

TOWN OF GRANT VALKARIA
MINUTES OF ZONING BOARD OF APPEALS MEETING OF MAY 14, 2008
5120 HIGHWAY U.S. 1, GRANT VALKARIA, FL 32949-2003

The Zoning Board of Appeals Meeting of the Town of Grant-Valkaria, Florida, was called to order at 7:05 p.m. by Mayor Del Yonts and roll call to the Council Members, with the following present:

Mayor – Del Yonts	Town Clerk/Acting Town Administrator - Susanne Krueger
Seat No. 1 – Joe Hackford, Vice Mayor	Administrative Assistant Linda Munroe
Seat No. 2 – Danielle Morgan	Town Attorney Karl Bohne
Seat No. 3 – Pat Bryan	
Seat No. 4 – Cathy DeMott	
Seat No. 5 – Dan Faden	
Seat No. 6 – Jason Mahaney	

The Pledge of Allegiance was led by Board Member Morgan and said by all present.

PUBLIC HEARING- VARIANCE NO. V-2008-01 – BOARD ACTION (this item was tabled at the Zoning Board of Appeals meeting held on April 9, 2008)

Mayor Yonts read the heading of the variance request as follows:

PROPERTY DESCRIBED AS FOLLOWS:

Township 29, Range 37, Section 14, Subdivision 00, Block 00779.0, Lot 00000.0
Further Described As Being Located At 1540 Valkaria Road, Grant Valkaria, Florida;
200 feet west of Corey Road, on the north side of Valkaria Road

Property Is Zoned RR-1, Rural Residential
Total affected acreage: 0.73 acre

Applicant: Robert and Melissa Branagh

VARIANCE REQUESTED:

A variance to minimum lot size required in RR-1 zoning designation. The RR-1 (Rural Residential) zoning designation has a minimum lot size requirement of one acre/43,560 square feet; therefore, the lot is short 11,644.8 square feet or 0.267 acres to meet the required one acre lot size.

Mayor Yonts opened the Public Hearing. Mr. Branagh introduced himself as the property owner and stated that the property had been sold at different times with different square footage. There had been 40 feet added to the back of it in 1987. He said he has been dealing with this for 2-3 years when he first tried to get a building permit from the County. Mr. Larry Hopkins, his neighbor to the west of the above described property stated that Mr. Branagh has been committing perjury by telling a lot of lies. Mayor Yonts stated that Mr. Hopkins needed to stick to the point. Mr. Hopkins said Mr. Branagh had a survey which showed 0.73 acres. He also said that Mr. Branagh purchased this property knowing it was too small to build on it. Mr.

John Roth identified to the Council that he sold the property to the Branagh's on a handshake and if he couldn't build on it he would buy it back. Mr. Branagh said that Mr. Hopkins's property is a mirror image of his with the exception of the 58' easement on the front of Mr. Hopkins property. He had gotten an address for his property so he could build on it and has spent a lot of money already having a survey done, trusses built. He also stated that Mr. Roth did offer to buy the property back but he not let him because he wanted to build a house on it.

Mayor Yonts asked Town Attorney Bohne for direction since this was the Town's first variance request. Mr. Bohne said the first step is to determine if the lot is undersized, (with the boundary survey showing 0.73 acres that is an established fact). Secondly, has the applicant met the burden of proof under the requirements of the County Code. He then read the following:

"Sec. 62-253. Prerequisites to granting of variance.

(a) A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship; provided, specifically, however, that personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. In order to authorize any variance from the terms of this chapter, the board of adjustment shall find all of the following factors to exist:

- (1) That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the applicable zoning classification;*
- (2) That the special conditions and circumstances do not result from the actions of the applicant;*
- (3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings or structures in the identical zoning classification;*
- (4) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant;*
- (5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure; and*

(6) *That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

(b) *In no case shall the board of adjustment grant a variance which will result in a change of land use that would not be permitted in the applicable zoning classification.*

(Code 1979, § 14-20.65(C); Ord. No. 95-50, § 1, 10-19-95)”

Mr. Bohne stated to the Council “to weigh the evidence; precedent and if some inconsistencies come before you, we would have an issue”. The Council asked Mr. Branagh if he was offered to purchase more property from Mr. Roth and he said the price kept going up for the property so he didn’t do it. Mr. Branagh pointed out that if the easement in front of his property was included in his legal description then he would have over an acre and he would be sitting in his house now watching TV instead of being at the meeting. Mayor Yonts stated for the record that the ad had been published in Florida Today newspaper on March 13, 2008. Mr. Branagh brought a copy of his survey to Council. The Council stated that the property would be under the “grandfather” clause and that property had been grandfathered in if platted before 1978. Mr. John Roth was asked if he is willing to buy the property back from Mr. Branagh and he said he didn’t want to but he would. Moved by Vice Mayor Hackford, seconded by Council Member Mahaney to remove Variance No. V-2008-01 from the table and open the public hearing. Motion carried unanimously.

2 members of the audience spoke:

- 1) Doug Balog: he said he is in favor of granting the variance due to the hardship it has caused and to other properties next door also.
- 2) Johnny Harper: same point he wants to make; he has been a principal of 3 schools in the area and Rob (Mr. Branagh) is his son-in-law; he said 58’ should not make a difference; yes it is unique; you won’t be hit with this again unless it is the same circumstances; give him a chance and don’t be afraid to set a good example.

The Board stated the facts as: that the survey had .73 acres written on it and the case is not unique. The survey shows the 58’ gone. The Board was not comfortable setting a precedent and wanted to be sure the facts were clear. Mr. Branagh told the Council that he was told the property was buildable, since he did not have a lawyer for the sale he relied on what he had been told by Mr. Roth and the County. Council Member Faden pointed out that the right-of-way had been included in property around the 1980’s at which time the County changed the rules. Mayor Yonts asked Mr. Branagh if he wanted them to table the hearing to get the exact date of the right-of-way changes. Mr. Branagh said the County wasn’t able to give him any data

and that he had done a lot of research. Mayor Yonts pointed out that he had received an email that day from a resident of Farnsworth that wanted no less than 1.4 acres for building homes in Town. Mayor Yonts asked for a motion to table this hearing in order to validate the date of this change. Moved by Board Member Faden to table this hearing in order to validate the date of this change; who also stated having the date of the change is not going to make him vote differently, seconded by Vice Mayor Hackford. Motion carried unanimously. Town Attorney Bohne stated there could be no more discussion since the public hearing was closed.

Moved by Council Member Faden, seconded by Council Member Morgan to adjourn meeting at 8:40 p.m. Motion carried unanimously.

(signature on file)

Del Yonts, Mayor

ATTEST:

(signature on file)

Linda Munroe, Assistant to the Clerk

