

*Approved*  
*9-4-03*

**Cherokee County Zoning Board of Appeals**  
**Public Hearing**  
**Minutes**  
**Thursday, August 14, 2003**  
**6:30 p.m.**

The Cherokee County Zoning Board of Appeals held its regularly scheduled meeting on August 14, 2003, in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Zoning Board of Appeals were Karen Mahurin, Evert Hekman, Bart Brannon, Roy Taylor and Cindy Castello. In attendance for Cherokee County Staff were Vicki Taylor, Zoning Administrator, Vicki Dye, Zoning Technician for the Planning & Zoning Department and Mark Mahler, County Attorney. The meeting was called to order at 6:30 pm.

Mr. Mark Mahler, County Attorney addressed the Board and stated he had talked with Mr. Mark Forsling, Attorney, Schreeder, Wheeler & Flint, LLP, representing the applicants in the first eight cases for appeals and variance applications concerning signs. He stated that as far as procedures, he suggested calling out the case numbers at one time, then Vicki Taylor, the Zoning Administrator can give her recommendations. Mr. Forsling can then represent his case to the Board and then anyone who wishes to speak on the individual cases may do so. He suggested that Mr. Forsling could then have time to make his rebuttals. Mr. Mahler then requested that after this procedure the appeals at that time would then be voted on. Mr. Forsling and the Zoning Board of Appeals agreed to this procedure.

Case Numbers 03-08-029A, 03-08-030A, 03-08-031A, 03-08-032A, 03-08-033A, 03-08-034A, 03-08-35A and 03-08-036A.

Vicki Taylor gave Staff findings as to the variances.

Mr. Forsling represented the cases. Mr. Forsling stated for the record that a Constitutional Challenge had been filed with each application. At the audience's request, he explained the document to them.

No one spoke in favor.

**Case #03-08-029A Traina Enterprises, Inc.** has filed an appeal to the Zoning Administrator's decision denying their request for a proposed billboard and the applicant is requesting a variance from Article 16, Section V-6 (a); Freestanding Signs in the Hwy 92 Village Ordinance and Article 11; Signs. The applicant is requesting a variance of 622 sq. ft. to allow a 672 sq. ft. freestanding sign, a variance of 40 ft. to allow a 50 ft. height maximum and a variance to allow one additional freestanding sign on this parcel of land. This property is located at 5745 Bells Ferry Road in Land Lot 1188 of the 21<sup>st</sup> District and further described as Cherokee County Tax Map 15N06, Parcel 111.

No one spoke in opposition.

**Case #03-08-030A Traina Enterprises, Inc.** has filed an appeal to the Zoning Administrator's decision denying their request for a proposed billboard and the applicant is requesting a variance from Article 16, Section V-6 (a); Freestanding Signs in the Hwy 92 Village Ordinance and Article 11; Signs. The applicant is requesting a variance of 622 sq. ft. to allow a 672 sq. ft. freestanding sign, a variance of 40 ft. to allow a 50 ft. height maximum and a variance to allow one additional freestanding sign on this parcel of land. This property is located at 5747 Bells Ferry Road in Land Lot 1188 of the 21<sup>st</sup> District and further described as Cherokee County Tax Map 15N06, Parcel 116.

No one spoke in opposition.

**Case #03-08-031A U. S. Media, Inc.** has filed an appeal to the Zoning Administrator's decision denying their request for a proposed billboard and the applicant is requesting a variance from Article 11; Signs. The applicant is requesting a variance of 552 sq. ft. to allow a 672 sq. ft. freestanding sign, a variance of 35 ft. to allow a 70 ft. height maximum and a variance to allow one additional freestanding sign on this parcel of land. This property is located at 5399 Bells Ferry Road in Land Lot 1225 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N06, Parcel 173.

No one spoke in opposition.

**Case # 03-08-032A U. S. Media, Inc.** has filed an appeal to the Zoning Administrator's decision denying their request for a proposed billboard and the applicant is requesting a variance from Article 11; Signs. The applicant is requesting a variance of 258 sq. ft. to allow a 378 sq. ft. freestanding sign, a variance of 15 ft. to allow a 50 ft. height maximum and a variance to allow one additional freestanding sign on this parcel of land. This property is located at 6790 Bells Ferry Road in Land Lot 539 of the 21<sup>st</sup> District and further described as Cherokee County Tax Map 15N03, Parcel 002.

