

MINUTES
TOWN OF OCEAN RIDGE
SPECIAL MAGISTRATE/COMMUNITY STANDARDS HEARING
NOVEMBER 1, 2022

Present: Special Magistrate Amity Barnard, Town Attorney Christy Goddeau, Town Clerk Kelly Avery, Building Official Durrani Guy, and Community Standards Officer Robert McAllister.

The meeting was called to order at 10:00 A.M. by Special Magistrate Barnard.

Special Magistrate Barnard explained the hearing process, noting that the Town will call cases as they appear on the agenda. Once the case is called, the Town will present evidence first, then the Respondent will have the opportunity to see the evidence, ask any questions, and then the Respondent will provide testimony and evidence. Once all the evidence and testimony has been concluded, the Special Magistrate will make a ruling, and the Town and Respondent will receive the written order in the mail within the next few days. This is not meant to be a formal courtroom and formal rules of evidence do not apply.

All those persons planning to provide testimony were sworn in by Special Magistrate Barnard.

A. ADOPTION OF OCTOBER 4, 2022, MINUTES

The Community Standards Hearing Minutes of October 4, 2022, were adopted as submitted by Special Magistrate Barnard with modifications to the first two cases continued to the November 1, 2022 Hearing.

B. CASE NO. 2022-011

**SPITI TRUST/DANIEL BEIRUTE TR TITLE HLDR
6080 OLD OCEAN BLVD, OCEAN RIDGE, FL 33435
RE: AMENDED PLAT OF BOYNTONS SUB LT 2 &
N 1/2 OF LT 3 BLK 9
NATURE OF VIOLATION**

Violate Section 34-162 with obstructions of and encroachments into rights of way.

Town Attorney Goddeau summarized the case for Special Magistrate Barnard and explained that the Town is seeking \$209.88 for administrative costs. Attorney Goddeau asked Building Official Durrani Guy to provide a background of the violation. Building Official Guy provided background on the history of the violation and informed the Special Magistrate that as of the current date, the hedges are still in the Town right of way. Phil Werner, representative for the Respondent, explained that they are willing to trim back the hedges and referred to other homes that are encroaching the right of way.

Special Magistrate Barnard asked for clarity on the distance of the roadway to the right of way. Building Official Guy provided an explanation on where the hedges are located.

Special Magistrate Barnard asked Town Clerk Avery to pull up the documents on the screen to show Mr. Werner. Town Attorney Goddeau explained the documents by details. After viewing the documents, Special Magistrate Barnard asked Mr. Werner if he had any objections to the documents. Mr. Werner had no objections. Special Magistrate Barnard entered the documents

into evidence without any objections. She asked Town Clerk Avery to pull up the survey on the screen and restated the Town's position on having no landscape in the right of way. Building Official Guy explained that landscape in the right of way creates a hazard for public safety. He also said that letters were mailed to the residents that are also in violation requesting them to address these issues.

Special Magistrate Banard asked Attorney Goddeau for the Town's recommendation. Attorney Goddeau recommended that the Respondent pay a \$50 per day fine and compliance within 30 days. She also stated that in the event the Respondent is not in compliance, a \$250 per day fine will automatically start until there is compliance and costs for today's hearing in the amount of \$209.88. Attorney Goddeau asked Building Official Guy about two other property's hedges. Building Official Guy answered her question and explained that letters were mailed to those residents as well. Special Magistrate Barnard asked Mr. Werner about receiving a letter from the Town. Mr. Werner said that there was no evidence of letters mailed to his clients or residents requesting them to move their hedges.

Special Magistrate Banard asked Mr. Werner if they will remove the hedges. Mr. Werner stated that they will trim the hedges back. Attorney Goddeau reiterated that the hedges need to be removed out of the right of way. More discussion ensued regarding removing and cutting the hedges, parking on the right way and driveway. Attorney Goddeau asked Building Official Guy if the hedges were removed, could the Respondent park in the right of way. Building Official Guy explained that per the Town Code, there is no parking in the right of way. He also mentioned that he is not aware of any agreement granting the Respondents permission to park in the right of way.

Nicole Crank, owner of the property, explained that they were victims of crime; therefore, their names are not in the record. She explained the concerns relating to the columns and issues with installation of a fence. She also apologized for the mishap with her surveys and explained that after having three surveys of her property, she later discovered the property line issue. She further explained that the home was purchased as is and the previous residents parked in the right of way because there is no space. More discussion ensued regarding parking spaces and expansion of the driveway.

Special Magistrate Barnard asked Building Official Guy if the driveway on Old Ocean Avenue was permitted. Building Official Guy explained that two plants were approved on the plans to be potted in the right of way. He also stated there were no columns included in the plans. She also asked him if the brick pavers were included in the plans, and he said that they were not included in the plans.

