

Cherokee County Zoning Board of Appeals
Public Hearing Minutes
Thursday, July 2, 2020
6:30 p.m.

The Cherokee County Zoning Board of Appeals held their regular public hearing on Thursday, July 2, 2020. In attendance for the Zoning Board of Appeals were Chairman Elizabeth Semler, Vice Chairman Lisa Tressler, Tim Ragsdale, and Melissa Range. Marla Doss was not in attendance. In attendance for Cherokee County staff were Jeff Watkins, Director; Michael Chapman, Zoning Manager; Thomas Trawick, Planner; Tamala Davis, Planning Technician; Paul Frickey, County Attorney.

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

Case #20-07-036V Hickory Flat United Methodist Church (BOC Dist. 2)

The applicant is requesting a variance to Cherokee County Zoning Ordinance, Article 11 – Signs and Outdoor Advertising, Section 11.5-5 Additional Requirements (I) Electronic Signs to allow an electronic sign in a residential zone. Applicant also seeks a variance to Cherokee County Zoning Ordinance Article 11 – Signs and Outdoor Advertising, Section 11.6 Permitted Signs by Type and Zoning District and Table 11.1 District Requirements for Signs to allow a freestanding sign to exceed the maximum height of eight (8) feet and to have a sign area larger than thirty-two (32) square feet. The property is located at 4056 East Cherokee Drive in Land Lot 181 of the 15th District and further described as Cherokee County Tax Map 15N25 Parcel 234.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning, and staff comments. Mr. Chapman stated the Planning and Zoning Department has not received any letters in support of or in opposition to this variance request on file. Mr. Chapman stated according to the applicant's May 19, 2020 letter of intent, the church hosts a number of activities in addition to their traditional weekly religious services including Scout groups, soccer events, GED classes, AA meetings, "and other various types of programs." Allowing each of these events or organizations to be on one freestanding sign could contribute to eliminating excessive signage which is one of the objectives of the sign ordinance. With these factors in mind, the department does not object to the request and recommends approval.

Jerry Abee represented this case. Mr. Abee stated they are requesting the variance to have better signage to communicate with the public. He stated other churches in the area have similar signage.

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

Ms. Semler closed public comment.

Ms. Semler asked if this sign is approved will all the other signage be removed. Mr. Abee stated, yes.

Ms. Tressler stated some of the other signs allowed in the community had conditions such as the electronic sign shall turn off by 10 p.m. and may turn on as early as 6 a.m.; electronic sign shall contain static messages only, and shall not have movement nor flashing on any part of the sign structure, design, or pictorial segment of the sign, nor shall such sign have varying light intensity during the display of any single message; Transitions between messages shall not use frame effects or other methods which result in movement of a displayed image during such transition; must have a light sensing device that will adjust the brightness of the display as the natural ambient light conditions change and if at any time more than 50 percent of the digital display lights malfunction or are no longer working, the owner of the sign shall turn off the electronic display until repairs are made.

Ms. Tressler asked Mr. Abee would he have any issues with any of these conditions. Mr. Abee stated, no.

Ms. Semler asked staff would these conditions need to be added as conditions or are these already a requirement from the Ordinance. Mr. Chapman stated, yes these are the requirements from the sign ordinance other than the time frame.

Ms. Tressler made a motion to approve the resubmitted design with the condition that the electronic message sign must shut off by 10 p.m. and may turn on as early as 6 a.m. Seconded by Mr. Ragsdale. Motion passed 4-0.

Case #20-07-037V Piedmont Residential, LLC (BOC Dist. 3)

The applicant is requesting a variance to Cherokee County Zoning Ordinance, Article 7, Table 7.1A: Minimum District Development Standards to reduce the side building line setback to four (4) feet to accommodate a house. The property is located at 229 Shoals Bridge Road in Land Lot 833 of the 21st District and further described as Cherokee County Tax Map 21N10G Parcel 078.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning, and staff comments. Mr. Chapman stated the Planning and Zoning Department has not received any letters in support of or in opposition to this variance request on file. Mr. Chapman stated a drainage easement is also shown on the site plan near the rear of the lot which further encouraged the foundation to be placed near the front corner of the lot. According to the applicant's May 27, 2020 letter of intent, the house on lot 79 will be on the opposite side of the lot and the house will be approximately 22 feet from the property line. For these reasons, the department does not object to the request and recommends approval.

Ryan Bobbitt represented this case. Mr. Bobbitt stated this is a fireplace bump out and encroaches 0.9 feet into the side setback.

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

Bob Hipsher spoke in opposition. Mr. Hipsher stated he lives in the neighborhood behind this lot and has concerns with the impact from this development in regards to narrow streets, narrow lots and that they did not plan appropriately in the beginning.

