

**Cherokee County Zoning Board of Appeals  
Public Hearing  
Minutes  
Thursday, January 8, 2003  
6:30 p.m.**

The Cherokee County Zoning Board of Appeals held its regularly scheduled meeting on January 8, 2003, in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Zoning Board of Appeals were Chairman Karen Mahurin, Evert Hekman, Bart Brannon, Roy Taylor and Cindy Castello. In attendance for Cherokee County Staff were Vicki Taylor, Zoning Administrator, Vicki Mulkey, Zoning Technician for the Planning & Zoning Department and Mark Mahler, County Attorney. The meeting was called to order at 6:30 pm.

**Old Cases**

**Case #03-11-054A Joseph Shields** requesting a variance to Article 5, Section 5.6A. The applicant is requesting a variance to allow for a 3.8 foot setback for a swimming pool. This property is located at 2304 Westland Mill in Land Lot 1035 of the 21<sup>st</sup> District and further described as Cherokee County Tax Map 21N11A, Parcel 002.

Mark Mahler stated he had sent Mr. Shields a letter to try to work out an agreement with his neighbor for encroachment on neighbor's property.

**Case postponed until next meeting in February.**

**Upcoming Cases**

**Case # 04-01-001V David and Tammy Sloan** is requesting a variance to Article 5, Section 5.6: Accessory Structures. The applicant is requesting a variance to allow a 3200 sq. foot accessory structure to house an antique car collection. This property is located on Willow West Road in Land Lot 16 of the 22<sup>nd</sup> District and further described as Cherokee County Tax Map 22N12, Parcel 120A & 120B.

Vicki Taylor gave Staff findings that the property is heavily wooded. She stated the applicant has a valuable antique car collection and without the proposed structure these vehicles would have to remain parked outside. She stated that relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of these regulations due to the wooded nature of the property as well as 6.67 acres providing for a substantial buffer. She stated a literal interpretation of the zoning ordinance would deprive the applicant of rights others in the same district have been allowed.

David Sloan represented this case. He stated at the time he had asked for a variance on his other property for storage of his antique cars, he did not know he would be selling that property. He stated he has just purchased the property on Willow West Road and would like to ask that he be allowed to build his garage to store his antique cars at this new location.

Joyce Gaddis, a neighbor that lives across the street from Mr. Sloan, asked if he would be running a business. Mr. Sloan stated he would not, but would only be storing his antique car collection. She stated she would not have a problem with that.

**Bart Brannon made a motion to approve. Seconded by Evert Hekman. Motion passed unanimously 5-0.**

**Case #04-01-002V Iron Gates Development, LLC** is requesting a variance to Article 16, Section 3, and Article 10, Table 10.1. The applicant is requesting a variance to allow the property to be brought into the Highway 92 Overlay District, and to allow a 25-foot zoning buffer on the property. This property is located on the west side of Woodstock Road in Land Lot(s) 1124, & 1125 of the 21<sup>st</sup> District and further described as Cherokee County Tax Map 21N12, Parcel 39.

Vicki Taylor gave Staff findings that the majority of this tract sits between Hillcrest Baptist Church and Rolling Hills Memorial Gardens and that this tract is a part of the existing cemetery. No letters of opposition have been received as of this date. She stated this tract has limited road frontage and being between the church and the cemetery and has doubtful value as a single-family residential with a minimum lot area of 40,000 square feet. She stated that relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations and it would be a useful transition between the defined corridor uses and the older single-family dwellings to the north. She stated that a literal interpretation of the zoning ordinance would not deprive the applicant of rights others in the same district have been allowed.

Bruce Carlisle represented this case.

Discussion ensued regarding the buffer.

**Bart Brannon made a motion to approve bringing the property in its entirety into the Highway 92 Overlay District. Seconded by Evert Hekman. Motion passed unanimously 5-0.**

Evert Hekman stated he would be opposed to a reduction to the north and east side of the property.

