

**Cherokee County Zoning Board of Appeals
Public Hearing
Minutes
Thursday, April 1, 2004
6:30 p.m.**

The Cherokee County Zoning Board of Appeals held its regularly scheduled meeting on April 1, 2004, in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Zoning Board of Appeals were Chairman Karen Mahurin, Evert Hekman, Bart Brannon, Roy Taylor and Cindy Castello. In attendance for Cherokee County Staff were Mark Mahler, County Attorney, Vicki Taylor, Zoning Administrator, Vicki Mulkey, Zoning Technician for the Planning & Zoning Department. The meeting was called to order at 6:30 pm.

Old Cases

Case #03-11-054A Joseph Shields requesting a variance to Article 5, Section 5.6A. The applicant is requesting a variance to allow for a 3.8 foot setback for a swimming pool. This property is located at 2304 Westland Mill in Land Lot 1035 of the 21st District and further described as Cherokee County Tax Map 21N11A, Parcel 002.

Case has been postponed

Case #04-03-011V Wesco Signs requesting a variance to Article 11, Table 11.1. The applicant is requesting a variance to allow one additional wall sign for a business. The Cherokee County Zoning Ordinance allows one freestanding sign and two wall signs. This property is located at 3781 Sixes Road in Land Lot 283 of the 15th District and further described as Cherokee County Tax Map 15N08, Parcel 112E.

Vicki Taylor gave Staff findings that Article 11, Table 11.1 limits a business to three signs, only one being a freestanding sign, and generally the business will elect to erect one freestanding and two wall signs. However, after speaking with the previous zoning administrator, the bank elected to place three wall signs at this location. Applicant now feels the freestanding monument sign is needed due to the topography of the site.

FINDINGS OF FACTS *(The following are standard questions for a variance request)*

EXTRAORDINARY AND EXCEPTIONAL CONDITIONS PECULIAR TO THE SITE: This site sits significantly lower than the adjacent road grade.

APPLICATION OF REGULATIONS WOULD CREATE A PRACTICAL DIFFICULTY OR UNNECESSARY HARDSHIP: Yes, because the bank is not easily seen from the road.

RELIEF, IF GRANTED, WOULD NOT CAUSE SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD OR IMPAIR THE PURPOSES AND INTENT OF THESE REGULATIONS: No, I do not believe the addition of this monument sign will be a detriment.

A LITERAL INTERPRETATION OF THE ZONING ORDINANCE WOULD DEPRIVE THE APPLICANT OF RIGHTS OTHERS IN THE SAME DISTRICT HAVE BEEN ALLOWED: Yes.

Marion Pope represented this case.

Discussion ensued.

Cindy Castello made a motion to approve. Seconded by Bart Brannon. Motion passed unanimously 5-0.

New Cases

Case #04-04-013V Paul Morrow requesting a variance to Article 5, Section 5.6(c); Size of Accessory Structures. The applicant is requesting a variance of 1,700 sq. ft. to allow a 4,000 sq. ft. accessory structure. The Cherokee County Zoning Ordinance allows a 2,300 sq. ft. accessory structure since this property consists of 8.87 acres. This property is located at 7195 McCurley Road in Land Lot(s) 761, 762 of the 21st District and further described as Cherokee County Tax Map 21N10, Parcel 036.

Vicki Taylor gave Staff findings that:

Article 5, Section 5.6(C) limits an accessory structure to 900 square feet plus an additional 200 square feet for every full acre over two acres. Based upon the current survey showing 7.86 acres, the largest accessory structure allowed would be 1900 square feet. Applicant states that a 4,000 square-foot structure is necessary to house his boat, antique vehicles, and farm equipment.

FINDINGS OF FACTS (The following are standard questions for a variance request)

EXTRAORDINARY AND EXCEPTIONAL CONDITIONS PECULIAR TO THE SITE: This site is surrounded on three sides by Corps of Engineer property.

APPLICATION OF REGULATIONS WOULD CREATE A PRACTICAL DIFFICULTY OR UNNECESSARY HARDSHIP: Yes, vehicles would have to remain parked outdoors and exposed to the elements.

RELIEF, IF GRANTED, WOULD NOT CAUSE SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD OR IMPAIR THE PURPOSES AND INTENT OF THESE REGULATIONS: No, I do not believe the building will be a detriment as sited. The two adjacent neighbors to the south and the one to the east have signed a letter of support, and the Corps owns all other adjacent property.