Mr. Bobbitt spoke in rebuttal. Mr. Bobbitt stated the planning of the neighborhood was done years ago, this request is only for a chimney that is encroaching into the side building setback.

Ms. Semler closed public comment.

Mr. Ragsdale made a motion to approve with the condition that the encroachment is only for the fireplace location. Seconded by Ms. Range. Motion passed 4-0.

Case #20-07-038V Luz Medina (BOC Dist. 4)

The applicant is requesting a variance to Cherokee County Zoning Ordinance, Article 7, Table 7.1A: Minimum District Development Standards to encroach ten (10) feet into the front building line setback to accommodate a home. The property is located at 88 Brook Rapids Drive in Land Lot 1149 of the 15th District and further described as Cherokee County Tax Map 15N06E Parcel 089.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning, and staff comments. Mr. Chapman stated the Planning and Zoning Department has not received any letters in support of or in opposition to this variance request on file. Mr. Chapman stated several factors limit the buildable area of the lot. Posey Branch (stream) runs through the rear portion of the lot. According to Cherokee County contour data, the topography of the lot drops away from Brook Rapids Drive toward Posey Branch. Cherokee County Geographic Information System (GIS) data also indicates that floodplain encumbers the rear portion of the lot. Finally, a 12-inch sewer line and easement crosses the rear portion of the lot. Each of these factors limit the buildable area of lot. Such conditions are peculiar to the particular piece of property involved. As a result, the department does not object to the request and recommends approval.

Luz Medina represented this case. Ms. Medina stated there was confusion between the mover and the surveyor. The surveyor put a stake in the ground and the mover placed the mobile home based off this stake. She stated this encroachment is not causing any disruption and has discussed with the neighbors and that they have no issues of where the home is located. She stated the property adjoining this lot has a mobile home that sits even closer to the front property line.

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

Ms. Semler closed public comment.

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

Case #20-07-039V Justin Beavers (BOC Dist. 1)

The applicant is requesting a variance to Cherokee County Zoning Ordinance, Article 5, Section 5.6 Accessory Uses and Structures to encroach two (2) feet into the required ten-foot side building line setback for a detached garage. The property is located at 6193 Cumming Highway in Land Lots 929 and 930 of the 3rd District and further described as Cherokee County Tax Map 03N05 Parcel 240G.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning, and staff comments. Mr. Chapman stated the Planning and Zoning Department has not received any letters in support of or in opposition to this variance request on file. Mr. Chapman stated upon further investigation it was discovered that the fence line does not follow the property line. As a result, the accessory structure was placed too close to the actual property line. The applicant goes on to state in the letter of intent that the topography of the lot “involves extensive changes in elevation.” Cherokee County contour data indicates that the area around the existing house is fairly level, however, the lot does vary significantly in elevation and descend toward Edward Creek. Based on these conditions, the department does not object to the request and recommends approval.

Justin Beavers represented this case. Mr. Beavers stated due to the topography it has made this a challenging lot and has encroached 18 inches into the side setback.

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

Ms. Semler closed public comment.

Ms. Tressler made a motion to recommend approval as submitted. Seconded by Ms. Range. Motion passed 4-0.

Case #20-07-040V Centerline Surveying and Land (BOC Dist. 1)

The applicant is requesting a variance to Cherokee County Zoning Ordinance, Article 5, Section 5.5-5 (i.) Effect of Recorded Plat to encroach thirteen (13) feet into the twenty-five (25) foot front building line setback as recorded on the Final Plat for Lake Arrowhead Phase 1, Unit 4. The property is located at 125 Papago Court in Land Lot 202 of the 22nd District and further described as Cherokee County Tax Map 22N17 Parcel 248.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning, and staff comments. Mr. Chapman stated the Planning and Zoning Department has not received any letters in support of or in opposition to this variance request on file. Mr. Chapman stated the lot fronts upon a cul-de-sac causing the minimum front building setback line to extend deeper into the lot than on a more rectilinear lot. The available evidence indicates that there are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, and topography. Therefore, the department does not object to the request and recommends approval.

Doug Patten represented this case. Mr. Patten stated this will line up with the other homes in the area and due to the wall, cul-de-sac and the topography are the reasons for the variance request.

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

Ms. Semler closed public comment.

