

KINGSPORT BOARD OF ZONING APPEALS AGENDA
REGULAR MEETING: July 6, 2017
Development Services Building – Bob Clear Conference Room

CALL TO ORDER – 12:00 P.M. NOON

INTRODUCTION / MEETING PROCEDURES

PUBLIC HEARING:

Case: 17-701-00005 – Property located at 2005 American Way, Control Map 47P, Group A, Parcel 005.40 requests a 13.2 foot side yard variance in order to construct a new storage building to Sec 114-198(f)1(d). The property is zoned M-1R, Light Manufacturing Restricted District.

INTERESTED PARTIES:

Owner: Charles Allen
2005 American Way
Kingsport, TN 37660
(423) 426-2656

Representative: Pete Adams

BUSINESS:

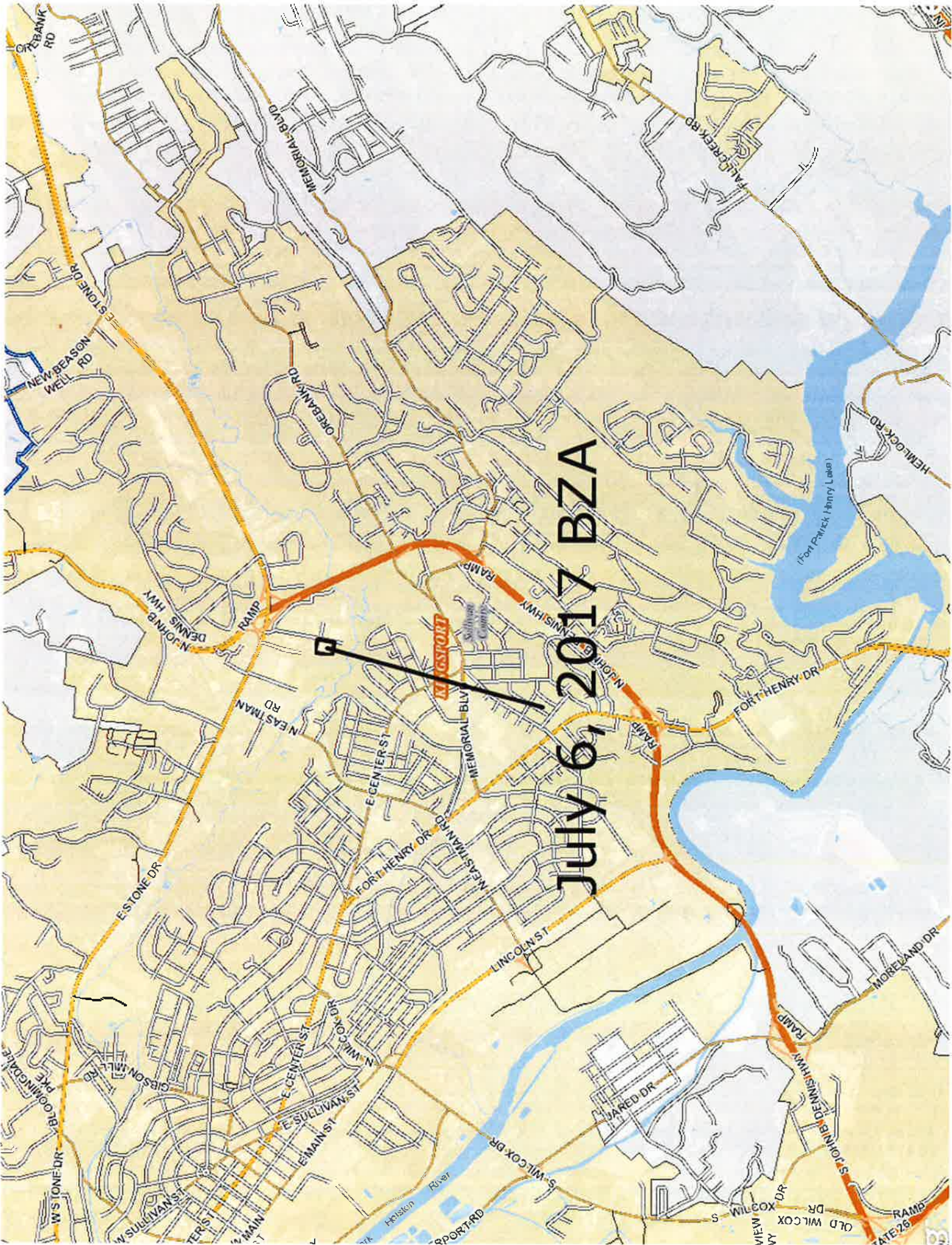
Approval of the June 8, 2017 driving tour and regular meeting minutes.

