

Date filed with Clerk

ORDER OF THE BOARD
OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

RECEIVED

'95 FEB 23 A8:17

RE: Ralph E. Usina
6481 Capri Isle
St. Augustine, FL 32095

Carl Paul Manley
CLERK COUNTY COMMISSION

FILE NO: E-94-058

ORDER ON APPEAL REVERSING ACTION OF PZA
AND GRANTING EXCEPTION AND VARIANCE

The above referenced applicant appeared before the Planning and Zoning Agency (Agency) on October 20, 1994 requesting an Exception to allow the placement of a horse for a maximum of two years and a Variance to allow the barn to be less than 100 ft. from residences in Venetian Isles Subdividison on Capri Isle Road. On October 20, 1994 the Agency considered the request and by unanimous vote denied the Exception and Variance finding the request inconsistent with surrounding development trends.

The applicant filed an appeal of the Agency's decision in a timely manner pursuant to Zoning code and law. On January 24, 1995, the matter came before the Board of County Commissioners of St. Johns County (Board) for hearing on the appeal and the hearing was continued to February 14, 1995 to allow time for the Code Enforcement Staff to survey the neighborhood to determine the extent of Code violations.

FINDINGS OF FACT

Having considered said application for an exception and variance, supporting documents, Code survey results, appeal application, minutes of the PZA hearing, PZA orders of denial and evidence of public hearing the Board of County Commissioners makes the following findings of fact:

1. The request for appeal was filed in a timely manner as provided by the Zoning Code and the law;
2. The request to place one horse is not in conflict with the surrounding development trends and the variance for the

location of the barn is not in conflict with the surrounding development if limited to six months duration;

3. The request is not in conflict with the health, safety and welfare of residents or workers in the area provided it is limited to six months duration; and

4. As limited by the below stated conditions, the request meets the criteria pursuant to Section 6-1-26 of the Zoning Code.

ACCORDINGLY, the decision of the Agency denying the request for an exception and variance is hereby reversed, and the request for an exception and a variance is **granted**, conditional on and limited to:

1. The exception/variance shall be limited to six months or earlier, if the applicant no longer resides on the lot, and shall be limited to one horse only; and

2. The exception/variance shall be non-transferable and shall not run with the sale of land.

Any appeal of this decision may be made by filing a petition for writ of certiorari with the clerk of the circuit court of St. Johns County within 30 days.

Date of Commission action: February 14, 1995

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: *Barbara Ward*
Its Chair

ATTEST: CARL "BUD" MARKEL, CLERK

By: *Jana Paeeth*
Deputy Clerk

cc: Planning and Zoning Agency
Ralph Usina

(6.2393)

F) CONSIDER THREE APPOINTMENTS TO THE CODE ENFORCEMENT BOARD

Motion by Maguire, seconded by Cody, carried 5/1 with Jordan dissenting, to appoint Howard Wilton Davis (Architect), Joseph Laskay (Sub-contractor), and Gerald Wayne Oliver (Realtor/Alternate) to the Code Enforcement Board.

(02/14/95 - 13 - 6.2466)

Motion by Maguire, seconded by Ward, carried 6/0, to move items (10) County Attorney's Report, (11) County Administrator's Report, and (12) Comments from the Clerk of Courts to the end of the agenda.

COUNTY ATTORNEY'S REPORT:

Moved to the end of the agenda. (see page 17)

COUNTY ADMINISTRATOR'S REPORT:

Moved to the end of the agenda. (see page 17)

COMMENTS FROM THE CLERK OF COURTS:

Moved to the end of the agenda. (see page 17)

(02/14/95 - 13 - 6.2485)

PUBLIC HEARING - APPEAL - ORDER - E-94-058 - RALPH E. USINA.
CONTINUED FROM JANUARY 24, 1995. THE APPLICANT REQUESTED AN EXCEPTION FOR THE PLACEMENT OF A HORSE FOR A MAXIMUM OF TWO YEARS AND A VARIANCE TO ALLOW THE BARN TO BE LESS THAN 100 FEET FROM RESIDENCES IN VENETIAN ISLES SUBDIVISION, ON CAPRI ISLE ROAD. ON OCTOBER 20, 1994 THE PLANNING AND ZONING AGENCY CONSIDERED THE REQUEST INCONSISTENT WITH SURROUNDING DEVELOPMENT TRENDS. THE APPLICANT FILED AN APPEAL IN A TIMELY MANNER PURSUANT TO THE ZONING CODE AND LAW. ON JANUARY 24, 1995, THE BOARD OF COUNTY COMMISSIONERS CONTINUED THE HEARING TO FEBRUARY 14, 1995 TO ALLOW TIME FOR THE CODE ENFORCEMENT STAFF TO SURVEY THE NEIGHBORHOOD TO DETERMINE THE EXTENT OF CODE VIOLATIONS.

Proof of publication of notice of public hearing on the appeal to E-94-058 Ralph E. Usina was received having been published in The St. Augustine Record on January 6, 1995.

