

CODE ENFORCEMENT SPECIAL MAGISTRATE
CITY OF MADEIRA BEACH

CITY OF MADEIRA BEACH,

CASE NUMBER: CE-24-75

Petitioner,

vs.

AURORA INVESTMENT GROUP, LLC,
and REM CAPITAL GROUP, LLC,
14110 C. Parsley Dr.
Madeira Beach, FL 33708,

Respondents.

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER IMPOSING FINE AND CERTIFYING LIEN**

THIS CAUSE came on to be heard at the public hearing before the undersigned Special Magistrate on January 27, 2025, 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 Grace Mills provided testimony on behalf of the City.
2. Eric Ling appeared on behalf of the Respondents as the Manager of the LLCs.
3. No one provided public comment.
4. The property in question is located at 14110 E. Parsley Dr., Madeira Beach, Florida 33708 ("Property"). The legal description for the Property is as follows:

GULF SHORES 6TH ADD REPLAT BLK W 1, LOT 9

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 sections of the Code of Ordinances of the City of Madeira Beach to wit:

Sec. 86-52.- When required.

A person, firm or corporation shall not construct, enlarge, alter, repair, move, demolish,

or change the occupancy of a building or structure, or erect, or construct a sign, or install or alter fire extinguishing apparatus, elevators, engines, steam boiler, furnace, incinerator, or other heat producing apparatus, plumbing, mechanical or electrical equipment or any appurtenances, the installation of which is regulated by the land development regulations or other sections of the Code until a permit has been issued by the building official. When the cost of repair or modification does not exceed \$500.00, does not result in a structural change, and does not require an inspection, a permit need not be issued by the building official. No permit is required for uncovered flat slabs of no greater than 50 square feet, for work of a strictly cosmetic nature (painting, wallpapering, carpeting, kitchen cabinets, etc.) or roof work less than \$100.00 in value.

Sec. 14-123.- Utility facilities required to be underground.

(a) New overhead utility service drops shall not be allowed. Permitting of all new construction or improvements of structures shall require all utility service drops located on the lot to be placed underground. Any service drops that cannot be placed underground due to technical or physical impossibility may remain above ground.

(b) If at any time a utility converts its supply lines from overhead to underground, the owner of the lot shall also convert his/her/its facilities to accept the underground utility service.

(c) Underground utility systems shall be installed in accordance with approved engineered drawings as prepared by the utility providing service. A copy of said drawings to be submitted for city approval with a building permit application.

(Ord. No. 1017, § 1, 2-24-04)

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 March 28, 2025.

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

9. The Respondents, and the Property at the above mentioned location, are found to be in violation of Section 86-52 and 14-123 of the Code of Ordinances of the City of Madeira Beach.

10. The Respondents shall correct the above stated violations on or before March 28, 2025, by taking the remedial action as set forth in the Notice of Violation, and as stated on the record at the Hearing which is to apply for and obtain an "after-the-fact" building permit. If a permit cannot be obtained, the structure/changes must be removed.

11. 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.

12. If the Respondents fail 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 violations set forth in Paragraph 6 above for each day the Respondents have failed to correct the violations after March 28, 2025, and the fine shall continue to accrue until such time as the Property is brought into compliance.

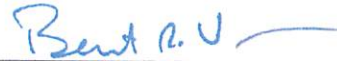
13. The Special Magistrate does hereby retain jurisdiction over this matter to enter such other and further orders as may be just and proper.

DONE AND ORDERED this 13th day of February, 2025.



Bart R. Valdes
Special Magistrate

A true and correct copy of this Findings of Fact was delivered by certified mail and regular mail to: **Aurora Investment Group, LLC, and Rem Capital Group, LLC, 14110 E. Parsley Dr., Madeira Beach, Florida 33708; 2617 Cove Cay Dr., Unit 210, Clearwater, Florida 33760; and Eric Ling, 5118 Palmetto Point Dr., Palmetto, Florida 34221;** 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 13th day of February, 2025.



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. §162.11, *Florida Statutes* (2024).

