



SPECIAL MAGISTRATE – VARIANCE REQUEST

VAR 2024-01

Staff Report and Recommendation Special Magistrate Meeting – January 22, 2024

Application: VAR 2024-01
Applicant: Brenda Fernandez
Property Owner(s): Brenda Fernandez & Robert Ramen
Property Address: 105 147TH AVE E MADEIRA BEACH, FL 33708
Parcel ID: 09-31-15-87048-000-0370
Legal Description: SUNNY SHORES LOT 37
Zoning/Future Land Use: R-2, Low Density Multifamily Residential/Residential Medium

Request: Conversion of nonconforming garage to use as occupied space.

Specific 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.

I. Background

This structure is a single-family home constructed on an approximately 3,000-square-foot lot. The minimum building area for a single-family home in the R-2 zoning district is 4,000 square feet (sec. 110-205(1)a.) Additionally, the garage of this structure planning to be converted into living space is setback 15.6 feet from the front property line as opposed to the required 20 feet (sec. 110-206(1)) and is setback 6.4 feet from the side making the total side setbacks for the full structure 12.4 feet as opposed to the required 15 feet with a minimum of seven feet on each side (sec. 110-206(3)b.). This structure was built in 1963 before the creation of the Madeira Beach Land Development Regulations which contains minimum site area and setback requirements, making the structure legally non-conforming. The proposed conversion will allow for reconfiguring the existing garage into an additional bedroom and bathroom. This proposed conversion will be constructed in the west corner and will not increase the encroachment of the structure into the setbacks.

II. Variance Criteria and Analysis

In consideration of granting a Section 110-93 authorized variance for conversion of a specific portion of a structure for occupied use, the special magistrate shall find that such grant will not adversely affect the public interest. In granting any authorized variance, the special magistrate may prescribe appropriate conditions and safeguards in conformity with the land development regulations. Violation of such conditions and safeguards, when made

a part of the terms under which the variance is granted, shall be deemed a violation of the land development regulations. The variance shall apply only to the existing structure addressed in the application and cannot be applied to any subsequent structure on this or any other lot now or in the future.

SUCH USES SHALL BE FOUND BY THE SPECIAL MAGISTRATE TO COMPLY WITH THE FOLLOWING REQUIREMENTS AND OTHER APPLICABLE REQUIREMENTS.

1. That the use is a permitted use.

Yes, the space will be used for residential use only.

2. That the conversion area is so designed, located, and proposed to be operated that the public health, safety, welfare, and convenience will be protected.

Yes, the converted space will be up to code with all necessary inspections. No major changes will be done on the structure of the house causing no harm to public safety.

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

The converted area will not cause substantial injury to the value of the other properties in the area.

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

The exterior of the property will not be affected by the conversion and the use of the structure will not be changing. The conversion would be within the existing footprint of the structure.

5. That adequate landscaping and screening is provided as required in the land development regulations mitigate anticipated impact upon adjoining property.

Landscaping will not be effected by the conversion. Additionally, this property is already under the maximum allowable ISR requirements.

6. That the minimum off-street parking to meet code requirements remains after conversion.

The property has three off-street parking spaces to remain which exceeds the city requirement of two parking spaces per dwelling unit stated in Sec. 110-971

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

Yes, this is an existing space that will be converted into living space, and it conforms to all applicable regulations governing the district where located except for the minimum land

area for a single-family home as well as the setbacks as specified in this variance. The proposed variance would not increase the encroachment of the structure into the setbacks.

8. 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.

The conversion of the specified area will not grant any special privilege to the land.

9. No application for variance use shall be considered by the special magistrate until 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.

All outstanding charges and fees have been paid to the city.

III. Staff Recommendation:

Staff recommends the approval of this variance.

Submitted by: Joseph Petraglia

Attachments: 1) Application
2) Survey of property and proposed floorplan of conversion
3) Public Notice mailing and posting