

LOCAL GOVERNMENT VARIANCES, SPECIAL EXCEPTION USES
AND APPEALS OF ADMINISTRATIVE DECISIONS
CITY OF MADEIRA BEACH, FLORIDA
Application No. 2022-03

Donald and Stephanie Diterlizzi
for the property located at
13321 Boca Ciega Ave.,
Madeira Beach, Florida 33708,

Applicants.

_____ /

ORDER GRANTING VARIANCE

Variance Request for conversion of a non-conforming carport or garage to use as an occupied space.

Special Code Provisions: Madeira Beach Land Development Regulations, Section 110-206-Setback Requirements. (3) Side yard: a. Single family lots less than 50 feet wide may reduce the total side setback to ten feet with a minimum of five feet on either side. The property address is 13321 Boca Ciega Ave., Madeira Beach, FL 33708, and is identified as:

PARCEL IDENTIFICATION NUMBER: 15-31-15-65304-007-0060

Special Magistrate, Bart R. Valdes, heard testimony and reviewed all evidence received at the Special Magistrate hearing held on August 22, 2022, and, based on the evidence, the lack of any objections, and recommendations of City Staff, enters the following findings of fact, conclusion of law and order.

FINDINGS OF FACT

1. The application of Donald and Stephanie Diterlizzi (collectively, "the applicant") presents the issue involving a variance from the requirements of the above stated Madeira Beach Code of Ordinances, requesting a variance reducing the total side setback to ten (10) feet with a minimum of five (5) feet on either side for conversion of a nonconforming carport or garage to be used as occupied space.

2. The applicant needs a variance to convert a garage to occupied space to comply with the requirements of the Code of Ordinances of the City of Madeira Beach ("the Code").

3. Special conditions and circumstances exist, as stated on the record, and in the Staff report to justify the variance.

4. The conversion of the garage into living space is a permitted use in the R-2, Low Density Multifamily Residential Zoning District, pending the approval of the conversion by the Special Magistrate.

5. The proposed conversion area would protect health, safety, and convenience.

6. The converted garage is 2.5 feet from complying with the R-2 side setback requirements. This conversion would not negatively affect the value of surrounding properties in the neighborhood.

7. The conversion of the attached garage would not alter the footprint of the structure and the structure is compatible with the R-2 Zoning District.

8. The landscaping and screening is adequate.

9. This conversion would not violate the minimum amount of off-street parking required for a single-family home.

10. The proposed attached garage to living space conversion would conform to all applicable regulations in the R-2 Zoning District.

11. The conversion of the garage would not grant more privileges than the best use available in the R-2 Zoning District.

12. There are no outstanding fees owed to the city from the applicant, owner, or possessor of the property.

CONCLUSION OF LAW

1. Section 2-507 of the Madeira Beach Code of Ordinances authorizes variances from the terms of the city land development regulations as not being contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the land development regulations will result in unnecessary and undue hardship.

~~2. The applicant has the burden to establish the requirements for the variance.~~ Here, the applicant meets the criteria for the variance as set forth in Section 2-507 of the Madeira Beach Code of Ordinances.

ORDER

It is ADJUDGED that the application is GRANTED, allowing a variance from the zoning requirements of the Madeira Beach Land Development Regulations, Section 110-206 in order to allow the conversion of the existing legally non-conforming attached garage into a habitable area.

DONE AND ORDERED on ^{September 6, 2022}~~August~~, 2022. (P)



Bart R. Valdes
Special Magistrate

Copies furnished to:

Tom Trask, City Attorney

Clara VanBlargan, City of Madeira Beach

Donald and Stephanie Diterlizzi
13321 Boca Ciega Ave.
Madeira Beach, FL 33708

CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF MADEIRA BEACH

CITY OF MADEIRA BEACH,

CASE NUMBER: CE-21-0062

Petitioner,

vs.

DANDINO, PATSY and
DANDINO, CONSTANCE
699 Pruitt Drive
Madeira Beach, Florida 33708,

Respondents.

_____ /

FINDINGS OF FACT AND CONCLUSION OF LAW

THIS CAUSE came on to be heard for public hearing before the undersigned Special Magistrate on August 22, 2022, after due notice to the Respondents, and the Special Magistrate having heard testimony under oath, received evidence, and otherwise being fully advised in the premises, hereby finds as follows:

Findings of Fact:

1. The City was represented by the City Attorney, Thomas Trask, Esq., and Deputy, Jared Moren, provided testimony evidencing that code violations occurred.
2. Denise Dandino appeared on behalf of the Respondents and admitted the violations occurred from December 15 and 25, 2021, and, from July 24 to August 9, 2022.
3. No one provided public comment.
4. The property in question is located at 699 Pruitt Dr., Madeira Beach, Florida 33708 ("Property"). The legal description for the Property is as follows:

BAY POINT ESTATES FRANCIS-MCATTEE REPLAT LOT 2

5. Proper notice was served upon the Respondents via certified mail, regular mail, posting or hand delivery in accordance with Chapters 162 and 166, Florida Statutes. Evidence of proper notice also included a Respondent appearing at the hearing.

