

Cherokee County Zoning Board of Appeals
Public Hearing Minutes
Thursday, May 3, 2018
6:30 p.m.

The Cherokee County Zoning Board of Appeals held its regular public hearing on Thursday, May 3, 2018 in Cherokee Hall of the Cherokee County Administration Building. In attendance for the Zoning Board of Appeals were Chairman Lisa Tressler, Elizabeth Semler, Marla Doss and Cindy Castello. Melissa Range was not in attendance. In attendance for Cherokee County Staff were Michael Chapman, Planner; Tamala Davis, Planning Technician; Jeff Watkins, Planning and Zoning Director, Craig Henschel, Development Inspections Manager; Stephen Shrout, County Arborist and Paul Frickey, County Attorney.

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

Case #18-05-020V Ricky Abernathy at 5760 Reinhardt College Parkway requesting a variance to Article 7, Section 7.7-1 a. (3) Manufactured Home Regulations to allow a single-wide manufactured home in place of the required double-wide manufactured home. The property is located in Land Lot 077 of the 14th District and further described as Cherokee County Tax Map 14N08, Parcel 071A.

Ms. Tressler asked if there was anyone present to speak in favor or in opposition to this case.

No one was present in support or in opposition.

Ms. Tressler stated this application will be withdrawn.

Old Cases

Case #18-04-011V Justin and Virginia Wasilkowski at 1828 Kellogg Creek Road requesting a variance to Article 5, Section 5.6 – Accessory Uses and Structures to allow an accessory building (barn) within the front yard area. In addition, a variance to Article 5, Table 5.4 – Accessory Structure Standards to allow two (2) additional accessory structures for a total of three (3). RD-3 allows for one (1) accessory structure. The property is located in Land Lots 834 and 895 of the 21st District and further described as Cherokee County Tax Map 21N10, Parcel 013.

Ms. Tressler asked for any updates from staff.

Michael Chapman stated the zoning of the property and the request for a variance. He stated it was tabled from last month to give time to the applicant to explore rezoning the property.

Justin and Virginia Wasikowski were present to represent this case. Mr. Wasikowski stated some major events have come up over the past month that he would like to discuss. He stated he obtained a letter from Vicki Lee in the past stating horses would be allowed. He stated the property has not been being used as RD-3, it has been used as R-40. He stated due to the 75 foot restriction, that limits the location of accessory structures. He stated they are only needing two (2) accessory structures now not three (3). Ms. Wasikowski stated she really needs a barn to get her horses in. Mr. Wasikowski stated regardless of the zoning, he still would need a variance to allow the barn at the location they are requesting.

Ms. Semler asked the applicant did he look at rezoning the property to AG (Agricultural). Mr. Wasikowski stated there were issues with that because they did not have five (5) acres for commercial uses. Ms. Wasikowski stated because she rescues horses she has to have them in a dry, warm place.

Ms. Doss stated they would not be allowed to board horses and asked staff would they not need another variance to board horses. Mr. Chapman stated, yes. Ms. Tressler stated he can board his own horses, not others. Ms. Wasikowski stated they will not be boarding horses.

Ms. Semler asked Mr. Wasikowski if they he was completely opposed to rezoning the property. He stated it was discussions with prior staff that made him take the variance route.

Ms. Semler asked staff if they rezoned the property to AG, would they still need a variance. Mr. Chapman stated in AG barns are allowed in front yard area and the process takes approximately 120 days.

Ms. Semler made a motion to approve the variance request to allow one (1) additional accessory structure for a total of two (2). Seconded by Ms. Castello. Motion passed 4-0.

New Cases

Case #18-04-012V Chick-fil-A, Inc. at 6114 Hickory Flat Highway requesting a variance to Article 11, Section 11.6 – Permitted Signs by Type and Zoning District to allow one (1) blade sign and (1) additional wall sign for a total of three (3) wall signs and one (1) blade sign. The property is located in Land Lots 253, 323 and 324 of the 15th District and further described as Cherokee County Tax Map 15N26, Parcel 131.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He noted blade signs are only allowed in the Bells Ferry Overlay District.

Kai Burk represented this case. Mr. Burk stated they are well below the square footage allowed and discussed the locations of each of the signs.

There was no one present to speak in support of or in opposition.

Ms. Tressler closed public comment.

Ms. Semler asked Mr. Burk what is the hardship for allowance of the additional wall sign. Mr. Burk stated not having visibility along that road way. Ms. Semler stated the other businesses in the area do not have signs on all the walls.

Mr. Burk stated they would be allowed two (2) monument signs being a corner lot and they would like to have the additional wall sign instead of second monument.

Discussion ensued among members regarding the additional wall sign and blade sign.

Ms. Castello stated she does not have an issue with the blade sign.

