

KINGSPORT BOARD OF ZONING APPEALS AGENDA  
REGULAR MEETING: February 4, 2016  
Development Services Building – Bob Clear Conference Room

CALL TO ORDER – 12:00 P.M. NOON

INTRODUCTION / MEETING PROCEDURES

**PUBLIC HEARING:**

**Case: 16-701-00001 – Property located at 944 Mitchell Road, Control Map 119, Parcel 054.01 requests a 6 foot side yard variance to Sec 114-181(e)1(d) necessary to accommodate an attached garage. The code requires a 20 foot side yard. The property is zoned A-1, Agricultural District.**

***INTERESTED PARTIES:***

Owner: Derek Mann  
606 Sharon Drive  
Johnson City, TN 37604  
(423) 291-1952

Representative: Derek Mann

**Case: 16-701-00002 – Property located at 1300 Lynn Garden Drive, 1308 Lynn Garden Drive, and 201 Glen Avenue, Control Map 029E, Group H, Parcels 007.00 and 008.00 requests a 20 foot front yard variance to Sec 114-195(f)1(c) to accommodate a new car wash on parcel 7. The code requires a 20 foot front yard; a 4.9 foot front yard variance to Sec 114-195(f)1(c) to accommodate a new restaurant on parcel 8. The code requires a 20 foot front yard; a 30 foot planting strip boundary variance to Sec 114-600(4)a to accommodate a new carwash on parcel 7 (rear yard). The code requires a 30 foot planting strip; a 30 foot planting strip boundary variance to Sec 114-600(4)a to accommodate a new restaurant on parcel 8 (rear yard). The code requires a 30 foot planting strip; a 10 foot planting strip variance to Sec 114-600(d)2 to accommodate a new carwash on parcel 7 (front yard). The code requires a 10 foot planting strip; an 10 foot planting strip variance to Sec 114-600(d)2 to accommodate a new restaurant on parcel 8 (front yard). The code requires a 10 foot planting strip; an 8.7 foot planting strip variance to Sec 114-600(d)2 to accommodate a new restaurant on parcel 8 (side yard). The code requires a 10 foot planting strip; a parking space reduction variance of 6 spaces to Sec 114-564(4)d to accommodate a new car wash on parcel 7. The code requires a total of 20 parking spaces. The property is zoned B-3, Highway Oriented Business District.**

