

**Cherokee County Zoning Board of Appeals**  
**Public Hearing Minutes**  
**Thursday, April 4, 2013**  
**6:30 p.m.**

Approved 5-2-2013

The Cherokee County Zoning Board of Appeals held its regularly scheduled meeting on Thursday, April 4, 2013 in Cherokee Hall of the Cherokee County Administration Building. In attendance for the Zoning Board of Appeals were Chairman Elizabeth Semler, Roy Taylor, Cynthia Castello, Bill Dewrell and Melissa Range. In attendance for Cherokee County Staff were Vicki Taylor Lee, Zoning Administrator and Tamala Davis, Planning Technician.

The meeting was called to order at 6:30 p.m.

The first case, **Case #13-04-008V** Tyler and Lori Burns requesting a variance to Article 7, Table 7.1A Minimum District Development Standards of the Cherokee County Zoning Ordinance. Applicant is requesting a 20 foot variance to the 30 foot rear building setback for construction of a home. This property is located at 942 Pine Circle in Land Lot 691 of the 21st District and further described as Cherokee County Tax Map 21N10A, Parcel A086.

Ms. Lee presented the case. Ms. Lee discussed staff comments, location of property, gave adjacent zoning and noted that this property does not back up directly to the lake. She stated it was brought to our attention from Randy Flint who is with the Corp of Engineers that this property has a deed restriction stating no closer than 15 feet and he submitted a letter stating they have no issue with the Board granting a variance to reduce to 15 feet.

Mr. Burns represented this case. Mr. Burns stated he thought there was a 0' setback adjoining Corp property and he has a plat indicating no building setback. Mr. Burns stated all the houses are built closer to the rear building lines. He stated they are selling this lot and he has a buyer contingent upon approval of this variance request.

Ms. Semler asked if there was anyone to speak in favor or opposition. There being none, she closed the public hearing.

Mr. Dewrell asked Mr. Burns if staff's recommendation would work for him to grant a 15 foot variance to the rear building setback and a 5 foot variance to the front building setback. Mr. Burns stated absolutely.

Mr. Taylor stated he has concerns that there is a plat indicating a 0' building setback. Ms. Lee stated the recorded subdivision plat does not indicate setbacks and the Corp of Engineers states there is a deed restriction of 15 feet.

Mr. Taylor stated he thinks we have a good solution for now and thinks this is how we should precede with this case but would like to get a copy of this plat indicating the 0' building setback to verify for future reference.

Mr. Taylor made a motion to accept this application with modifications advised by Staff. Seconded by Mr. Dewrell. Unanimous approval.

**Case #13-04-009V** Mike Douglas/Towne Lake ROA requesting a variance to Article 11, Table 11.1 of the Cherokee County Zoning Ordinance. Applicant is requesting a variance in height of 12 feet 4 inches to allow a 22 foot 4 inch high sign. This property is located at 5150 Towne Lake Parkway in Land Lots 757, 758 of the 21st District and further described as Cherokee County Tax Map 15N04, Parcel 054.

Ms. Lee presented the case. Ms. Lee discussed staff comments, location of property, gave adjacent zoning and noted she received no letters of support or opposition. Ms. Lee stated the Board of Commissioners granted them an easement to erect a sign however the sign regulations have a height restriction of 10 feet for subdivision signage. Ms. Lee stated once a sign is removed any new signage must adhere to the regulations today.

Mike Douglas represented this case. Mr. Douglas stated the proposed monument sign will be almost the same height as the existing sign. He stated they plan to move the new signage back for the future widening of Bells Ferry Road. He stated they have replaced all signage in Towne Lake to make the area more attractive.

Ms. Semler asked if there was anyone to speak in favor or opposition. There being none, she closed the public hearing.

Mr. Taylor asked Staff what hardship would there be in making a ruling on this application. Ms. Lee stated there is no classic hardship. Ms. Lee stated variances to a sign have a hard time meeting the classic hardship rule.

Mr. Dewrell made a motion to approve this application. Seconded by Ms. Castello. Unanimous approval.

The last case, **Case #13-04-010V** David G. Williams requesting a variance to Article 5, Section 5.6A. The applicant is requesting a variance to allow an accessory structure in front yard area. This property is located at 1178 Lower Union Hill Road in Land Lots 285, 286 of the 2nd District and further described as Cherokee County Tax Map 02N02, Parcel 134.

Ms. Lee presented the case. Ms. Lee discussed staff comments, location of property gave adjacent zoning and noted the applicant did receive a building permit but was issued a stop work order due to the location of the structure.

Mr. Wes Williams represented this case. Mr. Williams stated their intention is to build a pole barn with a pull through feature for trailers, RV and a pontoon boat. Mr. Williams stated first the plans were approved in January 2012 by the Director of Building Inspections and location approved by Environmental Health. Mr. Williams handed out paperwork to the Board. He stated after submission of all paper work a building permit was issued, a grader was hired and at no time were they notified of a 50 foot building setback. He stated it took approximately 50 dump truck loads of dirt to get a compacted site. He stated the shed could be put in other locations however it would not have the same desired effect. Mr. Williams stated they relied on the approval to proceed with the site development and as soon as they began construction a stop work order was issued. He stated this is a 3.23 acre tract however almost 50% of the property is located in a floodplain.