Ms. Tressler asked staff why the blade signs are allowed in Bells Ferry area. Mr. Chapman stated the pedestrian element and they are oriented to catch the eye of pedestrians passing by.

Ms. Tressler made a motion to approve the variance to allow one (1) additional wall sign and one (1) blade sign with the condition that there will only be one (1) monument sign. Seconded by Ms. Doss. Motion passed 4-0.

Case #18-05-015V Todd Loyet at 145 Ridge Drive requesting a variance to Article 7, Table 7.1A Minimum District Development Standards requesting a ten (10) foot variance to the required fifteen (15) foot side building setback. The property is located in Land Lot 354 of the 15th District and further described as Cherokee County Tax Map 15N08, Parcel 040.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments.

Todd Loyet represented this case. Mr. Loyet stated there is a home currently on the property and they have an open permit to enclose the garage. He stated they need the variance to obtain the final inspection. He stated there is 61 feet between the two (2) homes.

There was no one present to speak in support or in opposition.

Ms. Tressler closed public comment.

Ms. Semler stated the septic does take up a lot of the property.

Ms. Semler made a motion to approve with an encroachment only as shown on the plans attached to the application to construct the 21' x 22' 2 car garage. Seconded by Ms. Castello. Motion passed 4-0.

Case #18-05-016V Patrick Savage at 173 Watkins Road requesting a variance to Article 7, Table 7.1A Minimum District Development Standards requesting a nineteen (19) foot variance to the required fifty (50) foot side building setback. The property is located in Land Lot 1282 of the 3rd District and further described as Cherokee County Tax Map 03N12, Parcel 131.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments.

Patrick Savage represented this case. Mr. Savage stated they are requesting to extend the living quarters.

There was no one present to speak in support or in opposition.

Ms. Tressler closed public comment.

Ms. Castello made a motion to approve. Seconded by Ms. Doss. Motion passed 4-0.

Case #18-05-017V Kelly and Janet Dempsey at 113 Gail Court requesting a variance to Article 8, Section 8.5-2 of the Planned Unit Development (PUD) Regulations to reduce the front building setback from twenty-five (25) feet to ten (10) feet. The property is located in Land Lot 230 of the 22nd District and further described as Cherokee County Tax Map 22N17, Parcel 040.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments.

Kelly Dempsey represented this case. Mr. Dempsey stated they are combining two (2) lots and would like the same front setback as previously granted by Board.

There was no one present to speak in support or in opposition.

Ms. Tressler closed public comment.

Ms. Semler made a motion to approve with the condition that the two (2) lots are combined. Seconded by Ms. Tressler. Motion passed 4-0.

Case #18-05-018V Altair Sign & Light at 2243 Cumming Highway requesting a variance to Article 11, Table 11.1 – District Requirements for Permanent Signs of the Cherokee County Zoning Ordinance. The

applicant is requesting a variance to allow an additional 108.4 square feet to be added to the permitted 75 square feet of copy area for a total of 183.4 square feet for a wall sign. In addition, the applicant is requesting to add three (3) additional wall signs for a total of five (5) wall signs. The property is located in Land Lot 239 of the 14th District and further described as Cherokee County Tax Map 14N23A, Parcel 022.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments.

Felicia Johnson represented this case. Ms. Johnson stated they are requesting allowance for a larger sign due to the location of the building being so far back off the road.

There was no one present to speak in support or in opposition.

Ms. Tressler closed public comment.

Ms. Castello made a motion to approve as submitted. Seconded by Ms. Doss. Motion passed 4-0

Case #18-05-019V Jim Chapman Homes at 218 Sweetbriar Club Drive, 220 Sweetbriar Club Drive, 222 Sweetbriar Club Drive and 224 Sweetbriar Club Drive requesting a variance to Article 7, Table 7.1A Minimum District Development Standards to reduce the front building setback on lot 8 (218 Sweetbriar Club Drive) from 80 feet to 40 feet; on lot 9 (220 Sweetbriar Club Drive) from 90 feet to 40 feet; on lot 10 (222 Sweetbriar Club Drive) from 90 feet to 40 feet; and on lot 11 (224 Sweetbriar Club Drive) from 65 feet to 40 feet. The properties are located in Land Lot 817 of the 15th District and further described as Cherokee County Tax Map 15N22J, Parcels 008, 009, 010 and 011.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments.

Adam Rozen represented this case. Mr. Rozen stated this is an active adult community that was rezoned in 2014. He stated the design changed after plan review and this made lots more narrow. He provided a presentation to Board.

There was no one present to speak in support or in opposition.

Ms. Tressler closed public comment.

Ms. Semler asked will all the other lots be in compliance. Mr. Rozen stated yes. Jim Chapman stated these are the only four (4) lots and they don't plan to come back for any additional variance requests.