***INTERESTED PARTIES:***

Owner: Jeffrey Berry  
750 Virgil Lane  
Kingsport, TN 37665  
(423) 707-4239

Representative: Jeffrey Berry

**BUSINESS:**

**Approval of the December 3, 2015 driving tour and regular meeting minutes.**

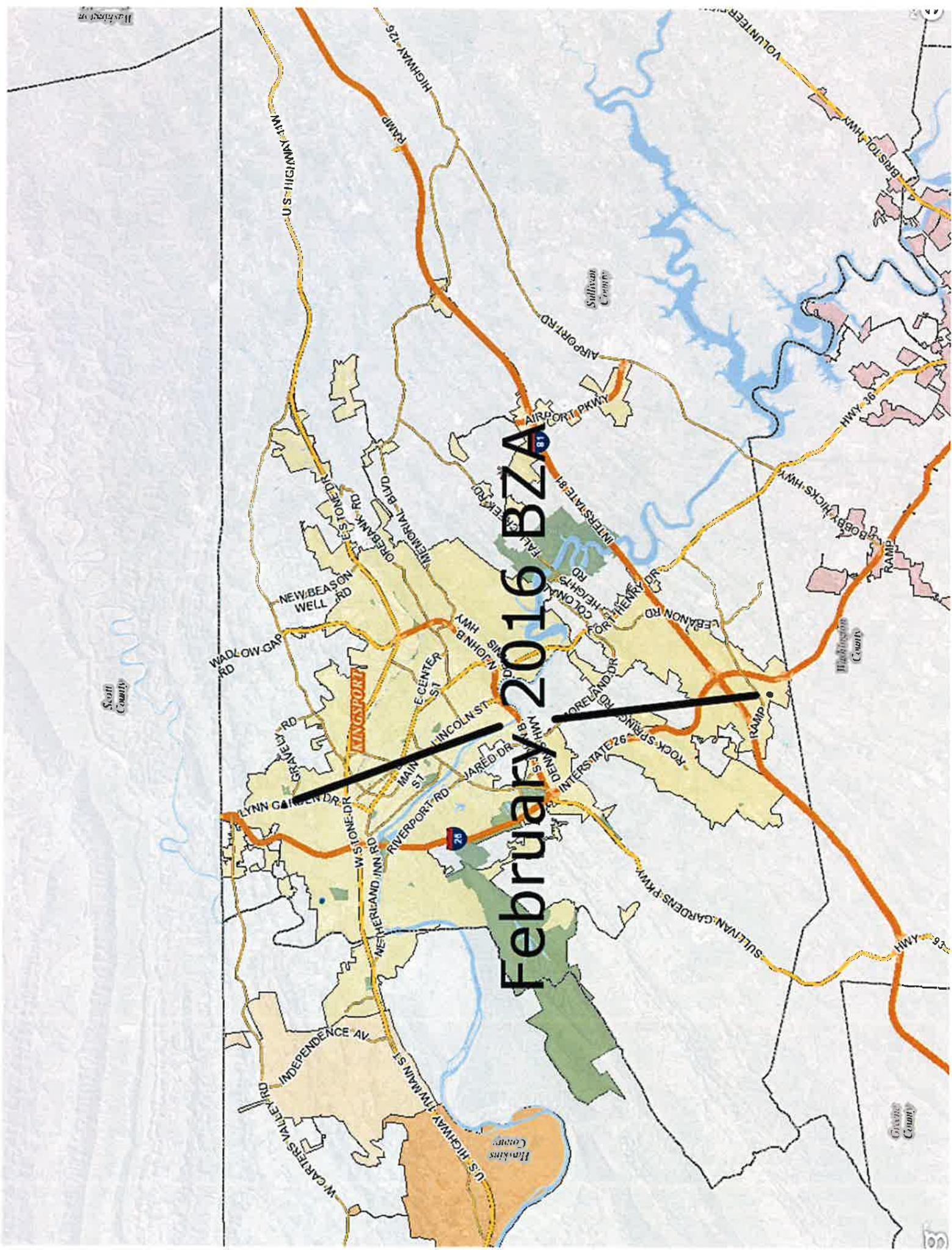
**Stating for public record, the next application deadline is February 15, 2016 at noon, and meeting date (Thursday, March 3, 2016).**

**Staff Reports: none**

**ADJUDICATION OF CASES:**

**ADJOURNMENT:**

# February 2016 BZA



MEMORANDUM

TO: KINGSPOINT BOARD OF ZONING APPEALS

FROM: Ken Weems, AICP, Zoning Administrator

DATE: January 15, 2016

RE: 944 Mitchell Road

The Board is asked to consider the following request:

**Case: 16-701-00001 – Property located at 944 Mitchell Road, Control Map 119, Parcel 054.01** requests a 6 foot side yard variance to Sec 114-181(e)1(d) necessary to accommodate an attached garage. The code requires a 20 foot side yard. The property is zoned A-1, Agricultural District.



Zoned  
M-R City

Zoned  
TA-City

Zoned  
A-1 City

KINGSFORT

Southwood  
Community

MITCHELL RD

Zoned  
A-1 City

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REGULAR MEETING  
& PUBLIC HEARING  
Kingsport Board of Zoning Appeals

NOTICE IS HEREBY GIVEN to all citizens of the City of Kingsport, Tennessee, to all persons interested, and the public at large that an open and public meeting of the Kingsport Board of Zoning Appeals scheduled for Thursday, February 4, 2016 will be conducted beginning at NOON in the Bob Clear Conference Room, on the first floor of the Development Services Building, 201 West Market Street, Kingsport, Tennessee.

A tour of the property will be conducted starting at 10:30a.m. prior to the meeting.

Public Hearing: The Kingsport Board of Zoning Appeals will conduct a Public Hearing during this meeting to consider the following case:

**Case: 16-701-00001 – Property located at 944 Mitchell Road, Control Map 119, Parcel 054.01 requests a 6 foot side yard variance to Sec 114-181(e)1(d) necessary to accommodate an attached garage. The code requires a 20 foot side yard. The property is zoned A-1, Agricultural District.**

All interested persons are invited to attend this Public Hearing. Additional information concerning this case may be obtained by contacting City of Kingsport Planning Division staff, telephone (423) 229-9485.

