

**Cherokee County Zoning Board of Appeals
Public Hearing Minutes
Thursday, August 4, 2011
6:30 PM**

**Approved
9/1/2011**

The Cherokee County Zoning Board of Appeals held its regularly scheduled meeting on August 4, 2011 in Cherokee Hall at the Cherokee County Administration Building. In attendance for the Zoning Board of Appeals were Chairman Roy Taylor, Elizabeth Semler, Viviane Decker, and Cynthia Castello. Lanette Shaw was not in attendance. In attendance for Cherokee County Staff were Jeff Watkins, Community Development Director, Tamala Davis, Planning Technician and Paul Frickey, County Attorney.

The meeting was called to order by Chairman Roy Taylor at 6:30 p.m.

The first case presented by Jeff Watkins was that of **Shirley R. Martin- Case #11-08-008V** requesting a variance to Article 11, Section 11.6.3. Applicant is requesting a variance to allow a 9 square foot projecting sign. This property is located at 4012 Ball Ground Highway in Land Lot 281 of the 14th District, 2nd Section and is further described as Cherokee County Tax Map 14N27, Parcel 040.

Mr. Watkins discussed his staff comments and surrounding zoning designations. He stated that the use of the property is a long standing legal non-conforming use in which there was an automotive repair shop on this property even though it is zoned R-80 for a residential use. He stated that in Article 11 of the sign regulations it allows signage in residential zoning districts is limited to four square feet with 8 feet height maximum and in section 11.6, paragraph 3 it identifies swinging and projecting signs as being prohibited. Mr. Watkins discussed the history of this location in regards to a sign violation and a letter from Chairman Ahrens regarding an inquiry from Mrs. Martin. In Chairman Ahrens letter it gave two (2) alternatives by which Mrs. Martin could erect the desired sign, which was either to rezone the property to commercial or apply to the Zoning Board of Appeals for a variance. Mr. Watkins stated that the commercial building on this property lies very near the right of way and there is very little paved area at this location.

Shirley Martin represented this case. Mrs. Martin discussed this proposed signage and reasons as to why the projecting sign is needed. She would like for it to be seen from both directions of Ball Ground Highway and went over what the sign would look like.

Mr. Taylor asked if there was anyone to speak in favor or against this application.

There being none, Mr. Taylor closed the public hearing.

Mr. Taylor stated that there are many commercial signs along the road as you approach this property and these signs are a lot closer and larger than anything being proposed.

Mr. Watkins made a couple of observations regarding commercial freestanding signage requiring monument-style and how it would be a hazard to put monument signage in the island area out front of this shop. He also stated that if you move the signage to one side or the other of that building, the signage could not be seen and this leaves you with very few alternatives.

Mr. Watkins stated that a projecting sign would be one to consider and this is one of the signs that they are looking at moving from the prohibited list to permitted signage within certain areas. Mr. Watkins stated that there are probably several signs along this corridor that are illegal and have not been permitted. He stated that we could not hire enough people to police signs.

Mr. Taylor stated that this would actually be two (2) requests on this application, the size of this sign and the type of sign. Mr. Watkins stated yes, that is correct.

Mr. Taylor asked Mr. Watkins if he sees this particular sign as being an impediment to any future goal that is being proposed for this area. Mr. Watkins stated, no.

Mrs. Castello stated that she likes the look of the sign and thinks it could only enhance the building.

Mrs. Semler made a motion to approve as presented. Seconded by Castello.

Mr. Watkins wanted to clarify that this is to grant a variance to the size of the sign and allow this to be a projecting sign. Mrs. Castello stated, yes.

Motion passed 4-0.

Mr. Taylor opened the public hearing for the next application.

The next case is **Bethany Place, Inc., Case #11-08-009V** requesting a variance to Article 7, Table 7.1A. Applicant is requesting a variance to allow two (2) structures forward of the front building setback line. This property is located at 8024 East Cherokee Drive, Canton in Land Lot 1091 of the 3rd District, 2nd Section and is further described as Cherokee County Tax Map 03N12, Parcel 065.