6. The Respondents were notified that Respondents were in violation of the following sections of the Code of Ordinances of the City of Madeira Beach to wit:

Sec. 34-503.- Registration required.

(a) It is unlawful for any person to allow another person to occupy any residential property as a vacation rental within the city or offer such rental services within the city, unless the person has registered the vacation rental property with the city and the vacation rental property has been issued a certificate of compliance in accordance with the provisions of this division.

(b) A person may not allow another person to occupy any residential property as a vacation rental without the issuance of a certificate of compliance if;

(1) The residential property has an effective and valid license as a vacation rental classification of public lodging establishment issued by the state department of business and professional regulations prior to February 28, 2006; and

(2) The residential property is not in violation of any section of the Code of Ordinances; and

(3) An application for registration of the residential property as a vacation rental has been filed pursuant to section 34-504 and all applicable fees have been paid; and

(4) That said occupancy was scheduled prior to November 10, 2015 as evidenced by a written and valid executed rental agreement or contract provided to city code enforcement no later than December 10, 2015.

Sec. 110-176.- Definition; purpose and intent.

The R-1, single-family residential district provides for single-family residential development located where lower density single-family uses are desirable. The R-1, single-family residential district correlates with the residential urban (RU) category of the Countywide Plan. The lots and dwellings are larger sized to provide for the desired density of use. Essential services and public facilities compatible with this residential district are also provided.

Any use which is not specifically identified as a permitted use, accessory use or special exception use is a prohibited use. Prohibited uses shall include, but are not limited to, short term rentals of a housing unit. As used in this division, the term "short term rental" shall mean any rental of a dwelling unit, or portion thereof, for less than a six-month period.

7. The violations set forth in Paragraph 6 above existed as of the date of the Notice of Violation herein. At the public hearing, testimony was given that the Property has been brought into compliance but two violations did occur.

BASED UPON THE FOREGOING FINDINGS OF FACT, IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:

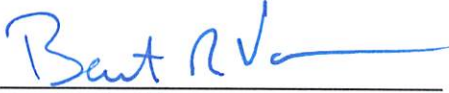
1. The Respondents, and the Property at the above mentioned location, are found to be in violation of Sections 34-503 and 110-176, of the Code of Ordinances of the City of Madeira Beach for the dates set forth above.

2. In the event the Property is used for short-term rentals in the future then the Respondents, and the Property, may be deemed a repeat offender.

3. The Special Magistrate does hereby retain jurisdiction over this matter to enter

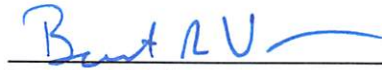
such other and further orders as may be just and proper.

DONE AND ORDERED this 31st day of August, 2022.



Bart R. Valdes
Special Magistrate

A true and correct copy of this Findings of Fact and Special Magistrate Order was delivered by certified mail and regular mail to: **Patsy and Denise Dandino, 699 Pruitt Dr., Madeira Beach, FL 33708**; by electronic mail to **Thomas Trask, Esq. (tom@cityattorneys.legal)**; and by U.S. Mail and e-mail transmission to the **City of Madeira Beach, Clara VanBlargan, 300 Municipal Dr., Madeira Beach, Florida 33708**, on this 31st day of August, 2022.



Bart R. Valdes

APPEALS

An aggrieved party, including the local governing body, may appeal a final administrative order of a Special Magistrate to the circuit court. Such an appeal shall not be a hearing de nova but shall be limited to appellate review of the record created before the Special Magistrate. An appeal shall be filed within 30 days of the execution of the order to be appealed. Ss. 162-11.

CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF MADEIRA BEACH

CITY OF MADEIRA BEACH,

CASE NUMBER: 2021.3355

Petitioner,
vs.

SHORELINE ISLAND RESORT, LLC,
14230 Gulf Blvd.
Madeira Beach, FL 33708,

KEN BURKE, CLERK OF COURT
AND COMPTROLLER PINELLAS COUNTY, FL
INST# 2022323227 11/07/2022 09:46 AM
OFF REC BK: 22255 PG: 2107-2107
DocType:CC JUD RECORDING: \$10.00

Respondent.
_____ /

ORDER EXTENDING COMPLIANCE DEADLINE

THIS CAUSE came on to be heard for public hearing before the undersigned Special Magistrate on August 22, 2022, after due notice to the Respondent, and the Special Magistrate having heard testimony under oath, received evidence, and otherwise being fully advised in the premises, **IT IS HEREBY ORDERED AND ADJUDGED AS FOLLOWS:**

1. The deadline for compliance set forth in the Order Extending Compliance Deadline dated June 28, 2022, is extended to October 29, 2022.

DONE AND ORDERED this 31st day of August, 2022.

Bart R. Valdes

Bart R. Valdes
Special Magistrate

A true and correct copy of this Order Extending Compliance Deadline was delivered by certified mail and regular mail to: **Shoreline Island Resort, LLC, 14200 Gulf Blvd., Madeira Beach, FL 33708**; by electronic mail to **Thomas Trask, Esq. (tom@cityattorneys.legal)**; and by U.S. Mail and e-mail transmission to the **City of Madeira Beach, Clara VanBlargan, 300 Municipal Dr., Madeira Beach, Florida 33708**, on this 31st day of August, 2022.

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