A LITERAL INTERPRETATION OF THE ZONING ORDINANCE WOULD DEPRIVE THE APPLICANT OF RIGHTS OTHERS IN THE SAME DISTRICT HAVE BEEN ALLOWED: Yes.

Paul Morrow represented this case.

Roy Taylor asked Vicki Taylor if a setback of 10 feet would be ok. She stated yes and that, in fact, the Corp of Engineers did not have any restrictions for setbacks and usually lot owners built up to the property line.

Bart Brannon made a motion to approve. Seconded by Roy Taylor. Motion passed unanimously 5-0.

Case #04-04-015V Patricia T. Newill and Arthur B. Newill Jr. requesting a variance to Article 5, Section 5.6(b); Number of Accessory Structures. The applicant is requesting a variance to allow one (1) additional accessory structure on a 14 acre parcel of land. The Cherokee County Zoning Ordinance allows one (1) accessory structure per parcel. This property is located at 2090 Toonigh Road in Land Lot(s) 408, 409 of the 15th District and further described as Cherokee County Tax Map 15N20, Parcel 372.

Vicki Taylor gave Staff findings that Article 5, Section 5.6(B) limits the property owner to one accessory structure. Currently in addition to the primary structure, this property has a detached garage. The Code allows for a 900 square feet structure plus an additional 200 square feet for every full acre over two acres. Based upon the current survey showing 14.31 acres, the largest single accessory structure allowed would be 3,300 square feet. The current garage is approximately 624 square feet. Applicant is requesting a 1,730 square foot storage building to house tractors and farm equipment.

FINDINGS OF FACTS *(The following are standard questions for a variance request)*

EXTRAORDINARY AND EXCEPTIONAL CONDITIONS PECULIAR TO THE SITE: This is a 14+ acre tree farm.

APPLICATION OF REGULATIONS WOULD CREATE A PRACTICAL DIFFICULTY OR UNNECESSARY HARDSHIP: Yes, vehicles would have to remain parked outdoors.

RELIEF, IF GRANTED, WOULD NOT CAUSE SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD OR IMPAIR THE PURPOSES AND INTENT OF THESE REGULATIONS: No, I do not believe the building will be a detriment as sited.

A LITERAL INTERPRETATION OF THE ZONING ORDINANCE WOULD DEPRIVE THE APPLICANT OF RIGHTS OTHERS IN THE SAME DISTRICT HAVE BEEN ALLOWED: Yes.

Art Newill represented this case.

Roy Taylor made a motion to approve. Seconded by Evert Hekman. Motion passed unanimously 5-0.

Case #04-04-016V Faith Family Church requesting a variance to Article 11, Table 11.1 and Section 11.5-3(d); Sign Ordinance. The applicant is requesting a variance of 25.75 sq. ft. to allow a 57.75 sq. ft. freestanding sign, a variance of 5 ft. to allow a 13 ft. height maximum and a variance to allow a LED sign. The Cherokee County Zoning Ordinance allows a 32 sq. ft. freestanding sign for churches with a height maximum of 8 ft. with no animated or flashing lights. This property is located at 5744 Bells Ferry Road in Land Lot 1188 of the 21st District and further described as Cherokee County Tax Map 15N06, Parcel 120.

Vicki Taylor gave Staff findings that Article 11, Table 11.1 limits a church sign to 32 square feet of copy area and the overall sign height to 8 feet. Section 11.5-3 D excludes from all districts signs with flashing, intermittent or animated illumination or effect, except time and weather informational signs, official warning or regulatory signs. Applicant is requesting the additional copy area and height as well, as the LED type sign, in order to more effectively publicize the two active churches at this site.

FINDINGS OF FACTS *(The following are standard questions for a variance request)*

EXTRAORDINARY AND EXCEPTIONAL CONDITIONS PECULIAR TO THE SITE: Property is located along a six-lane segment of Bells Ferry Road and opposite General Commercial zoning.

APPLICATION OF REGULATIONS WOULD CREATE A PRACTICAL DIFFICULTY OR UNNECESSARY HARDSHIP: Yes, application of regulations is limiting visibility and readability of the sign.

RELIEF, IF GRANTED, WOULD NOT CAUSE SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD OR IMPAIR THE PURPOSES AND INTENT OF THESE REGULATIONS: No.

A LITERAL INTERPRETATION OF THE ZONING ORDINANCE WOULD DEPRIVE THE APPLICANT OF RIGHTS OTHERS IN THE SAME DISTRICT HAVE BEEN ALLOWED: Yes.

Pastor Tommy White represented this case.

Evert Hekman asked if this sign would be in addition to sign in existence now. Pastor White stated the current sign would be removed.