Christopher Smith of Port Victoria Subdivision spoke in opposition and stated this billboard would be directly across the entrance to his subdivision and he believed property values would be lowered.

Sonia Diaz-Batson spoke in opposition. She stated she lives in Port Victoria Subdivision and believed this billboard would lower property values. She spoke of concerns over aesthetics and safety issues due to the property in question being in a blind curve.

**Case # 03-08-033A U. S. Media, Inc.** has filed an appeal to the Zoning Administrator's decision denying their request for a proposed billboard and the applicant is requesting a variance from Article 11; Signs. The applicant is requesting a variance of 258 sq. ft. to allow a 378 sq. ft. freestanding sign, a variance of 15 ft. to allow a 50 ft. height maximum and a variance to allow one additional freestanding sign on this parcel of land. This

property is located at 11930 Cumming Hwy in Land Lots 909, 910, 963, 964 of the 3<sup>rd</sup> District and further described as Cherokee County Tax Map 03N23A, Parcel 049.

Amy Leuraft spoke in opposition as an adjacent business owner of Freehome Animal Hospital. She stated she complied with the sign ordinance and felt the applicant should also.

Thomas E. Lathem spoke in opposition representing his family that has three residences in the area. He stated they have tried to co-exist with the businesses, but believe the billboards will not be compatible and it should not be allowed.

**Case #03-08-034A U. S. Media, Inc.** has filed an appeal to the Zoning Administrator's decision denying their request for a proposed billboard and the applicant is requesting a variance from Article 11; Signs. The applicant is requesting a variance of 258 sq. ft. to allow a 378 sq. ft. freestanding sign, a variance of 15 ft. to allow a 50 ft. height maximum and a variance to allow one additional freestanding sign on this parcel of land. This property is located at 8521A Knox Bridge Hwy in Land Lots 91 of the 14<sup>th</sup> District and further described as Cherokee County Tax Map 14N12A, Parcel 021.

James Bricker, 111 Delores Street, spoke in opposition and stated he supported the Zoning Administrator's decision to deny this request. He stated these signs should meet the requirements of the Zoning Ordinance. He addressed concerns due to content near Teasley Middle School.

Mary Bricker, 111 Delores Street, spoke in opposition. She stated she is a teacher at Teasley Middle School and lives adjacent to the subject property and is concerned that the lights shining from the billboard would come in her bedroom window and she wouldn't be able to sleep. She stated she was also concerned of what would be advertised on the billboard and it being so close to the school.

Kathy Carlan spoke in opposition of safety concerns of the billboard possibly falling. She spoke of concerns for the trees that would have to be taken down to erect this billboard.

**Case #03-08-035A U. S. Media, Inc.** has filed an appeal to the Zoning Administrator's decision denying their request for a proposed billboard and the applicant is requesting a variance from Article 11; Signs. The applicant is requesting a variance of 552 sq. ft. to allow a 672 sq. ft. freestanding sign, a variance of 95 ft. to allow a 130 ft. height maximum and a variance to allow one additional freestanding sign on this parcel of land. This property is located at 645 Lower Bethany Road in Land Lot 282 of the 14<sup>th</sup> District and further described as Cherokee County Tax Map 14N27, Parcel 059.

No one spoke in opposition.

**Case #03-08-036A U. S. Media, Inc.** has filed an appeal to the Zoning Administrator's decision denying their request for a proposed billboard and the applicant is requesting a variance from Article 11; Signs. The applicant is requesting a variance of 552 sq. ft. to allow a 672 sq. ft. freestanding sign, a variance of 35 ft. to allow a 70 ft. height maximum and a variance to allow one additional freestanding sign on this parcel of land. This property is located at 115 Colony Center Drive in Land Lot 1257 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N30, Parcel 092B.

Ann Myers spoke in opposition. She stated the sign could be seen from her back yard and it would lower property values 10 to 20 percent. She stated it was not appropriate for the Highway 92 Overlay Corridor because of aesthetics.

Paul Reeves spoke in opposition. He stated he did not see where any hardship had been proven in the application.

Mr. Forsling then spoke in rebuttal to these cases. He stated two speakers had spoken toward content and to regulate content violates free speech. He stated the hardship was not to be allowed to place a sign anywhere on these parcels since they have signs there already.

