

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

The Cherokee County Zoning Board of Appeals held its regular public hearing on Thursday, December 6, 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, Melissa Range, and Cindy Castello. In attendance for Cherokee County Staff were Michael Chapman, Zoning Manager; Tamala Davis, Planning Technician; Thomas Trawick, Planner; and Paul Frickey, County Attorney.

The meeting was called to order at 6:33 p.m.

**Case #18-11-064V Cody Pless Designs, LLC** at 1331 Bridgemill Avenue requesting a variance to Article 7, Table 7.1A: Minimum District Development Standards to allow a four (4) foot encroachment into the required 10' side building line setback. The property is located in Land Lot 151 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N07F, Parcel 025.

**\*Postponed until letter provided from HOA\***

Michael Chapman reminded the Board that this case was postponed at the last meeting for the applicant to seek approval from the HOA. He stated the applicant has contacted our office and stated he is pursuing this and is hoping to have this approval by the next public meeting.

**Case #18-11-062V Rising Hills Church, Inc.** at 3693 Hickory Flat Highway requesting a variance to Article 11, Section 11.7 - Exempt Signs - 8. b. 1. to allow a temporary sign on the property longer than time limit of thirty (30) days. Applicant is also requesting a variance of 96 square feet to allow a 128 square foot free-standing sign. In addition, the applicant is requesting a 4 foot height variance to allow an overall height of 12 feet. The property is located in Land Lots 44 and 101 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N19, Parcel 233.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He stated we have received no letters in support of or in opposition to this application. Mr. Chapman stated Planning and Zoning Department is not able to find a justification for the request as presented and recommends denial.

George Anderson represented this case. Mr. Anderson stated this is a new church and they are currently meeting at Indian Knoll School. He stated they would like a sign that could be seen while traveling along the road and would like the sign to notify the public that this is the future site of Rising Hills Church with a rendering on the sign. He would also like the sign to state where they are currently meeting and this is the reason for the request for a larger sign.

There was no one present to speak in support of or in opposition to this application. Ms. Tressler closed public comment.

Ms. Doss asked Mr. Anderson how long would he need this sign. Mr. Anderson stated he would like to have the sign until the building is complete and then they would put a permanent sign up. He stated approximately 12 to 24 months.

Ms. Doss stated there are commercial signs within the area with 120 square feet of copy area.

Ms. Semler stated she would be willing to increase it some but not to a commercial size sign since this is residentially zoned property.

Ms. Tressler stated she would be more willing to keep it to the 32 square feet of copy area but to allow it for a certain timeframe. She stated she thinks it will be obvious a church is going in once the construction begins.

Ms. Semler asked Mr. Chapman if they give a time limit on the signage, would the applicant be able to come back to the Board without any additional fees. Mr. Chapman stated cost would be associated from legal ad, notice of sign and notification to adjoining property owners.

Ms. Range stated normally temporary signs are larger and asked if Ms. Tressler would be comfortable with allowing a 64 square foot temporary sign.

Ms. Tressler stated there is a clear line of sight at this location.

Ms. Semler asked Mr. Anderson why he is requesting a height variance. Mr. Anderson stated the property drops about 8 feet below grade level at the location of the sign.

Ms. Semler asked if there was any hardship he could think of for this variance request. Mr. Anderson stated no there is no hardship.

Ms. Range asked Mr. Anderson when he would be starting construction of the building. Mr. Anderson stated the earliest would be 12 months.

Ms. Tressler stated her concern is this is a residential area and she does not think the height variance is needed.

Mr. Frickey stated there are three (3) parts to this variance request, the height, the size and timeframe. He stated the Ordinance allows a temporary sign for 30 days and the Board would be changing that limit. He stated he would prefer some date be set. He stated it could be relevant to a certain event or a specific period of time.

Discussion ensued among members.

Ms. Tressler made a motion to approve allowance for a temporary sign for 24 months or until issuance of a Certificate of Occupancy; whichever comes first; to allow a maximum of 64 square feet of copy area and no variance to the height of the sign. Seconded by Ms. Semler. Motion passed 3-2. Ms. Doss and Ms. Castello opposed.

**Case #18-12-065V James B. Kilburn, Jr.** at 613 Rocky Creek Point requesting a variance to Article 23, Conservation Design Community Table 23-2 of previous Zoning Ordinance and further described on the recorded plat to allow a two foot encroachment into the required twenty foot front building line setback. The property is located in Land Lot 1187 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N30K, Parcel 094.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He stated we have received no letters in support of or in opposition to this application. Mr. Chapman stated Planning and Zoning Department does not object to the requested variance.