Discussion ensued as to a monument style sign as opposed to pylon.

Roy Taylor said it would be better if the sign were monument since it was visible from the Highway 92 Village Corridor. Pastor White said he would like that better.

Roy Taylor made a motion to approve to allow the height, square footage and type of sign as represented, but that the LED would not be allowed to flash and that the sign should be built in a similar manner to existing sign with bricks. Seconded by Bart Brannon. Motion passed unanimously 5-0.

Case #04-04-017V Larry McLaughlin requesting a variance to Article 7, Table 7.1; Minimum District Development Standards. The applicant is requesting a variance of 25 ft. to allow a 25 ft. side building setback on AG property. The Cherokee County Zoning Ordinance requires a 50' building setback from all property lines. This property is located at 888 A. J. Land Road in Land Lot 159 of the 2nd District and further described as Cherokee County Tax Map 02N06, Parcel 227.

Vicki Taylor gave Staff findings that Article 7, Table 7.1 designates building setbacks as 50-feet from any property line. Applicant is requesting a variance for an encroachment of 25 feet into a side building setback for an attached garage.

FINDINGS OF FACTS (*The following are standard questions for a variance request*)

EXTRAORDINARY AND EXCEPTIONAL CONDITIONS PECULIAR TO THE SITE: Property is long and narrow and only a little over 100 feet wide at the house site.

APPLICATION OF REGULATIONS WOULD CREATE A PRACTICAL DIFFICULTY OR UNNECESSARY HARDSHIP: Yes, applicant states house will not sell without the attached garage.

RELIEF, IF GRANTED, WOULD NOT CAUSE SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD OR IMPAIR THE PURPOSES AND INTENT OF THESE REGULATIONS: No, if properly screened from adjacent property to the east.

A LITERAL INTERPRETATION OF THE ZONING ORDINANCE WOULD DEPRIVE THE APPLICANT OF RIGHTS OTHERS IN THE SAME DISTRICT HAVE BEEN ALLOWED: Yes.

Larry McLaughlin represented this case. He stated contractor did not pull the building permit as required and now he is not to be found.

Cindy Castello made a motion to approve. Chairman Mahurin seconded. Motion passed unanimously 5-0.

Case #04-04-018V Mark M. Roszina requesting a variance to Article 7, Table 7.1; Minimum District Development Standards. The applicant is requesting a variance of 40 ft. to allow a 10 ft. front building setback on NC (Neighborhood Commercial) property. The Cherokee County Zoning Ordinance requires a 50' front building setback along a local road. This property is located at 5901 Bells Ferry Road in Land Lot 1116 of the 21st District and further described as Cherokee County Tax Map 15N06F, Parcel 047.

Vicki Taylor gave Staff findings that Article 7, Table 7.1 requires building setbacks of 50-feet for the front and any property along the street frontage is designated as a front. Bells Ferry Road would be the primary front and Hunter Trail the secondary front. Applicant is requesting a variance for an encroachment of 40 feet into a side building setback (on Hunter Trail) for an attached covered patio area.

FINDINGS OF FACTS (*The following are standard questions for a variance request*)

EXTRAORDINARY AND EXCEPTIONAL CONDITIONS PECULIAR TO THE SITE: No.

APPLICATION OF REGULATIONS WOULD CREATE A PRACTICAL DIFFICULTY OR UNNECESSARY HARDSHIP: No, there is plenty of room to the rear, however, it would necessitate the removal of the existing covered deck.

RELIEF, IF GRANTED, WOULD NOT CAUSE SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD OR IMPAIR THE PURPOSES AND INTENT OF THESE REGULATIONS: I have a safety concern with the deck so close to the right-of-way.

A LITERAL INTERPRETATION OF THE ZONING ORDINANCE WOULD DEPRIVE THE APPLICANT OF RIGHTS OTHERS IN THE SAME DISTRICT HAVE BEEN ALLOWED: No.

Mark Roszina represented this case and presented a letter by adjoining property owners that they have no objections to his variance request.

Discussion ensued.

Bart Brannon made a motion to approve. Cindy Castello seconded. Motion passed unanimously 5-0.

Case #04-04-019V THW Development, LLC requesting a variance to Article 23, Section 23.8; Conservation Subdivision Buffers. The applicant is requesting a variance to encroach into the 50' exterior conservation buffer in Oakwind Subdivision to clear, grade and revegetate for entrance to subdivision. The Cherokee County Zoning Ordinance requires this 50' undisturbed buffer around exterior of the subdivision. This property is located along Fincher Road in Land Lot(s) 59, 60, 85 of the 22nd District and further described as Cherokee County Tax Map 22N05, Parcel 057.