Vicki Taylor, Zoning Administrator gave Staff findings as to the appeals.

**Motions are as follows:**

**Case 03-08-029A - Ms. Castello made a motion to deny the appeal. Seconded by Roy Taylor. Motion passed unanimously. Ms. Castello made a motion to deny the variance. Seconded by Evert Hekman. Motion passed unanimously.**

**Case 03-08-030A - Mr. Taylor made a motion to deny the appeal. Seconded by Chairwoman Mahurin. Motion passed unanimously. Mr. Taylor made a motion to deny the variance. Seconded by Cindy Castello. Motion passed unanimously.**

**Case 03-08-031A - Mr. Hekman made a motion to deny the appeal. Seconded by Roy Taylor. Motion passed unanimously. Mr. Brannon made a motion to deny the variance. Seconded by Chairwoman Mahurin. Motion passed unanimously.**

**Case 03-08-032A - Ms. Castello made a motion to deny the appeal. Seconded by Evert Hekman. Motion passed unanimously. Ms. Castello made a motion to deny the variance. Seconded by Chairwoman Mahurin. Motion passed 4 to 1 with Bart Brannon opposing.**

**Case 03-08-033A - Mr. Taylor made a motion to deny the appeal. Seconded by Evert Hekman. Motion passed unanimously. Motion made by Mr. Taylor to deny the variance. Seconded by Cindy Castello. Motion passed unanimously.**

**Case 03-08-034A - Ms. Castello made a motion to deny the appeal. Seconded by Roy Taylor. Motion passed unanimously. Ms. Castello made a motion to deny the**

**variance. Seconded by Chairwoman Mahurin. Motion passed 4 to 1 with Bart Brannon opposing.**

**Case 03-08-035A - Mr. Hekman made a motion to deny the appeal. Seconded by Cindy Castello. Motion passed unanimously. Mr. Brannon made a motion to allow the variance. Motion died for lack of second. Mr. Hekman made a motion to deny the variance. Seconded by Roy Taylor. Motion passed 4 to 1 with Bart Brannon opposing.**

**Case 03-08-036A - Mr. Taylor made a motion to deny the appeal. Seconded by Cindy Castello. Motion passed unanimously. Mr. Taylor made a motion to deny the variance. Seconded by Cindy Castello. Motion passed unanimously.**

**Case #03-08-037A The Peaks at Bells Ferry Limited Partnership** requesting a variance to Article 10, Section 10.6-7; Stream Bank Buffer Regulations. The applicant is requesting a variance to be allowed to encroach 25' into the 50' undisturbed County stream bank buffer for construction of a sanitary sewer line. The property is located off Bells Ferry Road in Land Lot(s) 1117 of the 21<sup>st</sup> District and described as Cherokee County Tax Map 15N06, Parcel(s) 136, 139 and Cherokee County Tax Map 15N06G, Parcel 034.

Vicki Taylor gave Staff findings.

Larry Singleton represented this case.

Mr. Jimmy Bobo spoke in favor of this request.

No one spoke in opposition.

**Mr. Brannon made a motion to approve. Mr. Taylor seconded. Motion passed unanimously.**

**Case #03-08-038A Ken & Sandy Green** requesting a variance to Article 7, Table 7.1A; Minimum District Development Standards. The applicant is requesting a 17' variance to allow a 33' front building setback instead of the required 50'. The property is located at 10262 Main Street in Land Lot(s) 1284 of the 15<sup>th</sup> District and described as Cherokee County Tax Map 15N12, Parcel 199F.

Vicki Taylor gave Staff findings.

Ken Green represented this case.

No one spoke in favor or opposition.

**Roy Taylor made a motion to approve. Seconded by Chairwoman Mahurin. Motion passed unanimously.**

**Case #03-08-039A 13202, LLC** requesting a variance to Article 16, Section 16.1; Hwy 92 Village Ordinance. The applicant is requesting a variance of 100 sq. ft. to allow a 150 sq. ft. monument sign and a variance of 25' to allow a 35' height maximum. The property is located at 13202 Hwy 92 in Land Lot(s) 1178 of the 15<sup>th</sup> District and described as Cherokee County Tax Map 15N24, Parcel 187A.

Vicki Taylor gave Staff findings.

Jimmy Bobo represented this case.

No one spoke in favor.