Stating for public record, the next application deadline is July 17, 2017 at noon, and meeting date (Thursday, August 3, 2017).

Staff Reports: none

ADJUDICATION OF CASES:

ADJOURNMENT:



July 6, 2017 BZA

MEMORANDUM

TO: KINGSFORT BOARD OF ZONING APPEALS

FROM: Ken Weems, AICP, Zoning Administrator

DATE: June 16, 2017

RE: 2005 American Way

The Board is asked to consider the following request:

Case: 17-701-00005 – Property located at 2005 American Way, Control Map 47P, Group A, Parcel 005.40 requests a 13.2 foot side yard variance in order to construct a new storage building to Sec 114-198(f)1(d). The property is zoned M-1R, Light Manufacturing Restricted District.

This case was initially heard during the Board's June 8, 2017 regular meeting. During the June meeting, the Board took action to postpone the item until additional information is received. Specifically, the Board requested deed information that determines ownership of the abutting easement.

Mr. Pete Adams, the representative for the item, is working with an attorney to conduct the required deed research. Mr. Adams has notified planning staff that he will have the research available for our regular meeting on July 6, 2017. After discussing the request with our Vice Chairman, I notified Mr. Adams that we will insert his item on the July regular meeting agenda, with the understanding that the required deed research is forthcoming and at the latest will be provided to the Board during our July regular meeting.



APPLICATION

Board of Zoning Appeals



APPLICANT INFORMATION:

Stowaway Storage
Last Name Allen First Charles M.I. E Date 5-4-17
Street Address 2005 American Way Apartment/Unit #
City Kingsport State TN ZIP 37660
Phone 423-426-2656 E-mail Address Charles@ceellenco.com

PROPERTY INFORMATION:

Tax Map Information Tax map: 47P Group: A Parcel: 5.4 Lot:
Street Address 2005 American Way, Kingsport TN Apartment/Unit #
Current Zone M-1R Proposed Zone No Change
Current Use Self Storage Proposed Use Same

REPRESENTATIVE INFORMATION:

Last Name Adams First Pete M.I. Date 5/4/17
Street Address 1601 Par Ct. Apartment/Unit #
City Johnson City, State TN. ZIP 37601
Phone 423-747-0859 E-mail Address peteadams103@gmail.com.

REQUESTED ACTION:

13.2 ft. side yard variance

DISCLAIMER AND SIGNATURE

By signing below I state that I have read and understand the conditions of this application and have been informed as to the location, date and time of the meeting in which the Board of Zoning Appeals will review my application. I further state that I am/we are the sole and legal owner(s) of the property described herein and that I am/we are appealing to the Board of Zoning Appeals.

Signature: [Signature]

