

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

RE: Robert and Jeanette Hayes
49 Jackson Avenue
Ponte Vedra Beach, FL 32082

CIRCUIT COURT CASE NO. 94-840 CA

ORDER REVERSING ACTION OF THE
PONTE VEDRA BOARD OF ADJUSTMENT

The above-referenced applicant appeared before the Ponte Vedra Board of Adjustment on May 28, 1994, requesting a variance pursuant to the Ponte Vedra Zoning Regulations for the reduction of the required front yard setback for a single family home at 49 Johnson Avenue, St. Johns County, Florida, (i.e. lot 11 and the East 1/2 of lot 12 Block 1, St. Johns Seaview Park as recorded in Map Book 5, page 40 of St. Johns County, Florida). The Board of Adjustment denied the variance, and the applicant timely filed an appeal with the Circuit Court which on July 14, 1994, remanded the case for hearing by the St. Johns County Board of County Commissioners. This matter came before the St. Johns County Board of County Commissioners for hearing on August 9, 1994.

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

Having considered the application for variance and supporting documents; the minutes of the May 28, 1994 hearing by the Ponte Vedra Board of Adjustment, the exhibits offered at the

August 9, 1994 hearing including, but not limited to, the St. Johns County Planning and Zoning Department staff report dated August 8, 1994 and statements from the appellant's counsel and counsel for the Board of Adjustment, the statements of the Directors of the St. Johns County Planning and Zoning Department and the St. Johns County Building and Codes Department; the Board of County Commissioners makes the following findings of fact:

1. No hardship supporting the requested variance is found in regards to lot drainage considerations in that the applicants were aware of lot drainage problems prior to construction of their residence on the subject lot, however;

2. A hardship supporting the requested variance does exist in that the subject lot was designed at a time that the minimum permitted size of a residence on the subject lot was from 600-900 square feet and now the minimum size of such a residence in that location is 1800 square feet. This creates a hardship in placing the presently required size of residence on the subject lot within the front setback line established by the County on the subject lots (i.e. 25 ft.)

3. Construction allowed by the requested variance is compatible with conditions in the neighborhood in which the subject lot is located.

It is further concluded that a variance is a relaxation of the terms of zoning requirements where such variance will not

be contrary to the public interest and where the literal enforcement of such requirements would be contrary to the spirit of the zoning requirements. Based on that principle it is found that literal enforcement of the Ponte Vedra Zoning Regulations would be contrary to the spirit of said regulations in this case.

ORDER

NOW THEREFORE, in consideration of the above, the Board of County Commissioners of St. Johns County, Florida hereby reverses the Ponte Vedra Board of Adjustment's order which denied the requested variance. The applicant is hereby granted the variance as requested, for the reduction of the required front yard setback requirement for the garage of said single family residence at 49 Jackson Avenue, St. Johns County from 25' to 22'.

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 of the date this Order is filed with the Clerk.

Date of Board of County Commissioners action 9th

August, 1994

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Alan Roberts
Its Chair

ATTEST: CARL "BUD" MARKEL, CLERK

By: Erna Sacchi
Deputy Clerk

cc: Robert and Jeanette Hayes
Ponte Vedra Board of Adjustment

(08/09/94 - 10 - 3.1553)

APPEAL TO PONTE VEDRA BOARD OF ADJUSTMENTS DECISION ON DENIAL OF ZONING VARIANCE AS REMANDED TO THE BOARD OF COUNTY COMMISSIONERS BY THE CIRCUIT COURT, SEVENTH JUDICIAL CIRCUIT, CASE NO. 94-840CA ON JULY 14, 1994. THIS MATTER CAME BEFORE THE PONTE VEDRA BOARD OF ADJUSTMENTS ON MAY 28, 1994 AT WHICH TIME THE BOARD OF ADJUSTMENTS DENIED A REQUEST FOR A BUILDING SETBACK VARIANCE REQUESTED BY ROBERT AND JEANETTE HAYS OF 49 JACKSON AVENUE, ST. JOHNS COUNTY, FL. AN APPEAL OF THAT DENIAL WAS TIMELY FILED IN CIRCUIT COURT. ON JULY 14, 1994 JUDGE WEINBERG ORDERED THAT THIS MATTER BE REMANDED TO THE ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS FOR CONSIDERATION AND HEARING BY THAT BOARD

Proof of publication of the notice of public hearing on an appeal to the Board of County Commissioners for action taken by the Ponte Vedra Board of Adjustment was received having been published in The St. Augustine Record on July 22, 1994.

Jerry Napier reviewed the staff study which included background data and a chronological summary of major activities relative to the case. A lengthy discussion followed. (3.2168) Baron Bartlett, Attorney representing applicants Mr. & Mrs. Robert Hayes, presented the appeal; then, requested approval of a variance to cut off a portion of the front garage; the garage maintains 77 sq. ft. of a 2,288 sq. ft. building; 3% of the overall building size is affected. Bartlett entered 10 letters of adjoining landowners and neighbors in favor of the requested variance into the record. Discussion continued. Bartlett displayed a map of the house and other lots which exceed the setback limits. Discussion continued. Bosanko, representing the Ponte Vedra Board of Adjustments, pointed out that all of the exhibits from the Ponte Vedra Board of Adjustments may not be in the packets of the Board of County Commissioners. Napier distributed original photographs for the record. Bosanko pointed out that the construction of the garage started at 5 ft. over the County's setback line; the applicant offered, in their variance request, to cut the garage back to only 3 ft. over the County's setback line. Bosanko made further points. Discussion continued. Motion by Maguire, seconded by Floyd, carried 7/0, to grant a variance, as requested, to allow 3 ft., front yard, for the length of the garage.