

COMMONWEALTH OF KENTUCKY  
CITY OF BERE  
CODE ENFORCEMENT BOARD

IN RE THE MATTER OF: )  
 )  
324 PINNACLE VIEW DRIVE )  
Berea, Kentucky )  
Steven Harris & Elicia Danielle Harris )  
(Illegal Occupancy of Unpermitted Deck) )

ORDER

\* \* \* \* \*

This matter having come on for hearing before the Code Enforcement Board upon the issuance of a complaint charging that the property at 324 Pinnacle View Drive was in violation of Code of Ordinances 71.201: Failure to Obtain a Permit, which complaint was made by the Code Enforcement Office of the City of Berea, Building Inspector Amanda Haney, this Board held a hearing to determine whether the property is compliant with set-back line encroachment and failure to obtain a permit.

A hearing was held on this matter before the Code Enforcement Board on June 20, 2023, at the hour of 4:00 p.m. Board Members present were Andrew Baskin, Ken Vasey, James Anderson and Rebecca Isaacs. Also present was Amanda Haney, Codes & Planning Administrator; Melissa Isaacs, Codes & Planning Administrative Assistant; Jeff Harness, Codes Officer; Bryan Maniscalco, Codes Officer; and Jerry W. Gilbert, Corporation Counsel.

After being duly sworn, Amanda Haney of the City of Berea Code Enforcement Office, offered testimony and provided aerial maps of the subject property and Codes Officer Bryan Maniscalco summarized the complaints received by Codes regarding 324 Pinnacle View Drive. Violations cited were pursuant to the following: **Code of Ordinances 71.201: FAILURE TO OBTAIN A PERMIT**

On October 25, 2022, Codes Officer Maniscalco realized a new deck was under construction at 324 Pinnacle View Drive that did not have a permit. Upon further investigation, it was discovered the existing deck had been demolished and new construction on a larger deck had commenced without applying for any permits or checking zoning. Maniscalco left a stop work order in the door of the home.

On November 28, 2022, Maniscalco met with the owner, Danielle Harris, regarding the need for a permit, and upon returning to the office, emailed all permit forms to her. Mrs. Harris was informed at that time that after review of the plat, it appeared the newly constructed deck was already encroaching into the 25' property setback, which was also a dedicated utility & drainage easement. Mrs. Harris's lot was considered a double frontage lot, therefore, the 25' building setback and easement was in place along both the front and left side of the property.

On December 14, 2022, Steven Harris contacted Maniscalco inquiring what zoning issues pertained to the new deck. Maniscalco explained the new deck would have to be resized to avoid the easements or reconstruct it back to the size of the previous deck. Harris was advised again of the need for proper permits, which he stated they would submit. No further permits were submitted and the new deck is still in place.

Haney provided aerial images of both the old deck and the new, noting the easements and setbacks present on the property and how the current construction encroached into the easement. The old deck had also encroached slightly into the setback but only by the bottom two steps. No previous variance had been granted so it was already non-compliant, but the newly constructed deck was even more non-compliant.

Maniscalco requested a board order for demolition of the deck along with a permit to be pulled to either rebuild to the former size or to build within the required setbacks. Staff requested a 30-day completion date. It was noted the former deck size was approximately 9'x11' with stairs that had encroached slightly.

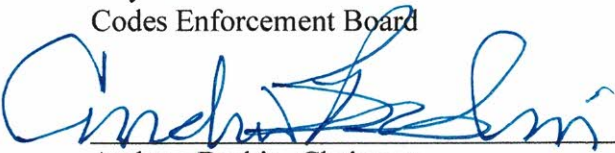
Based on the evidence, the Code Enforcement Board makes the following findings of fact:

1. The property at 324 Pinnacle View Drive is currently in violation of the City's Code of Ordinances in that the property owner failed to obtain a permit before beginning construction of a deck on the rear of the residence.
2. The new construction encroaches upon the setback line of the property.

Based on the foregoing findings, the Codes Enforcement Board Orders as follows:

1. Within sixty (60) days, the newly constructed deck must be returned to its original dimensions; or
2. Within sixty (60) days, the property owner must obtain the property permits and receive approval to build the deck within the required setbacks.

City of Berea  
Codes Enforcement Board



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Andrew Baskin, Chairman  
7/12/2023

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Order was delivered by U.S. mail or by hand delivery to the following on this 14<sup>th</sup> day of July, 2023.

*Certified mail to:*

Steven Harris  
Elicia Danielle (Martinez) Harris  
324 Pinnacle View Drive  
Berea, KY 40403

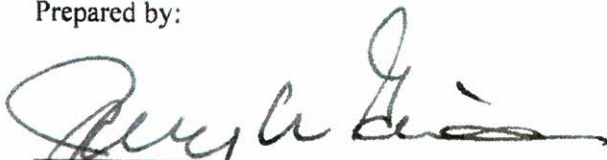
*Hand-delivery to:*

Amanda Haney  
Code Enforcement Office  
City of Berea  
Berea, KY 40403



Melissa Isaacs  
Administrative Assistant, Codes & Planning

Prepared by:



Jerry W. Gilbert  
Corporation Counsel