



**Meeting Minutes
Special Magistrate**

Wednesday, December 4, 2024

3:00 PM

Town Hall

**MEETING CALLED TO ORDER
SWEARING IN PROCESS**

Special Magistrate Valdes called hearing to order at 3:00 PM; spoke on order of proceedings; final order will be provided by mail; those wishing to be speak need to rise and be sworn.

Thomas Trask-Town Attorney- swore in those wishing to speak.

GENERAL AGENDA

[24-0226](#)

Request for Variance - 435 St. Andrews Dr.
Continued from November 6, 2024

Attorney Trask called Alyssa Livingstone, Town Planner to speak.

Ms. Livingstone, spoke on her experience in planning; report prepared by Calvin, Giordano and Associates, read report; non- conforming dock constructed in 1991 extended 150 ft into Clearwater Harbor; applicant states additional length needed to protect sea grasses and to allow greater depth; notes previous dock provided space for 3 vessels, proposed dock should be revised to include only 2 vessels or seek a variance.

Ms. Livingstone addressed variance criteria; special conditions exist and are not a result of actions of applicant; hardship of adverse impact to existing sea grasses and shallow water; variance is minimum that would make possible of the use of the land or structure of the building; grant of variance will be in harmony with general intent and purpose of the Town's land development code; grant will not result in any land use not specifically provided for in the zoning district; reconstruction of dock within a 50ft range would affect sea grasses; recommends approval.

Attorney Trask had no further questions; requested Special Magistrate receive pages 2-28 of agenda packet (report) as evidence.

Special Magistrate Valdes asked if anyone would like to cross examine. There was none.

Jacek Weimheimer provided a photo of dock, which was provided in packet as exhibit 2. Attorney Trask questioned Mr. Weimheimer connection to property. Mr. Weimheimer stated he is a friend of the owner and is here to represent him; provided a power of attorney; exhibit 3 POA; Trask asked questions regarding Mr. Weimheimer's discussions with owner regarding application; asked if Mr. Weimheimer had any comments. He had none.

David Phillips-Phillips, Hayden and Labee-represents Belleview Biltmore Country Club Corp, owns submerged lands; presented owner of property with a license agreement for

pilings to be located within submerged land, has not received any correspondence; seeking an unrecorded, hold harmless agreement for any incidents that may occur, no objection to dock itself.

Mr. Phillips provided form of license agreement that was submitted to applicant in November; requests agreement be a requirement of grant of variance.

Attorney Trask asked for copy of the submerged land lease for the property. Mr. Phillips stated it is not a lease it is owned in fee simple.

Special Magistrate Valdes spoke on condition being placed on the variance request and his powers over the conditions.

Attorney Trask spoke on variance; the proper parties are not here in attendance; Mr. Phillip's client needs to be brought in as additional applicant as they are property owner; could continue until joint application is made; agreement can be done outside; not appropriate to move forward without the owner of the property present and request should be continued.

Mr. Philips-Representative of the Country Club does not object, something needs to be in place to be a co-applicant where they are held harmless to liability.

Special Magistrate Valdes questioned best procedure; Attorney Trask requested it be continued, perhaps 60 days.

Mr. Philips had no objection.

Mr. Weimheimer objects due to length of time of continuance.

Mr. Valdes spoke on options of denial or continuance.

Mr. Valdes inclined to continue to February 5th ; called for a 5 minutes recess to allow attorneys to discuss.

Hearing recess at 3:32 PM

Hearing reconvened at 3:37 PM

Special Magistrate Valdes requested update from parties.

Attorney Trask stated all in agreement that parties will work together; Meeting will be held on February 5th, 2025.

Special Magistrate Valdes granted continuance to February 5, 2025 at 3:00 PM. For purpose of record today, will keep exhibits 1,2,3 in the record; noted consent from both neighbors. Hearing is concluded.

ADJOURNMENT

No further business; meeting adjourned in due form at 3:40 PM.