Ms. Tressler made a motion to approve as requested. Seconded by Ms. Semler. Motion passed 4-0.

Case #18-05-021V Perlis Nease Canton, LLC at 2243 Cumming Highway requesting a variance to Article 27 – Tree Preservation and Replacement – Appendix C: Site Density Requirements to utilize the points for the trees preserved in buffers for 50% of the total site density and specimen recompense requirement. The property is located in Land Lot 239 of the 14th District and further described as Cherokee County Tax Map 14N23A, Parcel 022.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments.

Skylar Long represented this case. Mr. Long stated because of the original number of trees on this site the number for recompense required is significant. He stated they are meeting the density requirements. Mr. Long stated due to the buffers there are a lot of unused credits not going towards the recompense.

There was no one present to speak in support of or in opposition.

Ms. Tressler closed public comment.

Ms. Castello asked Mr. Long if he has had any complaints from the neighbors. Mr. Long stated early on they had some questions from the neighbors for additional buffering. He said they have increased screening requirements along that subdivision.

Discussion ensued among the members relating to buffers, exposed rock, shape of property and replanting of trees.

Ms. Tressler made a motion to approve the variance request allowing up to 108.6 of the unused buffer credits to be applied toward the total recompense required by the applicant, with a condition that the number of credits to be applied shall be no more than those necessary as determined by the County Arborist after maximizing the planting available on-site. Seconded by Ms. Semler. Motion passed 4-0.

Case #18-05-022V Flint, Connolly and Walker, LLP at 310 Crabapple Springs Way requesting a variance to Article 7, Table 7.1A Minimum District Development Standards requesting a twenty-six (26) foot variance to the required fifty (50) foot side building setback. The property is located in Land Lot 564 of the 2nd District and further described as Cherokee County Tax Map 02N08, Parcel 165.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments.

David Walker represented this case. Mr. Walker stated his client was informed at the time of permitting that the side setback was 15 feet and stated the neighbor to the west has no objection to the variance request.

There was no one present to speak in support or in opposition.

Ms. Tressler closed public comment.

Ms. Tressler stated this was an error made by county staff.

Ms. Semler made a motion to approve as submitted. Seconded by Ms. Castello. Motion passed 4-0.

Case #18-05-023V Bart Williams/Macedonia Memorial Properties, LLC at 10655 East Cherokee Drive, 10631 East Cherokee Drive and part of 10685 East Cherokee requesting a variance to Article 7, Table 7.1A Minimum District Development Standards requesting a one (1) foot variance to the required fifteen (15) foot side building setback, a nineteen (19) foot variance to the required sixty-five (65) foot front building setback on the existing building, and an eleven (11) foot variance on the required sixty-five (65) foot front building setback on the proposed building. The applicant is requesting a variance to Article 7, Section 7.5-3.3 (e) to allow a detention pond within the minimum (10 ft.) ten-foot wide front landscape strip. The applicant is requesting a variance to Article 10 Buffer Requirements – Section 10.6-1 Widths of Buffers requesting a twenty-five (25) foot variance to the required thirty (30) foot width between abutting districts and to Section 10.6-4 – Non-Vegetative Screening to allow a six (6) foot privacy fence. The applicant is requesting a variance to Article 12 – Off Street Parking Regulations to reduce the required parking spaces to fifty-two (52) from the required fifty-six (56) spaces. Applicant is requesting a variance to Development Regulations – Standard Detail 210 – Non-Residential Driveway to exclude the required deceleration lane. Applicant is requesting a variance to Development Regulations – Standard Detail 209 – Off Street Parking and Standard Detail 210 – Non-Residential Driveway to reduce the one-way drive width to fourteen (14) feet from the required sixteen (16) feet as well as the two-way drive width requirement to twenty-one (21) feet and twenty-three (23) feet from the required twenty-four (24) foot edge of pavement to edge of pavement. The property is located in Land

Lots 851 and 852 of the 3rd District and further described as Cherokee County Tax Map 03N10, Parcels 110, 111 and 141.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He stated we have not received any letters in opposition or support of this request.

Chris Patton and Bart Williams represented this case. Mr. Patton stated the existing structure is already in the 65 foot front setback and the new structure would actually be a little farther back. He stated the reduction in the buffer to the south is due to a future septic system. He stated they do not have the room to fit the decel lane and still meet the stormwater regulations. He discussed the existing driveways and parking.

Bart Williams stated they did not go through a variance during the original construction in 2014 so he did not know if the setbacks have changed. He stated they do own the entire parcel with the funeral home and cemetery. He stated the existing cemetery is zoned AG and would require a NC zoning today.

There was no one present to speak in support or in opposition.

Ms. Tressler closed public comment.

