

**Cherokee County Zoning Board of Appeals
Public Hearing Minutes
Thursday, December 3, 2015
6:30 p.m.**

The Cherokee County Zoning Board of Appeals held its regular public hearing on Thursday, December 3, 2015 in Cherokee Hall of the Cherokee County Administration Building. In attendance for the Zoning Board of Appeals were Chairman Elizabeth Semler, Bill Dewrell, Melissa Range, Marla Doss and Cindy 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 at 6:35 p.m.

Old Cases

Case #15-11-031V Brian Denton requesting a variance to Article 7, Table 7.1A. The applicant is requesting a variance to encroach 32.9 feet into the 50 foot side yard setback for a primary structure. The property is located on Cross Trail in Land Lot 536 of the 15th District and further described as Cherokee County Tax Map 15N27, Parcel 026A.

Vicki Lee presented this case. Ms. Lee discussed location of property, surrounding zoning and staff comments. Ms. Lee stated she has received no letters in support of or in opposition to this application. She stated this parcel has not been cut out of the parent tract, she said it was submitted to our office and was denied. She noted this would need to be used residentially and would not want to see commercial uses.

Brian Denton represented this case. Mr. Denton stated he owns 10 acres and has built a shop. He stated he has always intended to be a mentor to high school kids, however, he did not make his wishes known to his builder. He stated he had been advised to separate this structure off on its own parcel away from the residence. He stated it would not be used commercially and is a private shop.

Ms. Semler asked if there was anyone to speak in favor or in opposition to this application.

Jeff Rusbridge, Attorney for Kenneth and Martha Odom spoke in opposition. Mr. Rusbridge stated his clients live adjacent to this property and presented a photo of this structure to the Board. He stated this is a significant garage with driveways. He stated when this garage was constructed last year it met the requirements for an accessory structure. He stated the reason the garage was allowed at its current location was because it was located on the same parcel as the residence. He stated this structure is a non-residential structure and not allowed per code on its own parcel. Mr. Rusbridge stated a variance shall not be granted for a use of land or building or structure that is prohibited by the Ordinance in the district in question. He stated the Board is not allowed to grant a variance that is prohibited by the Ordinance.

Ms. Semler closed public comment.

Mr. Denton spoke in rebuttal. He stated this building cannot be moved and was properly permitted. He stated the only variance he is requesting is to separate this building off from his primary residence so if something were to happen he would not lose it all.

Ms. Lee stated the applicant is requesting this be considered a residential structure, however when she discussed the structure with the building inspector a few weeks ago they could not classify it as a residential structure. She stated to have the public coming in he would need approval from Building and Fire.

Ms. Semler asked the applicant if he has done any further work on the apartment. He stated no, he met with his architect and he believes the issue is the small amount of living space compared to the garage/storage.

Mr. Dewrell made a motion to deny. Seconded by Ms. Doss. Three (3) in favor, Two (2) in opposition. Ms. Semler and Ms. Range opposed.

New Cases

Case #15-11-032V Adriana Infante requesting a variance to Article 5, Section 5.6A and Article 7, Table 7.1A. The applicant is requesting a variance to allow an accessory structure in the front yard area, a 10.8 foot variance to allow the primary structure to be 4.2 feet from the side property line and a 5.8 foot variance to allow an accessory structure 4.2 feet from side property line. The property is located at 4721 Waters Road in Land Lot 758 of the 15th District and further described as Cherokee County Tax Map 15N28, Parcel 369.

Vicki Lee presented this case. Ms. Lee discussed location of property, surrounding zoning and staff comments. Ms. Lee stated she has received no letters in support of this application. She stated she did receive a letter in opposition today along with pictures. She stated the structures were located on the property when Ms. Infante purchased the property.

Adriana Infante represented this case. Ms. Infante stated all these issues existed when she purchased the property. She stated they did attach the garage however were not aware of all the encroachments. She stated she has all building permits for the structures and has removed the encroachments that went over the property line.

Ms. Semler asked if there was anyone to speak in favor or in opposition to this application.

Todd Midkiff spoke in opposition. Mr. Midkiff stated for the past eight (8) months he has diligently worked with Cherokee County to subdivide his property. He stated after he purchased the property he found there were two (2) structures encroaching onto his property. Mr. Midkiff stated after discussions with Cherokee County and the Homeowner's Association and several demand letters, one of the structures were removed and one was cut off and sits exactly on the property line. He request denial of this application, specifically the sauna room and if granted he requests the same variance be given to his property.

Ms. Semler closed public comment.

Ms. Range asked the applicant how long she has been in real estate. Ms. Infante stated 9 years. Ms. Range asked the applicant to look at a picture and asked if she was willing to move one of the structures back as far as the garage.

