

**Cherokee County Zoning Board of Appeals  
Public Hearing  
Minutes  
Thursday, January 6, 2005  
6:30 p.m.**

The Cherokee County Zoning Board of Appeals held its regularly scheduled meeting on January 6, 2005, in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Zoning Board of Appeals were Vice-Chairman Evert Hekman, Roy Taylor, Sean Jerguson, Amy Mumaugh and Greg Elder. 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. The meeting was called to order at 6:30 pm.

Mark Mahler swore in new members Amy Mumaugh and Greg Elder and welcomed them to the Board.

Case #05-01-001V James A. Pruitt requesting a variance to Article 9, Section 9.3-11; Home Occupations. The applicant is requesting a variance to allow intermittent parking of a dump truck at home. The property is located at 928 Ellenwood Drive in Land Lot 95, District 15 and described as Cherokee County Tax Map 15N19, Parcel 039.

Vicki Taylor gave Staff recommendations and then James Pruitt represented this case.

Juanita Hunt, 883 Ellenwood Drive, spoke in favor of this variance. She stated the dump truck has not harmed the road.

Ken Caraker, 894 Ellenwood Drive, spoke in favor of this variance and stated the dump truck didn't deter him from purchasing his home.

Howard Moore, 825 Ellenwood Drive, spoke in favor of this variance. He stated Mr. Pruitt dump truck did not bother him and that Mr. Pruitt kept a very neat home.

Tommy McFarland, 817 Ellenwood Drive, spoke in opposition. He stated this problem started last year when he was trying to get a variance to have an accessory structure to house his motor home on his property. He stated his neighbors said it would be an eye sore and he couldn't understand why Mr. Pruitt could have a dump truck because it was tearing up the road. He presented pictures to the Board showing the condition of the road. He stated Mr. Pruitt

also pulls a front end loader on a trailer with the truck and the roads are not built to handle this type heavy equipment.

Discussion ensued as to the possibility of putting a 12 month review to allowing the dump truck to see if there are any problems that have arisen.

Discussion of the road as to normal wear and tear.

**Sean Jerguson made a motion to approve the variance with the stipulation only one dump truck could be parked at the home. Motion passed unanimously 5-0.**

Case #05-01-002V Vien Nguyen requesting a variance to Article 10, Table 10.1; Buffer Requirements. The applicant is requesting a variance to encroach into the 35-foot zoning buffer for grading and installation of septic field lines. The property is located at 5495 Bells Ferry Road in Land Lot 1224, District 15 and described as Cherokee County Tax Map 15N06, Parcel 177.

Vicki Taylor gave Staff recommendations and Jessica Nguyen represented this case.

No one spoke in favor of this variance.

Dusty McDaniel, Walden Pond Apartments, he stated the reason the apartments had not given the Nguyen's permission to tie in to their sewer is because the apartments were under contract for sale and they could not make that decision at that time. He stated the apartments were concerned about a septic system because the Nguyen property was on a down hill slope and they were concerned about ground contamination and disturbing the buffer. He stated the apartments did not sell and now at this time they could make a decision.

**Roy Taylor made a motion to postpone this case until the next ZBA meeting in order for the Nguyen's to go back to Walden Pond Apartments to see if they could tie into their sewer line. Seconded by Evert Hekman. Motion passed unanimously 5-0.**

Case #05-01-003V Tom & Jeanine Posey requesting a variance to Article 7, Table 7.1A; Minimum District Development Standards. The applicant is requesting a 20 foot variance to allow a 30 foot side building setback to construct an attached garage. The property is located at 912 Hasty Trail in Land

Lot 1076, District 3 and described as Cherokee County Tax Map 03N05, Parcel 132.

Vicki Taylor gave Staff recommendations and Tom Posey represented the case.

No one spoke in favor or opposition.

Roy Taylor made some suggestions for alternative placement of the garage, but Mr. Posey said they would not work because of turning radius, etc.

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

Case #05-01-004V Sam Scaffide requesting a variance to Article 25, Tree Preservation Ordinance. The applicant is requesting a variance to be allowed to reduce the total acreage used in calculation for this parcel by the amount of acres being utilized by lake, wetlands and marsh. The Cherokee County Zoning Ordinance requires that the tree density be calculated by the total amount of acreage for that parcel. The property is located at 4636 Waters Road in Land Lot(s) 681, 682, 687 and 688, District 15 and described as Cherokee County Tax Map 15N28, Parcel 252.

Vicki Taylor gave Staff recommendations and Elinda Eakins represented this case.

No one spoke in favor of this variance.

Pete Penny stated he did not understand what Mr. Scaffide was asking because he did not know about the Tree Preservation Ordinance. He stated he did not want to say he is in opposition, but that possibly the Board would postpone any decision until he and his neighbors could understand the situation.

