

MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MAGISTRATE/CODE ENFORCEMENT HEARING
July 3, 2007

Present: Karen Hancsak; Town Clerk, Ken Spillias; Town Attorney, and Sgt. Eubanks.

Meeting called to order at approximately 10:05 A.M.

Special Magistrate Lara Donlon explained that this was an informal hearing and rules of evidence were not required, however, the Town may have exhibits that a respondent has the right to make objections to. She added that the Town would present their case and she would render a decision and issue a Final Order.

At this point all individuals planning on providing testimony were sworn in.

It was agreed to hear Case No. 2007-12 first because Manuel Palacios, Zoning Official, had another appointment.

A. ADOPTION OF MAY 1, 2007 MINUTES

Special Magistrate Donlon adopted the May 1, 2007 minutes.

C. VIOLATION HEARING

**CASE NO. CE#2007-012 Terrence & Julie Cudmore, 5 Coconut Lane,
Ocean Ridge FL 33435**

**RE: Lot 5, Blk 2, Boynton Beach Park
Subdivision (5 Coconut Lane)**

NATURE OF VIOLATION

Violate Section(s) 67-51 and 64-50(c) of the
Town's Code of Ordinances by not obtaining a
permit for a generator, and by the generator not
meeting the setbacks for accessory structures

The respondents were present.

Atty Spillias summarized the violation. Town Clerk Hancsak testified that the respondent had not yet applied for the permit but did come to Town Hall twice to speak with the Zoning Official and hopefully will be applying today.

Special Magistrate Donlon accepted the following Town exhibits: the Notice of Violation with the appropriate code sections and the signed hand delivered receipt of affidavit as #1, 1 photograph taken this date still showing the violation as #2, 3 pages of photographs taken on July 2, 2007 by the zoning official as #3, and the administrative recovery sheet in the amount of \$196.16 as #4.

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Sgt. Eubanks testified that she observed the original violation and also observed earlier this morning that the violation still existed.

Mr. Palacios, Zoning Official, commented that the photographs submitted showed the locations of the generator, windows/doors to the residence, and the drainfield. After reviewing the site he concurred with the location of the generator being located 5' from a property line, however, the survey shown to him by the respondent did not have measurements to verify that it was indeed placed at least 5' back. Atty Spillias asked Mr. Palacios if the generator was completely screened to which he advised that he went by the address today and observed plants being installed to the front side not screened.

Mr. Cudmore, advised that he was not aware a separate permit was needed for a generator and inspections were actually done on the generator and it is shown on his final as built survey (without dimensions). He added that the generator is shielded from the side and rear and he was having it screened from the front today. He stated that he understands the Town's actions; however, he did not feel he should be charged a double fee.

Special Magistrate Donlon accepted the following Respondent's exhibits: two photographs showing the screening in front being planted and the warning posted on the generator depicting his address as #1, and the as built survey showing the generator as #2.

Atty Spillias commented that the double fee is not a code enforcement issue and unfortunately an after the fact is double. He recommended that the administrative fees be paid and a permit be applied for within 10 days with a survey that provides dimensions for the generator. He added that if it is discovered that the generator is less than 5' from the property line the respondent must either move the generator or apply for a variance and a Status/Fine Assessment Hearing be set for Sept. 4, 2007 if compliance is not met.

Special Magistrate Donlon did find that proper notice was given and did find the property in violation. She stated that her order would state that the respondent must apply within 10 days for a permit and screening and should it be discovered that the generator is located within the 5' setback it must be moved or a variance obtained from the Board of Adjustment prior to Sept. 3, 2007 failing which could possibly constitute up to a \$250 daily fine, and the administrative fees in the amount of \$196.16 must be paid in full within 10 days. She added a Fine Assessment Hearing, if necessary, would be set for Sept. 4, 2007 at 10:00 AM.

B. STATUS HEARING

CASE NO. CE#2007-007

Gerald B. Wismer, 110 Bonito Drive, Ocean Ridge FL 33435

RE: Lot 110, McCormick Mile Addition No. 1 Subdivision (110 Bonito Drive)

NATURE OF VIOLATION

Violate Section(s) 67-174(A)(1) of the Town's Code of Ordinances by having numerous roof tiles

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missing in the front and rear of the residence and having rotting fascia board at the rear of the residence

The respondent, Gerald Wismer, was not present.