Mr. Watkins presented this case. He stated that this property was given citations by the Marshal's office for erecting buildings without permits. He stated that this property has a church, thrift store and a boutique and it is those two things that are before the Board tonight. Mr. Watkins stated that the thrift store was permitted and erected under the land development plan and was approved through the plan approval process. He said it was discovered that there was an additional building erected closer to the right of way in between the thrift store and the right of way. Mr. Watkins indicated that the Board should have in their packets an aerial where Mrs. Lee had worked with the applicant to establish a line across the front of the property which was a building line not to cross that is approximately 50 feet from the right of way.

Mr. Taylor asked if this was given prior to the erection of this building. Mr. Watkins stated yes.

Mr. Taylor asked when during the building process the County became aware that the foundation was beyond this line. Mr. Watkins said he is not certain of that. He stated that Mrs. Lee has worked a great deal on this and apologized for her not being there tonight.

Mr. Watkins stated essentially they established this building setback line for the thrift store to be behind, the building was built over this line and subsequent to that the 16' x 16' building was set down immediately adjacent to the thrift store and even closer to the right of way and they are asking for those two (2) structures to remain where they are.

Mr. Taylor stated that the application as it was presented to them seemed like the request was for the smaller building that did not obtain a permit.

Mr. Watkins stated that is correct. He said that Mrs. Lee had written a letter to the applicant that the bigger building had been permitted and issued a C.O. and there wasn't anything else we could do on that one, but the smaller building that was erected with no permit would need to obtain a variance from the Board. However, Mr. Watkins added that, after a discussion with Mr. Paul Frickey, in order to clear this all up and if the Board felt so inclined to grant this variance to allow the larger building as it currently sits and not leave as nonconforming.

Mr. Frickey stated that the application does make reference to the letter from Mrs. Vicki Lee, which states that the thrift store and the boutique are both too close to the road, and therefore, it is appropriate for the Board to consider both buildings for consideration tonight.

Sandra Reed, Director of Bethany Place represented this case. She stated that this is a long term home for women and children that have been here for about 23 years. She said they also have an emergency food bank and supply churches with food. She stated that donations decreased due to the economy however, the donations of clothing, furniture and other items increased so they decided to turn all of this into money to pay for the bills. Mrs. Reed stated that she was not aware that the building was built over any line they received a permit and C.O. She stated that it looked huge and was 3,000 square foot but they ran out of room fast due to the amount of donations. She stated that they moved a barn/storage building from the back of the property to the front, next to the thrift store to put all the baby items in. She said the baby barn does not impede anyone, there is a fence and Bradford pears between these buildings and the road and it looks very attractive. She said they have a petition with almost 300 signatures and she did not come across anyone that was negative. She said that they will get the barn tied down and get it permitted, she thought since it was on the property and just moved this building that she would not need a permit.

Mr. Taylor asked if there was anyone to speak in support of this application.

Larry Baker, a local minister from Woodstock spoke in support. Mr. Baker stated that a lot of businesses contribute to this thrift store. He doesn't see this being a hazard or a problem. Mr. Baker stated that he knows this County is very considerate of appearances but at the same time he knows the County wants to encourage people to move forward with construction and building. He requested the Board approve this application. He stated this use is to raise the necessary funds to take care of these women and children.

Phil Wood, an insurance agent from Woodstock and on Board of Director's for Bethany Place, spoke in support. Mr. Wood stated he doesn't feel they intentionally put this building too close to the street. He stated that he has known the Reeds for over 20 years and has never known them to try to circumvent what they were supposed to do. Mr. Wood requested the Board to approve this request.

Paul Storey spoke in support. Mr. Storey stated he has had a ministry on East Cherokee Drive for over 30 years and has known the Reeds for over 25 years. He stated that sometimes we have to look at a situation and see how it affects other people. Mr. Storey stated the Reeds have dedicated their entire lives to save women and children. They have always had their doors open to help others and they have never intentionally tried to avoid a regulation. He stated they have struggled from the very beginning and over the years have encouraged people to come to help them and save their lives. He stated there have been over 100 or more women and children that have come out of poverty and brought into a home where they are loved, cared for and nourished and where they can be sent back out to society. He asks the Board to look at this for what they have done not for why the regulation is that way or this way.

Mr. Taylor asked if there was anyone else to speak in favor of this application. There being none, he asked if there was anyone to speak against. There was none.