Special Magistrate Barnard asked Town Clerk Avery to pull page 36. She asked Building Official Guy about the parking spaces and brick paver driveway on the current survey. He answered her question. She asked him if the Town was requesting them to be removed from the driveway. Building Official Guy explained the Town does not require removal of the driveway because of drainage issues. He said that the concern is removal of the hedges for the safety of vehicles passing the pedestrians. Mrs. Crank stated that she wants to keep her parking spaces and that she will move the hedges to the other side of her property. She also explained that she is working with a landscaper that is doing work in the Town that can remove the hedges by December 15th. She also mentioned that the landscaper advised her that he is in the progress of planting the same hedges near her property that have been approved by the Town. She emphasized that she could move the

hedges but not the parking spaces. Attorney Goddeau asked Building Official Guy if he was aware of the property that Mrs. Crank is referring too. Building Official Guy said that he was not aware of the property and explained that there is no planting in the right of way without having consent. Special Magistrate Barnard reiterated that the Town's Code explains that there is no planting in the right of way.

Mrs. Crank presented a drawing that was provided with her property. Building Official Guy also presented the original plans. Special Magistrate Barnard reviewed both plans.

Special Magistrate Barnard asked Attorney Goddeau for any additional information regarding the case. Attorney Goddeau explained that the Town is asking for removal of the hedges within 30 days. Mrs. Crank explained that the landscaper said he can remove the hedges by December 15th and asked for approval for parking. Special Magistrate Barnard explained that this case is only addressing landscape issues. Town Attorney Goddeau agreed to give 60 days until January 1, 2023, for compliance. She asked Building Official Guy if a permit was required to remove the hedges. Building Official Guy stated that no permits are required for removing the hedges.

Mrs. Crank asked if she can replace the hedges with sod or brick. Building Official Guy explained that the Town Code requires sod in the area adjacent to the property.

Special Magistrate Barnard asked Mrs. Crank if she had any objections to the Town's deadline. Mrs. Crank stated that she had no objections and she requested that the order specify only the removal of hedges. Attorney Goddeau had no issues to her request and informed her that if there are any objections internally, that she will be notified.

Special Magistrate Barnard stated that with Case 2022-011, she finds that there is indeed violation of Town Code 34-162, hedges into the right a way, based on the pictures and the testimony of the Building Official. The Special Magistrate informed the Respondent that this needs to be complied with by January 1, 2023. In the event that they do not comply with this on or before that date, a fine of \$250 per day will automatically start the following day until compliance. Special Magistrate Barnard stated that since she did find violation, the Town is entitled to administrative costs of \$209.88 payable within thirty days of the date of the order. She also finds that there was good and sufficient notice given for the hearing based on the Affidavit of Posting.

C. CASE NO. 2022-012

JAMES P. COOKSEY

**728 COTE AZURE DR., PALM BEACH GARDENS,
FL 33410**

RE: 23 COCONUT LANE

**BOYNTON BEACH PARK LT 9 BLK 1 & 22-45-
43, S 25 FT OF W 101 FT OF E 490.47 FT OF SW 1/4
NATURE OF VIOLATION**

Violate Section 67-174 of the maintenance and appearance standards.

Attorney Goddeau summarized the case for Special Magistrate Barnard. Building Official Guy gave the background on the history of the violation and informed the Special Magistrate that the Respondent explained that he is completing a renovation and is in the process of obtaining plans and hiring an architect to complete his project. He also mentioned to the Respondent that he is

required to maintain his property throughout the process. He informed Special Magistrate Barnard that he took photographs, and the property is in the same condition as previously observed in August.

Special Magistrate Barnard asked for a respondent for the case. There was no one there to represent the case. She asked what the recommendation of the Town is. Attorney Goddeau requested compliance within 30 days and fine of \$150 per day thereafter.

Special Magistrate asked Attorney Goddeau if the case initially started from a civil citation. Attorney Goddeau said yes and explained that the citation was posted at the property, notice of violation and hearing was mailed to the Respondent. She said that this case was continued from the October hearing until today's hearing to ensure proper notice to the Respondent to attend today's hearing.

Special Magistrate asked if the Town is seeking to enforce the citation or the mailed notice of violation. Building Official Guy answered only the notice of violation. Attorney Goddeau mentioned that the Town is not receiving the claimed mailings. She asked Town Clerk Avery if we received any claimed mailings. Town Clerk Avery explained that she received the first claimed mailing, but not the second mailing.

Special Magistrate Barnard asked Building Official Guy to explain the photos. Building Official Guy explained that the grass is overgrown, and he had informed the Respondent that he is required to maintain the appearance of his property. He said the Respondent agreed that he would have someone take care of the property.

Special Magistrate Barnard entered exhibit #1 into record. She stated that with Case 2022-012, she finds that there was good and sufficient notice given for the hearing based on the Affidavit of Posting and finds that the testimony given at the hearing as well as the evidentiary case file, there is indeed violation of Town Code 67-174 of the maintenance and appearance standards, based on the pictures and the testimony of the Building Official. The Special Magistrate informed the Respondent that this needs to be complied with by December 1, 2022. In the event that they do not comply with this on or before that date, a fine of \$150 per day will automatically start the following day until compliance. Special Magistrate Barnard stated that since she did find violation, the Town is entitled to administrative costs of \$209.46 payable within thirty days of the date of the order. She also announced that the Respondent was not present.

D. ADJOURNMENT

The hearing was adjourned at 10:47 A.M.

Minutes prepared by Deputy Town Clerk Pinder and adopted by Special Magistrate Barnard on September 5, 2023.

ATTEST:


Kelly Avery, Town Clerk