

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 January 22, 2024, 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 **February 26, 2024, at 2:00 p.m.**, at 300 Municipal Drive, Madeira Beach, Florida 33708.

DONE AND ORDERED this 6th day of February, 2024.



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

LOCAL GOVERNMENT VARIANCES, SPECIAL EXCEPTION USES
AND APPEALS OF ADMINISTRATIVE DECISIONS
CITY OF MADEIRA BEACH, FLORIDA
Application No. 2024-01

Brenda Fernandez
for the property located at
105 147th Ave. E.
Madeira Beach, Florida 33708,

Applicant.

ORDER GRANTING VARIANCE

Variance to convert a nonconforming garage to use as an occupied space.

Special Code Provisions: Sec. 110-93(3) a. That any addition, alteration or renovation to the structure shall not increase the degree of nonconformity or result in the conversion of a nonconforming carport, garage, screen enclosure, patio roof, storage area or other non habitable area into a habitable area unless specifically approved by the special magistrate. The property address is 105 147th Ave. E., Madeira Beach, FL 33708, and is identified as:

PARCEL IDENTIFICATION NUMBER: 09-31-15-87048-000-0370

Special Magistrate, Bart R. Valdes, heard testimony and reviewed all evidence received at the Special Magistrate hearing held on January 22, 2024, and, based on the evidence, the testimony of Joe Petraglia, 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 Brenda Fernandez (the "applicant") presents the issue involving a variance from the requirements of the above stated Madeira Beach Code of Ordinances, requesting a variance to allow for reconfiguring the existing garage into an additional bedroom and bathroom.
2. Special conditions and circumstances exist, as stated on the record, and in the Staff Report to justify the variance.
3. The use is a permitted use.
4. The conversion area is so designed, located, and proposed to be operated that the public health, safety, welfare, and convenience will be protected.

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

6. The structure with the converted area will be compatible with adjoining development and the proposed character of the district where it is to be located.

7. Adequate landscaping and screening is provided as required in the land development regulations mitigate anticipated impact upon adjoining property.

8. The minimum off-street parking to meet code requirements remains after conversion.

9. The use conforms to all applicable regulations governing the district where located, except as may otherwise be specified in this variance.

10. The conversion of use to the specified area will not grant to the land more privilege than the best use available in a zone where that special exception use would be a principal permitted use.

11. The applicant does not have 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

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 convert a nonconforming garage to use as an occupied space.

DONE AND ORDERED on February 6, 2024.



Bart R. Valdes
Special Magistrate

Copies furnished to:

Tom Trask, City Attorney

Clara VanBlargan, City of Madeira Beach

Brenda Fernandez

105 147th Ave. E.

Madeira Beach, FL 33708

CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF MADEIRA BEACH

CITY OF MADEIRA BEACH,

CASE NUMBER: CE-24-0002

Petitioner,

vs.

DE CANDIDO, GABRIEL TRE DE CANDIDO,
GABRIEL A., & PATRICIA H TRUST,
441 129th Ave. E.
Madeira Beach, Florida 33708,

Respondents.

FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER IMPOSING FINE

THIS CAUSE came on to be heard for public hearing before the undersigned Special Magistrate on January 22, 2024, 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, and Deputy Cory Snyder, provided testimony on behalf of the City.
2. Gabriel De Candido and Lisa Erickson appeared on behalf of the Respondents.
3. No one provided public comment.
4. The property in question is located at 441 129th Ave. E., Madeira Beach, Florida 33708 ("Property"). The legal description for the Property is as follows:

WILLIAM'S, BILL MADEIRA HARBOR SUB 2ND ADD BLK 2, LOT 10 & VAC ST

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

Sec. 110-201. - Definition; purpose and intent.

The R-2, low density multifamily residential district provides for low density multifamily residential correlates with the residential medium (RM) category of the

countywide plan and, which does allow for a variety of dwelling types. 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 three-month period. (Code 1983, § 20-404; Ord. No. 1069, § 2, 2-28-06; Ord. No. 1138, § 3, 12-9-08; Ord. No. 2018-07, § 1, 7-11-18)

Sec. 62.33- Compliance required.

It shall be unlawful for any person, either directly or indirectly, to conduct any business, profession or nonprofit enterprise, or to use in connection therewith any vehicle, premises, machine, or device, in whole or part, for which a local business tax receipt or permit is required by any law or ordinance of this city, without a local business tax receipt or permit therefor being first procured and kept in effect at all such times as required by this article. (Code 1983, § 11-101(B); Ord. No. 1111, § 3, 5-8-07)

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. (Ord. No. 2015-13, § 1, 11-10-15)

7. The violations set forth above existed as of the date of the Notice of Violation herein and at all times subsequent thereto up to the date of the Hearing.

8. A reasonable period of time for correcting the above violations and bringing the Property into compliance is on or before January 30, 2024.

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 Section 110-201, 62-33, and 34-503 of the Code of Ordinances of the City of Madeira Beach.


2. The Respondents shall correct the above stated violations on or before January 30, 2024, by taking the remedial action as set forth in the Notice of Violation, and as stated on the record at the Hearing. The Respondents shall cease leasing the Property for less than 90 days, pay the business taxes owed, and comply with § 62-33, and § 34-503 of the Code of Ordinances of the City of Madeira Beach.

3. Upon complying, the Respondents shall notify the Code Compliance Officer, at the City of Madeira Beach, who shall then inspect the property to confirm compliance has been accomplished.

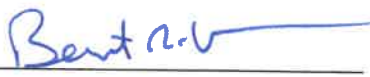
4. If the Respondents fails to timely comply with the remedial actions as set forth above, a fine shall be imposed, in the amount of \$250.00 per day for the violation set forth in Paragraph 6 above for each day the Respondents have failed to correct the violations after January 30, 2024, and the fine shall continue to accrue until such time as the Property is brought into compliance.

5. 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 6th day of February, 2024.


Bart R. Valdes
Special Magistrate

A true and correct copy of this Order was delivered by certified mail, regular mail and electronic mail to: **De Candidio, Gabriel Tre De Candidio, Gabriel A & Patricia H Trust, 441 129th Ave. E., Madeira Beach, FL 33708; and 12521 Frank Dr. N., Seminole, FL 33776;** 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 6th day of February, 2024.


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. 162-111.
