

**Cherokee County Zoning Board of Appeals
Public Hearing Minutes
Thursday, May 2, 2019
6:30 p.m.**

The Cherokee County Zoning Board of Appeals held its regular public hearing on Thursday, May 2, 2019 in Cherokee Hall of the Cherokee County Administration Building. In attendance for the Zoning Board of Appeals were Chairman Elizabeth Semler, Vice chairman Melissa Range, Tim Ragsdale, and Marla Doss. Lisa Tressler was not in attendance. 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 6:30 p.m.

Case #19-04-014V Engineering Design Technologies, Inc. at 10268 and 10270 Main Street requesting a variance to Table 7.1A: Minimum District Development Standards to reduce the front building line setback to seven (7) feet from the required twenty (20) feet and to reduce the rear building setback to twenty-three (23) feet from the required thirty (30) feet. Applicant also requests a variance to Table 7.1A: Minimum District Development Standards to reduce the front building line setback to zero (0) feet from the required twenty (20) feet adjacent to the right-of-way of the hammerhead street. Applicant also requests a variance to Cherokee County Engineering Standard Detail to allow the right-of-way in the hammerhead section to be thirty-four (34) feet instead of fifty (50) feet. Applicant also requests a variance to Table 10.1 Minimum Buffer Width Between Abutting Districts to encroach twenty (20) feet into required thirty (30) foot buffer on the south and west side and twenty-five (25) into the required thirty-five (35) foot buffer on the south side. The property is located in Land Lot 1284 of the 15th District and further described as Cherokee County Tax Map 15N18A, Parcel 001 and Parcel 002.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He stated staff has provided four (4) letters in support of the application. He stated the size, shape, and topography of the particular piece of property in question presents extraordinary and exceptional conditions. As a result, the Planning and Zoning Department does not object to the requested variance.

Larry Singleton represented this case. Mr. Singleton stated this will be an affordable housing project and provided a site plan to the Board to discuss each variance request.

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

Raul Centeno spoke in opposition. Mr. Centeno stated his concerns with this changing the dynamic of the area and feels they need to maintain the buffers from the Ordinance.

Mr. Singleton spoke in rebuttal. He stated the ten (10) foot buffer will be landscaped.

Ms. Semler closed public comment.

Ms. Semler asked if this is seven (7) variances in total for this property. Mr. Chapman stated yes.

Ms. Semler stated she feels this is a lot of variance requests for one property.

Ms. Semler asked Mr. Singleton what has changed since the last variance requests that they need additional variances now. He stated they were doing the grading plan to get the land disturbance permit and noticed they needed the hammerhead. He stated to maintain the buffer the number of lots lost would be catastrophic financially.

Ms. Range asked how many lots would be lost. He stated two (2) lots on the end and on the other end would be the increased size of the retaining wall.

Ms. Semler stated she remembered from last meeting that Ms. Tressler stated that if relief was granted on the south side, it would be only where the buildings encroached and Mr. Singleton stated he did not have an objection to this. Ms. Semler asked Mr. Singleton is this still correct. Mr. Singleton stated, yes.

Mr. Ragsdale stated he is looking at the seven (7) variances as maybe taking your time and not rushing into something. He stated he does not have any problems with the variance requests. He stated commercial is surrounding the property.

Mr. Ragsdale made a motion to approve as submitted. Seconded by Ms. Doss. Motion passed 3-1. Ms. Semler opposed.

Case #19-04-016V Don Harvill at 117 Sardis Creek Drive requesting a variance to Article 7, Section 7.7-24 b. Animal Production to allow a barn to be built twenty-five (25) feet from the property line instead of the required seventy-five (75) feet. The property is located in Land Lot 104 of the 14th District and further described as Cherokee County Tax Map 14N08, Parcel 105A.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He stated staff has received no letters in support of or in opposition to this application. He stated the topography, the access to the property, and the stated agricultural use of the structure are conditions which are unique to the particular piece of property involved. As a result, the Planning and Zoning Department does not object to the requested variance.

Don Harvill represented this case. Mr. Harvill presented a location map to the Board. He stated the 25-foot area he is requesting will put the barn in a drier area and on flatter land. He discussed the size and style of the barn.

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

Ms. Semler closed public comment.

Ms. Semler asked Mr. Harvill were these his own personal horses, not for breeding. Mr. Harvill stated correct.

Ms. Range asked Mr. Harvill could he not move it closer to the house. Mr. Harvill stated that is the wet area.

Ms. Doss asked Mr. Harvill could he move it closer to the shop. Mr. Harvill stated there is a wet area and a buffer zone he is trying to stay out of.

