

LOCAL GOVERNMENT VARIANCES, SPECIAL EXCEPTION USES  
AND APPEALS OF ADMINISTRATIVE DECISIONS  
CITY OF MADEIRA BEACH, FLORIDA  
Application No. 2023-07

Timothy Szumigala, Jr.,  
for the property located at  
816 Bay Point Dr.  
Madeira Beach, Florida 33708,

Applicant.

\_\_\_\_\_ /

**ORDER GRANTING VARIANCE**

Variance to reduce the front yard setback requirement from 20 feet to 15 feet 10 inches, the rear yard setback from 30 feet to 28’ 6” and a side yard reduction from 8 feet to 7.8 feet.

Special Code Provisions: Sec. 110-181. – (1) Front yard: 20 feet measured from the right-of-way line to the structure, structure; (2) Rear yard: Waterfront lots: 30 feet; and (3) Side yard: Total side setback of 15 feet with a minimum of seven feet on either side. The property address is 816 Bay Point Dr., Madeira Beach, FL 33708, and is identified as:

PARCEL IDENTIFICATION NUMBER: 10-31-15-04500-001-0350

Special Magistrate, Bart R. Valdes, heard testimony and reviewed all evidence received at the Special Magistrate hearing held on November 27, 2023, and, based on the evidence, the testimony of Marci Forbes, Community Development Engineer, the testimony of Timothy Szumigala, Jr., and recommendations of City Staff in the Staff Report and Recommendations (the “Staff Report”) that was admitted into evidence, enters the following findings of fact, conclusion of law and order.

**FINDINGS OF FACT**

1. The application of Timothy Szumigala, Jr. (the “applicant”) presents the issue involving a variance from the requirements of the above stated Madeira Beach Code of Ordinances, requesting a variance to reduce the front yard setback requirement from 20 feet to 15 feet 10 inches, the rear yard setback from 30 feet to 28’ 6” and a side yard reduction from 8 feet to 7.8 feet.

2. The applicant needs a variance to resolve issues with permit #20210568 related to the previously completed and permitted construction including what was described in the Staff Report as “[m]ove home on-site for foundation repair and add master bedroom/bath in addition to elevating the existing structure and a rear balcony was added,” in order to comply with the setbacks and 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 elevated home will be more resilient from flood waters and the area below the first living floor as well as additions utilized materials meeting current building code standards.

5. The homeowner contracted with licensed design professionals and contractors to help ensure proper design and construction of the residence. The plans were submitted and reviewed through the proper municipal channels. Due to certain errors and oversights, it would not have been the responsibility of the homeowner to catch and/or recognize the issues which have occurred. No design or construction decisions appear to have been made in an attempt to intentionally ignore any requirements.

6. Approval of the variance will not grant any special privilege to the property and is the minimum necessary to keep the residence as constructed.

7. Literal interpretation of the code would create considerable hardship to the applicant and the corrective measures would cause the applicant to tear down or move new construction, among other reasons stated on the record.

8. Granting the variance would allow for the rear balcony columns and front structure with stairs to remain as built and are the least amount necessary.

9. The proposed variance is in harmony with the general intent and purpose of the City Land Development Regulations and will not negatively affect the character or the neighborhood. The harmony of the neighborhood and general scheme of development of the neighborhood will be unchanged.

10. The variance is appropriate under the following condition(s):

A. Bring the constructed driveway into compliance with the City Land Development Regulations.

### 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, to reduce the front yard setback requirement from 20 feet to 15 feet 10 inches, the rear yard setback from 30 feet to 28' 6" and a side yard reduction from 8 feet to 7.8 feet, within the following conditions:

- A. The condition for the issuance of this variance and subsequent certificate of occupancy is for the applicant to bring the constructed driveway into compliance with the City's Land Development Regulations.<sup>1</sup>

DONE AND ORDERED on December 6, 2023.



Bart R. Valdes  
Special Magistrate

Copies furnished to:

Tom Trask, City Attorney

Clara VanBlargan, City of Madeira Beach

Timothy Szumigala, Jr.,  
816 Bay Point Dr.  
Madeira Beach, Florida 33708

---

<sup>1</sup> The applicant represented that the contractor and homeowner have agreed that this can be accomplished and they are prepared to correct this issue once the variance is processed. As such, this variance shall be processed with this agreed upon condition.

