&C	Has continued the storage of vehicle parts, tires and accessories on R-20 zoned property
13-032d	HCZR 101.0 & 108.B&C	Has continued the storage of a shipping container on R-20 zoned property
13-032e	HCZR 108.D.1.b	Has continued to have a detached garage that exceeds the allowed height (mean height) of fifteen feet for an accessory structure on R-20 zoned property

The Respondent and responsible person is Erik Hunt, the property owner.

In the Preliminary Order, the Hearing Examiner retained jurisdiction over the case by ordering a substantial compliance hearing to be held approximately sixty calendar days from

¹ The October 6, 2013 Zoning Regulations modified the general numbering of each zoning district.

the date of the order. The Preliminary Order further ordered Respondent to bring the Property into substantial compliance by: 1) removing all unregistered, inoperable, wrecked, dismantled or destroyed motor vehicles and screening any such remaining vehicles, 2) removing all vehicle equipment parts, tires and accessories from the premises or moving them to a garage, and; 3) submitting a confirmation of nonconforming use petition for the home-based contractor use and the detached garage structure to either DPZ or the Hearing Authority no later than seven calendar days from the date of this Preliminary Order. The Hearing Examiner dismissed the CE 13-032d citation and imposed a fine in the amount of five hundred dollars, which was suspended pending compliance.

The January 9, 2014 Substantial Compliance Hearing

DPZ introduced into evidence DPZ Exhibit 1.a-v at the January 9, 2014 compliance hearing. This exhibit comprises 22 photographs taken by Zoning Inspector Tamara Frank during her January 7, 2014 substantial compliance inspection.

Inspector Frank testified to the photographs depicting Respondent's substantial compliance with the Preliminary Order with the exception of one untagged vehicle, one untagged trailer and boat and tires, which are depicted in DPZ Exhibit 1.a, f, h, i, k, q, r and u. She also testified to Mrs. Hunt informing her on January 8, 2014 that her husband is no longer running a business on the Property and that Respondent has not submitted a nonconforming use petition for the home-based contractor use and the detached garage structure, as required by the Hearing Examiner's Preliminary Order. With respect to Mrs. Hunt's claim that no business is being run on the Property, Inspector Frank explained the construction equipment,

trackers, dump truck, and related vehicles have been removed. She also noted Mrs. Hunt's cooperation in cleaning up the Property and bringing it into compliance.

Mrs. Vanessa Hunt testified to the cessation of the construction company at the Property. She also explained Respondent had not submitted a nonconforming use petition for the garage because she does not have the money to have drawings made. It is her intention to submit a petition when she is able to do so financially.

The Hearing Examiner informed Mrs. Hunt that it might not be necessary to have a professional engineer prepare the drawing, as long as it is to scale. Mrs. Hunt agreed to submit a confirmation of a nonconforming use petition for the garage and to clean up the Property within 21 days of the date of this Final Order. The Hearing Examiner further informed Mrs. Hunt that she would impose the five hundred dollar fine if the Property were not fully compliant and Respondent fails to submit the requisite nonconforming use petition to either DPZ or the Hearing Authority within this period.

Conclusions

The testimony and evidence demonstrate Respondent's diligence to bring the Property into substantial compliance within sixty days. With the exception of those items depicted in DPZ Exhibit 1.a, f, h, i, k, q, r and u (an untagged vehicle, an untagged trailer and boat and tires), Respondent (or Mrs. Hunt, in fact) has removed all offending items and appears to have ceased the use of the Property for business. Mrs. Hunt also agreed to submit a confirmation of nonconforming use petition for the garage to either DPZ or the Hearing Authority within 21 calendar days of the Final Order.

ORDER

It is therefore this **21st day of January 2014**, by the Howard County Board of Appeals Hearing Examiner, **ORDERED** that:

Respondent Erik Hunt is to bring the Property into full compliance within twenty-one calendar days of the date of this Order by removing or storing all tires and tagging all remaining vehicles/trailers or storing them such that they are not visible at ground level from any adjacent properties or public street rights-of-way.

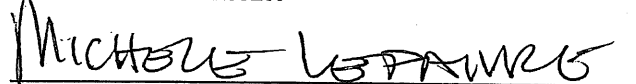
It is **FURTHER ORDERED** that Respondent Erik Hunt is to submit a confirmation of nonconforming use petition for the garage within twenty-one days of the date of this **FINAL ORDER**.

It is **FURTHER ORDERED** that a civil penalty be imposed in the amount of five hundred dollars.

It is **FURTHER ORDERED** that the civil penalty/fine shall be paid thirty calendar days from the date of this order. A failure to pay the fine by the due date may result in a lien being placed on the property for the fine amount, per Section 16.1611(a)(1) of the Code.

It is **FURTHER ORDERED** that the five hundred dollar fine shall be **WAIVED** if Respondent complies with this ORDER and Respondent is granted confirmation of a non-conforming garage structure.

**HOWARD COUNTY BOARD OF APPEALS
HEARING EXAMINER**



Michele L. LeFavre

NOTICE TO RESPONDENTS: The Respondents are advised that pursuant to Section 16.1608.(c) of the Howard County Code, all fines are due and payable by the date indicated in the citation; and are payable to the Director of Finance of Howard County. Pursuant to Section 16.1609, a final order issued by the Hearing Examiner may be appealed within 30 calendar days of the date of this order by the alleged violator to the Board of Appeals in accordance with Section 16.304 of this title. If an alleged violator appeals the final order of the hearing examiner, the alleged violator may request the stay of any civil fine imposed by a final order pending the final resolution of an appeal. Pursuant to Section 16.1610, if a final order of the Hearing Examiner includes a civil fine and the order is appealed to the Board of Appeals, the alleged violator shall post security in the amount of the civil fine to the director in a form acceptable to the Director of Finance. After all appeals are exhausted, if a civil fine is reduced or vacated, the security shall be reduced proportionately; any surplus shall be returned to the alleged violator; and any balance shall be used to satisfy the civil fine; or is not reduced or vacated, the security shall satisfy the fine assessed and accrue to the benefit of the county. Pursuant to Section 16.1611, if a final order issued by a Hearing Examiner assesses a civil fine and the alleged violator does not pay the fine within the time required by the order, the Hearing Examiner shall certify to the Director of Finance the amount owed that shall become a lien on the property on which the violation existed; and be collected in the manner provided for the collection of real estate taxes. Pursuant to Section 16.1612, if an alleged violator fails to comply with an order to correct a violation within the time provided in the order, the county may seek a court order authorizing entry on to the property to correct the violation and may procure the performance of the work by county employees or by contract to correct the violation. The cost and expense of work performed under this section a lien on the property on which the violation exists upon certification to the Director of Finance of the amount owed.

A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the order. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard on the record by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.