

**Cherokee County Zoning Board of Appeals**  
**Public Hearing Minutes**  
**Thursday, January 7, 2016**  
**6:30 p.m.**

The Cherokee County Zoning Board of Appeals held its regular public hearing on Thursday, January 7, 2016 in Cherokee Hall of the Cherokee County Administration Building. In attendance for the Zoning Board of Appeals were Chairman Elizabeth Semler, Melissa Range, Marla Doss and Cindy Castello. In attendance for Cherokee County Staff were Jeff Watkins, Community Development Agency Director, Rhonda Hilliard, Executive Assistant and Paul Frickey, County Attorney.

The meeting was called to order at 6:30 p.m. Chairman Semler advised that there were four board members present and if there was a vote that resulted in a tie decision that the case would be denied until next month. Attorney Frickey indicated that the applicant would need to let the board know before the vote if they want to post-pone until the full board is present. Bill Dewrell arrived after the meeting was called to order after which Ms. Semler indicated to strike the above statement as there was now a full board.

**New Cases**

**Case #16-01-001V Glenn Welch** requesting a variance to Article 5, Section 5.6 of the Cherokee County Zoning Ordinance. The applicant is requesting variance to allow an accessory structure to encroach into the side and rear building setbacks. The property is located at 211 Silver Birch Court in Land Lot 1261 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 02N13B, Parcel 028.

Jeff Watkins presented this case. Mr. Watkins introduced himself and indicated that he was filling in for Zoning Administrator, Vicki Taylor Lee. He discussed location of property, surrounding zoning and staff comments.

Chairman Semler opened public comment. The applicant, Mr. Welch indicated that he would like to place the garage, the accessory structure, on the back of the lot. Placing it with the lot shape, that particular corner of the lot is less than 90 degrees and the 10' pushes it further out into the yard. Moving it back the extra five (5) feet will allow for the construction of a circle drive for access to and from the building. County Attorney requested the applicant state his name for the record which Mr. Welch provided.

Ms. Semler asked if there was anyone to speak in favor of the application.

Ken Baldwin who resides at 212 Silver Birch Court was present to support Mr. Welch's application with respect to where the building would be located. He indicated that living on the same street, it would not be visible. The amount of trees is significant. Mr. Baldwin indicated that he lives directly across the street from the applicant.

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

Jennifer Baley who resides at 213 Silver Birch Court, she resides directly behind the applicant and was present to ask questions regarding Mr. Welch's application. She would like a better description of how it would affect the view from her property line and how it would affect the property value of his property which would in turn affect the property values of the rest of the neighborhood. Ms. Semler asked Ms. Baley where her property was in relation to the applicant. Ms. Baley indicated that she has four (4) acres directly behind the applicant, so his entire property line backs into her property. Ms. Baley inquired as to what the structure is, what she is going to view from her property and how the property values would be affected. Chairman Semler showed Ms. Baley a diagram of where the proposed building would be located. Ms. Baley indicated that it was very close to the property line and asked if the structure was five (5) feet from the property line which Mr. Welch indicated it was. Chairman Semler assured Ms. Baley that if the variance was granted, they would be very specific about what was expected.

Chairman Semler asked the applicant to go ahead with his rebuttal. Mr. Welch indicated that the façade would mirror the image of the house, brick on the front with hardiplank on the side, a one story with an A-frame roof, it will be able to be seen in the winter time but in the summer it would not be visible. He indicated the cost of construction to be \$25-30,000. Ms. Semler indicated that he did not have to disclose that.

Ms. Semler closed public comment.

There was a question from the board about vegetation at the property line (side line). Chairman Semler asked Mr. Watkins for clarification about a comment that Vicki Lee had on her staff report which Mr. Watkins clarified. Chairman Semler asked Ms. Baley if that answered the questions that she had, Ms. Baley again reiterated what her concerns and questions were. Ms. Semler said that she felt comfortable that the property values would increase due to the mirroring of the house itself and asked for a motion.

Ms. Castello made a motion to approve the application as presented. Seconded by Mr. Dewrell. Unanimous approval.

**Case #16-01-002V Rene' Beltran** requesting a variance to Article 23, Table 23-2 of the 2002 Cherokee County Zoning Ordinance. The applicant is requesting a variance to allow a reduction in the side building setback from 15 feet to 10 feet on both sides. The property is located at 275 Traditions Drive in Land Lot 43 of the 2<sup>nd</sup> District and further described as Cherokee County Tax Map 02N12, Parcel 153.

