

**Cherokee County Zoning Board of Appeals
Public Hearing
Minutes
Thursday, June 2, 2005
6:30 p.m.**

The Cherokee County Zoning Board of Appeals held its regularly scheduled meeting on June 2, 2005, in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Zoning Board of Appeals were Chairman Evert Hekman, Vice-Chairman Roy Taylor, Sean Jurgeson, Greg Elder, and Amy Mumaugh. In attendance for Cherokee County Staff were Mark Mahler, County Attorney, Vicki Taylor, Zoning Administrator and Jesse Perry, Senior Clerk. The meeting was called to order at 6:30 pm.

Old Cases

Case #05-04-017V Steve Austin requesting a variance to Article 7, Table 7.1A; Minimum District Development Standards. The applicant is requesting a variance of 9' to allow a 41' front building setback instead of the required 50' front building setback. The property is located at 200 Prospector Way in Land Lot 339 of the 3rd District and further described as Cherokee County Tax Map 03N14, Parcel 073.

Vicki Taylor, Zoning Administrator presented the case to the Zoning Board of Appeals members.

Evert opened discussion to the board. Roy Taylor asked Sean Jerguson if the questions he raised last time were answered. Sean said that he had done research and that the questions he had were answered.

Roy stated he had concerns for the citizens, and that he also felt that variance should be granted based upon need, not desire. Evert said that he didn't think that the Austin's were culpable. He felt that was purely a mistake and not intentional. Sean said that he agreed with that sentiment based upon the research he did.

Amy motioned to grant variance with year round landscape buffer, which was seconded by Sean.

Motion approved 4-1 (Roy Taylor in opposition).

New Cases

Case #05-05-026V John and Tammy Jeans requesting a variance to Article 7, Section 7.7-10; Setbacks for poultry. The applicant is requesting a variance to reduce the east and west side setbacks to 50' to allow two poultry houses. The ordinance requires a 100' setback from all property lines. The property is located at 175 Pleasant Union Road in Land Lot 263 of the 13th District and further described as Cherokee County Tax Map 13N05, Parcel 040B.

Vicki Taylor, Zoning Administrator presented the case to the Zoning Board of Appeals members. She stated that there were three different setbacks listed for this type of business, Section 7.7-9 calls for 75 feet, Section 7.7-10 calls for 100', and Section 7.9-11 calls for 200'. She said she was unsure which rule to apply. She also stated that this is why she advised the Jeans to bring their case before the ZBA.

Sean asked if the board determined it was Section 7.7-9 that should apply, then would no variance be necessary. Vicki Taylor said that was correct.

John Jeans represented the case. He spoke about how he wanted to have this variance because he was considering retiring, and wanted to be able to have these poultry houses so that he could raise the birds and be able to enjoy them with his granddaughter. He also said that he wasn't sure which of the rules applied, but he just wanted the Board to give him the rules so that he knew which to go by, because he wanted to do everything legally.

Amy asked if sales would be involved if the variance was granted. Jeans said some, but not much.

Janice Berger spoke in opposition. She read from a written report about the semantics of the wording of the ordinance. She also spoke about the concerns of the surrounding neighbors.

Evert stated that the zoning ordinance stated that poultry is considered livestock.

Public Comment was closed.

Amy asked about Lot 28, which was residential, and about the Wheeler property, which was vacant land.

Greg asked if there were a lot of evergreen trees for screening. Johns told him there were.

Sean said that if he keeps the poultry houses 75' off the property line, in compliance with Section 7.7- 9, then no variance was needed.

Sean made a motion to dismiss the case due to the fact that if the poultry houses are kept 75' off the property line, no variance is necessary. Evert seconded the motion.

Motion approved 5-0

Case #05-06-027V Robert and Audra Lynn requesting a variance to Article 7, Table 7.1A: Minimum District Development Standards. The applicant is requesting a variance to reduce the side building setback to 30'. The ordinance requires a 50' side building setback for property zoned R-80. The property is located on Mountain Road in Land Lot 645 of the 2nd District and further described as Cherokee County Tax Map 02N03, Part of Parcel 148.