James Kilburn, Jr. represented this case. Mr. Kilburn stated he pulled from the curb and not the property line so that led to the mistake in measurement. He stated he did not realize it was encroaching until the survey was prepared. He stated this was an honest mistake. He stated he spoke with all of his neighbors and they did not have any objection to the requested variance.

There was no one present to speak in support of or in opposition to this application. Ms. Tressler closed public comment.

Ms. Semler made a motion to approve. Seconded by Ms. Tressler. Motion passed 5-0.

**Case #18-12-066V Andrew Klein and Catherine Phillips-Klein** at 121 Antioch Place requesting a variance to Article 7, Section 7.7-24 (b) to allow for a proposed barn used in the care and breeding of livestock to be fifty feet from the property line. The property is located in Land Lots 200 and 201 of the 2<sup>nd</sup> District and further described as Cherokee County Tax Map 02N10, Parcel 002.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He stated we have received no letters in support of or in opposition to this application. Mr. Chapman stated Planning and Zoning Department does not object to the requested variance.

Catherine Phillips-Klein represented this case. Ms. Klein stated this property is on a cul-de-sac and the barn will not be visible. She stated it will be about 230 feet from one of their neighbors and the other adjoining property owners is a horse farm and are okay with the variance request. She stated they would submit a support letter if necessary.

There was no one present to speak in support of or in opposition to this application. Ms. Tressler closed public comment.

Ms. Tressler asked Ms. Klein what animals they plan to have. Ms. Klein stated llamas. She stated their pellets have no odor and are used for garden fertilizer. She stated they are very eco-friendly.

Ms. Castello asked what size will the barn be. Ms. Klein stated 37' x 51'. She stated it would have a porch.

Ms. Doss asked would the barn look like the photo. Ms. Klein stated yes.

Ms. Castello made a motion to approve as submitted. Seconded by Ms. Doss. Motion passed 5-0.

**Case #18-12-067V Phillip Smith Contracting, Inc.** at 320 Jesse McCollum Drive requesting a variance to Article 10, Section 10.6-1 Width of Buffers to allow a six foot encroachment into the required fifty foot buffer between abutting district as required by Article 10, Table 10.1 - Minimum Buffer Between Abutting Districts. The property is located in Land Lots 89 and 128 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N13, Parcel 026.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He stated we have received no letters in support of or in opposition to this application. Mr. Chapman stated Planning and Zoning Department recommends attaching the following condition: The encroachments into the zoning buffer shall only be at those points shown on the survey prepared by Barton Surveying, Inc. and dated March 12, 2018 and submitted with the application.

Jay Navarro represented this case. Mr. Navarro stated he is really here just to answer any questions but if they do not get this variance it will kill this project for their client.

There was no one to speak in support of or in opposition to this application. Ms. Tressler closed public comment.

Ms. Tressler asked if there is any vegetative screening in between where this will be constructed and the cemetery. Mr. Navarro stated all that is there now is just the natural vegetation.

Ms. Doss stated the site plan indicates open sided addition for storage. Ms. Doss asked would this not be enclosed. Mr. Navarro stated it will have two sides to it and one side will be open.

Ms. Tressler asked if the open side is towards the cemetery. Mr. Navarro stated it is to the southeast side.

Ms. Range asked does the cemetery connect or is it across the street. Mr. Navarro stated it is connecting.

Ms. Tressler made a motion to approve with staff's condition that the encroachments into the buffer shall only be at those points shown on the survey prepared by Barton Surveying, Inc. dated March 12, 2018 and submitted with the application. Seconded by Ms. Castello. Motion passed 5-0.

**Case #18-12-068V Rowland Engineering, Inc.** at 4615 and 4625 Highway 92 requesting variances to Article 16 Highway 92 Village Ordinance, Section 16.1.5 B Buffers, Berms, Landscape Treatments to eliminate the required buffers, berms and landscape treatments required along the perimeter of the property owned by Victory Church. Applicant also requests a variance to Article 16, Section 16.1.5 C 1 b to eliminate the requirement to install a three rail fence along the property frontage with Highway 92. The applicant seeks a variance to Article 27, Tree Preservation and Replacement to allow two inch (2") Diameter Breast-Height trees as the maximum required for tree replacement. The properties are located in Land Lots 1124 and 1181 of the 21<sup>st</sup> District and further described as Cherokee County Tax Map 21N12, Parcel 072A and Parcel 096C.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He stated we have received no letters in support of or in opposition to this application. Mr. Chapman stated Planning and Zoning Department recommends denial of the variances for buffers and tree replacement as presented in the application.

