

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

The Cherokee County Zoning Board of Appeals held their regular public hearing on Thursday, August 6, 2020. In attendance for the Zoning Board of Appeals were Chairman Elizabeth Semler, Vice Chairman Lisa Tressler, Tim Ragsdale, Marla Doss, and Melissa Range. In attendance for Cherokee County staff were Michael Chapman, Zoning Manager; Thomas Trawick, Planner; Tamala Davis, Planning Technician; and Patrick D. Jaugstetter with Jarrard & Davis, LLP.

The meeting was called to order at 6:35 p.m.

Ms. Semler made a motion to amend the agenda to consider Case #20-08-043V Bagwell & Spears, Inc. first. Seconded by Ms. Tressler. Motion passed 5-0.

Mr. Chapman stated the applicant requested this case be postponed until next month to work out some adjustments to their plan to possibly not need a variance.

Ms. Semler made a motion to postpone Case #20-08-043V until next month. Seconded by Mr. Ragsdale. Motion passed 5-0.

**Case #20-02-013V Jeffrey and Shari Lyle (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 a maximum of thirty (30) feet into the required sixty (60) foot building line setback per the Recorded Plat for Autumn Woods Estates. The property is located at 126 White City Court in Land Lot 804 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N10 Parcel 072.

Mr. Chapman noted this case was remanded back to the Zoning Board of Appeals by the Board of Commissioners due to significant changes in variance application request. 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 applicant modified their plan to seek a 30-foot encroachment into the 60 foot building setback. The Board of Commissioners heard the appeal on July 7, 2020. Because the applicant modified their plan from when it was originally presented to the Zoning Board of Appeals, the Board of Commissioners voted to return the matter to the Zoning Board of Appeals for reconsideration. The applicant is now requesting a variance to Cherokee County Zoning Ordinance, Article 5, Section 5.5-5 (i.) Effect of Recorded Plat to encroach thirty (30) feet into the required sixty (60) foot building line setback per the Recorded Plat for Autumn Woods Estates. The applicant is seeking a variance in order to construct a single-family dwelling on the property. The available evidence indicates that there are exceptional conditions pertaining to the topography, frontage on a cul-de-sac, and requirements for the septic system. As a result, some relief from the requirements of the ordinance may be in order. The original request was to reduce the front building setback by over 90% while also erecting an accessory structure in the front yard area. In February of 2020, staff determined that such a request was not appropriate for the surrounding area and recommended denial. However, based on the applicant's revised site plan and the conditions which constrain the lot, the department recommends approval

Jeff Rusbridge represented this case. Mr. Rusbridge stated the Lyle's purchased this lot with the intent to build a home. He stated the subdivision was developed over 30 years ago and this lot is the last lot left within

this subdivision which usually means there are some issues with the lot. He stated this lot has steep topography, and stream bank buffers that severely limit the buildable area as well as the location for a septic system. He stated they have modified their plan to request the thirty (30) feet setback and feels this is a reasonable request.

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

Tiffany Farmer, President of Autumn Woods Subdivision spoke in opposition. Ms. Farmer provided documentation to the Board of communications between herself and the applicant and discussed this information further with the Board. She stated the HOA has not received the latest plans for this lot and that they have not paid their HOA fees. She stated the covenants require a 50 feet front setback and 20 feet side setbacks and that these setbacks should be adhered to as other property owners within this subdivision have had to. She stated the 75 feet stream bank buffer for a creek is incorrect and that this is a 20' drainage easement. She stated this is a two (2) acre tract of property and a home can be built on this property with meeting the building setbacks without requesting a variance.

Phillip Farmer spoke in opposition. Mr. Farmer stated there are other lots within this subdivision that had topography issues and they were able to build and adhere to the covenants and by-laws. He stated they should adhere to the same guidelines as others have within the subdivision.

Perry Polsinelli spoke in opposition. Mr. Polsinelli stated he lives across the street and feels a thirty (30) feet setback will stick out from the other lots and feels the setback should be adhered to. Mr. Polsinelli stated he received an email from Planning staff stating there was no stream on this lot.

Mr. Rusbridge spoke in rebuttal. He stated they are trying the best they can to make this workable and they knew it was a difficult lot when they purchased it. He stated the goal is to make it be used for the purpose it was meant to be used for which is for a home to be constructed. Mr. Rusbridge stated this is the reason for this Board and if there were not challenges, there would be no need for a variance process. He stated they have relied on professionals and it is their full understanding that what was classified as a drainage ditch has been classified as a stream either by the architect or a surveyor. He noted this setback reduction would not severely impact the neighborhood in any way.

Ms. Semler closed public comment.

Ms. Tressler stated she feels they have done a very good job coming back with a plan that is much more reasonable and feels this meets the definition of a hardship.

Ms. Range stated at the last meeting one of the main issues was that the garage was so close to the street and does not remember much being said about the house. She stated she has not yet seen the covenants indicating what the restrictions are or if the covenants are even still in place. Ms. Range stated she is glad that they have tried to accommodate the neighborhood.