Atty Spillias summarized the violation and had the Town Clerk testify that no building permit has been applied for as of this time. He requested a finding of violation with a \$50 daily fine until brought into compliance and also reimbursement for both hearings.

Special Magistrate Donlon accepted the following Town exhibits: the Final Order and signed green card verifying receipt as #1, one photograph taken this date as #2, two pages of photographs taken on May 1, 2007 as #3, and the administrative recovery sheet for May 1, 2007 in the amount of \$210.07 and July 3, 2007 in the amount of \$186.16 as #4.

Special Magistrate Donlon did find that there was proper notice and that the violation continues to exist. She ordered that a \$50 daily fine would accrue commencing today until brought into compliance and both administrative recovery sheets in the amounts of \$210.07 and \$186.16 be paid immediately and that the Order Assessing Fine may be recorded as a lien on the property.

C. VIOLATION HEARINGS CONTINUED

CASE NO. CE#2007-009 Domingo Castro and Thallygee Castro, 1500 N Florida Mango Road, #17, West Palm Beach FL 33409

RE: Lot 14, Inlet Cay Subdivision (14 Inlet Cay Drive)

NATURE OF VIOLATION

Violate Section(s) 67-174(a)(1) of the Town's Code of Ordinances by not replacing the roof tiles on their property at 14 Inlet Cay Drive

The respondent was not present, however, a letter was submitted by the owner authorizing Chris Meyer to represent them. Atty Spillias stated that although the letter wasn't notarized the town will accept it.

Atty Spillias summarized the violation.

Sgt. Eubanks testified that the violation still exists. Atty Spillias questioned if there have been previous notices for roof violations to which Sgt. Eubanks stated that in Sept. 2006 a violation was written for failing to get a permit when all the roof tiles were removed and she gave Atty Spillias a copy of the Final Order.

Special Magistrate Donlon accepted the following Town exhibits: two photographs taken on 5/29/07 and one photograph taken this date as #1, the letter from the owner authorizing Chris Meyer to represent them as #2, the Notice of Violation, green card

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receipt and fax confirmation changing the original meeting date as #3, an Order Finding Violation for not obtaining a building permit for a roof in November 2006 as #4, a copy of the Building Permit showing it has expired as #5, and the administrative recovery sheet in the amount of \$205.43 as #6.

Mr. Meyer, representing the owners, stated that the respondents were experiencing several financial issues that have still not been resolved and basically that has caused the hardship issue.

Special Magistrate questioned if the respondents lived in the residence to which she was advised they did not live there. She asked if they were figuring out how to deal with this violation. Mr. Meyer advised that they had been working with an architect on a plan to rehab the residence.

Atty Spillias stated that while the Town recognizes the hardship issues presented from past hurricanes he believed the Town has tried its best to accommodate the property owner, especially when they only cited the owner for not having a permit for the first violation. He added that leniency has already been given. He recommended that a permit be applied for within 10 days with full compliance before the Aug. 7, 2007 hearing and if not a fine commence beginning with Aug. 6, 2007. He also asked for the administrative fees to be reimbursed.

Mrs. Jacoba Bill, 15 Spanish River Drive, stated she lives just east of this residence and she has had to look at the property for over a year. She added that instead of originally fixing/replacing the few tiles damaged with the storms they chose to remove the entire roof. She felt the owners bought the property as an investment and they were just stalling to correct the problem.

Special Magistrate Donlon determined that there was proper notice and the violation does exist. She stated her order would require that the property owner obtain a building permit within 10 days and completes the roof work including final inspections on or before Aug. 6, 2007. She added that while the Town has requested a \$100 daily fine she would determine a fine anywhere up to \$250 at a Status/Fine Assessment Hearing on Aug. 7, 2007 at 10:00 AM. She added that administrative recovery costs in the amount of \$205.43 must be paid before Aug. 6, 2007.

D. ADJOURNMENT

The meeting was adjourned at approximately 10:50 AM.

Town Clerk