

Cherokee County Zoning Board of Appeals
Public Hearing Minutes
Thursday, June 7, 2012
6:30 PM

Approved July 12, 2012

The Cherokee County Zoning Board of Appeals held its regularly scheduled meeting on June 7, 2012 in Cherokee Hall of the Cherokee County Administration Building. In attendance for the Zoning Board of Appeals were Chairman Roy Taylor, Elizabeth Semler and Cynthia Castello. In attendance for Cherokee County Staff were Vicki Taylor Lee, Zoning Administrator, Tamala Davis, Planning Technician and Paul Frickey, County Attorney.

The meeting was called to order by Chairman Roy Taylor at 6:33 p.m.

The first case was **Brent Chandler, Case #12-06-011V** requesting a variance to Article 7, Table 7.1A and Article 27, Section 27.4. Applicant is requesting to be allowed to encroach 35 feet into the building setback and 60 feet into the tree buffer along I-575. This property is located at 120 Memorial Drive in Land Lots 129 and 160 of the 15th District and further described as Cherokee County Tax Map 15N13, Parcel 018.

Ms. Vicki Taylor Lee presented this case. Ms. Lee discussed staff comments and noted she has received no letters of support or opposition. She noted that the County Arborist has no objection to the encroachment with the planned tree planting as shown on the submitted site plan. Ms. Lee stated that staff recommends this petition be granted with the increased plantings in the remaining 15 feet along I-575.

Brent Chandler represented this case. Mr. Chandler stated he is with Stewart Enterprises that owns and operates the Cherokee Cemetery. Mr. Chandler stated that they have a need to build a new mausoleum since they are running out of property for new burials. He stated they are hoping to build the new mausoleum perpendicular to the existing one and this would encroach into this setback.

Mr. Taylor asked if there was anyone here to speak in favor or opposition of this application. There being none, he closed the public hearing.

Mr. Taylor asked the applicant did he have a copy of the planting plan that he hopes to put in place. The applicant came forward to show the plantings on the site plan.

Mr. Taylor asked why the building cannot be turned sideways and it would meet the building setback and stay out of the buffer. Mr. Chandler stated that to the right are some existing benches that are sole property rights to the customers and they cannot pull those up and move them. Mr. Chandler stated they are limited to where they can put it due to the power line and having three (3) road frontages.

Ms. Castello asked how many bodies will the mausoleum hold. Mr. Chandler stated it will hold 348. He stated it would be a beautiful structure with granite veneer and even with the encroachment there should be plenty of trees in between them and Interstate 575.

Ms. Semler asked the applicant what impact it would make to have the structure ten (10) foot shorter. Mr. Chandler stated they would lose 48 spaces.

Mr. Taylor noted that he doesn't know that you would have to shorten the building that much to get a second row of Leyland Cypress.

Mr. Taylor made a motion to accept the application as submitted with the following changes:

1. Encroachment of the building is not to exceed 51 feet into the 75 foot tree buffer
2. Applicant is to increase the number of plantings along the set encroachment from 1 row of 10 to 2 staggered rows of 20 Leyland Cypress trees as located on the submitted site plan (Exhibit A).

Seconded by Ms. Castello. Unanimous approval.

The next case, **Jerry L. Stewart, Case #12-06-012V** requesting a variance to Article 7, Section 7.7-24b. Applicant is requesting to be allowed to use a barn and other attached structures for housing of livestock that encroach at one point 73 feet into the 75 foot setback. This property is located at 6097 Vaughn Road in Land Lot 539 of the 15th District and further described as Cherokee County Tax Map 15N27, Parcel 076.

Ms. Vicki Taylor Lee presented the case. Ms. Lee stated that the original barn was built in 1969 and the additions have been added throughout the years. She stated that the barn is non-conforming because it is too close to a property line for any structure, but especially for a barn housing livestock. Ms. Lee stated the use itself was grandfathered until it ceased for a period in excess of 2 years. She stated staff recommends approval to restore the use of this building for housing of livestock. Ms. Lee received no letters of support or opposition.

Jerry Stewart represented this case. Mr. Stewart stated the barn was built prior to him purchasing the property and they did add on. He stated that livestock has not been on the property in approximately 3 years.

Ms. Lee stated that our department did receive a letter of support from Tim and Sharon Arp.

Mr. Taylor asked if there was anyone to speak in favor or opposition. There being none, he closed the public hearing.

Ms. Semler made a motion to approve. Seconded by Ms. Castello. Unanimous approval.

Ms. Lee presented the next case, **Charles Matthews, Case #12-06-013V** requesting a variance to Article 5, Section 5.6. Applicant is requesting to be allowed to construct a farm equipment storage building in R-80 prior to a primary structure. This property is located at 500 Oakridge Trail in Land Lot 27 of the 21st District and further described as Cherokee County Tax Map 21N07, Parcel 012A. Ms. Lee stated the proposed building is 18' x 20' located in excess of 300 feet from the south property line and over 700 feet from the west property line. She stated staff has not received any letters of support or opposition and recommends the variance be approved.