Jerry Napier, Planning and Zoning Director, explained the request and stated that this was a continued hearing from the January 24, 1995 meeting. The applicant Mr. Ralph E. Usina had requested an Exception for the placement of a horse for a maximum of two years and a Variance to locate a barn on Capri Isle Road. Napier said that Mr. Usina is appealing the Planning and Zoning Agency's denial of the Exception. Napier referenced the motion made by the Board on January 24, 1995, to grant the Exception and the Variance with the stipulation that the horse be removed within six (6) months, however, prior to the vote, there was a motion to continue the item with the request that staff do a survey of the subdivision to determine the extent of other code violations. Napier briefly reviewed staff's report of other violations in the subdivision which included two (2) lots that had chickens/roosters and one of these had pigs.

(6.2639) Clyde Wolfe, attorney representing Mr. Ed Booth, Sr., a neighbor of the Usina's who opposes the requested exception, asked that the exemption be denied and the previous decision upheld.

(6.2709) Ralph Usina, 6481 Capri Isle, explained his position regarding his video tape presented for viewing by the Commissioners, and used by staff to check violations in his neighborhood. Usina declared that it was not his intention for his video tape to be used in that manner. (6.2909) Donna Usina, 6481 Capri Isle, recounted how neighbors came to them and indicated that the Code Enforcement officer had been out to see them and said that it was due to their video that they were getting citations.

Discussion followed. Napier at the request of Meiszer, stated that there were no citation issued only warnings. Discussion continued. Bosanko recommended that the Board's motion to approve should limit the period to comply to whatever the Board thinks is appropriate. (7.0042) Clyde Wolfe offered additional information on this issue. (7.0090) Randy Wright, P. O. Box 93, St. Augustine, asked the Board to allow Usina to keep his horse for only 90 days and then be directed to move it. **Motion by Cody, seconded by Jordan, carried 6/0, to approve the proposed Findings of Fact 1 thru 4 to support reversal of the Planning and Zoning Agency decision. The request for an exception and variance is granted, conditional on and limited to:**

- 1) **The exception/variance shall be limited to 6 months or earlier, if the applicant no longer resides on the lot, and shall be limited to one horse only.**
- 2) **The exception/variance shall be non-transferable and shall not run with the sale of land.**

Meiszer commented on the way this issue was handled by the Code Enforcement Department; said that the inspector was not told to cite anyone, and that there was no reason to mention the video tape at all.

(02/14/95 - 14 - 7.0384)

PUBLIC HEARING - REZONING - R-94-017 - WILLIAM BRYANT. THE REQUEST IS TO REZONE A 75 FT. X 125 FT. LOT FROM CN, COMMERCIAL NEIGHBORHOOD TO RMS-S, RESIDENTIAL MOBILE HOME, SINGLE FAMILY. THE APPLICANT, AFTER BOARD OF COUNTY COMMISSIONERS HEARING ON JANUARY 10, 1995 HAS REMOVED THE CONDITIONAL PORTION OF THE REZONING REQUEST REGARDING THE EFFECTIVE DATE OF THE ORDINANCE, AND REQUESTS THAT THE BOARD CONSIDER THE APPLICATION AS STRAIGHT REZONING TO RMH-S. THE PROPERTY IS LOCATED ON COSTANERO ROAD, TREASURE BEACH, AND BACKS UP TO COMMERCIAL LOTS ALONG AIA. OTHER PARCELS ALONG COSTANERO ROAD HAVE BEEN REZONED TO RMH-S. ON NOVEMBER 3, 1994 THE PLANNING AND ZONING AGENCY CONSIDERED THE REQUEST AND BY UNANIMOUS VOTE, RECOMMENDED APPROVAL.

Proof of publication of notice of continued public hearing on the rezoning request R-94-017 William P. Bryant was received having been published in The St. Augustine Record on January 14, 1995.

Napier explained that this item was continued from the January 24, 1995 meeting; said that the request is to rezone one lot at Treasure Beach. The applicant has removed the conditional portion of the rezoning request regarding the effective date of the ordinance. Napier recommended approval of the rezoning ordinance. **Motion by Roberts, seconded by Jordan, carried 6/0, to adopt Ordinance, adopting Findings of Fact in section 1 of said ordinance, rezoning land from CN to RMH-S.**

ORDINANCE NO. 95-02

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, STATE OF FLORIDA, REZONING LANDS AS DESCRIBED HEREINAFTER FROM THE PRESENT ZONING CLASSIFICATION OF CON, COMMERCIAL NEIGHBORHOOD, TO RMH-S, RESIDENTIAL MOBILE HOME, SINGLE FAMILY; MAKING FINDINGS OF FACT; REQUIRING RECORDATION; AND PROVIDING AN EFFECTIVE DATE

(02/14/95 - 14 - 7.0440)

PUBLIC HEARING - APPEAL TO PZA DECISION/WHICH WAS AN APPROVAL TO ZONING EXCEPTION - ORDER - THE APPELLANT APPLICANT IS VIRGINIA M. BOSSE AND THE APPLICANT WAS C. E. DUPONT. THE APPEAL IS FILED FOR A DECISION OF THE PLANNING AND ZONING AGENCY, WHICH WAS THE APPROVAL OF THE LOCATION OF A BORROW-PIT, LOCATED ON THE WEST SIDE OF CR 13A, NORTH OF FLAGLER ESTATES. ON NOVEMBER 17, 1994 THE AGENCY GRANTED THE BORROW-PIT WITH THE FOLLOWING CONDITIONS;