Vicki Taylor, Zoning Administrator presented the case to the Zoning Board of Appeals members.

Audra Lynn represented the case.

Evert asked about the irregular curve on the plat. Audra Lynn said that was there because of the driveway.

Roy asked if the property line could be moved if it hadn't been recorded yet. Discussion ensued about this topic.

Evert made a motion to approve. Greg seconded the motion.

Motion approved 5-0

Case #05-06-028V Hans Gruetzenbach requesting a variance to Article 7, Table 7.1A: Minimum District Development Standards. The applicant is requesting a variance to reduce the side building setback to 0'. The ordinance requires a 10' side building setback for property zone R-20. The property is located at 605 Dena Drive in Land Lot 158 of the 15th District and further described as Cherokee County Tax Map 15N07, Parcel 073.

Vicki Taylor presented the case to the Zoning Board of Appeals.

Hans Gruetzenbach represented the case.

Roy asked if could pave all the way to the property line for a patio. Vicki said that was true, because the current interpretation was that if there was no roof, then it was not considered a structure.

Sean asked if this building was considered a structure by the county.

Glenda Casteel, the head of the Building Department, said if something was open without a roof, then no building permit was required. She also stated that historically, anything that required a building permit was considered a structure.

Mark Mahler, County Attorney, agreed with this.

Sean made a motion to approve. Evert seconded the motion.

Motion approved 5-0

Case #05-06-029V Neal Mullikin requesting a variance to Article 10, Table 10.1: Buffer Requirements. The applicant is requesting a variance to encroach 25' into the 50' undisturbed zoning buffer for construction of a home. The property is located at 219 Montana Way in Copper Hill Unit 2 Subdivision (Lot 46) in Land Lot 20 of the 14th District and further described as Cherokee County Tax Map 14N 06A, Parcel 072.

Vicki Taylor presented the case to the Zoning Board of Appeals.

Neal Mullikin and Ashley Holcombe represented the case.

Ashley Holcombe explained about the various easements on the property.

Greg asked if there was a house on Lot 45. Neal said the owner was building his house currently, but he had no problem with what Neal wanted.

Earle Lovell spoke in opposition. He wanted to know if it would affect his easement.

Jim Rosenberger also spoke in opposition.

Roy asked about newer style septic systems, and their viability in this case.

Curtis Barnhart, the head of the Environmental Health Department, said that Environmental Health would accept any system that was approved by the State of Georgia. He also spoke about how not all septic systems were viable in all areas.

Discussion ensued about various septic systems.

Sean made a motion to approve 35' variance with those areas that are disturbed to be replanted. Amy seconded the motion

Motion approved 5-0

Case #05-06-030V Tobin Properties requesting a variance to Article 7, Table 7.1A: Minimum District Development Standards. The applicant is requesting a variance to allow a 46' side building setback. The ordinance requires a 50' side building setback for property zone AGA. The property is located at 105 Townsend Pass in Blackberry Farm Subdivision in Land Lot 27 of the 2nd District and further described as Cherokee County Tax Map 02N12, Parcel 034H.

Vicki Taylor presented the case to the Zoning Board of Appeals.

Mike Tobin represented the case.

Roy made a motion to approve. Greg seconded the motion.

Motion approved 5-0

Case #05-06-031V Mike Hurst requesting a variance to Article 7, Section 7.1A; Minimum District Development Standards. The applicant is requesting a variance to reduce the side setback to 5' for an attached garage. The ordinance requires a 10' side building setback for property zoned R-20. The property is located at 220 Silver Birch Court in Land Lot 36 of the 2nd District and further described at Cherokee County Tax Map 02N13, Parcel 035.

Vicki Taylor presented the case to the Zoning Board of Appeals.

Mike Hurst represented the case.

Greg made a motion to approve. Roy seconded the motion.

Motion passed 5-0

Other Items

Approval of May 5, 2005 Minutes. Amy made a motion to approve. Seconded by Evert. Vote of 4 - 0 (Sean abstained since he wasn't present at that meeting).

Evert made a motion to adjourn. Seconded by Amy. Vote of 5 - 0.

Meeting adjourned at 8:00 p.m.