Ms. Semler stated she does see a hardship with the wetlands and creek.

Ms. Semler made a motion to approve as presented. Seconded by Mr. Ragsdale.

Mr. Frickey asked if she is intending them to comply with a certain site plan.

Ms. Semler restated her motion to approve the application to encroach only where the barn is going to be placed as documented on the site plan that Mr. Harvill presented at the meeting. Mr. Ragsdale clarified the barn was showing to be located on the west side of the property. Motion was seconded by Mr. Ragsdale. Motion passed 4-0.

Case #19-04-017V Dayspring Outreach Center, Inc. at 6835 Victory Drive requesting a variance to Article 8, Section 8.12.8 Signage Standards, Article 11, Section 11.5-5 Additional Requirements – Electronic Signs, Article 11, Section 11.6 - Permitted Signs by Type and Zoning District, Article 11, Table 11.1 - District Requirements for Signs, and Article 16 - Overlay Zoning District Regulations Bells Ferry Community Design Guidelines to allow a digital sign. The property is located in Land Lots 898 and 899 of the 21st District and further described as Cherokee County Tax Map 15N05, Parcel 014.

Thomas Trawick presented this case. Mr. Trawick discussed location of property, surrounding zoning and staff comments. He stated staff has received no letters in support of or in opposition to this application. He stated staff does not identify any extraordinary or exceptional conditions pertaining to the particular piece of property and does not identify a hardship which would support installing a digital sign that is not of monumental style. He stated Planning and Zoning Department therefore recommends denial of the applicant's request.

Tony Crawford represented this case. Mr. Crawford stated they have an event center within the church. He stated they hold church services, concerts, on-site coffee shop, seminars, weddings and business classes. He stated they are requesting the digital sign to communicate to the community what is being held in regards to events. Mr. Crawford stated there are three (3) other businesses within this area that have digital signs.

Kent Millika spoke in support. He stated this is a great place for kids to go to do their homework, go to a concert or go and eat pizza. He stated he has been telling people about this place but they have no way to let the public know what events are being held. He stated the digital sign would help bring this information to the public.

There was no one present to speak in opposition.

Ms. Semler closed the public comment.

Ms. Semler asked the applicant if the petition submitted was from residents in the area. Mr. Crawford stated these are all non-members of the church and are nearby residents, however some are from out of state.

Ms. Semler asked the applicant how close are the other digital signs to this property. Mr. Crawford stated south of Eagle Drive.

Ms. Doss stated we have allowed other churches to have digital signs and the schools are allowed to have them as well. She stated she does have a problem with it not being monument.

Ms. Range asked the applicant what his objections are to a monument sign. Mr. Crawford stated it was never their intent not to have a monument sign. He stated they are flexible on the design of the sign to meet the criteria.

Mr. Ragsdale asked the applicant how late do they stay in the building for functions. Mr. Crawford stated it varies. They have a church service on Friday nights that will go until 10 p.m. and then on Saturday they may have a concert that is until 11 p.m. He stated normal hours go until about 8 p.m. and start at 7 a.m.

Ms. Range asked the applicant is it a moving sign that flashes. Mr. Crawford stated no, it will fade in and fade out.

Ms. Semler stated she is not aware of any close by that they have approved.

Ms. Range stated there is residential in the area.

Mr. Ragsdale stated he lives near here and one of the neighbors has reached out to him regarding the noise.

Mr. Crawford stated it is on record that when they bought the property before they ever built, the same neighbor was complaining about the noise. He stated they have a well-insulated building and does not have excessive noise.

Ms. Range asked the applicant if he complies with the noise ordinance. Mr. Crawford stated, yes.

Discussion ensued among the members.

Ms. Semler asked staff if a digital sign was permitted for the RV place that is located down the street. Mr. Trawick stated, no he is not aware of one.

Mr. Ragsdale made a motion to deny. Seconded by Ms. Semler. Motion tied 2-2. Ms. Range and Ms. Doss opposed. The application was denied due to a tie vote.

Case #19-05-027V Albert and Marian Craig at 2034 Chelsea Lane requesting a variance to Article 5, Section 5.6 A. to allow an accessory building (garage) to be built in the front yard area. The property is located in Land Lot 966 of the 21st District and further described as Cherokee County Tax Map 21N11C, Parcel 079.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He stated staff has received no letters in support of or in opposition to this application. He stated staff does not identify any extraordinary or exceptional conditions pertaining to the particular piece of property and does not identify a hardship which would support placing a structure of this size in the front yard. As a result, the Planning and Zoning Department recommends denial of the application as submitted.