**LOCAL GOVERNMENT VARIANCES, SPECIAL EXCEPTIONS USES  
AND APPEALS OF ADMINISTRATIVE DECISIONS  
CITY OF MADEIRA BEACH, FLORIDA  
Application No. SE 2023-02**

Mad Beach Land Co., LLC,  
for the property located at  
14805 Gulf Blvd.  
Madeira Beach, Florida,

Applicant.  
\_\_\_\_\_ /

**ORDER GRANTING SPECIAL EXCEPTION USE**

The Applicant seeks a special exception use in regard to Madeira Beach Land Development Regulations, Specific Code Provision: DIVISION 7 – C-3, RETAIL COMMERCIAL Sec. 110-319.– Special exception uses. (10) Exhibition of reptiles by permit. The property address is 14805 Gulf Blvd., Madeira Beach, FL 33708, and it is identified as:

**PARCEL IDENTIFICATION NUMBER: 09-31-15-54198-002-0160 (the “Property”)**

Special Magistrate, Bart R. Valdes, heard testimony, and reviewed all evidence received at the Special Magistrate hearing held on November 27, 2023, and, based on the evidence, enters the following findings of fact, conclusion of law and order.

**FINDINGS OF FACT**

1. The application of Sonny Flynn Alligator Attractions, LLC d/b/a Alligator & Wildlife Discovery Center (“the applicant”) requests a special exception use from the zoning requirements of the above Madeira Beach Code, and seeks a special exception relating to the use of the Property as a provisional habitat and operation base for Alligator & Wildlife Discovery Center.

2. The Special Magistrate heard testimony from Joe Petraglia, received the written Staff Report and Recommendation, with attachments, and heard testimony from Sonny Flynn on behalf of the applicant. The Special Magistrate did not receive any public comment at the hearing but reviewed a written objection filed by a member of the public.

3. The applicant seeks approval to operate their reptile exhibition at the Property on an urgent basis due to a fire at the applicant’s current property.

4. The use is a permitted special use pursuant to Section 110-259(6) of the Code of Ordinances of the City of Madeira Beach, Florida, which provides:

Sec. 110-319. – Special exception uses. (10) Exhibition of reptiles by permit

5. The use is a permitted special use.

6. The use is so designed, located and proposed to be operated that the public health, safety, welfare, and convenience will be protected.

7. The use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.

8. The use will be compatible with adjoining development and the proposed character of the district where it is to be located.

9. Adequate landscaping and screening is provided as required in the land development regulations, or otherwise required.

10. Adequate off-street parking and loading is provided, and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.

11. The use conforms with all applicable regulations governing the district where located, except as may otherwise be allowable for planned unit developments.

12. If a variance is also desired, and/or required, a separate application shall be submitted concurrently with the special exception application.

13. Special exception use will not grant to the land more privilege than the best use available in the zone where that special exception use would be a principal permitted use.

14. The applicant has paid in full any outstanding charges, fees, interest, fines, or penalties owed to the city by the applicant or the owner or possessor of the property under any section of the Code.

### **CONCLUSION OF LAW**

15. Section 2-506 of the Madeira Beach Code of Ordinances authorizes special exception use, with appropriate conditions and safeguards, when the special use will not adversely affect the public interest, or the denial of special exception uses when not in harmony with the purpose and intent of the city land development regulations.

16. The applicant has the burden to establish the requirements for a special exception use. Here, the applicant meets the criteria for the special exception use as set forth in Section 2-506 of the Madeira Beach Code of Ordinances.

**ORDER**

It is ADJUDGED that the application is APPROVED, allowing a special exception from the zoning requirements of the Madeira Beach Land Development Regulations, to allow the applicant operate the reptile exhibition at the Property, as set forth in the Application.

DONE AND ORDERED on December 6, 2023.



Bart R. Valdes  
Bart R. Valdes  
Special Magistrate

Copies furnished to:

Tom Trask, City Attorney

Clara VanBlargan, City of Madeira Beach

MAD Beach Land Co., LLC  
14805 Gulf Blvd.  
Madeira Beach, Florida 33708

Sonny Flynn Alligator Attractions, LLC  
d/b/a Alligator & Wildlife Discovery Center,  
12973 Village Blvd.  
Madeira Beach, Florida 33708

LOCAL GOVERNMENT VARIANCES, SPECIAL EXCEPTION USES  
AND APPEALS OF ADMINISTRATIVE DECISIONS  
CITY OF MADEIRA BEACH, FLORIDA  
Application No. 2023-08

James Thompson on behalf of  
Acquisition Group, LLC,  
for the property located at  
13436 Boca Ciega Ave.  
Madeira Beach, Florida 33708,

Applicant.

ORDER GRANTING VARIANCE

Variance to reduce front yard setback from 20 feet to 12 feet to allow for a new construction home.

Special Code Provisions: Sec. 110-206. – Setback requirements (1) Front yard: 20 feet. The property address is 13436 Boca Ciega Ave., Madeira Beach, FL 33708, and is identified as:

PARCEL IDENTIFICATION NUMBER: 15-31-15-65304-003-0090

Special Magistrate, Bart R. Valdes, heard testimony and reviewed all evidence received at the Special Magistrate hearing held on November 27, 2023, and, based on the evidence, the testimony of Joe Petraglia, the testimony of James Thompson, and recommendations of City Staff, enters the following findings of fact, conclusion of law and order.