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

Case #20-07-041V SK Project Consulting, LLC (BOC Dist. 1)

The applicant is requesting a variance to Cherokee County Zoning Ordinance, Article 27, Section 27.9-3.6 (2) Tree Replacement Fund Contribution to increase the contribution limit to the Cherokee County Tree Replacement Fund from 25% to 50%. The property is located at 1521 Hickory Flat Highway in Land Lot 201 of the 14th District and further described as Cherokee County Tax Map 14N24 Parcels 032 and 033.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning, and staff comments. Mr. Chapman stated the Planning and Zoning Department has received a notice of support from the hospital and received a notice of opposition from the city of Canton on June 5, 2020. Canton is concerned about the loss of trees which are necessary for sound and light buffers. Mr. Chapman stated the trees proposed by the applicant for this site are 4-inch caliper trees as required by the ordinance for specimen tree recompense replanting. The plan proposed by the applicant makes full use of the available space for planting trees while allocating sufficient space for tree growth. In addition, the applicant intends to supplement evergreen planting in the zoning buffers in order to enhance the separation and screening between dissimilar land uses. As a result, the department does not object to the request and recommends approval.

Amy Hillman represented this case. Ms. Hillman provided an exhibit with an aerial over the site plan. She stated they are asking to contribute more trees than they would otherwise be allowed and are not asking to reduce the number of trees for recompensing or the quality of the trees they are going to plant. She stated at the back of the property there are a ton of trees, a ton of topography along with stream bank buffers. She stated they will be supplementing the buffer on the right side to make even better and installing a fence. She stated they believe the tree plan they are putting forward is viable and is in the best interest of the trees along with the development being an asset to the County and the City.

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

Ms. Semler closed public comment.

Ms. Tressler made a motion to approve with the condition that since the existing vegetation does not meet screening requirements and there is little existing understory vegetation, the applicant is to provide supplemental evergreen planting that is to be installed in the zoning buffer in such a way as to minimally disturb any remaining vegetation while providing additional screening on the outside of the proposed retaining wall which also provides screening. Seconded by Ms. Range. Motion passed 4-0.

Case #20-07-042V W. Nathan Wise (BOC Dist. 3)

The applicant is requesting a variance to Cherokee County Zoning Ordinance, Article 7, Table 7.1A: Minimum District Development Standards to encroach twenty-five (25) feet into the required fifty (50) foot building line setbacks in order to accommodate a house and garage/barn. Applicant also requests a variance to Cherokee County Stream Buffer Protection Ordinance, Section 5.1 - Buffer and Setback Requirements to encroach into the twenty-five (25) foot impervious cover setback. The property is located at 137 Moody Meadow Trail in Land Lot 038 of the 21st District and further described as Cherokee County Tax Map 15N01 Parcel 003R.

Michael Chapman presented this case. Mr. Chapman discussed location of property, surrounding zoning, and staff comments. Mr. Chapman stated the Planning and Zoning Department has not received any letters in support of or in opposition to this variance request on file. Mr. Chapman stated the buffers and setbacks applied to the stream on the property also consume a significant portion of the lot. Cherokee County contour data indicates significant changes in topography on the lot. In addition, the site plan submitted with the application delineates a 60-foot ingress/egress and utility easement for Moody Meadows Trail running through the property. Structures are not permitted to be erected in the access and utility easement. Finally, the lot itself is irregular in shape. Based on these factors, the department does not object to the request and recommends approval.

Nathan Wise represented this case. Mr. Wise stated they are requesting the variance due to stream bank buffers and the location of the drive.

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

Laura Smith spoke in opposition. Ms. Smith discussed her concerns with the impact of the culvert and drive, the springhead, run off and encroaching into the stream.

Mr. Wise spoke in rebuttal. Mr. Wise stated if he was the owner at the time he would have worked with them. He stated the driveway was already cut in when he purchased the property and they are not planning to damage the spring.

Ms. Semler closed public comment.

Ms. Range asked Mr. Wise does he plan to build on this property or does he plan to sell the property. Mr. Wise stated he did put it up for sale due to the economy and losing his job and is still debating if they want to or not. He stated there ultimate goal was to build there and was the reason for getting the variance.

Ms. Semler asked if he could build without encroaching into the full 25 feet buffer. Mr. Wise stated, yes he believes he could and will try to push it back as far as he can away from the buffer.

Ms. Semler made a motion to approve the first part of the variance request on the application as submitted and to approve the second request on the application to encroach 12 ½ feet into the stream bank buffer instead of the full 25 feet.

Mr. Ragsdale asked if this Mr. Wise if he could work with the encroachment of 12 ½ feet. Mr. Wise stated, yes he thought he could, that he and his wife would design a house plan that would fit. Mr. Ragsdale stated what if you did 15 feet. Ms. Semler stated she would amend the motion to approve to encroach 15 feet into the 25 feet stream bank buffer. Seconded by Mr. Ragsdale. Motion passed 4-0.

Ms. Semler made a motion to approve the June 4, 2020 Virtual Public Hearing Minutes. Seconded by Ms. Range. Motion passed 4-0.

Ms. Semler made a motion to adjourn. Seconded by Ms. Tressler. Motion passed 4-0.