Vicki Taylor explained that the Tree Preservation Ordinance did not take in account any bodies of water for the formula to calculate the number of trees to be planted. She further stated that Craig Henschel, the County Arborist, had stated to her that he had no problem with this variance, because Mr. Scaffide would need to plant trees in the buffer area. She stated if the lake (8.91 acres) was included in the formula, Mr. Scaffide would have to plant approximately 1,200 to 1,500 trees. Further, she stated that Mr. Henschel had suggested that the dam and area below the dam (1.3 acres) be excluded from the calculations, also. In addition, the applicant was asking for the buffer area around the lake (1.81 acres) be excluded due to sandy soil conditions because trees could not

survive in this area. She stated that Mr. Scaffide did have a landscape plan on file.

Amy Mumaugh stated from the way it sounds that Mr. Scaffide was trying to do something beneficial since he would be adding to the perimeter buffer with tree plantings.

Sean Jerguson stated he understood that with the current formula it would over populate the perimeter buffer. He stated common sense would tell you this is improper and he would make a motion to approve.

Mark Scofield stated he too was ignorant of this tree situation and that was their problem of understanding. He asked if this would give the developer the right to remove any trees. Ms. Eakins explained that as the Ordinance is written; if they did remove a tree they would have to plant a tree in kind. Therefore, it is more beneficial to leave the trees as much as possible.

Vicki Taylor stated they obviously would have to remove trees for the roadway and house pad and then when the lots are sold you can't tell the landowner they can't remove a tree from their property.

Mr. Hekman said they have the right to remove trees and nothing decided at this meeting changes that.

Roy Taylor stated the issue before them is that the formula now requires total acreage and they were deciding to exclude the lake, etc.

**Sean Jerguson made a motion to approve deletion of the lake (8.91 acres) and the dam and area below dam (1.3) acres at a total of 10.21 acres from the tree ordinance formula. Seconded by Roy Taylor. Motion passed 5-0.**

Case #05-01-005V **Barnie & Nanette Dickinson** requesting a variance to Article 5, Section 5.6A; Accessory Structures. The applicant is requesting a variance of 2.3 feet to allow a 7.7 foot side building setback instead of the required 10' side building setback for an accessory structure. The property is located at 208 Red Gate Terrace in Land Lot 1107, District 2 and described as Cherokee County Tax Map 03N24, Parcel 185.

Vicki Taylor gave Staff recommendations and Benson Chambers represented this case.

No one spoke in favor.

Larry Coburn, the adjacent property owner, stated he knew there was no malice intended for this encroachment; however, he did have his property surveyed when he went to locate the property line pin and could not find it and stated apparently during construction the pin was lost. He really didn't have a concern regarding the variance, but his concern was jeopardizing the resale value of his property. He stated seven years ago when he built his home it was a 50 foot setback off the property line and all the other homes in the neighborhood are 50 foot. He stated the previous owner built the garage and attached it to the home with a breezeway. The former owner attempted to buy a strip of his land, but he could not do that because the mortgage company owns the property.

Mr. Coburn stated if he got a detail oriented purchaser in the future he didn't want any red flags to come up in selling the property. Greg Elder asked if more plantings or landscaping would help with the situation. Mr. Coburn stated they had talked about a fence, but it really wasn't a part of the property he uses, because it's in the back corner.

Greg Elder stated if the Board turned the variance down, then Mr. Dickinson would have to tear down the garage. Mr. Coburn said he didn't want to do that.

Discussion ensued as to the placement of the garage and that Mr. Coburn home is on the other side of his property and not close to this property line. Discussion ensued as to if any detriment to resale of Mr. Coburn's property.

Sean Jerguson asked if the garage was attached or detached. Glenda Casteel stated the garage was permitted in 1999 to the previous owner as detached and then later he attached it to the home.

**Roy Taylor made a motion to approve the variance as requested. Amy Mumaugh seconded. Motion passed unanimously 5-0.**

Case #05-01-006V Robert & Shirley Owen requesting a variance to Article 5, Section 5.6C; Accessory Structures. The applicant is requesting a variance of 900 square feet to allow a 1,800 square foot accessory building for storage of a motor home and antique automobiles. The property is located at 1361 Bart Manous Road in Land Lot 106, District 15 and described as Cherokee County Tax Map 15N25, Parcel 186.

Vicki Taylor gave Staff recommendations and Robert Owen represented the case.

No one spoke in favor or opposition.

Roy Taylor made a motion to approve the variance as requested. Seconded by Sean Jerguson. Motion passed unanimously 5-0.

**Other Items**

**Election of Chair and Vice-Chair.**

Roy Taylor nominated Evert Hekman as Chairman since he had the longest service on the Board. Mr. Hekman accepted. Vote was unanimous 5-0.

Evert Hekman nominated Roy Taylor for the same reason of experience. Mr. Taylor accepted. Vote was unanimous 5-0.

**Minutes of Meeting December 2, 2004**

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

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

Meeting adjourned at 7:50 pm