Roy Taylor stated that the plans could be redesigned by moving one of the roads in a certain direction and meeting the buffer requirements to the north and east side. Mr. Carlisle stated he could work with that.

**Roy Taylor made a motion that the 35 foot buffer requirement along the north and east side of the property remain and approve a 25 foot buffer adjacent to Memorial Gardens. Bart Brannon seconded. Motion passed unanimously 5-0.**

**Case #04-01-003V SprintCom, Inc.** is requesting a variance to Article 7.7, Section C, Permitted Uses; 4(a) Setbacks and Separation (standards for telecommunication towers). The applicant is requesting a variance to reduce the setback for a telecommunications tower to 35' on the south property line. This property is located at 107 Dixie Drive in Land Lot(s) 1222 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N06D, Parcel 252.

Vicki Taylor gave Staff findings that no opposition letters have been received on this case as of this date. She stated that this is a light industrial parcel with light industrial uses on three sides. She stated the owner of former parcels 252 and 253 had combined these tracts to increase the distance on the north side. There is adequate distance on the east and west sides to meet the setback requirements of the Ordinance. She stated the variance request is along the south property line adjacent to LI zoning whose property owner has signed a "Statement of No Objection" to said variance. She stated a literal interpretation of the Zoning Ordinance would not deprive the applicant of rights others in the same district have been allowed as she is not aware of any variances in LI for cellular tower setbacks.

Eric Lovvorn represented this case (get reason why another tower instead of collocating from file)

Gary Miller of 103 Dixie Drive asked why the original setbacks are in place and was it because of any interference to computer equipment or phones, etc.

Vicki Taylor answered that it was due to the misconception that towers could fall over, but they do not and are designed to break away inwardly. She stated the Ordinance was written under the misconception.

Mr. Lovvorn stated no electrical interference at all due to the frequency levels being higher than those used for computers, phones, etc.

**Cindy Castello made a motion to approve. Seconded by Roy Taylor. Motion passed unanimously 5-0.**

**Case #04-01-004V Douglas C. Hyde** is requesting a variance to Article 5: Accessory Structures. The applicant is requesting a variance to allow an encroachment of 8 feet into a 10-foot side yard setback. This property is located at 525 Lakecrest Tarn in Land Lot 1296 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N06C, Parcel 238.

Vicki Taylor gave Staff findings that no opposition letters have been received on this case as of this date. She stated that severe topography sloping upward toward the north would necessitate a retaining wall in order to establish a level foundation pad for the garage and carport. She stated that this detached garage and open carport were constructed in good faith belief of the location of the property line based upon the marked corners at the time Mr. Hyde purchased the property in 1981. Additionally, applicant has maintained the area in question without protest from the adjacent land owner. Denial of this request would dictate demolition of the completed structure. She stated that relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations because the intent of the setback is to provide sufficient buffer between homeowners. Applicant states that the adjacent residence on Lot 6 is up the hill from the area in question and some feet away. Mr. Hyde states that the location of the structure does not infringe upon his neighbor. She stated a literal interpretation of the Zoning Ordinance would deprive the applicant of rights others in the same district have been allowed.

Bob Gee represented this case. He stated it was a discrepancy in what Mr. Hyde thought was his property pins and that the neighbor next door did not have a problem with the encroachment and a letter was on file to that affect.

**Roy Taylor made a motion to approve. Seconded by Bart Brannon. Motion passed unanimously 5-0.**

**Case #04-01-005V Diversified Properties** is requesting a variance to Article 7, 7.1A: Minimum District Standards. The applicant is requesting a variance to allow a 10 foot variance to the 35 foot front building setback in order to construct three single family dwellings. This property is located on Willow Way in Land Lot 1041 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N29A, Parcel(s) 540, 541, & 542.