Steven Rowland represented this case. Mr. Rowland stated they have submitted Phase 1 plans and the Highway 92 buffers make this property unbuildable. Mr. Rowland discussed surrounding zoning and uses. He stated the residential portion of the PUD has a 50 foot platted buffer as part of that development. He stated the 75 foot additional requirement would have a 125 foot buffer which he feels is excessive. Mr. Rowland stated the Cherokee County Zoning Ordinance for buffers stipulates buffers between zoning districts would not require any buffers on this property except the one section on the north side that would require a 35 foot buffer. He stated the three rail fence would not be visible and the four (4") diameter trees are hard to find and are expensive.

There was no one present to speak in favor or in support of this application. Ms. Tressler closed public comment.

Ms. Tressler asked staff if he has looked to see how buffers were handled for other areas of commercial property along Highway 92. Mr. Chapman stated he did not research this. He stated with the Overlay aside a there would be no buffer between two commercial properties.

Ms. Tressler asked staff about the 2" caliper trees since they did not receive a tree plan with this application and if these would be a replacement for specimen tree. Mr. Chapman stated yes.

Ms. Tressler asked the applicant if a site evaluation had been done by the County Arborist. Mr. Rowland stated it was his understanding there were no specimen trees on the site and that the four (4") trees were just required to meet the density requirement of the Tree Ordinance.

Discussion ensued regarding the tree density requirement.

Ms. Range asked Mr. Rowland what is his request on the buffer variance. He stated they would like the 75' buffer that is required on their side reduced to 25 feet.

Mr. Rowland provided the site plan for the adjoining development showing a 50' zoning buffer on the subdivision's property.

Ms. Semler stated she has concerns if the variances were granted that the property could be cleared.

Ms. Tressler stated she would not have an issue of reducing the buffer on the commercial side.

Ms. Tressler made a motion to approve elimination of the three (3) rail fence, to allow 2" diameter breast height trees in place of 3" and 4" diameter trees with no reduction in the density requirement, to allow reduction in buffer for property adjacent to commercial to 15 feet and to allow permanent roadway access as shown on the site plan along the southeast corner; to reduce the buffer to 50 feet along PUD; and no reduction in buffer where property is adjacent to R-40 zoning. Seconded by Ms. Range. Motion passed 5-0.

**Case #18-12-069V Crown South Realty, LLC** at Clearwater Landing in Lake Arrowhead requesting variances to Cherokee County Development Regulations Section 4.15A Sidewalks to waive the requirement of a sidewalk behind the curbing along one side of a public road for Pod G and Pod I. Applicant also seeks a variance to Article 5, Section E of previous Zoning Ordinance to reduce the front building setback from 25 feet to 15 feet for Pod I. The properties are located in Land Lots 232 and 237 of the 22<sup>nd</sup> District and further described as Cherokee County Tax Map 22N08, Parcel 026M and Parcel 026K.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He stated the applicant did provide a petition with property owners in support of this application. Mr. Chapman stated Planning and Zoning Department does not object to the requested variance.

Tony Rogowski represented this case. Mr. Rogowski stated the sidewalks are in an area of low traffic and consists of about 20 homes. He stated the response from the community is that they do not want sidewalks and feel sidewalks are not appropriate for this area of Lake Arrowhead. He stated POD I is a much tighter fit with this peninsula shaped area and is requesting reduction in front setback.

Steve McLendon spoke in support. He stated he prefers the natural beauty of Lake Arrowhead and not sidewalks. He stated he uses the walking trails but feels there is no need for sidewalks. Mr. McLendon stated they have a hard enough time keeping up the roads in Lake Arrowhead and feels sidewalks would be something else that would need to be updated over time.

David Bray spoke in support. He stated Lake Arrowhead is a unique community and likes the existing trails. He feels sidewalks are not needed and does not feel this would be a safety issue.

There was no one present to speak in opposition. Ms. Tressler closed public comment.

Ms. Doss asked staff if these roads are public or private. Mr. Chapman stated private.

Ms. Tressler asked if the walking path is to the rear of the property. Mr. Chapman stated it is parallel to the road.

Ms. Range asked Mr. Rogowski how many residents share this nature trail. Mr. Rogowski stated 20 homes. Ms. Range asked if the Board does not go along with Engineering's recommendation does that open liability since it is dealing with safety. Ms. Doss stated, no.

Ms. Doss stated the Board just granted a similar variance in Lake Arrowhead.

Ms. Tressler stated the difference she sees is the walking path in this area. She stated she does not see any paved access to the walking path from where the homes will be.

Ms. Castello made a motion to approve as submitted. Seconded by Ms. Doss. Motion passed 5-0.

Ms. Semler made a motion to approve November 1, 2018 Minutes. Seconded by Ms. Castello. Motion passed 4-0 with 1 abstention. Ms. Tressler abstained since she was not present at the November meeting.

Ms. Semler made a motion to adjourn. Seconded by Ms. Castello. Motion passed 5-0. The meeting adjourned at 8:16 p.m.