City of Kingsport, Tennessee  
Jim Demming, City Recorder  
PIT 1/25/16

**APPLICATION**  
Board of Zoning Appeals



**APPLICANT INFORMATION:**

Last Name	MANN	First	Derek	M.I.	T	Date	1/8/2016
Street Address	606 Sharon Dr			Apartment/Unit #			
City	Johnson City	State	TN	ZIP 37604			
Phone	(423) - 291-1952	E-mail Address derek.mann@gmail.com					

**PROPERTY INFORMATION:**

Tax Map Information	Tax map: 119	Group:	Parcel: 05401	Lot:	
Street Address	944 Mitchell Rd., Kingsport TN 37663			Apartment/Unit #	
Current Zone	A-1	Proposed Zone	N/A		
Current Use	Single Family	Proposed Use	SAME		

**REPRESENTATIVE INFORMATION:**

Last Name	Mann	First	Derek	M.I.	T	Date	1/8/2016
Street Address	606 Sharon Dr			Apartment/Unit #			
City	Johnson City <del>etc</del>	State	TN	ZIP 37604			
Phone	423-291-1952	E-mail Address derek.mann@gmail.com					

**REQUESTED ACTION:**

6' side yard variance to construct an attached Garage onto the existing home

**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: Derek Mann Date: 1/8/2016

Signed before me on this 8th day of Jan., 2016  
 a notary public for the State of Tennessee  
 County of Sullivan