Mrs. Reed gave an example of what they do. She stated that having these two (2) buildings help to pay the bills monthly and to move this one building would create a hardship.

Mr. Taylor closed the public hearing.

Mr. Taylor stated that he went out to the facility however the pictures are self explanatory. He stated that unfortunately they are not charged with finding the good and the intent of what has lead to something. He stated that he is not clear if they are talking about 9 feet or not without having a legal survey. Mr. Taylor stated that the shed is being used for retail and must meet building codes and will never meet those building codes as it is today. Mr. Taylor stated that the sketch they have is not correct and he would have not known this if he had not went to the site. He stated that it does not reflect the correct locations and the buildings are much larger than what is shown. Mr. Taylor stated that the 16' x 16' building is clearly in the way and was not built for the purpose it is being used for today. He stated it will never be allowed to get a permit even if it gets tied down or not.

Mr. Frickey stated that the issue of permitting of the building and whether it meets building codes or not is really not a question that this Board has to make a determination on, it's simply whether the location of the buildings can be within the 50 foot building setback.

Mr. Taylor stated that he thinks it is really good for everyone to know what Mr. Frickey had said and he doesn't want to say otherwise, but because of professional knowledge of these things he knows that if they were to approve this building for the location, it still would not be allowed to remain. He stated this was part of the issue that they had brought forward about the fact that they cannot afford to move or relocate the building. He stated that he thinks these issues are a part of their consideration and explained it is beyond just them.

Mr. Taylor asked Mr. Watkins if there was anything in the code that might allow this temporarily and not as a permanent structure. Mr. Watkins stated that he knows the code is not going to speak to that and that would be up to the Board as to allowing this building temporarily. He also stated that these shed type buildings are not meant for the occupancy that we are trying to put in them and therefore will never meet the building and fire codes for the occupancy load, however we are here tonight simply for the location, they will need to get with the other departments once agreed on the location.

Mr. Taylor stated he would first like to get a motion and vote regarding the first building (thrift store) which is the larger building that was issued a permit and a certificate of occupancy however is still in violation.

Mr. Taylor made a motion to approve the encroachment into the front building setback for the thrift store building to remain at its current location. Seconded by Mrs. Semler. Approved 4-0.

Mrs. Semler discussed in regards to the baby barn allowing temporarily for a period of time to see if their income increases to be able to move the building.

Mrs. Decker stated she was thinking along those lines to consider giving them a certain time frame to in which to work on what it would cost to move it.

Mrs. Castello asked how many acres? Mrs. Semler stated 3.45 acres.

Mr. Taylor stated he understands why it is adjacent to the other building and why they want to keep it at this location. He stated it is not a hazard for anyone riding on the road and is clearly behind the fence but he is very hesitant to put a burden on the future of East Cherokee Drive to allowing this building permanently. He feels there is a reason why we have building setbacks.

Mrs. Semler asked Mr. Taylor what kind of temporary solution would he suggest. Mr. Taylor stated that in some situations they have had them come back in 12 months. He said we might annually review this.

Mr. Frickey stated that it is acceptable to let them have a period of time to remove the building but he recommends the Board make a determination either for or against.

Mr. Taylor made a motion for this application not be accepted. Mr. Taylor stated that he feels this is a special case and they have dealt with these cases from the other side where they have given relief from when they have needed to change things by in the past and this is what they are trying to resolve is the timeframe.

Mrs. Semler stated that they have revisited cases.

Mr. Watkins stated that for certainty for the applicant we do need a point and time instead of coming back and revisiting.

Mrs. Decker stated that she would propose two (2) years and then if they come into obstacles and need more time for them to ask for an extension but they can't leave this open ended.

Mr. Taylor made a motion to approve this application for this building (baby barn) to remain at its current location with a condition that this approval expires within 24 months. Seconded by Mrs. Castello. Approved 4-0.

Mrs. Decker wanted to say that she was very impressed with what they are doing and is sad there is only one in the County.

Other items, the approval of July Minutes. Mrs. Castello made a motion to approve. Seconded by Mrs. Decker. Approved 4-0.

The meeting adjourned at 7:39 p.m.