Mr. Watkins presented this case. Mr. Watkins discussed location of property, surrounding zoning and staff comments. Mr. Watkins stated the applicant does have an approval letter from the HOA in support of this application.

Ms. Semler asked if the applicant was present. After no response from the applicant, Mr. Watkins stated that the property owner's names were Edwin Sanchez and Sandy Sanchez. Since it was not known whether the applicant contacted Vicki Lee requesting a postponement, Ms. Semler suggested they vote to post-pone. Therefore Ms. Semler made a motion to postpone case #16-01-002V to the next meeting in February. Seconded by Ms. Castello. Unanimous approval.

**Case #16-01-003V Kevin Norton** requesting a variance to Article 23, Section 23.4-2.4, Table 23-1 of the Cherokee County Zoning Ordinance. The applicant is requesting a reduction to the average lot size from 16,000 square feet to 14,500 square feet. The property is located at 7560 Bates Drive in Land Lots 36, 37, 106, 107, 108, 109 and 110 of the 2<sup>nd</sup> District and further described as Cherokee County Tax Map 02N13, Parcels 124, 126, 204 and 204A.

Mr. Watkins presented this case. Mr. Watkins discussed location of property, surrounding zoning and staff comments. Ms. Semler indicated that there was a typo in the staff report relative to the lot size. Mr. Watkins stated that they advertised 14,500 square feet and he would let the applicant address the correct lot size which is why Vicki made the notation in the staff report. Mr. Watkins said that it was important to note that this project has already been permitted for a Land Disturbance Permit.

Ms. Semler opened public comment and asked if the applicant was present. The applicant came forward and introduced himself as Kevin Norton from Edward Andrews Homes. Mr. Norton indicated that they are the developer and owner of the property. Mr. Norton indicated that they are requesting to allow a reduction in the average lot size, thereby allowing an increase in the common open space within the community and is not proposing a net change to the overall lot count or unit density. The property was zoned in 2001 as an R-40 Conservation Subdivision, the acreage is 132.12 acres and as indicated by Mr. Watkins there is a LDP approved for 134 lots with a density of 1.01 units per acre. The zoning allows for up to 1.089 so they are still below what the yield would have been. As it was zoned in 2001, there was a required minimum of 30% open space, the approved LDP plans has 67.1 acres, which is 50.8% area. The current plan they are proposing pushes them up to 77.21 acres of open space which is 58.4% of the property thereby increasing 10.11 acres of open space. The primary reason they are trying to increase the open space is they are trying to create more amenities within the community. They have found that the buyer of the property has changed. Originally they thought that they would have a family buyer. However what market data is telling them is that more active adult, move down buyers are coming into the community. They are trying to structure this like the Manor Northeast Project which has an active adult product which is maintenance free so that residents can come in and not have to take care of their yard and have great amenities within their community. In order to do this, they are trying to come up with smaller lots that they think better fit that market. With more open spaces they can create more trails, more amenities within the community. Mr. Norton showed the proposed plan to the board and also mentioned that he has the original plan if the board wants to see it. The proposed plan shows that they are trying to create more open space around the lake for trails. The original plan had houses backing up to each other and the proposed plan shows that they are trying to create open space between the lots to leave trees and create trails there as well. That way they do not have to put trails in people's back yards and create easements and people get concerned about security or safety or anything like that.

Ms. Semler asked if he was finished with his presentation and Mr. Norton stated he wanted to clarify that they are only looking for a reduction in lot size to 14,850 square feet. The current permit allows for a 16,633 square feet lot size on average. Ms. Semler asked if there was anyone to speak in favor or in opposition of this application.

Ms. Semler called for a 2-3 minute recess so that a member of the audience could ask Mr. Norton a question and provide some clarification. Ms. Semler made a motion for a recess. Ms. Range seconded. Unanimous approval.

Ms. Semler called the meeting back to order and asked if there was anyone else to speak in favor or in opposition to this application. Ms. Semler closed the public comment.

Mr. Dewell asked the applicant how many of the lots were down to the minimum of 14,850. The current plan shows 108 lots at 95' wide. The ordinance allows for 20% of the total lots at the smaller size (R40) classification which allows for 75' wide lots and they have 26 of those. The old plan shows 108 lots 95' wide and 26 lots 75' wide. The new plan proposes 51 lots at 95' wide and 83 lots at 77' wide. Ms. Semler indicated that she likes the idea that it increases the green space. What she is concerned about is rezoning the whole 132 acres, making a variance on the 132 acres. She felt it was not our part to do but the attorney indicated that it should come before the board. Ms. Semler asked if the board had any more concerns or questions of Mr. Norton. Mr. Watkins addressed the board and

