



**SPECIAL MAGISTRATE
VARIANCE HEARING MINUTES
October 4, 2023**

CALL TO ORDER

Special Magistrate Audrey Schechter called the October 4, 2023 Variance Hearing to order at 10:30 AM. The hearing was held at the Town Hall building at 190 - 173rd Avenue East, North Redington Beach, Florida. The Deputy Clerk confirmed that the Hearing was properly noticed.

HEARING ON APPLICATION OF VARIANCE FOR 17360 ROSA LEE WAY:

Special Magistrate Schechter introduced herself and stated that it is Wednesday, October 4, 2023 at 10:30 AM. This is a Hearing of the Special Magistrate for the Town of North Redington Beach on the issues of variances and special exception uses. The function of the Special Magistrate is to hear testimony, receive evidence and make an impartial determination of whether a variance (special exception) should be granted from the provisions of the Municipal Code, as interpreted by the Building Official. The Special Magistrate, during the review of an application shall review the criteria provided with the case application form.

This is a public hearing, meaning the public has a right to attend and observe the proceedings. However, because the Special Magistrate is charged with the duty of making a quasi-judicial decision based upon the law and the evidence, public comment will only be solicited or received by the public. Parties who are members of a specific group or association are requested to appoint a spokesperson who will represent their collective position. Individuals testifying do not have the right to cross-examine the parties, only the two parties (the Town and the Applicant) may cross-examine each other.

During the hearing, the Special Magistrate will receive testimony and evidence that is relevant to the issues of the case. All testimony shall be under oath or affirmation. Documents and photographs received into evidence shall be made a part of the record of this hearing. Many cases need to be taken "Under-Advisement" and a decision rendered at a later date. In all cases the Special Magistrate will issue a written order within 10 working days and forward the order to the City Clerk for further distribution.

All variances granted by the Special Magistrate and not acted upon within one year of being granted will automatically expire. The granting of a variance does not exempt the applicant from obtaining a normal building permit. Either side may appeal. Any appeals must be filed in the Circuit Court within thirty days from the date the order is received by the City Clerk from this Special Magistrate.

Special Magistrate Schechter asked for Town introductions: Bruce Cooper is the Building Official for North Redington Beach and Renee Schmader is the Deputy Town Clerk.

Special Magistrate Schechter stated that any persons wishing to testify will need to swear to the oath of affirmation; which she completed with 5 people.

Special Magistrate Schechter asked the Clerk to call the case. Variance Request by Karen

Napolitano and Carolyn Frey of 17360 Rosa Lee Way, North Redington Beach, Florida.

Special Magistrate Schechter asked the Clerk if there was any public correspondence received for this case; which there was not.

Mr. Bruce Cooper, Town's Building Official with SafeBuilt, presented for the Town. Mr. Cooper reviewed the application request and the town code's criteria. None of the criteria is met; the application is recommended for denial. The Staff Report was submitted for evidence as Town's Exhibit A.

Special Magistrate asked the applicant if they had any questions for Mr. Cooper about his Staff Report and if they have received/reviewed it. Applicant Napolitano confirmed confirmation and asked how the setbacks would have been verified back in 2000. Mr. Cooper speculated, because he did not work here then, that they probably came and looked at the property, but they did not measure. Special Magistrate commented that the prior permit showed the property line on an angle, not straight.

Special Magistrate asked the Applicant for introductions. Mitchell Meyer from Speeler. The Applicant had no other questions for Mr. Cooper.

Resident and Applicant, Karen Napolitano, presented the Variance Request. The original permit for the dock was in 2000 and it was approved by The Army Corp of Engineers, Pinellas County and The Town for the owner at that time. The setback lines were drawn straight; which is not the case. Karen and Carolyn purchased the property in 2019 and have been renovating it. A storm took out lower-level dock in 2021 and they didn't think it was safe. They had a dock company come and look at the dock and suggest what to fix for safety. In 2021, nothing changed with the lift or the footprint. The lift and dock have been there for 23 years. American Coastal was the company that submitted the plans for permit and she doesn't think they were making any misrepresentation. Now the lift is pretty old and for safety concerns it needs to be replaced. Speeler came out and completed the new permit. The resident is not requesting to make anything any bigger – just replace the poles and the lift for safety. The owner reviewed the town's criteria from their application and answered each question. She disagrees with staff for all counts. She says her neighbors don't disagree and even submitted an affidavit which is included in the application. Special Magistrate asked if they would like to submit their Variance Application into evidence. Which they confirmed, Applicant Exhibit A. The resident asked the Special Magistrate to view Page 7 of Exhibit A which was a picture of her property. She commented that her dock does not appear different than others, that is seems consistent with neighbors. She added that no one has ever noticed that 4 feet before visually. Karen said that she researched and found a similar case from the City of Madeira Beach (Trott v. City of Madeira Beach 2014 cir lexis 14984) which was an appeal to a Variance request. The resident believes her request should be granted. Special Magistrate commented that she appreciates the resident reviewing the criteria.

Mr. Cooper had no further questions for the Applicant.

Mr. Meyer of Speeler spoke and said he agrees with everything the Applicant said. His company was contracted to quote for repairs to the lift. They used the survey from when the residents purchased the house for the new permit and that's when the lines were changed. He

agrees there was no deception in the past from the previous contractor. He explained that there is a different permitting process now that they must show the setbacks into the water. They reviewed the options with the resident for repair/replacement. He said that in his opinion moving it away from the property line would be very expensive. Special Magistrate asked if they will have the same boat. They answered yes. The lift had cable failure and this replacement will makes it safe. Special Magistrate asked if they will change the encroachment and they answered no, it will be put in the exact same place. Mr. Cooper had no questions for the Applicant or Speeler.

Special Magistrate asked the resident what caused the damage; which storm? Ms. Napolitano stated it was a storm in 2021 when they had to fix the lower portion. Special Magistrate asked if they extend the size of that and they answered yes, it was slightly bigger. They experienced no permitting issues at that time. Special Magistrate asked if they are replacing the pilings and Mitchell answered they will be all new and put in the exact same spot. He continued that the pilings are 20 years old and look worse for wear; it would be better to replace now then in a few years. Special Magistrate asked Mr. Cooper why is the property line angled and not straight. Mr. Cooper answered that it was originally platted that way because of being on a cul-de-sac and that would be normal. Special Magistrate asked Mr. Cooper about the town's non-conforming use or grandfathering policy/ordinance. He answered that there is not any and that is why they have the variance process. Mr. Cooper said of the 2021 permit, that if the setback lines were drawn correctly then that he probably wouldn't have approved it.

There were no further questions for the Applicant.

Special Magistrate Schechter opened the hearing for public comment. Resident Gary Curtis of 17320 Rosa Lee Way stated he does not have a problem with the lift as it is. His only concern is to the construction company and how will they be measuring the new poles to put them back in the exact same place. Mitchell answered the poles should be close to the same size and that the horizontal mechanism the exact same size dimensions.

Since there was no further public comment the hearing is now closed. Special Magistrate will take the case under advisement and the Order will be delivered to the clerk within 10 business days.

Hearing Closed 11:13 AM

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'RS', with a long horizontal flourish extending to the right.

Renee Schmader
Deputy Town Clerk