Notary Page M. Jeffers  
 My Commission Expires 8/24/16



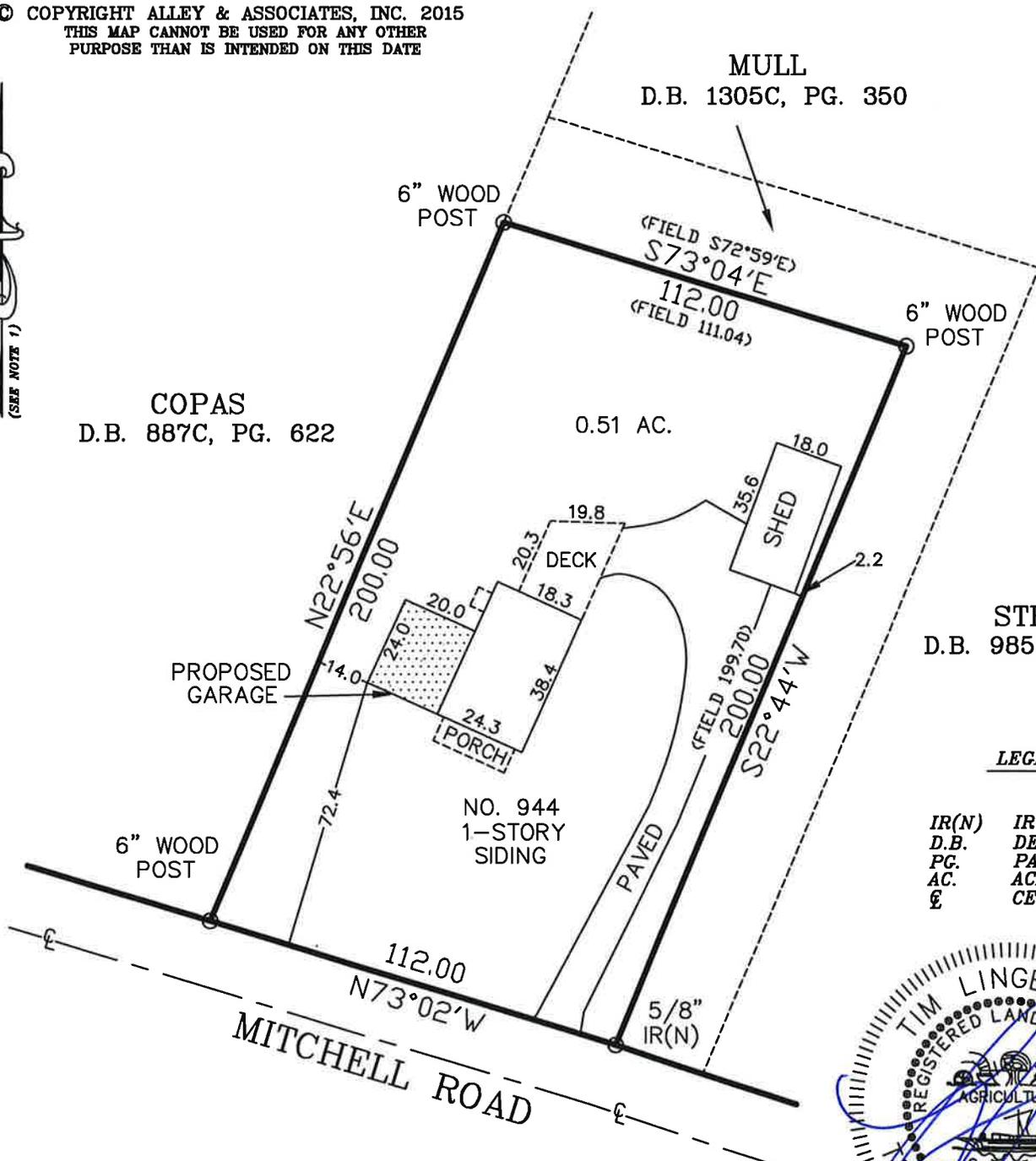


(SEE NOTE 1)

**COPAS**  
 D.B. 887C, PG. 622

**MULL**  
 D.B. 1305C, PG. 350

**STEELE**  
 D.B. 985C, PG. 265



**LEGEND**

- IR(N) IRON ROD (NEW)
- D.B. DEED BOOK
- PG. PAGE
- AC. ACRES
- £ CENTERLINE



- NOTES:
- 1) NORTH BASED ON N22°56'E, IN PRIOR REFERENCED DEED.
  - 2) PROPERTY IS ZONED A-1
- SETBACKS:
- FRONT 50'
  - REAR 50'
  - SIDE 20'
- SETBACKS TO CONFORM TO ZONING DESIGNATION
- 3) THIS IS TO CERTIFY THAT I HAVE CONSULTED THE FEDERAL FLOOD INSURANCE ADMINISTRATION BOUNDARY MAP 47163C0235D EFFECTIVE DATE SEPTEMBER 29, 2006 AND FOUND THAT THE ABOVE PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA.
  - 4) I HEREBY CERTIFY THAT THIS IS A CATEGORY I SURVEY AND THE RATIO OF PRECISION OF THIS SURVEY IS BETTER THAN 1:10,000
  - 5) THIS SURVEY WAS DONE IN COMPLIANCE WITH THE TENNESSEE MINIMUM STANDARDS OF PRACTICE.

**MAP OF: 0.51 ACRES**

OWNER: DEREK MANN

CIVIL DISTRICT: 14TH COUNTY: SULLIVAN

STATE: TENNESSEE TAX MAP 119 PAR. 54.01

SCALE: 1 INCH = 50 FEET DATE: DEC. 29, 2015

REFERENCE: DEED BOOK 3182, PAGE 1588

15-10256 FB/PG: N/A

FOR: SETBACK VARIANCE

**ALLEY & ASSOCIATES, INC.**  
 243 E Market Street  
 Kingsport, Tennessee 37660  
 E-mail: tlingerfelt@alleyassociates.com

## Variance Worksheet – Finding of Facts

**Variations.** 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.

AS a result of the location of the home, which was existing upon purchase, and the current location of the ~~old~~ septic system the only suitable location to build the two car attached garage is pictured per survey created by Tim Lingorfelt date Dec. 29 2015.

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

AS a result of this property being built over seventy ~~two~~ year ago, placement of the proposed garage is not suitable in the rear or other side yard (septic system). As such the proposed location is the only viable option for the attached two car Garage.

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.

the existing configuration was present upon purchase of property.