Ann Myers spoke in opposition to height and stated the sign would not be aesthetically pleasing and that it would be contrary to the public interest and will set a precedence along Highway 92 Corridor.

Paul Reeves spoke in opposition and asked that the case be tabled until a better design could be worked out.

Richard Calhoun spoke in opposition.

Jimmy Bobo spoke in rebuttal.

Ms. Castello asked how many tenants? Mr. Bobo replied that he didn't know. Mr. Bobo stated there are 9 sign panels on the structure.

Discussion ensued to sign design.

**Bart Brannon made a motion to approve. Seconded by Cindy Castello. Motion passed 3 to 2 with Mr. Taylor and Mr. Hekman in opposition.**

**Case #03-08-040A B & B Land Ventures** requesting a variance to Article 10, Table 10.1; Buffer Requirements. The applicant is requesting a variance to waive the 35' buffer that is required between the GC zoning district and the R-40 zoning district. The property is located at Ridge Road and Sixes Road in Land Lot(s) 355 of the 15<sup>th</sup> District and described as Cherokee County Tax Map 15N08, Parcel 019.

Vicki Taylor gave Staff findings.

Jimmy Bobo represented this case.

No one spoke in favor or opposition.

**Evert Hekman made a motion to approve. Chairwoman Mahurin seconded. Motion passed unanimously.**

Case #03-08-041A Todd Ellerbee requesting a variance to Article 10, Table 10.1; Buffer Requirements. The applicant is requesting a variance to eliminate the 35' buffer along the north, east and west property lines. The property located at 12584 Bells Ferry Road in Land Lot(s) 127 of the 14<sup>th</sup> District and described as Cherokee County Tax Map 14N18A, Parcel 071.

Vicki Taylor, Zoning Administrator, gave Staff findings.

Ron Wikle represented this case. He stated this property had an erosion problem due to run off from the Woodland Village Subdivision.

No one spoke in favor.

Amy Wright, Woodland Village Subdivision, City of Canton, spoke in opposition and referred to a memo to Vicki Taylor from Meredith Mason and asked if any permits were granted.

John Valentine, Woodland Village Subdivision spoke in opposition.

Greg Mason spoke in opposition and stated his Dad lives at property and does not want to look at a 200-foot detention pond.

Betty Mason spoke in opposition.

Melbaree Cagle spoke in opposition to eliminate buffer.

Mike Cage spoke in opposition.

Richard Love spoke in opposition.

Ron Wikle spoke in rebuttal and stated City of Canton abutting County property has no requirement for buffers. He stated they do have permits.

Chairwoman Mahurin made a motion to table to see if an agreement could be reach between the adjacent homeowners. Mr. Wikle stated this would not be possible because he had already tried to speak with them.

**Bart Brannon made a motion to approve with condition that on the west side of property at detention pond be planted with vegetation and the wall to be aesthetically pleasing. Seconded by Cindy Castello. Evert Hekman made a friendly amendment for a 20-foot zoning buffer. Mr. Brannon accepted. Motion failed 2 to 3 with Chairwoman Mahurin, Roy Taylor and Cindy Castello opposing. Mr. Taylor made a motion to deny. Seconded by Evert Hekman. Motion passed 4 to 1 with Bart Brannon opposing.**

Case #03-08-042A Cliff Stanfield requesting a variance to Article 10, Section 10.6; Stream Buffer Regulations. The applicant is requesting a variance to allow

encroachment into the 50' County stream bank buffer for selective hand clearing. The property is located at 2121 Wilkie Road in Land Lot(s) 43, 44, 99, 100, 101, 102, 114, 116, 117, 118, 119, 120, 167, 168, 169 and 170 of the 2<sup>nd</sup> District and described as Cherokee County Tax Map 02N12, Parcel(s) 051, 068A, 047, 001.

Vicki Taylor, Zoning Administrator, gave Staff findings.

Cliff Stanfield represented this case.

No one spoke in favor or opposition.

Discussion ensued as to reason for clearing and bridges that will cross over streams for golf carts.

**Evert Hekman made a motion to approve. Seconded by Cindy Castello. Motion passed unanimously.**

#### **Other Items**

Approval of July 10, 2003 Minutes.

**Motion made by Cindy Castello to approve the minutes. Seconded by Bart Brannon. Motion passed unanimously.**

**Meeting adjourned.**