Date: 5-4-17

Signed before me on this 4th day of May, 2017

a notary public for the State of Tennessee

County of at Large

Notary Page M. Jeffers

My Commission Expires May 23, 2020





REFERENCED TO:
P.B. 19 - PG. 20

TAZWELL PROPERTIES, LLC
TAZWELL PROPERTY SUBDIVISION, LOT 1
PLAT BOOK 52 PAGE 324
DEED BOOK 1045C PAGE 615

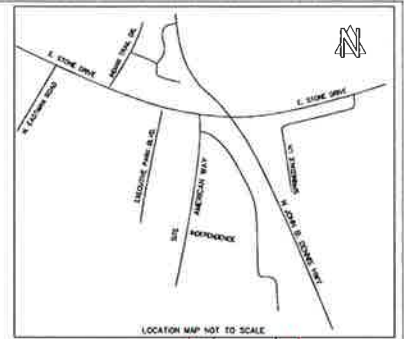
ZONING M1-R

INDIAN TRAIL, LLC
TAZWELL PROPERTY SUBDIVISION, LOT 2
PLAT BOOK 52 PAGE 324

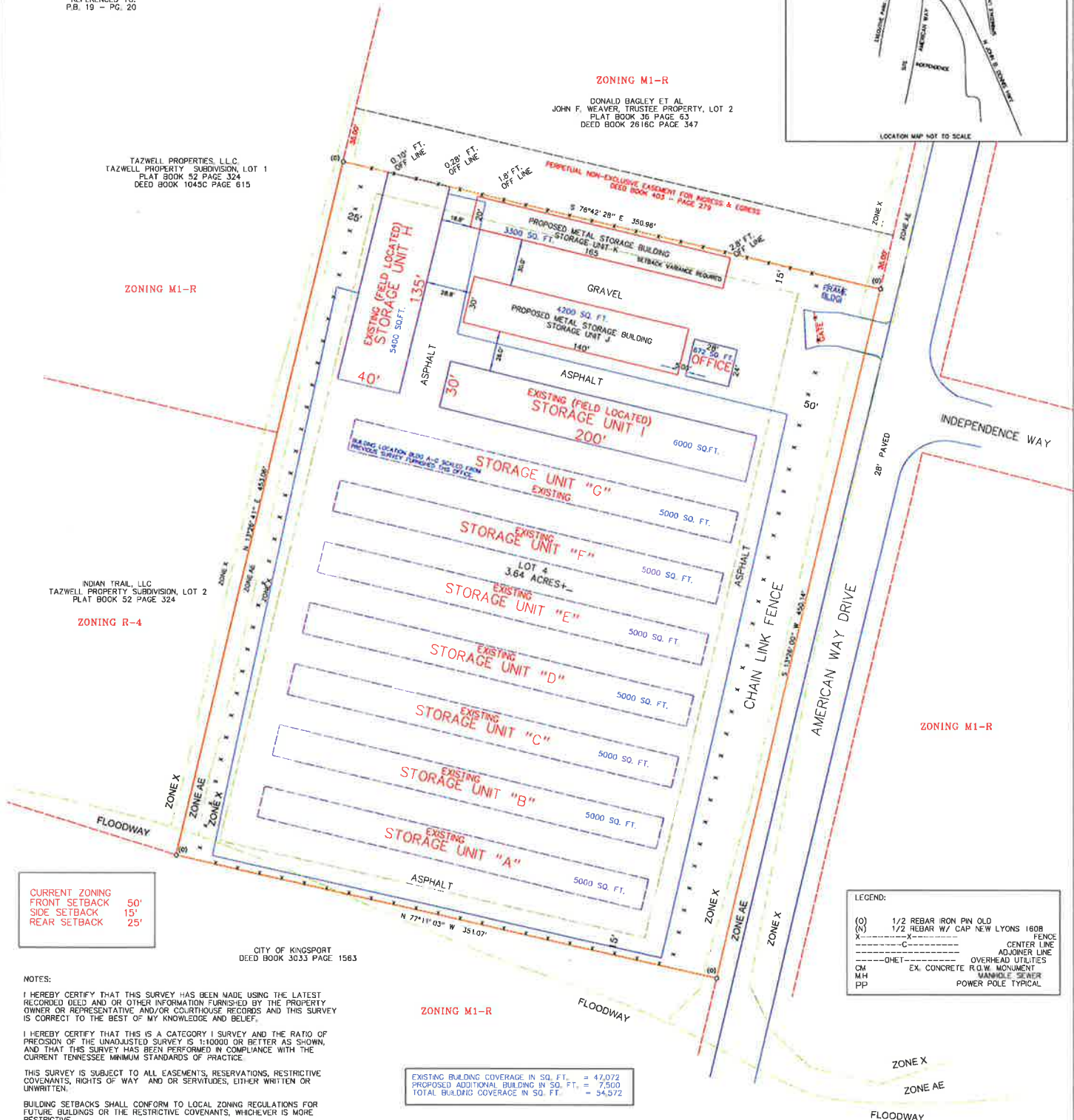
ZONING R-4

ZONING M1-R

DONALD BAGLEY ET AL
JOHN F. WEAVER, TRUSTEE PROPERTY, LOT 2
PLAT BOOK 36 PAGE 63
DEED BOOK 2616C PAGE 347



LOCATION MAP NOT TO SCALE



CURRENT ZONING
FRONT SETBACK 50'
SIDE SETBACK 15'
REAR SETBACK 25'

CITY OF KINGSFORT
DEED BOOK 3033 PAGE 1563

NOTES:

I HEREBY CERTIFY THAT THIS SURVEY HAS BEEN MADE USING THE LATEST RECORDED DEED AND OR OTHER INFORMATION FURNISHED BY THE PROPERTY OWNER OR REPRESENTATIVE AND/OR COURTHOUSE RECORDS AND THIS SURVEY IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

I HEREBY CERTIFY THAT THIS IS A CATEGORY I SURVEY AND THE RATIO OF PRECISION OF THE UNADJUSTED SURVEY IS 1:10000 OR BETTER AS SHOWN, AND THAT THIS SURVEY HAS BEEN PERFORMED IN COMPLIANCE WITH THE CURRENT TENNESSEE MINIMUM STANDARDS OF PRACTICE.