advised that this is the cleanest way to get the developer to where they need to be. Mr. Watkins said he understood that the board is used to hearing individual hardship cases like individual lots. He said the developer is already developing the property. Mr. Watkins said that the only way to create a variance is to come to the zoning board vs. having them go thru the planning process to ask for it. Ms. Semler said that she has some hesitation about a blanket variance for 132 lots. Mr. Watkins acknowledged that this is very rare to have to go this way. Mr. Dewell asked the applicant to review how much green space they will have. Mr. Norton responded by saying that they are increasing it by 10.11 acres, 77.21% or 58.4% of the acreage. Mr. Dewell said that he was comfortable with that and said that he was ready to make a motion to approve the application. Mr. Dewell made a motion to approve. Ms. Doss Seconded. In favor were Mr. Dewell and Ms. Doss, opposed were Ms. Range, Ms. Semler and Ms. Castello. The motion failed. Ms. Semler made a motion to deny the application as presented. Ms. Castello seconded. In favor to deny were Ms. Range, Ms. Semler and Ms. Castello, opposed were Mr. Dewell and Ms. Doss. Ms. Semler indicated that the application was denied.

Rhonda Hilliard informed Ms. Semler that the applicant for Case #16-01-002V, Rene' Beltran had arrived late to the meeting. Ms. Semler asked Mr. Frickey how to proceed. Mr. Frickey said to make a motion to proceed with the public hearing. Ms. Semler made a motion to hear case #16-01-002V. Ms. Castello seconded. Unanimous approval.

**Case #16-01-002V Rene' Beltran** requesting a variance to Article 23, Table 23-2 of the 2002 Cherokee County Zoning Ordinance. The applicant is requesting a variance to allow a reduction in the side building setback from 15 feet to 10 feet on both sides. The property is located at 275 Traditions Drive in Land Lot 43 of the 2<sup>nd</sup> District and further described as Cherokee County Tax Map 02N12, Parcel 153.

Mr. Watkins briefly brought back up what case 16-01-002V involved.

Ms. Semler opened public comment. Rene' Beltran came forward and introduced himself as the applicant on behalf of Edwin and Sandy Sanchez, the homeowners. Mr. Beltran indicated that he just got a letter from a neighbor who is building next door in support of the Sanchez's application. Ms. Semler indicated that she would put that letter with the file. Mr. Beltran indicated that he was one of the builders. He stated that the owners are out of state and that they have to do all of the architectural planning remotely. He indicated that the house was 3' bigger than it was supposed to be and that this variance would really help.

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

Ms. Semler closed public comment.

Ms. Range made a motion to approve case 16-01-002V as presented. Seconded by Ms. Castello. Unanimous approval.

The next item on the agenda is the approval of September 3, 2015 and December 3, 2015 Minutes. Ms. Semler indicated that all members were present at the September meeting. Mr. Dewrell made a motion to approve the September 3, 2015 meeting minutes. Seconded by Ms. Range. Unanimous approval.

Ms. Range made a motion to approve the December minutes. Mr. Dewrell seconded. Unanimous approval.

Mr. Watkins indicated that the Appointment of the 2016 Officers was the next item on the agenda as well as the calendar. Mr. Watkins indicated that he did not have the calendar in front of him. Ms. Semler indicated that they would approve the 2016 calendar at the next meeting. Mr. Frickey stated that the board needed to approve the meeting date for the next meeting since there was not a calendar

to approve. Ms. Semler made a motion to approve the next meeting date as the first Thursday in February since there was not a 2016 calendar to approve. Motion was seconded by Ms. Castello. Unanimous approval. Mr. Watkins indicated that the board would have the new calendar for approval at the next meeting.

The last item on the agenda as indicated by Mr. Watkins was the appointment of officers. Ms. Castello nominated Elizabeth for Chair. Elizabeth indicated that she would like to do it but that she has done it for two (2) years in a row and she believes it is time for someone else to step up. At the suggestion of being Vice Chair, she indicated that she does not mind being Vice Chair if someone wants to volunteer to take over as Chairman. Mr. Dewrell nominated Melissa Range as Chairman for the 2016 Zoning Board of Appeals. Seconded by Ms. Castello. Unanimous approval.

Mr. Frickey indicated that Melissa Range was now in charge of the meeting. Ms. Range made a motion to nominate Elizabeth Semler as Vice Chair for 2016. Seconded by Ms. Castello. Unanimous approval.

Ms. Range made a motion to adjourn. Seconded by Mr. Dewrell. Unanimous approval. The meeting adjourned at 7:12 p.m.