

**Cherokee County Zoning Board of Appeals
Public Hearing
Minutes
Thursday, August 5, 2004
6:30 p.m.**

The Cherokee County Zoning Board of Appeals held its regularly scheduled meeting on August 5, 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, Roy Taylor and Cindy Castello. In attendance for Cherokee County Staff were Mark Mahler, County Attorney, Glenda Casteel, Director, Building Department, Vicki Taylor, Zoning Administrator and Vicki Mulkey, Zoning Technician for the Planning & Zoning Department. Bart Brannon did not attend. 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.

Mr. Mahler reported that Mr. Miller is planning to go forward on the closing of his property, but that Mr. Miller requested that this agenda item remain one more month.

Case #04-07-036V Robert and Charolette Czekala requesting a variance to Article 5; Section 5.5-2; Accessory Uses. The applicant is requesting a variance to place a tennis court in the front yard area. The property is located at 1516 Gantt Road in Land Lot(s) 230, 231 of the 2nd District and further described as Cherokee County Tax Map 02N07, Parcel 119A.

Vicki Taylor stated an agreement had been made between the Czekala's and their adjacent property owner. She gave the Board a drawing of that agreement. The Board stated that a more legible copy should be provided by Mrs. Czekala for the Planning and Zoning file.

Cindy Castello made a motion to approve. Seconded by Roy Taylor. Motion passed unanimously 4-0.

Case #04-07-037V Matthew Genoble requesting a variance to Article 5, Section 5.6A & 5.6B. The applicant is requesting a variance to allow one additional accessory structure on his property and a variance of 7' to allow a 3' side building setback. The Cherokee County Zoning Ordinance requires a 10' building setback and only one accessory structure per parcel of land. This property is located at 604 Victoria Road in Victoria Cottage Subdivision in Land Lot 678, 691 of the 21st District and further described as Cherokee County Tax Map 21N10A, Parcel 190.

Vicki Taylor explained this case had already had its public hearing and the Board had asked Mrs. Casteel to look at the structures and report back them her findings.

Glenda Casteel stated she could not find any building permits issued to the Genoble's address for accessory structures. She stated, however, that any structure less than 120 sq.ft. or any carport less than 400 sq.ft. did not require a building permit and therefore he would not have been told the property setbacks. She stated that the garage appeared to have been built in the 1960's and further that he may have been gauging his setbacks by other structures in the community. She stated that the Victoria Cottage area use to have a 3 foot side yard setback and 5 foot rear yard setback for accessory structures.

Roy Taylor asked if the buildings could be joined. Glenda stated the structures could be joined and that Mr. Genoble had stated he would join the buildings.

Evert Hekman made a motion to approve the variance to the carport setback with the following conditions that 1) privacy fencing be erected between Mr. Genoble's property and the adjacent property owner, 2) the structures be joined by cedar siding, 3) No business to be conducted within the structures. Seconded by Cindy Castello. Motion passed 3-1, with Roy Taylor in opposition.

New Cases

Case #04-08-039 Mike Dempsey requesting a variance to Article 7, Table 7.1A; Minimum District Development Standards. The applicant is requesting a variance of 7' to allow a 43' front building setback instead of the required 50' building setback. This property is located at 149 Arbor Shoals Drive in The Shoals @ Arbor Hill Subdivision in Land Lot 957 of the 3rd District and further described as Cherokee County Tax Map 03N17, Parcel 120.

Vicki Taylor gave Staff findings and Mr. Dempsey represented the case.

No one spoke in favor or opposition.

Roy Taylor made a motion to approve. Seconded by Cindy Castello. Motion passed unanimously 4-0.

Case #04-08-040V BG Land, LLC requesting a variance to Article 16, Hwy 92 Overlay Regulations. The applicant is requesting a variance to bring several properties into the Hwy 92 Overlay District. These properties are located on James Dupree Lane in Land Lot 1056 of the 21st District and further described as Cherokee County Tax Map 21N05, Parcel(s) 273A, 273B, 273D, 273E, 273F, 274 and a portion of parcel 273.

Vicki Taylor gave Staff findings and Jimmy Bobo represented the case.

Wayne Tyson spoke in favor of the variance and stated that he and Mr. Bobo had made a compromise to the satisfaction of both.

Amy Mumaugh spoke in opposition saying the expansion would completely envelope her property. She stated she is against the variance due to the businesses noise, dust, fire and rodents.

Audrey Soulis of 112 Sundown Lane, spoke in opposition due to her concerns of fires this type of business can generate.

Mike Payne spoke in opposition. He stated he lives in Westland Mills Subdivision and that he is opposed due to traffic issues on James Dupree Lane, the smell, dust and a decrease in property values.

Ed Cipollina of Westland Mills Subdivision spoke in opposition. He stated he met with Mr. Bobo to try to come to a compromise agreement, but that when he took the compromise back to his neighbors they were not ready to accept the compromise proposed. He further talked of traffic concerns.

Jamie Dupree spoke in opposition to the expansion and asked the Board to consider that their quality of life is in jeopardy.

Frankie Barnwell of 6265 New Mill Trail spoke in opposition and stated the business is already an eye sore to the community. He asked the Board to deny this request.

Jim Baxter, Sundown West, spoke in opposition and stated this type of business should be in an industrial zoning classification and that other counties would have this near a landfill and not on Highway 92.

Robert Callegari, Westland Milll Subdivision, spoke in opposition and would like to see the property used for a better purpose such as a school.

Richard Spinks spoke in opposition and stated the business just should not be there and stated it was out of place in that area.

Robert Mullinax spoke in opposition. He stated he lives on New Mill Trail and he was concerned of a decrease in property values.

Mr. Wall spoke in favor of the expansion and stated that Mr. Bobo had made many improvements since he bought the property. He stated any smell would be coming from the horse stables and not this business.

Mr. Bobo spoke in rebuttal and stated he thought he had an agreement with the neighbors through Mr. Callegari and presented the Board with the agreement he thought had been reached. He stated as a businessman he wanted to be able to expand his business, but did understand the concerns of the neighbors. He stated he needed this variance in order to get the traffic off James Dupree Road and position his road access internally. He stated he had made many improvements one step at a time and was addressing dust and fire issues.

Roy Taylor made a motion to deny so that Mr. Bobo could pursue this issue through the rezone process rather than the Zoning Board of Appeals. Seconded by Cindy Castello. Motion passed unanimously 4-0.

Chairman Mahurin stated that she never felt that the Highway 92 Village Overlay was ever meant to come to the Board of Appeals as a rezoning tool.

Other Items

Discussion ensued as to the Highway 92 Village Overlay intentions and the Board asked Mr. Mahler to draft a letter to the Board of Commission to re-establish the Highway 92 Members that drafted the Overlay to meet with the Zoning Board of Appeals to clarify intent and implementation of the Overlay code.

Approval of July 1, 2004 Minutes.

Evert Hekman made a motion to approve the minutes. Seconded by Cindy Castello. Motion passed unanimously 4-0.

Evert Hekman made a motion to adjourn. Seconded by Roy Taylor. Motion passed unanimously 4-0.

Approved September 2, 2004

Meeting adjourned at 7:50 pm