

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

The Cherokee County Zoning Board of Appeals held its regularly scheduled meeting on October 6th, 2005, in the Jury Assembly Room of the Cherokee County Justice Center. In attendance for the Zoning Board of Appeals were Chairman Evert Hekman, Greg Elder, Amy Mumaugh, and Sean Jurgeson. Vice-Chairman Roy Taylor did not attend. 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 #05-09-041V **Benjie Webb** requesting a variance to Article 7, Table 7.1A; Minimum District Development Standards. The applicant is requesting a variance of 15' 3" to allow a 9' 9" front building setback. This property a variance to Article 7, Table 7.1A; Minimum District Development Standards. The applicant is requesting a variance of 6' to allow a 19' front building setback. The property is located at 5133 Jett Road in Land Lot 1279 of the 15th District and further described as Cherokee County Tax Map(s) 15N18 Parcel 063.

Vicki Taylor presented the case before the ZBA.

No one was present to represent the case.

Mr. Jerguson made motion to postpone the case until next month. Seconded by Ms. Mumaugh.

Motion to postpone passes 4-0

New Cases

Case #05-09-048V **ACA Properties, LLC** requesting a variance to Article 7; Table 7.1A; Minimum District Development Standards. The applicant is requesting a 3' variance to allow a 22' front building setback. This property is located in Land Lot 1074 of the 15th District and further described as Cherokee County Tax Map 15N12D, Parcel 083.

Vicki Taylor presented the case to the ZBA.

Tony Avarello represented the case. He said that his mistake was unintentional and that it was a misunderstanding on his part.

Chairman Hekman said that when he did his drive-by of the site, it didn't seem to be out of place with the neighborhood, or likely to be a detriment.

Mr. Elder made a motion to approve. Seconded by Mr. Jerguson.

Motion to approve passes 4-0

Case #05-10-051V **Phillip & Sharon Dyskow** requesting a variance to Article 7; Table 7.1A; Minimum District Development Standards. The applicant is requesting a 9' variance to allow a 21' front building setback. This property is located in Land Lot 423 of the 15th District and further described as Cherokee County Tax Map 15N08C, Parcel 034.

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

Phyllis Lea represented the case. She said that the reason for the variance was because of peculiarities of the lot, such as an existing drainage easement.

Mr. Jerguson made a motion to approve.

Chairman Hekman seconded the motion.

Motion to approve passed 4-0

Case #05-10-052V **Guy A. Worley** requesting a variance to Article 5; Section 5.6C' Accessory Structures. The applicant is requesting a variance to have an additional 900 sq. ft. to allow a 1,800 sq. ft. accessory structure. This property is located in Land Lot 837 of the 15th District and further described as Cherokee County Tax Map 15N22, Parcel 190.

Vicki Taylor presented the case before the ZBA.

Guy Worley represented the case.

Chairman Hekman made a motion to approve.

Seconded by Ms. Mumaugh.

Motion to approve passes 4-0

Case #05-10-053V **David Barrett** requesting a variance to Article 7; Table 7.1A; Minimum District Development Standards. The applicant is requesting a variance of 14.5' to allow a 35.5' side building setback. This property is located in Land Lot 156 of the 2nd District and further described as Cherokee County Tax Map 02N06, Parcel 160.

Vicki Taylor presented the case before the ZBA.

David Barrett represented the case.

Mr. Jerguson asked what the response of the original surveyor was. Mr. Barrett said he couldn't find him.

Jerry Mauldin spoke in favor of the case.

Chairman Hekman said he didn't see any reason to worry about this variance request.

Mr. Jerguson made motion to approve.

Seconded by Mr. Elder.

Motion to approve passes 4-0.

Case #05-10-054V **Roland Peterson-Frey** requesting a variance to Article 5; Section 5.6(a) and 5.6(c); Accessory Structures. The applicant is requesting a variance of 300 sq. ft. to allow a 1,400 sq. ft. accessory structure and to allow this structure in the front yard. This property is located in Land Lot(s) 295, 296, 354 of the 2nd District and further described as Cherokee County Tax Map 02N02, Parcel 219B.

Vicki Taylor presented the case to the ZBA.

Leann Anderson from Environmental Health spoke about the case. She said that there is not enough room to support a second living space on the property. She also said that the soil was very bad on the property.

Tommy Akins from Building Inspections also spoke about the case, and the difficulties that they had with the building, such as it being in the front yard, the size of the structure, the fact that it is set up to be a second primary structure on the property, and the fact that Mr. Frey originally said that he would attach the structure but now does not want to.

