

Draft A

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

RE: Sabrina and Asunta LaRocca
c/o Coates Construction
1578 U.S. 1 South
St. Augustine, FL 32086

FILE NUMBER: V-94-005

ORDER AFFIRMING ACTION OF THE
PLANNING AND ZONING AGENCY
AND DENYING VARIANCE

The above-referenced applicant appeared before the Planning and Zoning Agency (Agency) on February 17, 1994, requesting a variance pursuant to the St. Johns County Zoning Ordinance for the reduction of the required rear yard setback from 10 ft. to 6 inches on Lot 20 at Captain's Point, currently zoned RS-3. The Agency denied the variance, and the applicant timely filed an appeal on March 10, 1994. On April 26, 1994, the matter came before the St. Johns County Board of County Commissioners on appeal from the Agency's order denying the variance.

FINDINGS OF FACT AND ORDER

Having considered the application for appeal and supporting documents; the February 17, 1994 Agency minutes; the Agency order dated February 24, 1994; the staff report dated February 17, 1994 and its supporting documents; and statements

from the appellant and other interested persons, the Board of County Commissioners makes the following findings of fact:

1. The requested variance does not indicate sufficient hardship as required by Section 6-1-86 of the Zoning Code;

2. The requested variance would result in a compatibility problem for the area;

3. The requested variance is not consistent with the development trends of the area.

ACCORDINGLY, the Board of County Commissioners affirms the Agency's action in denying the requested variance for a reduction in the required rear yard setback on the parcel of land described above.

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: April 26, 1994.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Allan Roberts
Its Chair - Allan Roberts

ATTEST: CARL "BUD" MARKEL, CLERK

By: Imma Pasetti
Deputy Clerk

cc: Sabrina and Asunta Larocca
Planning and Zoning Agency

(04/26/94 - 9 - 3.0486)

PUBLIC HEARING - APPEAL - V-94-005 - SABRINA AND ASUNTA LARocca,
REPRESENTED BY COATES CONSTRUCTION. THE REQUEST IS TO REDUCE THE
REQUIRED REAR YARD SET BACK FROM 10 FEET TO 6 INCHES TO ALLOW THE
CONSTRUCTION OF A POOL WITH A DECK AND SCREEN ENCLOSURE, ON LOT 20,
CAPTAIN'S POINT, CURRENTLY ZONED RS-3. ON FEBRUARY 17, 1994, THE
MATTER WAS CONSIDERED BY THE PLANNING AND ZONING AGENCY AND BY
UNANIMOUS VOTE, THE AGENCY DENIED THE REQUEST, FINDING THAT THE
REQUEST FOR A VARIANCE DID NOT INDICATE SUFFICIENT HARDSHIP IN
ACCORDANCE WITH SECTION 6-1-86 OF THE ZONING CODE IN THAT THE
PROPERTY WAS DEVELOPED WITHOUT CONSIDERATION FOR THE PLACEMENT OF
A POOL AND SCREEN ENCLOSURE, AND THAT THE REQUEST WOULD RESULT IN
A COMPATIBILITY PROBLEM FOR THE AREA AND IS INCONSISTENT WITH THE
DEVELOPMENT TRENDS OF THE AREA. THE APPLICANT HAS FILED THE APPEAL
IN A TIMELY MANNER AS PRESCRIBED BY LAW AND THE ZONING CODE

Proof of publication of notice of public hearing - Appeal - V-94-005 was received, having been published in The St. Augustine Record on April 7, 1994.

Jerry Napier, Planning and Zoning Director, explained the Variance requested by Sabrina and Asunta LaRocca. (3.0550) Richard Wolfe, Ocean Pools, voiced his opinion on the proposed construction of the pool, the deck and screen enclosure. (3.0636) Tom Coates, 370 Palmetto Road, Contractor, supports LaRocca's proposed pool and enclosure explaining Mrs. Larocca's difficulty, and her need for the use of a pool; revealed that Mrs. LaRocca has cancer of the breast and could benefit from swimming; the pool and deck may be constructed without the need for a variance, but the screened enclosure needs a variance. Coates made reference to the letter from the Board of Directors Captain's Pointe Service Corporation, Inc. in which they approved a swimming pool and screen enclosure for Lot 20 as an exception to the deed restrictions. (3.0760) Mrs. LaRocca expressed her feelings regarding the use of a pool and asked for support from the Board.

(3.0787) Jean L. Bauer, 780 Viscaya Boulevard, voiced her opposition to the pool and screen enclosure; spoke on deed restrictions in Captain's Pointe. The public portion was closed and the issue was brought back to the Board. Considerable questions and answers followed regarding deed restrictions in Captain's Pointe. (3.1268) Motion by Jordan, seconded by Brinkhoff, to permit the pool to go in, going within 2 feet of the property line, and to maintain the 9 feet width for the pool. Discussion continued. Jean L. Bauer was asked if the motion addressed the concern of the neighborhood; Bauer replied that the motion breaks the deed restrictions because the set back is 10 feet. Mr. Bauer, 780 Viscaya Boulevard, read a part of the deed restrictions concerning setbacks. (3.1536) Motion by Jordan, seconded by Brinkhoff, to limit any enclosure to 4 feet high around said pool. Jordan withdrew both of his motions, Brinkhoff withdrew

his second to the motions. (3.1802) Napier recommended that the Board uphold PZA denial, and affirmed that he could not find hardship physically associated with the lot to validate a variance. (3.1818) Motion by Brinkhoff, seconded by Jordan, carried 7/0, to direct staff to prepare an Order upholding PZA denial with Findings of Fact 1, 2 and 3. Maguire voiced his concern on deed restrictions; proposed staff involvement in creating a procedure for the County to keep from violating deed restrictions; Meiszer suggested for the Board to direct the County Attorney to prepare a memorandum of law with respect to variances, which could also be used by staff to handle variances in a consistent proper planning land use manner. The will of the Board was to have Bosanko and Meiszer work together for that goal.