THIS SURVEY IS SUBJECT TO ALL EASEMENTS, RESERVATIONS, RESTRICTIVE COVENANTS, RIGHTS OF WAY AND OR SERVITUDES, EITHER WRITTEN OR UNWRITTEN.

BUILDING SETBACKS SHALL CONFORM TO LOCAL ZONING REGULATIONS FOR FUTURE BUILDINGS OR THE RESTRICTIVE COVENANTS, WHICHEVER IS MORE RESTRICTIVE.

THIS SURVEY WAS PERFORMED WITHOUT, AND IS SUBJECT TO THE FINDINGS OF A TITLE EXAMINATION OF THIS PROPERTY.

PART OF THIS PROPERTY DOES LIE IN A SPECIAL FLOOD HAZARD AREA ACCORDING TO THE FLOOD INSURANCE RATE MAP FOR SULLIVAN COUNTY, TENNESSEE AS SHOWN ON MAP NO. 47163C000430, DATED SEPTEMBER-29-2006, (ZONE AE & X)

DEED REFERENCE: DEED BOOK 3142 - PAGE 2293

TAX REFERENCE: TAX MAP 047P, GROUP A, CONTROL MAP 047P, PARCEL 005.40

SUBJECT TO THE EASEMENTS, RESTRICTIONS, RESERVATIONS, AND BUILDING SETBACK LINES OF RECORD IN DEED BOOK 403C - PAGE 277

UNDERGROUND UTILITIES, STRUCTURES ETC. NOT LOCATED FOR THIS SURVEY BEFORE ANY CONSTRUCTION BEGINS HAVE THE LOCAL UTILITY PROVIDERS LOCATE ALL UTILITIES AND UNDERGROUND STRUCTURES BEFORE DIGGING. CALL 1800-231-7794 BEFORE YOU DIG.

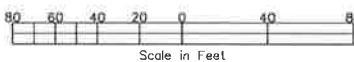
BEING LOT 4, BLOCK A, PROPERTY OF KINGSFORT INVESTMENT GROUP, Ltd. RECORDED IN PLAT BOOK 19 - PAGE 20.
PER RECORDED PLAT BUILDING FINISH FLOOR HEIGHT SHALL BE A MINIMUM OF 1212.2 IN ELEVATION.

PROPERTY ADDRESS: AMERICAN WAY, KINGSFORT, TN. 37665

EXISTING BUILDING COVERAGE IN SQ. FT. = 42,072
PROPOSED ADDITIONAL BUILDING IN SQ. FT. = 7,500
TOTAL BUILDING COVERAGE IN SQ. FT. = 49,572

LEGEND:	
(O)	1/2 REBAR IRON PIN OLD
(N)	1/2 REBAR W/ CAP NEW LYONS 1608
X	FENCE
---	CENTER LINE
- - -	ADJOINER LINE
- - -	OVERHEAD UTILITIES
CH	CONCRETE R.O.W. MONUMENT
MH	MANHOLE SEWER
PP	POWER POLE TYPICAL

SITE PLAN FOR ADDITIONAL 2 STORAGE BUILDINGS FOR:
STOWAWAY STORAGE OF KINGSFORT, CP
11TH CIVIL DISTRICT
SULLIVAN COUNTY, TENNESSEE
DATE: APRIL-24TH-2017
REVISED: MAY-5TH-2017
SCALE 1" = 40'



Scale in Feet

LYONS SURVEYING COMPANY
112 INDUSTRIAL ROAD, SUITE 3
GRAY, TENNESSEE 37615
PHONE 423 477-2947

0.0' OFF

1.8' FT. LINE

PERPETUAL NON-EXCLUSIVE EASEMENT FOR INGRESS & EGRESS
DEED BOOK 403 - PAGE 279

S 76°42' 28" E 350.96'

PROPOSED METAL STORAGE BUILDING
3300 SQ. FT.