Roland Peterson-Frey represented the case.

Randy Conyers spoke in opposition. He brought up issues about drainage problems and setting a precedent of having multiple homes on a single lot.

Mr. Jerguson asked why there was a deviation from what was built and what was proposed.

Mr. Frey stated that it was a topographic issue that caused him to not attach the building to the home and that they had a home business that required large amounts of space.

Mr. Jerguson informed Mr. Frey that he was speaking about why was there such extensive plumbing, a washer and dryer, washing machine, and bathrooms with full showers in a home office.

Discussion ensued about the issues in the case. Mainly dealing with what would allow this building to remain on the property.

Discussion ensued about the septic system, and how the soils couldn't support a second home on the property, regardless of the County code that doesn't allow more than one dwelling unit per parcel of land.

Mr. Jerguson made a motion to approve the variance with the conditions that the building must meet the stipulations of Environmental Health that the showers and laundry room connections must be removed. Also, per the Building Department, the wiring, plumbing, and bathrooms must be inspected as well.

Seconded by Chairman Hekman.

Motion to approve with conditions passes 4-0.

Case #05-10-056V **Cipriani Custom Homes, Inc.** requesting a variance to article 7; table 7.1A; minimum District Development Standards and Article 23; Section 23.8 Buffer Requirements for a Conservation Subdivision. The applicant is requesting a variance to reduce the rear building setback to 22' instead of the required 30' and to allow encroachment of a pool and fence into the 50' undisturbed conservation buffer. This property is located in Land Lot 1087 of the 3rd District and further described as Cherokee County Tax Map 03N06, Parcel 203.

Vicki Taylor presented the case to the ZBA.

Ed Cipriani represented the case. He stated that the encroachment was unintentional.

Chairman Hekman said that he wanted to make clear that approval of this case doesn't set a precedent of these types of encroachments will be approved.

Mr. Taylor made a motion to approve.

Mr. Elder seconded the motion.

Motion to approve passes 4-0.

Case #05-10-057V **RJ Kad Homes, Inc.** requesting a variance to Article 23' Table 23-2 Conservation Subdivision Setback Requirements. The applicant is requesting a variance of 12' to allow an 18' rear building setback. This property is located in Land Lot 1146 of the 3rd District and further described as Cherokee County Tax Map 03N06, Parcel 207.

Vicki Taylor presented the case to the ZBA.

Forrest Kad represented the case.

Richard Waits spoke in favor of the case.

Mr. Elder made a motion to approve the request.

Seconded by Mr. Jerguson.

Motion to approve passes 4-0

Case #05-10-058V **BG Land, LLC** requesting a variance to Article 16; Section 16.1 Hwy. 92 Overlay District. The applicant is requesting a variance to include all of parcel 302 into the Hwy. 92 Overlay District. This property is located in Land Lot(s) 1106, 1127 of the 21st District and further described as Cherokee County Tax Map 21N06, Parcel 302.

Vicki Taylor presented the case before the ZBA.

Jimmy Bobo represented the case. He spoke about his previous developments along Highway 92, and that they are much more in line with the spirit of the ordinance than others. He also said that he could get the density for his project without the variance, but he'd have to do things he didn't want to do, such as drain the lake on the property.

Ms. Mumaugh asked how close Sable Trace was to the proposed development. Mr. Bobo said it was near it, but it shouldn't pose a problem. He also said that everything on his property was going to go away.

Mr. Elder asked if Mr. Bobo only had 7 lots out of the Overlay District. Mr. Bobo said that was correct.

Tim Prather spoke in opposition.

Mark Orr spoke in opposition.

Jerry Moore spoke in favor.

Ms. Mumaugh said if they were going to have a work session about accessory structures, then they need to have one about the Hwy. 92 Overlay District as well. She said she had concerns about it becoming a fully commercial development, which it could be if they approve the variance.

Mr. Bobo said that while that may be possible, it was highly unlikely, since it would be a detriment to the profit he would make on his development.

Discussion ensued about the road widening and how it would affect the commercial component of the development.

Mr. Jerguson said that he understood Ms. Mumaugh's point, but that he felt that the intent of the Ordinance was not to bisect the property, and that was what the request was dealing with. By that standard, then the variance should be approved.

Mr. Elder made a motion to approve the request with the condition that the residential be behind the commercial component.

Seconded by Mr. Jerguson.

Motion to approve passes 4-0.

Other Items

Approval of September 1st, 2005 Minutes. Motion to approve passes 3 - 0. (Mr. Jerguson recused himself since he did not attend that hearing.)

Meeting adjourned at 9:15 p.m.