Ms. Semler asked Staff what the setbacks would be for the enclosed hot tub. Ms. Lee stated 10 feet.

Ms. Semler made a motion to approve the variance request relating to the primary structure and the carport, however denial of the variance request for the enclosed hot tub. Seconded by Ms. Doss. Unanimous approval.

Case #15-11-033V Britt and Keri Singleton requesting a variance to Article 7, Table 7.1A. The applicant is requesting a 12 foot variance to allow a 38 foot side building setback for an attached garage. The property is located at 262 Trenton Lane in Land Lot 819 of the 3rd District and further described as Cherokee County Tax Map 03N22A, Parcel 016.

Vicki Lee presented this case. Ms. Lee discussed location of property, surrounding zoning and staff comments. Ms. Lee stated she has received no letters in support of or in opposition to this application.

Britt Singleton represented this case. Mr. Singleton presented letters to the Board of citizens in support of this variance request. He stated they made a mistake and was not aware of the setbacks once the garage was attached by a breezeway.

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

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

Case #15-12-034V Laurey Sherman requesting a variance to Article 7, Table 7.1A. The applicant is requesting a 10 foot variance to allow a 40 foot rear building setback for an addition to the existing senior care facility. The property is located at 17210 Birmingham Highway in Land Lot 167 of the 2nd District and further described as Cherokee County Tax Map 02N10, Parcel 114.

Vicki Lee presented this case. Ms. Lee discussed location of property, surrounding zoning and staff comments. Ms. Lee stated she has received no letters in support of or in opposition to this application. She noted this is a legal non-conforming lot of record.

Laurey Sherman represented this case. She stated she is a nurse and the owner and founder of Providence Senior Living. Ms. Sherman stated she currently has two small personal care homes for eight people with one located in the City of Alpharetta and one in Cherokee County. She stated they are proud to serve the residents of Cherokee County and have been fortunate enough to have such a demand that they would like to add on to the home to have more space. She stated they are currently allowed to have an occupancy of sixteen (16) and would like to add more space for the current occupancy. Ms. Sherman stated the future addition would meet the 40 foot building setback and the adjoining neighbor has no objection to this request.

Ms. Semler asked if there was anyone to speak in favor or in opposition to this request.

Roy Taylor spoke in support of this request. Mr. Taylor stated he is the architect that is designing the addition to this home. He stated this is an area that is growing and feels this addition is not uncommon and is a reasonable request.

Ms. Semler asked if there was anyone else to speak in support of or in opposition to this request.

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

Case #15-12-035V Dan O'Dwyer requesting a variance to Article 16, Section 16.1.3A of the Cherokee County Zoning Ordinance. The applicant is requesting a variance to extend the planned subdivision located in the Highway 92 Overlay District by 0.8 acres to the North property line beyond the 1,000 foot boundary. The property is located at 14639 Highway 92 in Land Lot 1194 and 1255 of the 15th District and further described as Cherokee County Tax Map 15N30, Parcel 029.

Vicki Lee presented this case. Ms. Lee discussed location of property, surrounding zoning and staff comments. Ms. Lee stated she has received no letters in support of or in opposition to this application.

She stated it is not uncommon for the Highway 92 Overlay to cut off a portion of a parcel and historically these variances have been granted.

Mr. Dan O'Dwyer represented this case. Mr. O'Dwyer stated at the preliminary meeting with Staff it was discussed either to request a variance or to have the amenity package in this area. He stated they were going to do the amenity package however found that there was a 75 foot buffer requirement, so they can't put it in this area. He stated this is an active adult community and will have three (3) communities in this area. He stated they would like to create the best neighborhood amenity package and it will be a very nice community.

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

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

Case #15-12-036V Tim Guillot requesting a variance to Article 10, Table 10.1. The applicant is requesting a variance of to allow an encroachment into the 30 foot undisturbed zoning buffer between General Commercial zoning and Light Industrial zoning for expansion of an existing structure for O'Reilly Auto Parts. The property is located at 12122 Cumming Highway in Land Lot 964 of the 3rd District and further described as Cherokee County Tax Map 03N23, Parcel 145.

Vicki Lee presented this case. Ms. Lee discussed location of property, surrounding zoning and staff comments. Ms. Lee stated she has received no letters in support of or in opposition to this application.

Paul Engel, Engineer represented this case. Mr. Engel stated the 30 foot buffer is to shield this property from the Industrial zoned property. He stated he was informed the septic system has to go in this buffer area.

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

The last item is the approval of October 1, 2015 Minutes. Ms. Semler made a motion to approve. Seconded by Mr. Dewrell. Four (4) in favor, (1) abstained. Ms. Castello abstained since she was absent from this meeting.

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