165 UNIT

SETBACK VARIANCE REQUIRED

GRAVEL

PROPOSED METAL STORAGE
4200 SQ. FT.

2.8' FT. OFF

28.8'

30'

30.0'

18.8'

20'

Variance Worksheet – Finding of Facts

Variances. Except as provided herein to hear and decide applications for variance from the terms of this chapter, because of exceptional narrowness, shallowness or shape of a specific piece of property which on June 16, 1981, was a lot of record or where, **because of exceptional topographic conditions or other extraordinary or exceptional situation or condition of a piece of property**, the strict application of this chapter would result in peculiar and exceptional practical difficulties to exception or undue hardship upon the owner of such property, provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this chapter. In granting a variance the board may attach thereto such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable in furtherance of the purposes of this chapter. Before any variance is granted, the board must find all of the following, which shall be recorded, along with any imposed conditions or restrictions, in minutes and records and issued in written form to the applicant to constitute proof of the variance:

- a. The specific conditions in detail which are unique to the applicant's land. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity.

There is an existing bridge which provides access to the property and to the main drive aisle. This bridge crosses a wetlands area. If variance is granted, bridge will not have to be moved.

- b. The manner in which the strict application of this chapter would deprive the applicant of a reasonable use of the land.

If side setback is 16', building will not be able to be built due to location of bridge.

- c. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption or amendment of this chapter.

There is an existing unused easement along side of property. The setback variance requested adjoining this easement.

d. Reasons that the variance will preserve, not harm, the public safety and welfare and will not alter the essential character of the neighborhood.

The Variance requested adjoins an existing unused 95-ft. Easement that runs along the side of property.

Further, a variance may be granted only if the Board finds that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning plan and this chapter. Variances shall not be granted permitting an increase in floor area or density above the maximum permitted by the zoning district; allowing a use other than those specifically authorized by this chapter in the applicable zoning district; or from the denial of a zoning permit when such denial is due to the fact that such lot has no frontage on a public street unless such lot was a lot of record on June 16, 1981.

Hardship - There is no definition of a "hardship". Some guidelines, based on legal precedent, for applying the concept of unnecessary hardship are:

1. The premises of cannot be used in a manner permitted by the Zoning Ordinance unless the variance is granted.
2. A strict application of the terms of the Zoning Ordinance precludes its use for any purpose to which the land is reasonably adopted.
3. Inability to put the property to its most profitable use DOES NOT constitute a "hardship".
4. Mere inconvenience to the applicant is not sufficient grounds for determining a "hardship". In granting a variance the BZA may not make any decision that is contrary to the purpose and intent of the Zoning Ordinance.

**MINUTES OF THE DRIVING TOUR OF THE
KINGSPORT BOARD OF ZONING APPEALS (BZA)**

June 8, 2017

10:30 a.m.

Members Present:

Leland Leonard
Bill Sumner
Frank Oglesby

Members Absent:

Anita Campbell
Ashok Gala

Staff Present:

Ken Weems, AICP

At 10:30 a.m., the BZA departed the Development Services Building, 201 W. Market St. to conduct a driving tour of the property located at 2005 American Way, 2417 E. Stone Drive, and 135 W. Ravine Rd. No official action was taken.

The driving tour concluded at 11:30 a.m.

Respectfully Submitted,

Ken Weems, AICP
Zoning Administrator

MINUTES OF THE KINGSPORT BOARD OF ZONING APPEALS (BZA)

June 8, 2017, Regular Meeting

Noon

Bob Clear Conference Room, 1st floor of the Development Services Building

Members Present:

Leland Leonard, Chairman
Bill Sumner
Frank Oglesby

Members Absent

Anita Campbell
Ashok Gala

Staff Present:

Ken Weems, AICP
Page Jeffers

Visitors:

Brian Alderson
Bob Prendergast
Charles Allen
Pete Adams
Clinton Roberts
Donald Bagley
Larry Varner

Chairman Leonard called the meeting to order.

Chairman Leonard explained the meeting procedures.

Ms. Page Jeffers conducted the swearing in ceremony for those wishing to speak during the regular meeting. Brian Alderson, Bob Prendergast, Charles Allen, Pete Adams, Clinton Roberts, and Donald Bagley were sworn in.