Chuck Matthews came forward to represent his case. Mr. Taylor asked if he had any additional information to add to his case. Mr. Matthews stated no.

Mr. Taylor asked if there was anyone to speak in favor or opposition.

Ms. Susan Dyer came forward to speak in opposition. She stated her address is 378 Oak Ridge Trail and her property adjoins this one. Ms. Dyer stated she is not necessarily against this request but would like to know more information about what type of farm equipment will be stored and the location of where this building will be.

Ms. Lee showed Ms. Dyer the location of this proposed structure. Ms. Dyer asked about the access to this property. Ms. Lee stated according to the tax assessor's records and a plat of this property the road dead ends into this property and is a county maintained road.

Ms. Dyer asked if she could get a copy of this information to take home to study. Mr. Taylor stated that this information is all available on-line.

Ms. Dyer stated that she has talked with the Road Department and there are questions as to whether or not Mr. Matthews has access.

Ms. Lee stated that Mr. Matthews does have legal access.

Mr. Taylor stated the access to his property is not what's in question and informed Ms. Dyer that she would need to take this issue up with the Road Department and Engineering.

Mr. Taylor stated that this Board is here to approve this small steel building to house farm equipment to take care of the property and be built without a primary structure.

Ms. Dyer stated it would have been nice to get this information prior to the meeting and was not aware that it was available on-line. Mr. Taylor stated signs were posted, adjoining property owners were notified and there has been plenty of time to get this information. He stated that they would make a decision tonight.

Ms. Semler noted that this is just for the building.

Mr. Taylor closed the public hearing.

Ms. Castello made a motion to approve the application as requested which would allow an 18' x 20' storage building prior to the principle structure and be located no closer than 300' to the nearest property line and over 700' to the nearest public road as shown on the topographic map (Exhibit A). Seconded by Ms. Semler. Unanimous approval.

Next case, **Bells Ferry Ace Hardware, Case #12-06-014V** requesting a variance to Article, Section 16.2 (Article 8 by reference) and Article 11, Table 11.1. Applicant is requesting to be allowed a 50 square foot sign, 12 feet in height with an LED screen of a still image with scrolling words. In addition, a variance is requested to the monument style requirement. This property is located at 6437 Highway 92 in Land Lot 1188 of the 21st District and further described as Cherokee County Tax Map 15N06, Parcel 093.

Ms. Lee discussed staff comments and noted she received no letters in support or opposition. She stated this property is designated as a Neighborhood Center zone in the Bells Ferry LCI Overlay District and discussed what type of signage is allowed in this Overlay. She stated the applicant is proposing a sign that does not meet any of the requirements laid out in the Zoning

Ordinance for the size and type of sign. Ms. Lee stated in her opinion a wall sign would be more important than a monument sign due to the road widening of Highway 92.

Ms. Rhonda Eden represented this case. Ms. Eden stated that she is the President of Bells Ferry Ace Hardware. She stated the location has been there for over 35 years and the original sign was taken down due to the road widening and then it no longer met the guidelines. She stated the sign would not be visible with the current regulations. Ms. Eden stated they would like to also have a sign with a still image and it would change within a certain amount of time however, it would not scroll, flash or blink. She stated that the Small Business Administration did perform a study and found that the LED signs did not increase traffic accidents and with signage a certain size that can be read easily it actually decreased. She stated that it has been a struggle to stay in business since the road widening and she feels the proposed sign would help and enhance the property.

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

Mr. Chris Eden spoke in support. Mr. Eden stated that they are trying to save the business and would like to have this sign to inform their customers the variety of items they have. He stated that without this sign it will make it harder for them to stay in business and would like the Board to approve this request.

Mr. Taylor asked if there was anyone to speak in opposition. There being none, Mr. Taylor closed the public hearing.

Ms. Castello stated that she lives in this general area and feels this is a hardship. She stated that DOT put a concrete divider in the middle of the road and you have to go out of your way to get to this business and she feels like we need to support these small businesses.

Mr. Taylor stated he understands the concept of creating an LCI corridor area but at the same time they are less realistic along major corridors.

Ms. Castello stated they did have a freestanding sign at one time.

Ms. Lee stated that the Board of Commissioners had approved that if the sign was permitted and was removed due to road widening, they could keep the square footage and height of the permitted sign however it would have to be monument style. She stated this was prior to the adoption of the Bells Ferry LCI Guidelines. Ms. Lee stated part of the problem was that the signs were so old the current owners could not document a permit being obtained. She also stated the height is based from the centerline of the road.

Mr. Taylor stated they are asking for 12 foot in height and they are measuring below the grade of the road. Mr. Taylor stated that the proposed sign is a pole and is not a monument.

Ms. Lee stated the monument is to be the same width as the sign and has to be filled in.

Ms. Semler asked Staff what the Planner's concerns were with this application. Ms. Lee stated that the Bells Ferry Overlay has a more village idea to it and the businesses close to the road are allowed certain signage such as blade signs or signs over the door.

Mr. Taylor stated that these requirements are written for what would be considered urban areas and this is Highway. He stated he would like to find a middle ground that allows the 50 square feet of copy area and having it fit closer within the Bells Ferry guidelines for the rest.