Ms. Doss asked if there was a written easement to get into the cemetery through the church parking lot. Mr. Williams stated there was a previous easement and probably still exists however it is not required since they have since put in their own driveway.

Ms. Semler stated the paper work she received stated the agreement between the church and the funeral home in regards to easement has expired.

Ms. Semler asked when the .33 acres was rezoned from AG to NC. Mr. Williams stated it has not been rezoned yet, he has made application and is scheduled to be heard in June. Ms. Semler asked why he did not apply for the variances at the time he filed his rezone application. Mr. Williams stated they just realized it needed to be rezoned.

Ms. Doss stated she has driven by this location and noticed a lot of parking at the church and it is taking up the whole church parking lot. Ms. Doss asked Mr. Williams if he would be willing to put up some type of fence to keep his customers from using the church parking lot. Mr. Williams stated they have adequate parking and have discouraged people from parking at the church however it is hard to enforce. Mr. Williams stated he would be willing to install a fence.

Ms. Semler stated this is a lot of variance requests for one application and does not feel she can support all of the variances.

Discussion ensued among the members regarding parking, setbacks and the number of variance requests along with possible future variance requests.

Ms. Semler stated she did receive a letter in opposition to this application and asked staff to read aloud.

Mr. Chapman read the opposition letter from Teresa Johnson as it relates to insufficient parking, access issues and the expansion of the funeral home.

Ms. Tressler asked the applicant to explain the access to the cemetery from the current property. Mr. Williams stated the access today is from the funeral home property. He showed the location of a future driveway they plan to construct.

Ms. Semler made a motion to approve a one (1) foot variance to the required fifteen (15) foot side building setback; an eleven (11) foot variance to the required sixty-five (65) foot front building setback on the proposed building; a variance to reduce the one-way drive width to fourteen (14) feet from the required sixteen (16) feet as well as the two-way drive width requirement to twenty-one (21) feet and twenty-three (23) feet from the required twenty-four (24) foot edge of pavement to edge of pavement in the proposed parking lot with the following conditions: 1) There are ONE Way and DO NOT ENTER signs placed in the parking lot; 2) The location of the signs will be at the direction of the Cherokee County Fire Marshal's Office. Seconded by Ms. Castello.

Ms. Doss stated she would like the motion to be amended to add a third condition for the applicant to construct a six (6) foot privacy fence to the North side of the property adjoining the church and the funeral home property. Ms. Semler added this condition to her motion. Revised motion seconded by Ms. Castello. Revised motion passed 4-0.

Case #18-05-024A ARCO National Construction at 6016 Old Alabama Road is requesting a variance to Article 27 – Tree Preservation and Replacement – Appendix C: Site Density Requirements to reduce the number of required density units. The property is located in Land Lots 1058 and 1059 of the 21st District and further described as Cherokee County Tax Map 21N05, Parcel 248A.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He stated we have not received any letters in opposition or support of this request.

Mike Bray represented this case. Mr. Bray stated the 2" caliper trees will be 4 inches larger in a few years and there is not a whole lot of 4" caliper trees available unless you want to take on extra expense to find them. He stated Mr. Campbell is here to answer any questions the Board may have.

There was no one present to speak in support or in opposition to this application.

Ms. Tressler closed public comment.

Ms. Castello asked the cost for each tree. Andrew Campbell stated it varies per species. He stated he reached out to several landscape companies and the 2" caliper tree was approximately \$150.00 per tree and for a 4" caliper tree it was approximately 3 times that amount. He stated they are usually 10-15 feet tall and it would be about 4 years to make the difference from a 2" to a 4" caliper tree.

Ms. Semler asked staff have other developers had issues finding the 4" caliper trees due to the shortage. Mr. ShROUT stated yes, they have had other developers make that complaint, however this is the first applicant he is aware of that has gone to the Board requesting a variance. Mr. ShROUT stated they usually find the trees however they are expensive.

Ms. Castello made a motion to approve 2" caliper trees. Seconded by Ms. Doss.

Ms. Semler stated she would feel better if it was 3" caliper instead of 2".

Ms. Doss asked Mr. Campbell if he has checked the prices for 3" caliper trees. Mr. Campbell stated yes, however they have already been approved for 2" caliper trees, the variance request whether they pay back the additional fund for using the 2" instead of 4". He stated the 2" trees are not in, but they have been ordered.

Ms. Castello revised her motion to approve 2" caliper trees with the condition that the recompense payment amount be reduced by 30%. Seconded by Ms. Semler. Motion passed 4-0.

Approval of Minutes

Ms. Semler made a motion to approve April 5, 2018 Minutes. Seconded by Ms. Tressler. Motion passed 4-0.

Ms. Semler made a motion to adjourn. Seconded by Ms. Tressler. Motion passed 4-0. The meeting adjourned at 9:45 p.m.