Albert Craig represented this case. Mr. Craig stated originally it was three (3) separate lots and he had to combine per county regulations for location of detached accessory structures. He stated if the building was to be moved away from Chelsea Lane, it would be placed in the garden spot. He stated if he moves it farther from the house, it makes it look like it is on a vacant lot. He stated the proposed location makes him have a shorter driveway with less concrete.

Doug Patten spoke in support. Mr. Patten stated according to the Ordinance, if this property is one (1) lot now, the shortest linear road frontage is considered the front yard. He stated the opposite property line would be the rear yard. He stated according to the Ordinance this building would be behind the home, not in the front yard.

There was no one to speak in opposition of the application.

Ms. Semler closed public comment.

Ms. Semler asked staff to come clarify what Mr. Patten stated. Mr. Chapman stated given the way it is currently configured, we would take the line from the corner of the house, nearest to the street and extend that out to the property line. He stated anything forward of this line is within the front yard area.

Ms. Range asked the applicant if there is an HOA. Mr. Craig stated, no. Ms. Range asked the applicant how big is his house since the accessory structure will be 1,440 square feet. Mr. Craig stated it is approximately 1,460 to 1,500 square feet, the building will be just a little less than the house.

Ms. Semler asked the applicant what will be removed from the property. Mr. Craig stated the metal shed. Ms. Semler asked why he could not move the garage to this area. Mr. Craig stated due to the location of his septic.

Ms. Semler asked if the letters in support are from adjoining neighbors. He stated two (2) are neighbors and the other two (2) are adjoining property owners.

Discussion ensued regarding the location of the building.

Ms. Doss made a motion to deny. Seconded by Mr. Ragsdale. Motion tied 2-2. Ms. Range and Ms. Semler opposed. The application was denied due to a tie vote.

Case #19-05-028V Residential Creations, Inc. at 3924 East Cherokee Drive requesting a variance to Article 7, Section 7.7-24 to allow an accessory structure used in the care and breeding of livestock to be twenty-five (25) feet from the front and side property line instead of the required seventy-five (75) feet. The property is located in Land Lot 180 of the 15th District and further described as Cherokee County Tax Map 15N25, Parcel 238B.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He stated staff has received no letters in support of or in opposition to this application. He stated the topography, the access to the property, and the stated agricultural use of the structure are conditions which are unique to the particular piece of property involved. As a result, the Planning and Zoning Department does not object to the requested variance.

Shawn Rowland represented this case. Mr. Rowland stated they are trying to move the structure so it is not sitting out in the middle of the field. He stated his family also owns the property to the left.

Win Shirey spoke in support. Mr. Shirey stated he is the adjacent property owner and owns the easement. He stated he likes what they are proposing and does not object to the proposed location.

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

Ms. Semler closed public comment.

Ms. Semler asked Mr. Rowland what type of animals and if they intend on breeding. Mr. Rowland stated horses and as far as he knows it will be for their own personal animals.

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

Case #19-05-029V Pampered Beauty Bar and Spa at 7035 Main Street requesting a variance to Article 11, Table 11.1 District Requirements for Signs to be allowed a thirty-four (34) square foot wall sign instead of the required nine (9) square feet. The property is located in Land Lots 848 and 849 of the 15th District and further described as Cherokee County Tax Map 15N16, Parcel 052A.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He stated staff has received no letters in support of or in opposition to this application. He stated the proposed sign is not out of proportion for the building or when compared to the existing signage in the area. As a result, the Planning and Zoning Department does not object to the variance as requested.

Martha Shaw represented this case. Ms. Shaw stated that she was not aware that the projection counted as a separate wall and reduced her square footage allowed.

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

Ms. Semler closed public comment.

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

Case #19-05-030V LCD Contracting, LLC at 107 Little Brook Drive requesting a variance to Article 5 of the 1969 Zoning Ordinance to reduce the minimum front yard setback of fifty (50) feet to thirty (30) feet. The minimum front yard setback is further described on the plat of Little Brook Estates as recorded on January 15, 1974 (plat book 8, page 189). The property is located in Land Lots 622 and 675 of the 15th District and further described as Cherokee County Tax Map 15N21A, Parcel 019.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He stated staff has received no letters in support of or in opposition to this application. He stated the property is encumbered by a drainage easement on the north side of the lot and the septic system and reserve field behind the proposed house. He stated these two factors limit the buildable area of the lot. He stated if the lot was recorded with Cherokee County today under the current standards in the R-20 district, the minimum front setback would be 30 feet and variance would not be necessary for the house in its proposed location. Such conditions are peculiar to the particular piece of property involved. As a result, the Planning and Zoning Department does not object to the variance as requested.

