

ORDINANCE NO. 2007- 09

AN ORDINANCE OF THE TOWN OF GRANT-VALKARIA BREVARD COUNTY, FLORIDA; CREATING A ZONING BOARD OF APPEALS; PROVIDING FOR COMPOSITION, APPOINTMENT, AND TERMS OF OFFICE; PROVIDING FOR THE HOLDING OF OTHER OFFICES AND QUALIFICATIONS; PROVIDING FOR OFFICERS; PROVIDING FOR REMOVAL FROM OFFICE; PROVIDING FOR MEETINGS; PROVIDING FOR QUORUM AND VOTING; PROVIDING FOR POWERS AND DUTIES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WITNESSETH:

WHEREAS, pursuant to the authority granted to the Town Council in Section 1, Section 2 and Section 4 of the Town Charter the Town Council desires to create a Town Zoning Board of Appeals; and

WHEREAS, the Town Council finds that adoption of this Ordinance is in the best interest of the citizens of the Town of Grant-Valkaria; and

WHEREAS, the Town Council in providing for the health, safety and welfare of its citizens, to create a zoning board OF APPEALS.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF GRANT-VALKARIA, BREVARD COUNTY, FLORIDA, AS FOLLOWS:

**Section 1.** There is hereby created a Zoning Board of Appeals as follows:

**“Sec. 1. Creation.**

The Town Council is hereby authorized to create and appoint members to a zoning board of appeals subject to the provisions of this ordinance.

**Sec. 2. Composition, appointment and terms of office.**

(a) The zoning board of appeals shall consist of seven members including the chairperson. There shall be seven voting members. The Town Council shall serve as the Zoning Board of Appeals. Each of the voting members shall hold office concurrent with his or her term as a Council member.

(b) None of the members of the Zoning Board of Appeals shall hold any other office except as provided for herein.

(d) The zoning board of appeals is to serve in a quasi-judicial capacity.

**Sec. 3. Officers.**

The zoning board of appeals shall elect officers as it may deem necessary for a term concurrent with the term as a Council member.

Sec. 4. Meetings.

The zoning board of appeals shall hold meetings as needed on the same day as Council meetings. Such meetings shall be held immediately before the scheduled Council meeting. Special meetings may be called by the chair or upon the written request of five board members. All regular and special meetings shall be open to the public. A written record of the proceedings of the board shall be kept and shall be open to the public for inspection.

Sec. 5. Quorum; voting.

Five voting members of the zoning board of appeals shall constitute a quorum, and the affirmative vote of five voting members of the board shall be necessary for any action of the board.

Sec. 6. Powers and duties.

The zoning board of appeals shall have the following powers:

- (1) To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Planning and Zoning Board or by any administrative official in any enforcement or interpretation of any portion of the Charter or of any planning and zoning ordinance adopted pursuant to the Charter.
- (2) To hear and decide applications for special exceptions to the terms and provisions of any planning and zoning ordinance adopted by the Town Council.
- (3) To authorize upon appeal in any specific cases such variance from the terms of any planning and zoning ordinance as will not be contrary to the public interest, where as a result of special conditions a literal enforcement of the provisions of the said ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.

In exercising the above powers the Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be required in order to do justice.

Sec. 7. Stay pending appeal to zoning board of appeals

An appeal shall stay all proceedings of any further action on the matter appealed from unless the Planning and Zoning Board from whose decision the appeal is taken certifies to the Zoning Board of Appeals, after notice of appeal has been filed, that by reason of facts stated in a certificate filed by the Zoning Board of Appeals that a stay would, in its opinion, cause imminent peril to life or property. In all cases in which such a certificate is filed with the Zoning Board of Appeals, the decision appealed from shall not be stayed except upon a special order made and entered by the Zoning Board of Appeals or by a restraining order made and entered by a court of competent jurisdiction. The Zoning Board of Appeals shall fix a reasonable time for the bearing of all appeals, giving public notice thereof as well as due notice to the parties at interest, and shall decide all questions presented to it on appeal within a reasonable time.

Sec. 8. Appeals from decisions from the zoning board of appeals.

Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of

Appeals or any taxpayer or officer of the Town may present to a court of competent jurisdiction a petition duly verified setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision of the Zoning Board of Appeals in the office of the Town Clerk.”

**Section 2.** Severability.

In the event a court of competent jurisdiction shall hold or determine any or part of this ordinance invalid or unconstitutional, the remainder of this ordinance shall not be affected.

**Section 3.** Effective Date.

This ordinance shall take effect 30 days from its passage.

PASSED AND ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF GRANT-VALKARIA, BREVARD COUNTY, FLORIDA, ON THIS 6<sup>th</sup> DAY OF JUNE 2007.

(signature on file)

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Del Yonts, MAYOR

ATTEST:

(Signature on file)

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TOWN CLERK

1ST READING: May 23, 2007

2ND READING: June 6, 2007