Ms. Semler stated she feels this is still not the right plan for this neighborhood and that they were aware of what they were purchasing. She stated this is a hard lot to build on but a lot of other lots in this same area are as well. Ms. Semler stated she does feel the variance, if granted, would impact the neighborhood and cannot support this application.

Ms. Doss stated she agrees with Ms. Semler. She stated this is a much better plan but cannot support the application.

Ms. Semler made a motion to deny this application. Seconded by Ms. Doss. Motion failed 2-3. Ms. Range, Ms. Tressler, and Mr. Ragsdale opposed.

Ms. Tressler made a motion to approve this application as submitted. Seconded by Mr. Ragsdale. Motion passed 3-2. Ms. Doss and Ms. Semler opposed.

**Case #20-08-045V Anitra Graves (BOC Dist. 2)**

The applicant is requesting a variance to Cherokee County Zoning Ordinance, Article 5, Section 5.6 Accessory Uses and Structures - Location on Lot to allow an accessory structure to be located in the front yard area. The property is located at 161 Crowe Road in Land Lots 160 and 161 of the 2<sup>nd</sup> District and further described as Cherokee County Tax Map 02N06 Parcel 252.

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 two (2) letters in support of and no letters in opposition to this variance request on file. Mr. Chapman stated the topography of the lot descends down towards a floodplain and stream at the rear of the lot. According to the applicant's letter of intent, locating the accessory structure behind the house would require the relocation of the septic drain fields. Furthermore, the applicant states that the location of the proposed accessory structure is meant to "preserve the existing mature hardwoods" and their "neighbor's view." Based on the size of the lot, the existing conditions on the property, and the topography of the lot, the department does not object to the request and recommends approval.

Daren Hamlin represented this case. Mr. Hamlin stated the house is setback off the road on a dead end road. He stated the back of the property is beautiful with all of the hardwoods, so that is the reason they did not want to put the structure in the back yard. He stated he has spoken with his neighbors and they did not have any concerns.

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 5-0.

**Case #20-08-046V Michael Thaggard (BOC Dist. 4)**

The applicant is requesting a variance to Cherokee County Zoning Ordinance, Article 7, Table 7.1A: Minimum District Development Standards to allow a detached accessory structure to be twenty-three (23) feet from the property line. Applicant also requests a variance to Cherokee County Zoning Ordinance Article 5, Section 5.6 Accessory Uses and Structures - Location on Lot to allow a detached accessory structure in the front yard area and to allow said accessory structure to be located closer to a street right-of-way line than the principal building setback. The property is located at 3620 Walden Lane in Land Lot 811 of the 21<sup>st</sup> District and further described as Cherokee County Tax Map 21N04 Parcel 027.

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 Walden Lane terminates approximately 480 feet to the north at U.S. Army Corps of Engineers property. The area in which the accessory building was constructed is in a less prominent and less visible location relative to the southern portion of the property. These conditions are peculiar to the particular piece of property involved. The applicant wrote in their July 7, 2020 letter of intent that they "will be planting quick growing cypress trees to help block the view from the road." Such trees could help to screen the accessory building from view from the road. Given that the road which the accessory building is closest to terminates and has no public outlet and the applicant has volunteered to plant vegetation to screen the accessory structure from view, the department recommends approval of the request.

Michael Thaggard represented this case. Mr. Thaggard stated he is not looking at this as his front yard due to the location of his driveway. He stated the structures cannot be seen from the driveways or even from the left side of the house. He stated he has a video to show the Board if they would like.

The Board had photos in their application packet and did not need to see the video.

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

Ms. Semler closed public comment.

Ms. Doss asked if the building is already built. Mr. Thaggard stated, yes. Ms. Doss asked why did it get changed from 55' as shown on the plan that was attached to the permit application. Mr. Thaggard stated he is not aware of the plan she is referring to.

Ms. Semler stated this does not really look like the front yard to her either.

Mr. Ragsdale stated due to how the arch is in the road, you can call it all the front yard.

Ms. Tressler stated essentially this is a corner lot and she does have an issue with the permit indicating 55 feet and that is not the location it was constructed.

The Board asked Mr. Chapman to clarify the 55 feet shown on the plan submitted as part of the building permit application. Mr. Chapman provided those documents to the Board. Ms. Semler stated the information turned into the County indicated that the accessory structure was definitely 55 feet from one property line and 45 feet from the other.

Ms. Semler made a motion to approve the application as submitted. Seconded by Mr. Ragsdale. Motion passed 3-2. Ms. Tressler and Ms. Doss opposed.

Ms. Semler made a motion to approve the July 2, 2020 Public Hearing Minutes. Seconded by Ms. Range. Motion passed 5-0.

Ms. Semler made a motion to adjourn. Seconded by Ms. Tressler. Motion passed 5-0. The meeting adjourned at 7:17 p.m.