Vicki Taylor gave Staff findings that Article 23, Section 23.8 requires a 50-foot perimeter buffer around any conservation subdivision adjacent to conventionally zoned property. This property's entry is only 150 feet wide which accommodates the 50-foot right-of-way and the two 50-foot perimeter buffers, but does not have room for the area necessary for grading of the roadbed. Applicant is requesting a variance for an encroachment into this perimeter buffer along the entrance road for the purpose of grading the roadbed and landscaping the entrance into the subdivision.

FINDINGS OF FACTS (*The following are standard questions for a variance request*)

EXTRAORDINARY AND EXCEPTIONAL CONDITIONS PECULIAR TO THE SITE: Somewhat narrow entrance into the property.

APPLICATION OF REGULATIONS WOULD CREATE A PRACTICAL DIFFICULTY OR UNNECESSARY HARDSHIP: Yes, the road would not be able to meet Cherokee County Engineering Department standards.

RELIEF, IF GRANTED, WOULD NOT CAUSE SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD OR IMPAIR THE PURPOSES AND INTENT OF THESE REGULATIONS: No.

A LITERAL INTERPRETATION OF THE ZONING ORDINANCE WOULD DEPRIVE THE APPLICANT OF RIGHTS OTHERS IN THE SAME DISTRICT HAVE BEEN ALLOWED: Yes.

Richard Thompson represented this case.

Duane Wedan spoke in opposition. He stated he has a fish pond and he is opposed due to the fact that his pond sits lower than the grading asked for and he is concerned of soil erosion and sedimentation.

Discussion ensued.

Jack Harris spoke and said he was mistaken and thought this meeting was regarding the number of lots. He stated he was looking forward to the Town Hall meetings to address concerns of the Community.

Chairman Mahurin made a motion to postpone this request until the next meeting in May for Richard Thompson and Mr. Wedan to work out a solution to Mr. Wedan's concerns for his fish pond. Seconded by Evert Hekman. Motion passed unanimously 5-0.

Case #04-04-020V Robin Summey requesting a variance to Article 5, Section 5.6(c); Size of Accessory Structures. The applicant is requesting a variance of 180 sq. ft. to allow a 1080 sq. ft. accessory structure. The Cherokee County Zoning Ordinance requires a 900 sq. ft. maximum for an accessory structure in the R-20 zoning district. This property is located at 2561 New Mill Way in Westland Mills Subdivision in Land Lot 962 of the 21st District and further described as Cherokee County Tax Map 21N11A, Parcel 194.

Vicki Taylor gave Staff findings that Article 5, Section 5.6(C) limits the size of an accessory structure to 900 square feet. Applicant is requesting an additional 180 square feet in order to build a 30' X 36' (1080 square feet)

three-bay garage to house a boat and two antique cars.

FINDINGS OF FACTS (The following are standard questions for a variance request)

EXTRAORDINARY AND EXCEPTIONAL CONDITIONS PECULIAR TO THE SITE: No.

APPLICATION OF REGULATIONS WOULD CREATE A PRACTICAL DIFFICULTY OR UNNECESSARY HARDSHIP: Yes, the current home can only house two vehicles.

RELIEF, IF GRANTED, WOULD NOT CAUSE SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD OR IMPAIR THE PURPOSES AND INTENT OF THESE REGULATIONS: No.

A LITERAL INTERPRETATION OF THE ZONING ORDINANCE WOULD DEPRIVE THE APPLICANT OF RIGHTS OTHERS IN THE SAME DISTRICT HAVE BEEN ALLOWED: Yes.

Charles Summey represented this case.

Discussion ensued.

Bart Brannon made a motion to approve. Seconded by Roy Taylor. Motion passed unanimously 5-0.

Other Items

Approval of March 4, 2004 Minutes.

Bart Brannon made a motion to approve the minutes. Seconded by Evert Hekman. Motion passed unanimously 5-0.

Roy Taylor began discussion of the variance form application and discussed that the form should be more specific for information the Board needed in analyzing the variance requests. Vicki Taylor agreed. The Zoning Board of Appeals asked Ms. Taylor to look over the form and make any suggestions or changes and bring those to the next ZBA meeting for discussion.

Roy Taylor made a motion to adjourn. Seconded by Cindy Castello. Motion passed unanimously 5-0.

Meeting adjourned at 7:30 pm