Public Hearing:

Case: 17-701-00005 – Property located at 2005 American Way, Control Map 47P, Group A, Parcel 005.40 requests a 13.2 foot side yard variance in order to construct a new storage building to Sec 114-198(f)1(d). The property is zoned M-1R, Light Manufacturing Restricted District.

Mr. Charles Allen presented the case to the Board. Mr. Allen stated that he needed to place a new mini-storage building next to the fence that runs along his property line. Mr. Allen stated that the close proximity to the fence and property line is essential due to the amount of space taken by large moving trucks as they enter the premises. Mr. Allen further stated that the side property line abuts a perpetual easement that will never contain a building. Mr. Allen further noted that the new structure would have gutters and would drain to the existing water drainage area in the front of the parcel. Bill Sumner asked if other options had been explored for placing the new structure. Mr. Allen answered that the proposed area is the only spot that is situated appropriately for such a structure. Chairman Leonard inquired about fire protection for the rear

of the lot. Mr. Allen noted that the new structure would not hinder any future fire protection efforts to the rear of the lot.

Chairman Leonard opened the public hearing. Mr. Donald Bagley stated that he was not against the new structure, but was attending the meeting to learn more about it. Mr. Bagley further stated that the perpetual easement was meant to provide access to adjoining properties. Mr. Bagley stated that a road was proposed for the easement in the past, but it was never built. Next, Chairman Leonard swore in Mr. Larry Varner. Mr. Varner reiterated that the easement in question was in existence to supply access to adjacent property. Chairman Leonard, seeing no one else wishing to speak, closed the public hearing.

Case: 17-701-00006 – Property located at 2101 Swannanoa Avenue, Control Map 061L, Group A, Parcel 003.00 requests a .34 foot side yard variance in order to construct a handicap ramp to Sec 114-140(1). The property is zoned R-1B, Residential District.

Mr. Bob Prendergast presented the case to the Board. Mr. Prendergast stated that his client was in need of a handicap ramp to provide safe access to her home. Mr. Prendergast drew reference to the survey he submitted, acknowledging that the required variance was small, yet necessary to acquire his building permit.

Chairman Leonard, seeing no one wishing to speak, closed the public hearing.

Case: 17-701-00007 – Property located off Tri Cities Crossing, Control Map 105, Parcel 193.00 requests a landscaping reduction variance to Sec 114-600(4)a . The property is zoned B-4P, Planned Business District.

Mr. Clinton Roberts presented the case to the Board. Mr. Roberts explained that the new development for the property wants to reduce the required buffer strip planting on the northern property line to not contain any of the required 13 deciduous trees. Mr. Roberts further explained that the same 13 trees would be planted at other site locations on the same property. Specifically, 5 of the deciduous trees would be placed on the western property line and 8 of the deciduous trees would be placed in the vicinity of the southeastern corner of the property.

Chairman Leonard, seeing no one wishing to speak, closed the public hearing.

Case: 17-701-00009 – Property located at 135 W. Ravine Rd, Control Map 046G, Group F, Parcel 024.00 requests a 180 square foot wall sign variance to Sec 114-533(5)d . The property is zoned P-1, Professional Offices District.

Mr. Brian Alderson presented the case to the Board. Mr. Alderson stated that the Regional Eye Center desires to have 60 square feet of wall sign on 4 sides of the building for a total of 240 square feet of wall sign. Mr. Alderson then presented the Board with different design proposals for the wall signs, stating that the same variance amount was still in effect.

Chairman Leonard, seeing no one wishing to speak, closed the public hearing.

Case: 17-701-00008 – Property located at 2417 East Stone Drive, Control Map 047, Parcel 029.00 requests a variance to reduce the degree of nonconformance for the existing freestanding sign on the property to Sec 114-531(b) . The property is zoned M-1R, Light Manufacturing Restricted District.

Mr. Ken Weems announced to the Board that the representative for this item had scheduled a flight from San Antonio for the original June 1 date for the meeting. Once the meeting had to be rescheduled for June 8, the representative was already committed to a different site visit in a different state. Subsequently, Chairman Leonard allowed the case to be presented by staff. Mr. Weems presented the case to the Board. Mr. Weems stated that the existing sign, which is over 50 feet tall, is proposed to be replaced with another non-conforming sign which is more in keeping with adjacent B-3 zone standards. The proposed non-conforming sign is indirectly illuminated, 30 feet tall, and 100 square feet in size. Mr. Sumner asked staff to define the freestanding sign standard in an M-1R district. Staff stated that the freestanding sign standard in an M-1R district is a maximum of 5 feet tall and 32 square feet in size.