Mr. Frickey asked Staff if the 50 feet front setback is still on record. Mr. Chapman stated yes, and the setback is in effect.

Mr. Frickey stated we are not going to be varying a plat that has been recorded. Mr. Frickey stated this may need to be taken care of separate and apart from this board. Mr. Chapman stated this will be for this lot not the entire subdivision. Mr. Frickey stated even for a lot, the Board cannot vary what has been recorded, only what the Ordinance requires.

Doug Patten represented this case. Mr. Patten stated the variance they are requested is at the direction from Staff due to the front setback being platted with a 50-foot front setback. He stated the County requires the current setbacks from the Ordinance on the remaining setbacks since these setbacks are not shown on the recorded plat. He stated what they proposed to do is recorded this lot as a separate plat and record it under the current setback requirements from the Ordinance. He stated they have already prepared this plat of this subdivision that is ready to record. He stated because of the environmental restrictions on the site, they have applied for this variance to see if that would be enough and another way to handle this. He stated this is how they handle these situations in other counties.

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

Darrell Cantrell spoke in opposition. Mr. Cantrell stated his concerns with the setbacks, run-off and presented photos to the Board.

Patrick Stowe spoke in opposition. Mr. Stowe stated his concerns with run-off, the location of the home and property values.

Vic Gerovil spoke in opposition. Mr. Gerovil stated his concerns with the location of the home and property values.

Mr. Patten spoke in rebuttal. Mr. Patten stated with the stormwater run-off, they need to contact the County to get an inspector to come to the site. He discussed the setbacks further from the street and sides.

Ms. Semler closed public comment.

Mr. Ragsdale asked Mr. Frickey do they even need to discuss anything on this application.

Mr. Frickey stated if the current standard says they can do 30 feet then they would not be varying anything. He stated the code only allows the Board members to vary from the current Ordinance.

Mr. Chapman stated the application was brought before the Board since this is the way it is platted and that was the setback in place at the time it was recorded.

Mr. Frickey stated if the code becomes more lenient then they could take advantage of the code today. He stated any rights that may have been approved based on the plat would have to be dealt with differently. Mr. Frickey stated he does not feel the variance is required.

Mr. Patten stated he will withdraw the application.

Ms. Semler made a motion to accept the withdrawal of the application. Seconded by Ms. Range. Motion passed 4-0.

Case #19-05-031V Centerline Surveying and Land Planning at 2333 Lake Arrowhead Drive requesting a variance to prior Community Development District Ordinance, Article 5, Section E. and prior Planned Unit Development Ordinance, Article 8, Section 8.5-4, Separation of Buildings, to reduce the minimum distance between buildings from the required twenty (20) feet to ten (10) feet. The property is located in Land Lots 196 and 201 of the 22nd District and further described as Cherokee County Tax Map 22N08, Parcel 026T.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning and staff comments. He stated staff has received no letters in support of or in opposition to this application. He stated the based on the surrounding pattern of development in the community and the available evidence, relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Zoning Ordinance or the *Lake Arrowhead* development. As a result, the Planning and Zoning Department does not object to the variance as requested.

Doug Patten represented this case. Mr. Patten stated he came before the Board in August with the same request and plan. He stated the plan indicated 10 feet between the buildings however this section did not get advertised and was not listed in there variance request at the time. He stated this is why he is back before the Board tonight.

He stated there was also previous developments in Lake Arrowhead that showed a 10-foot separation. He stated they are requesting this for the entire section and shown on the site plan is only phase 1. He stated they do have a letter in support and a member from the HOA here tonight.

Elizabeth James spoke in support. Ms. James stated she is the Executive Vice President of Lake Arrowhead. She stated she is here to show support for this development.

Tony Perry spoke in support of the application. Mr. Perry stated he did build homes in some of the other areas of Lake Arrowhead and they were constructed 10 feet apart.

Mike McGahee spoke in opposition to the application. Mr. McGahee stated his concerns with run-off from construction and operation of the project along with the increase in traffic.

Mr. Patten spoke in rebuttal. He stated the project have already been approved to be built. He stated they do have sediment plans in place with the County and have been reviewed by the State. He stated all precautions have been met.

Ms. Semler closed public comment.

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

Ms. Semler had a correction in the minutes. She stated on page 10, above the last case, it states Ms. Semler made a motion to approve and listed the conditions. She stated it does not indicate who seconded the motion or how the vote went.

Ms. Semler made a motion to approve the minutes with corrections. Seconded by Ms. Range. Motion passed 4-0.

Ms. Semler made a motion to adjourn. Seconded by Ms. Range. Motion passed 4-0. The meeting adjourned at 8:45 p.m.