LOCAL GOVERNMENT VARIANCES, SPECIAL EXCEPTION USES
AND APPEALS OF ADMINISTRATIVE DECISIONS
CITY OF MADEIRA BEACH, FLORIDA
Application No. VAR 2025-01

Modern House and Building Movers, Inc.
for the property located at
15308 Harbor Dr.
Madeira Beach, Florida 33708,

Applicant.

_____ /

ORDER DENYING VARIANCE

The Applicant seeks a variance in regard to Madeira Beach Land Development Regulations, Section 110-181- Setback requirements. (2) Rear yard: Waterfront lots: 30 feet. The property address is 15308 Harbor Dr., Madeira Beach, Florida 33708, and is identified as:

PARCEL IDENTIFICATION NUMBER: 09-31-15-52632-000-0340

Special Magistrate, Bart R. Valdes, heard testimony and reviewed all evidence received at the Special Magistrate hearing held on January 27, 2025, and, based on the evidence, the testimony of Joseph Petraglia, and recommendations of City Staff in the Staff Report and Recommendation (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 Modern House and Building Movers, Inc. (the "Applicant") requests a variance from the requirements of the above stated Madeira Beach Code of Ordinances (the "Code"), to encroach 6.04' into the rear yard setback to accommodate the required egress landing balcony/elevated walkway necessitated by elevation of the structure above Base Flood Elevation.
2. Joseph Petraglia testified on behalf of the City. Dave Hutson, as the owner, and Alonso Milon, as the Project Manager, testified on behalf of the Applicant.
3. There are no special conditions or circumstances that exist which are peculiar to this lot. The lot size, lot width, and lot depth all exceed the minimum required in this zoning district.
4. The building was constructed in 1958 prior to the adoption of the setback requirements and is presumed to have had rear doors in the same location. This does not result from the actions of the applicant, so this criterion may be met, however, a variance must meet all required criteria.

5. All new construction and substantial improvements would be required to meet the required rear setbacks except where in the same footprint as the existing structure. Granting this variance would confer a special privilege that is denied to other permit applicants.

6. Other post-FIRM properties in this zoning district are required to meet the minimum setback requirements or be built within the footprint of the existing structure. Although it may be more expensive for the property owner to build a new more disaster resistant structure, or reconfigure the rear of the existing structure to surrender the need for an additional landing in the setbacks that other properties in the same zoning district are required to adhere to, section 2-507(c) specifically states that "financial loss standing alone is not sufficient justification for a variance."

7. Modern House and Building Movers Inc. argues that the walkway is required to provide access to the rear doors and provide egress. According to the City, the Florida Building Code only requires one means of egress to the single-family home which is already provided elsewhere on the submitted plans. Additionally, per Florida Building Code the minimum width of such landings is 36 inches, 6 inches less than what is being proposed. The Florida Building Code also provides an exception for exterior balconies less than 60 square feet that are only accessed from a door which would be permitted to have a landing even less than 36 inches. Both options along with the options to seal off the doorways or reconstruct the house to have a balcony that fits within the current footprint would all be a reasonable use of the land and are less nonconforming than what is being requested by the applicant.

8. The structure is legally nonconforming and Sec. 110-91 of the nonconforming article of the city land development regulations states that "this article is intended to discourage the continuation of nonconformities as they are incompatible with the provisions of the city comprehensive plan and this Code." This variance request not only perpetuates the nonconforming rear setback requirement but also makes it further nonconforming. The setback requirements for this zoning district were adopted with a lot depth minimum of 80 feet which this lot exceeds by 20 feet.

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 did not meet all of the criteria for the variance as set forth in Section 2-507 of the Madeira Beach Code of Ordinances. Specifically, the Applicant's request does not meet criteria number 3, 4, 5, or 6 of the Code.

ORDER

It is ADJUDGED that the application is DENIED, for the reasons set forth herein.

DONE AND ORDERED this 13th day of February, 2024.



Bart R. Valdes
Special Magistrate

Copies furnished to:

Tom Trask, City Attorney

Clara VanBlargan, City of Madeira Beach

Modern House and Building Movers, Inc.
208 3rd St., Unit A
Ft. Myers, Florida 33907

David Hutson
15308 Harbor Dr.
Madeira Beach, Florida 33708