FINDINGS OF FACT

1. The application of James Thompson (the “applicant”) presents the issue involving a variance from the requirements of the above stated Madeira Beach Code of Ordinances, requesting a variance to reduce the front yard setback requirement from 20’ to 12’ due to the home being removed and rebuilt.

2. The applicant needs a variance for the proposed new construction home 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 lot has an irregular triangular shape with two side property lines connecting without a rear property line.

5. Many other single-family houses on the same side of the street as 13436 Boca Ciega Ave have a 12 foot front yard setback.

6. The new construction will be built to meet current flood elevation requirements making it more disaster-resistant. Additionally, the proposed new construction will conform to the side yard setback which the current structure does not meet.

7. The hardship of the irregularly shaped property was not created by the property owner. The property was platted in 1935 and the home was built in 1941. The property and the home were built before the setback and lot minimum requirements were adopted into the Madeira Beach Code of Ordinances, making the lot and house legally nonconforming.

8. Approval of the variance will not grant any special privilege to the property. Most neighboring properties do not share the irregular triangular shape that the 13436 Boca Ciega Ave., property has. Similar properties in this zoning district along the same street are built within the front setback to the same extent being proposed in this application.

9. Literal interpretation of the code would reduce the buildable footprint of the lot significantly since the front property line is the longest side of the property. These setbacks were intended to be used on rectangular lots where the front property line is shorter than the side property lines.

10. Granting the variance allows for the construction of a reasonably sized single-family home. Reducing the front setback to 12 feet is reasonable because it would match the existing front setback of the current home and would have a similar front setback to homes on neighboring properties.

11. The proposed new construction is harmonious with the general intent and purpose of the city Land Development Regulations and will not negatively affect the character of the neighborhood. Allowing the uniformity of front setbacks will be an equitable outcome for the applicant, the public, and neighbors alike.

### 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, to reduce front yard setback from 20 feet to 12 feet to allow for a new construction home as requested.

DONE AND ORDERED on December 6, 2023.



Bart R. Valdes  
Special Magistrate

Copies furnished to:

Tom Trask, City Attorney

Clara VanBlargan, City of Madeira Beach

James Thompson  
13436 Boca Ciega Ave.  
Madeira Beach, Florida 33708

CODE ENFORCEMENT SPECIAL MAGISTRATE  
CITY OF MADEIRA BEACH

CITY OF MADEIRA BEACH,

CASE NUMBER: 2023.3537

Petitioner,  
vs.

AUTON, MICHAEL J.,  
544 Johns Pass Ave.  
Madeira Beach, FL 33708,

Respondent.  
\_\_\_\_\_ /


**ORDER OF CONTINUANCE**

THIS CAUSE came on to be heard for public hearing before the undersigned Special Magistrate on November 27, 2023, after due notice to the Respondent, and the Special Magistrate being advised in the premises:

IT IS ORDERED AND ADJUDGED AS FOLLOWS:

1. The City's request to continue the hearing is hereby GRANTED.
2. This matter shall be continued to the hearing on **January 22, 2024, at 2:00 p.m.**, at 300 Municipal Drive, Madeira Beach, Florida 33708.

DONE AND ORDERED this 6<sup>th</sup> day of December, 2023.

  
\_\_\_\_\_  
Bart R. Valdes  
Special Magistrate

Copies furnished to:

Thomas Trask, City Attorney

Clara VanBlargan, City of Madeira Beach

Holden Pinkard, Building Dept. Operations Coordinator

Michael J. Auton  
544 Johns Pass Ave.  
Madeira Beach, FL 33708

CODE ENFORCEMENT SPECIAL MAGISTRATE  
CITY OF MADEIRA BEACH

CITY OF MADEIRA BEACH,

CASE NUMBER: 2022.3526

Petitioner,  
vs.

VESTGAARDEN, TOV I.,  
590 Normandy Rd.  
Madeira Beach, FL 33708,

Respondent.  
\_\_\_\_\_ /


**ORDER OF CONTINUANCE**

THIS CAUSE came on to be heard for public hearing before the undersigned Special Magistrate on November 27, 2023, after due notice to the Respondent, and the Special Magistrate being advised in the premises:

IT IS ORDERED AND ADJUDGED AS FOLLOWS:

1. The City's request to continue the hearing is hereby GRANTED.
2. This matter shall be continued to the hearing on **January 22, 2024, at 2:00 p.m.**, at 300 Municipal Drive, Madeira Beach, Florida 33708.

DONE AND ORDERED this 6<sup>th</sup> day of December, 2023.

  
\_\_\_\_\_  
Bart R. Valdes  
Special Magistrate

Copies furnished to:

Thomas Trask, City Attorney

Clara VanBlargan, City of Madeira Beach

Holden Pinkard, Building Dept. Operations Coordinator

Tov I. Vestgaarden  
590 Normandy Rd.  
Madeira Beach, FL 33708