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

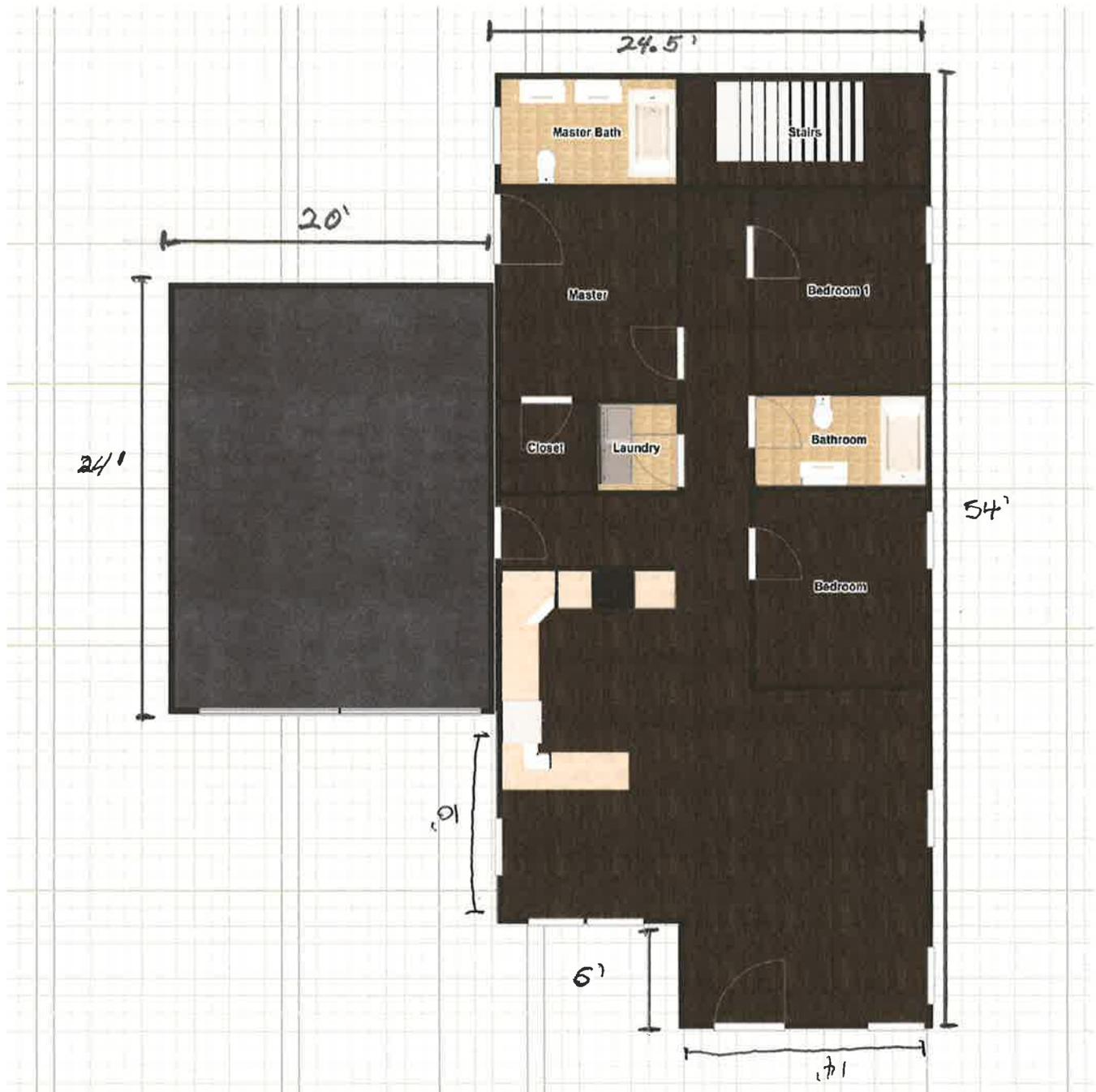
As a result of the sign-off associated with the property, no imposition would be resulting to neighboring properties (single family homes). In addition, the garage would add to the attractiveness of the home.

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:

