

**MINUTES FOR CHEROKEE COUNTY  
ZONING BOARD OF APPEALS  
Thursday, December 05, 2002**

The Cherokee County Zoning Board of Appeals held its regularly scheduled meeting on Thursday, December 05, 2002 in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Zoning Board of Appeals were Karen Mahurin, Evert Hekman, Bob Reilly and Cindy Castello. Deborah Parcell was absent. In attendance for the Cherokee County Staff were Mark Mahler, Jim Cain, Vicki Taylor and Vicki Dye.

Mark Mahler announced that there would be a delay in the start of the meeting, awaiting the arrival of two more ZBA members. He explained that with only three members present, county policy was to give the applicants the option of postponing the cases until the next scheduled meeting. Should they decide to proceed with their case in this meeting, then all decisions would have to be unanimous in order to be binding. The meeting was called to order at 6:35 P.M. by Vice Chairman Bob Reilly.

**Old Cases**

Case #02-11-043A, Janusz B. Ziolkowski – Mr. Ziolkowski had presented his case at the previous meeting and the Board had tabled the case at that time in order to obtain additional information. Mr. Ziolkowski was not present at this meeting; therefore, the Board decided to go ahead and take a vote on the case. Bob Reilly made a motion to deny the variance. Cindy Castello seconded the motion and the vote was 3-0 for denial.

Case #02-11-045A, Eddie Wang – Mr. Wang was not present, so the Board could not proceed with a public hearing. Evert Hekman made a motion to table the case for thirty days. Cindy Castello seconded the motion. The vote was 3-0 for tabling.

Case #02-11-047A, Bill and Jane Dreyer – Mark Mahler gave a report on the case. After research, Mr. Mahler said he had determined that the subject lot was not a legal lot of record; therefore, it is not in conformity with the Zoning Ordinance. He said that the Zoning Board of Appeals did not have the authority to vary the size of a lot. He had recommended to Ms. Dreyer two possible options for going forward. First, she could apply for a rezone of the property, or second, she could appeal his decision to the Board of Commissioners. Mr. Mahler recommended that the Planning and Zoning Department refund Ms. Dreyer's application fee. The Board proceeded to request that the application fee for the variance be refunded.

**New Cases**

Case #02-12-048A, David T. Graham requested variances to Article 7, Table 7.1A; Development District Standards and Article 13; Non-Conforming Uses. The applicant requested a variance to reduce the front building setback along Ball Ground Highway to 65 feet; a variance to reduce the rear setback to 30 feet; and a variance to reduce the side setback to 15 feet. The applicant also requested a variance to allow an enlargement of an existing use. The property is located at 8609

Ball Ground Highway in Land Lot 065 of the 3<sup>rd</sup> District and is further described as Cherokee County Tax Map 03N07, Parcel 003.

David Graham represented his case to the Board. Vice Chairman Bob Reilly and Mark Mahler explained to Mr. Graham that any decision made would have to be unanimous, since there were only three Board members present. Mr. Graham was given the option to table his case for thirty days, if he so desired. He chose to table the case until next month. Cindy Castello then made the motion to table the case for thirty days. Evert Hekman seconded the motion and the vote was 3-0 to table.

Case #02-12-049A, McDonald's requested a variance to Article 11, Table 11.1; Signs. The applicant requested a variance of 65 square feet to allow a 185 square foot sign instead of the required 120 square foot sign maximum. The property is located at 8008 Cumming Highway in Land Lot 851 of the 3<sup>rd</sup> District and is further described as Cherokee County Tax Map 03N10, Parcel 114C.

Sharon Jaynes of Henry Sign Systems presented the case for McDonald's. Tom Gladden of McDonald's was also present. After being given the option to table the case for thirty days, they decided to proceed with their request. Ms. Jaynes said there is an existing sign now; however, they want to install a reader board. She explained the circumstances and why they need a variance.

Mr. Gladden then spoke and gave examples of the kind of advertising that would be put on the reader board, such as community announcements, etc. He also explained the potential safety hazards to McDonald's employees if the reader board was installed directly under the existing sign. The reader board is changed frequently and they need easy access in order to make those changes. A discussion ensued about any potential traffic issues.

Jim Cain gave the staff recommendation. He said that the applicant's position is that the increase in the sign area is in the open space between the existing sign and the reader board, not in the actual sign. Staff had concerns about the overall area that the sign and reader board would occupy and any possible traffic safety issues.

Cindy Castello made a motion to approve a 65 square foot sign variance, as requested. Evert Hekman seconded the motion. The vote was 3-0 for approval.

At this point, Mr. Wang arrived at the meeting. He affirmed that he did want his case tabled for another thirty days.

Case #02-12-050A, New Point Investments, Inc. requested a variance to Article 16.1; Highway 92 Overlay, Section III, Boundaries. The applicant requested a variance to extend the boundary of this overlay approximately 2,900 feet to the north of the centerline of Highway 92. The property is located along Highway 92 in Land Lots 1106, 1107, 1108, 1126 and 1127 of the 21<sup>st</sup> District and is further described as Cherokee County Tax Map 21N12, Parcels 022, 052, 052A and 053A.