Chairman Leonard, seeing no one wishing to speak, closed the public hearing.

Next, Chairman Leonard called for the approval of the May 4, 2017 driving tour and regular meeting minutes. On a motion by Mr. Sumner, seconded by Mr. Oglesby, the Board approved the May 4, 2017 driving tour minutes. On a motion by Mr. Oglesby, seconded by Mr. Sumner, the Board approved the May 4, 2017 regular meeting minutes.

The Board stated, for the record, that the next submittal deadline is June 15, 2017 at noon for the July 6, 2017 regular meeting.

Adjudication of Cases:

Case: 17-701-00005 – Property located at 2005 American Way, Control Map 47P, Group A, Parcel 005.40

Chairman Leonard stated that he could not identify a hardship for this property. Mr. Sumner asked what the standard is for determining yard requirements. Staff stated that yards are measured between a building and a lot line.

MOTION: made by Mr. Sumner, seconded by Mr. Oglesby, to postpone the case until the applicant produces the deed of easement in an effort to define ownership of the easement.

VOTE: 3-0 to postpone the request

Case: 17-701-00006 – Property located at 2101 Swannanoa Avenue, Control Map 061L, Group A, Parcel 003.00

Chairman Leonard stated that this case contains ADA considerations.

MOTION: made by Mr. Sumner, seconded by Mr. Oglesby, to grant the .34 foot side yard variance as requested.

VOTE: 3-0 to approve the request.

PROOF PRESENTED:

1. The specific conditions in detail which are unique to the applicant's land. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity. *The property slopes in the front, making a ramp on the front property impractical.*
2. The manner in which the strict application of this chapter would deprive the applicant of a reasonable use of the land. *The strict application of this chapter would deny the owners of a reasonable use of their property.*
3. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption or amendment of this chapter. *The existing property configuration is not a result of the applicant.*
4. Reasons that the variance will preserve not harm the public safety and welfare and will not alter the essential character of the neighborhood. *The variance will preserve the essential character of the neighborhood by allowing a handicap ramp in the most appropriate place to provide ADA accommodation.*

Case: 17-701-00007 – Property located off Tri Cities Crossing, Control Map 105, Parcel 193.00

MOTION: made by Mr. Sumner, seconded by Mr. Oglesby, to grant the landscaping reduction as requested with the condition that the trees in question are planted in other areas of the parcel as proposed.

VOTE: 3-0 to approve the request.

PROOF PRESENTED:

1. The specific conditions in detail which are unique to the applicant's land. Such hardship is not shared generally by other properties in the same zoning district and the same vicinity. *The site abuts farm property owned by the variance applicant.*
2. The manner in which the strict application of this chapter would deprive the applicant of a reasonable use of the land. *The strict application of this chapter would deny the owners of a reasonable use of their property.*
3. The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption or amendment of this chapter. *The existing property configuration is not a result of the applicant.*
4. Reasons that the variance will preserve not harm the public safety and welfare and will not alter the essential character of the neighborhood. *The variance will preserve the essential character of the area while providing additional deciduous trees where they will be better seen.*

Case: 17-701-00009 – Property located at 135 W. Ravine Rd, Control Map 046G, Group F, Parcel 024.00

Chairman Leonard noted that granting this variance would make it difficult to turn down similar requests in the future. Mr. Sumner made a motion to allow 60 square feet of wall sign on two sides of the building (a variance amount of 60 square feet). The motion failed due to lack of a second.

MOTION: made by Chairman Leonard, seconded by Mr. Oglesby, to deny the request due to lack of hardship.

VOTE: 2-1 to deny the request.

Case: 17-701-00008 – Property located at 2417 East Stone Drive, Control Map 047, Parcel 029.00

MOTION: made by Mr. Oglesby, seconded by Mr. Sumner, to grant approval for the non-conforming sign as proposed based upon the proposal lessening the degree of non-conformance as compared to the existing freestanding sign.

VOTE: 3-0 to approve the request.

With no further business the meeting was adjourned at 1:23 p.m.

Respectfully Submitted,

Ken Weems, AICP
Zoning Administrator