

MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MAGISTRATE/CODE ENFORCEMENT HEARING
OCTOBER 6, 2015

Present: Karen Hancsak; Town Clerk, Kenneth Spillias, Town Atty., Officer Plesnik, Officer Pilon, and Police Chief Hutchins.

Meeting called to order at approximately 10:02 A.M.

Special Magistrate Glen Torcivia 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. He added that the Town and Respondent would present their case and he would render a decision and issue a Final Order or Order of Assessment. Everyone planning on providing testimony were sworn in.

A. ADOPTION OF AUGUST 4, 2015 MINUTES

The minutes were adopted.

**B. VIOLATION HEARING
CASE NO. CE#2015-004**

Robert H. Whittington, 6130 Ridge Lane, Ocean Ridge FL 33435

RE: Lot 14, Coastal Shores West (6130 Ridge Blvd.)

NATURE OF VIOLATION

Violate Section/s 67-51 of the Town's Code of Ordinances by installing a permanent paver style driveway without obtaining the required permits.

The Respondent was present.

Atty Spillias summarized the case. He advised that the violation cited was for installing a semi-circular driveway (and also a walkway) without a permit.

Officer Pilon testified that he completed the Affidavit and Notice of Violation and hand delivered it to the respondent on Oct. 13, 2015. He also testified that he downloaded three pictures of the residence prior to any improvements, took photographs of the new driveway, and also took photographs of the paver walkway.

Officer Plesnik testified that on Aug. 5, 2015 she went to the home regarding a different violation when she noticed that the grass had been removed from the property and when she spoke with the owner she was advised that a driveway was added. She proceeded to Town Hall and discovered that no driveway permits had been submitted for this property. She stated that she has made contact with the property owner several times regarding the violation but no permit has yet been submitted.

SPECIAL MAGISTRATE CODE ENFORCEMENT HEARING OF OCT. 6, 2015

Town Clerk Hancsak testified that in Oct. 2014 two individuals came into Town Hall and inquired about constructing a semi-circular driveway at this address. She stated that they provided her with a survey with the proposed driveway and she in turn emailed the Town Engineer to determine whether a drainage plan would be required along with the building permit. The Town Engineer emailed back that a drainage plan would be required and she contacted the person/s and advised them of same. On Aug. 5th she learned from Officer Plesnik that a driveway was constructed without a permit. The respondent met with the Town Clerk and stated that his project manager met with the Building Official several times regarding the driveway, and while it was constructed. Clerk Hancsak explained that the Building Official may not have been aware that a permit was never applied for and she provided a list of items needed for the permit. At some point later Clerk Hancsak recalled the original inquire about permitting for this driveway and she located the email and survey. She spoke with the respondent about the landscaping being installed, provided names of several civil engineers for the required drainage plan, and actually spoke with the Health Dept. while the respondent was present but the permit has not yet been applied for.

Special Magistrate Torcivia accepted the following Town exhibits: the Affidavit and Notice of Violation with hand delivery receipt as #1; three downloaded pictures of the property prior to the new driveway as #2; photographs taken on 10/5/15 of the driveway as #3; photographs taken on 10/5/15 of the walkway as #4; the survey submitted to the Town Clerk in 10/2014 as #5; the Town Engineer email to the Town Clerk in 10/2014 as #6; the Health Dept. letter and as built survey as #7; and the administrative recovery sheet in the amount of \$335.16 as #8.

Ronald Kall, architect for the respondent, advised that the driveway installation without a permit has been the result of a miscommunication and was not purposely done. He stated that his original renovation plans did not include the semi-circular drive. However, after he received copies of the original home, which had a semi-circular drive, his client decided to have one constructed so he prepared plans for the drive. He stated that the gentlemen that met with the Town Clerk were potential contractors before they actually decided to construct the new driveway. He stated that once he prepared the new driveway plans and they were shown to the Building Official, Don McIntosh, at the job site and they assumed that was sufficient to construct since it was grandfathered. He also submitted calculations reflecting 51.25% pervious area.

The respondent apologized for the extensive remodeling project getting out of hand. He submitted before/after photographs of the property and felt the final product was very complimentary to the area. He agreed that the driveway was not part of the original project but as the project progressed he decided to add the semi-circular drive. When the sod was removed he was advised by the police dept. that he had 10 days to re-sod or seed so he did and now he is being advised that he may need to modify his landscaping or the driveway for that matter. He stated that he had many problems with the Health Dept. prior to receiving their approval and did not feel it was necessary for a full drainage plan and landscaping plan.

SPECIAL MAGISTRATE CODE ENFORCEMENT HEARING OF OCT. 6, 2015

Jeff Kiminki, project manager, stated that he met with the Building Official, Don McIntosh, at the site and showed him the driveway drawing. He stated he even assisted in approving the location. Again, Town Clerk Hancsak advised that a new constructed driveway requires a permit and the submittal packet includes an approved Health Dept. Plan, drainage plan and landscaping which the Town Engineer reviews to determine that the property meets the drainage requirements and that all documents are compatible with each other.

Atty Spillias requested that the property be found in violation and determined proper notice was provided. He recommended that the property be brought into full compliance (permit submittal, approval, work performed if necessary, and final inspection) by Nov. 20, 2015 and schedule a Fine Assessment/Status Hearing for Dec. 1, 2015 if necessary. He also recommended a \$50.00 daily fine and also reimbursement of the administrative recovery costs.

Special Magistrate Torcivia commented that he felt both parties agreed the lack of a permit was a misunderstanding, however; a permit is required with the proper documents and may require modifications. He suggested that his civil engineer converse with the Town Engineer if necessary.

Special Magistrate Torcivia did find there was proper notice and a violation exists. He stated that the order would reflect that the respondent had until Nov. 20, 2015 for full compliance failing which up to a \$50.00 daily could commence from that date. He added that the administrative recovery costs in the amount of \$335.16 shall be paid within 60 days. A Fine Assessment/Status Hearing will be held on Dec. 1, 2015 at 10 am if necessary.

C. ADJOURNMENT

The meeting was adjourned at approximately 11:05 AM.

Town Clerk