Vicki Taylor gave Staff findings that Article 7, Table 7.1A calls for a 25-foot front setback in this district. Willow Tree was recorded with a 35-foot front setback requirement. Applicant is requesting a variance to encroach 10 feet into the front setback to construct three new single-family dwellings. She stated there are topography hardships to house placement on these lots and applicant states these lots drop off dramatically at approximately 75 feet back from the existing street. She stated

in order to place adequate size homes on these lots complying with the 35-foot setback, more grading of the lot would be required as well as possible retaining walls.

She stated she did not believe relief, if granted, would cause substantial detriment to the public good or impair the purposes and intent of these regulations and a literal interpretation of the Zoning Ordinance would deprive the applicant of rights others in the same district have been allowed.

Brannon Perkins represented this case.

Scott Mueller stated he was on the architectural committee for Willow Tree Subdivision Homeowners Association. He stated that all homes are setback a minimum of 35 feet and the homeowners in that community felt that these three lots would stand out from the other homes and not be aesthetically pleasing. He stated he had built homes in the subdivision and knew of the difficult topography, but he had had to build retaining walls and moved dirt and the neighborhood did not want this variance request to be granted.

Cindy Castello asked if Mr. Mueller would compromise to a 30 foot setback. Mr. Mueller stated no.

Evert Hekman asked if there is a power easement at the rear of property and Mr. Mueller stated there was.

Wayne Dery of 1648 Willow Way spoke and said he would be looking down on these lots and did not agree with the variance request. He stated it was a catch 22 that they wanted the lots developed, but did not want the homes to stick out and that he agreed with Mr. Mueller.

Linda Cochran, another resident of Willow Tree she would be looking in their back door and thought it would be a negative effect if they tried to sale their home. She stated she agreed with Mr. Mueller.

**Karen made a motion to table this case until next month's meeting in February so that the Board would have an opportunity to conduct a site visit. Seconded by Bart Brannon. Motion passed unanimously 5-0.**

**Case # 03-11-053A Liberty Development Corporation** is requesting a variance to Article 16, Section 16.1-4A: Permitted Uses. The applicant is requesting a variance to allow 11.07 units per acre. This property is located at 8011 Highway 92 in Land Lot(s) 1157, 1220 of the 15<sup>th</sup> District and further described as Cherokee County Tax Map 15N06, Parcel 300.

(This case was moved from Old Cases to this position due to Mr. Brunn, representing this case, had not arrived.)

Vicki Taylor gave Staff findings that the subject property is splint by the Overlay boundary line and is surrounded by light industrial and general commercial zoning and uses on three sides and current conditions would necessitate this parcel be developed under two separate guidelines or owner could develop as heavy industrial. She stated relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations. She stated a literal interpretation of the Zoning Ordinance would not deprive the applicant of rights others in the same district have been allowed.

Matt Brunn represented this case. Presented the Board with a new site plan at 8 units an acre instead of the variance asked for.

Cindy Castello asked the price and how many bedrooms. Mr. Brunn stated mid-\$130,000 to \$150,000 and they would be a minimum of 1,800 sq.ft. with three bedrooms. He further stated they would have either a one or two car garage.

No one spoke in favor or opposition

Bart Brannon stated he thought this development would be an improvement to the Hwy 92 area.

Evert Hekman stated he thought this development would benefit the area eventhough it exceeds the density required of 6 units an area.

Chairman Mahurin told Mr. Brunn the Board appreciates him compromising to a less density than he had originally asked for.

**Bart Brannon made a motion to approve with 1,800 sq.ft. with garages. Cindy Castello seconded. Motion passed unanimously 5-0.**

### **Other Items**

Approval of December 2003 minutes.

**Bart Brannon made a motion to approve the minutes. Seconded by Cindy Castello. Motion passed unanimously 5-0.**

**Bart Brannon made a motion to adjourn. Seconded by Cindy Castello. Motion passed unanimously 5-0.**

*Approved February 5, 2004*

Meeting adjourned at 7:30 pm