Chuck Ware, representing the applicant, presented this case to the Board. He handed out a package that included the variance application, an area map, a project site plan, a letter from the Cherokee County EMA and a letter from New Point Investments. He proceeded to describe their plans for development. He said they would answer any questions the Board might have.

A discussion ensued as to why another fire station was being proposed, when there is an existing one in the area.

There were several people who spoke in opposition. Tim Prather, an adjoining landowner, spoke. He wanted clarification on what exactly was being proposed with this variance. Mark Mahler gave an explanation. Mr. Prather then stated that he was in opposition.

William Ragsdale spoke in opposition. He had concerns about the impact on traffic in the area.

Anne Myers spoke in opposition. She was the chairman of the Highway 92 Overlay Committee. She quoted from the ordinance in support of her position. She also referred to her letter to the Zoning Board of Appeals which outlined her opposition. She asked the Board to deny this application.

Mary Brown spoke in opposition. She was concerned about increased traffic on Little Ridge Road should this application be approved. She was also concerned about erosion and showed pictures where erosion problems already exist. She said the runoff flooded Owl Creek on a regular basis.

Charles Prather spoke. He also was concerned about erosion and runoff onto his property. He said that if the variance was approved, the developer could come in and cut another road and have strip malls on both sides of the road.

Wayne White spoke. His mother is an adjoining property owner.

Katie Cain spoke. She had some questions for the applicant. She was concerned about waterflow and how the proposed development would impact the animals in the area. She asked questions about buffers. She wanted to know if there would be a fence around the development. Mr. Ware talked about the proposed greenspace.

Herb Maury thought that this case should be brought before a public hearing forum.

Paul Reeves expressed concerns over granting a variance of this magnitude and suggested that this case should be heard by a rezone process. He asked that the Board deny this variance and save the integrity of the rezone process in Cherokee County.

Mr. Ware gave his rebuttal. He said that all access to this development would be off of Highway 92. There will be no access off Camp Ground Drive and Little Ridge Road. He said they had no commercial interest in the subject property. Mr. Ware said they would work within the Highway 92 Overlay standards. They are willing to decrease the densities the further away from Highway

92 the development goes. He said they were willing to stay after the meeting and answer any questions people might have.

Cindy Castello asked Mr. Ware if he had ever been in Britley Park and the Village at Oak Grove. He answered that he had. Ms. Castello said she had been in both subdivisions. She had been impressed with the Britley Park development. However, she thought the Village at Oak Grove is ugly. She compared the two developments. She wanted to know what the proposed setbacks are for the development. Mr. Ware said they were proposing larger setbacks than were required in the Overlay. Mr. Ware addressed various other issues that were brought up.

Ernie Curry addressed the current runoff problem. He said that, at present, there are no storm drains in the area. This situation would be cured by their proposed settlement pond. He discussed the amount of open space they are proposing. He then asked everyone who is in favor of this project to stand. Several people stood. Mr. Curry said that they wanted to do a quality job on the development. Otherwise, they would be unable to sell the lots. He pointed out that the property for the fire station alone is worth approximately \$750,000 and they are donating that to the county. He asked that the Board favorably consider their request.

Karen Mahurin arrived at the meeting at 7:00 P.M.

Jim Cain gave the staff recommendation. Staff's recommendation was conditional approval for Lot 22, which is the only lot that is actually split by the Highway 92 Overlay boundary. As for the remainder of the proposed site, Staff recommended a step-down density the further back the project goes from Highway 92. He said the proposed 21 acres of open space should be an effective buffer to the adjacent property owners to the north. Staff had concerns about whether the residential development and the fire station would constitute mixed-use.

Evert Hekman said he thought the proposed development was too much density for the area. He said he thought the Board should deny the variance. Bob Reilly felt that a decision of this magnitude should be made by the Planning Commission. Karen Mahurin agreed. Cindy Castello made a motion to deny the variance. Karen Mahurin seconded the motion and the vote was 4-0 for denial.

Although T-Mobile was on the agenda to submit information to the Board about a possible new location for their cell tower, the Board determined that this would not be appropriate. A discussion ensued.

A discussion then ensued about changing the date of the January 2003 ZBA Meeting and on re-advertising the cases that were tabled at this meeting. Karen Mahurin made a motion to change the date of the January Meeting to January 09, 2003. Evert Hekman seconded the motion and the vote was 4-0 to approve the motion.

Bob Reilly asked that a correction be made in the November 07, 2002 Minutes. Evert Hekman made a motion to approve these minutes, with the correction on Page 4. The motion was seconded by Karen Mahurin (or Cindy Castello). The vote was 4-0 for approval.

Evert Hekman made a motion to adjourn. Bob Reilly seconded the motion and the vote was unanimous. The meeting was adjourned at 8:00 P.M.