Mr. Scott Reece, Surveyor with Brumbelow Reece Land Surveying came forward to speak in favor of this application. Mr. Reece stated the typical hardships with this property are the shape, topography and floodplain. He stated the two problems they saw was the initial septic system being in front of property and if it was to fail then the reserve system would need to be put in the rear yard also the topography of the existing land down towards the house would cause a great deal of grading to level this site.

Mr. Williams presented 10 letters of support from neighbors in the area.

Mr. Taylor stated they do not appear to be adjacent neighbors.

Ms. Semler asked if there was anyone to speak in opposition.

Mr. Bob Van de Bogert spoke in opposition. Mr. Van de Bogert stated he lives at 110 Cherokee Hill and adjoins this property. He stated he is in opposition to the size of this building and it being 10 feet from the property line. He feels this will devalue the neighborhood.

Mr. Tom Atcheson spoke in opposition. Mr. Atcheson stated these posts are approximately 15 feet from the road way. He stated a building of that size will be an eyesore from the road way. He stated a vehicle had already hit a smaller shed on this property that was close to the road way and this could happen again but to a much larger building.

Mr. Williams spoke in rebuttal. Mr. Williams presented one more hand out to the Board relating to front building setbacks. He stated his brother will have a survey performed to identify exactly where the 10 feet is and will turn over to the Zoning Administrator for confirmation prior to any further construction.

Ms. Semler closed the public hearing.

Mr. Taylor asked what the street setback is for Lower Union Hill Road. Ms. Lee stated it is currently 50 feet.

Ms. Lee stated the Building official can only sign off for building inspections regulations and Environmental Health can only approve their regulations, they do not look at zoning requirements. Ms. Lee stated other than Agricultural, you are not allowed to put an accessory structure forward of the face of the house. Ms. Lee stated this property is zoned Agricultural however the structure is not allowed in a front yard setback area.

Mr. Dewrell asked who wrote N/A on the application. Ms. Lee stated our policies regarding front yard setbacks. She stated generally it is explained to the customer, however now it is specifically wrote out on the application not allowed.

Ms. Range asked when the permit expired. Ms. Lee stated she would like to know when the poles went in, but technically with no activity or no call for inspections a permit would expire at 6 months.

Ms. Semler asked Mr. Williams when the poles were set. Mr. Williams stated he does not know exactly but it was well within the date on his permit. He stated he renewed the permit and a fee was accepted by Cherokee County.

Mr. Taylor stated just because a permit is issued on something that is wrong there is language stating that it is still wrong.

Mr. Taylor stated the 50 foot setback has nothing to do with the front yard, it has to do with the street setback and required by Engineering.

Mr. Taylor asked staff at what point did the Planning Department look at the plans. Ms. Lee stated it would not have come through our department for approval and it only went to building inspections due to the size of the structure. The encroachment would have been noticed by the Building Department during inspection however no inspection was requested by the applicant.

Mr. Taylor stated the plans should have been reviewed by Engineering for approval due to land disturbance. He stated he has asked for comments from Engineering regarding this case and have not received any and is distraught that Engineering is not here with a report tonight. Ms. Lee stated in cases with single family construction, the building inspectors are charged with erosion control and best management until the disturbed area exceeds 5000 square feet, then Engineering Department would get involved.

Ms. Lee stated she does believe there are other locations to put this building on this property.

Ms. Semler stated she has real concerns with this building being so close to the road, it being in a curve and already having one building being hit.

Mr. Dewrell stated he totally agrees with all of this but he feels the applicant has gone this far with it and feels it should have been caught earlier.

Ms. Semler responded had the applicant called for inspections it would have been caught earlier.

Mr. Taylor stated without removing the building we may be able to negotiate shifting of where those columns are and getting it 12 feet back. Mr. Taylor also stated if they turn the building 90 degrees it would fit.

Ms. Range asked Mr. Williams if he was open to other alternatives with the location of the building.

Mr. Williams stated he would have to discuss with his brother.

Mr. Dewrell stated we could leave it up to the applicant meeting with the Planning Department to come up with an alternative than what was presented tonight.

Ms. Range asked Mr. Williams why he would not want to meet the 50 foot building setback when this is what is required. Mr. Williams stated he feels like the 10 feet is far enough and would be 50 feet from the center line.

Mr. Taylor made a motion to table this case until the next meeting date for the applicant to come up with an alternative solution. Seconded by Ms. Castello. Unanimous approval.

The last item on the agenda was the approval of March 7, 2013 Minutes. Mr. Dewrell made motion to approve. Seconded by Ms. Castello. Unanimous approval.

Mr. Dewrell made a motion to adjourn. Seconded by Ms. Castello. Unanimous approval. The meeting adjourned at 7:40 p.m.