Mr. Taylor stated the brick/monument base would have to be at least the 10' width and has to fill in up to the bottom of the sign.

Mr. Taylor asked the applicant what the height would be from the centerline of the road. They determined that the sign would meet the requirements of the 10 foot height limit.

Mr. Taylor made a motion to accept this application to allow a 50 square foot LED sign. Seconded by Castello. Unanimous approval.

The last case, **Case #12-06-015V, Mike Jorge** requesting a variance to Article 7, Table 7.1. Applicant is requesting to be allowed to encroach 5 foot into the required 20 foot front building setback line and encroach 10 foot into the required 25 foot rear building setback line. This property is located at 296 Ascott Lane in Land Lot 755 of the 21st District and further described as Cherokee County Tax Map 15N04K, Parcel 150.

Ms. Lee presented this case. She discussed staff comments and noted she has received no letters of support or opposition.

Mr. Parks Huff represented this case. Mr. Huff stated this lot is the last lot in the subdivision and is a very wide, steep lot that has drainage issues and if he builds a home it shifts to one side which does not fit within this neighborhood. He stated if they split the lot into two (2) lots it would be consistent with other lots in this subdivision. He stated they are asking for a front setback encroachment of 2 feet instead of the 5 feet they requested on the application which would allow a front setback of 18 feet. Mr. Huff stated on the rear setback they are requesting a 10 foot encroachment into the 25 foot building setback but would like to make it clear that they will not be into the buffer at all. Mr. Huff stated that Ms. Duncan, the adjoining property owner on the left is requesting that the applicant move the house farther back after discussions that afternoon.

Mr. Taylor stated that is not what was described in the application and there is no revised site plan or sketch that is being presented.

Mr. Huff stated they are asking for a variance of two (2) feet on the front and a 10 foot building setback on the rear.

Mr. Taylor stated he would like to break this into two (2) requests since they are asking for different variances on two (2) separate lots.

Mr. Frickey stated this property has not been subdivided yet. Mr. Huff stated that is correct. He stated they are requesting a variance on one lot which would result in a division of this lot.

Mr. Frickey asked if an application has been filed to subdivide the lot. Mr. Huff stated no.

Mr. Taylor stated there is no need to subdivide the lot if they do not get the variance. He stated for descriptive purposes we need to call this Lot A and Lot B. Mr. Huff stated it would be shown as Lot 118 and 118A.

Mr. Huff stated the purpose of this is if you put one house on this lot it shifts to one side and then you would have an area that is not manageable with drainage issue through it and would look odd.

Mr. Taylor asked Mr. Huff what they are requesting for Lot 118. Mr. Huff stated they are proposing the rear setback be 15 feet instead of the 25 feet to allow the home to be shifted back to accommodate Ms. Duncan's request.

Mr. Taylor asked if there was anyone to speak in favor of this request.

Tonya Duncan and Mike Imbornone spoke in support. Ms. Duncan stated that the way it is shown now the house is angled so that she would be able to see the corner of the house and would look really odd. Mr. Imbornone stated her house is about 50 feet back and she would be able to see the back of the new home from one of her rooms if it is not approved to be moved back.

Ms. Semler stated they could do the same thing with building only one (1) home on this lot.

Paula Redman spoke in support. Ms. Redman stated that she lives at 279 Ascott Lane and passes this lot every day. She stated she would like for the home to be built farther back to be in line with the other existing homes. She stated her only concern is that she only wants one (1) home and would like to move this one (1) home back not to be allowed to build two (2) homes.

Brian Mott spoke in support. Mr. Mott asked if this would affect his address. Ms. Lee stated his house number would not change. Mr. Mott stated that currently this lot is not maintained and would like for it to be.

Mr. Taylor asked for anyone who would like to speak in opposition.

Misty Carney spoke in opposition. Ms. Carney stated that she lives at 312 Ascott Lane. She stated that she would rather have only one (1) home on this lot and have this home set farther back from the home. She stated she does not support two (2) homes on this property since it would change addresses.

Mr. Huff spoke in rebuttal. He stated they are not asking whether or not they can build two (2) homes on this lot. Mr. Huff stated that both adjoining property owners have requested this application be approved and would like for the Board to grant this request.

Mr. Taylor closed the public hearing.

Ms. Semler stated that she didn't really hear that the neighbors were in support of this application. She stated also there are nine (9) other lots that would be impacted.

Ms. Lee explained the details with the addresses. She stated that the lot can be split whether the variances are granted or not, they would just need to reduce the footprints of the homes.

Ms. Semler made a motion to deny this application. Seconded by Mr. Taylor. Unanimous approval.

The last item on the agenda was the approval of April 5, 2012 Minutes. Mr. Taylor made a motion to approve. Seconded by Ms. Castello. Unanimous approval.

Mr. Taylor made a motion to move the July 5, 2012 Public Hearing to July 12, 2012. Seconded by Ms. Castello. Unanimous approval.

Ms. Semler made motion to adjourn. Seconded by Ms. Castello. Unanimous approval. Meeting adjourned at 8:15 p.m.