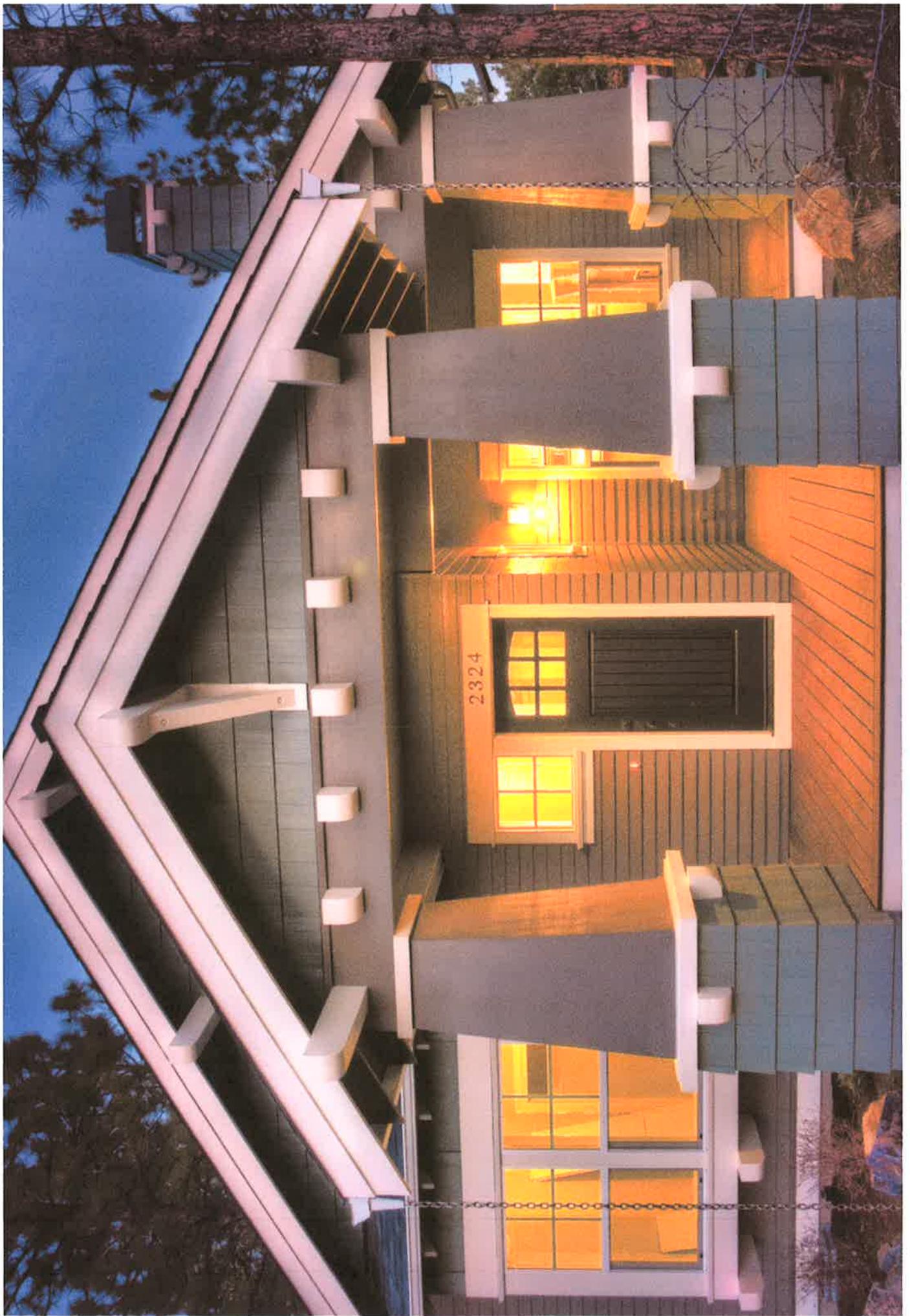
1. The premises cannot be used in a manner permitted by the Zoning Ordinance unless the variance is granted.
2. A strict application of the terms of the Zoning Ordinance precludes its use for any purpose to which the land is reasonably adopted.
3. Inability to put the property to its most profitable 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.

# 1ST FLOOR



# 1ST FLOOR





## MEMORANDUM

TO: KINGSPOUR BOARD OF ZONING APPEALS

FROM: Ken Weems, AICP, Zoning Administrator

DATE: January 15, 2016

RE: 1300 Lynn Garden Drive, 1308 Lynn Garden Drive, and 201 Glen Avenue

The Board is asked to consider the following request:

**Case: 16-701-00002 – Property located at 1300 Lynn Garden Drive, 1308 Lynn Garden Drive, and 201 Glen Avenue, Control Map 029E, Group H, Parcels 007.00 and 008.00** requests a 20 foot front yard variance to Sec 114-195(f)1(c) accommodate a new car wash on parcel 7. The code requires a 20 foot front yard; a 4.9 foot front yard variance to Sec 114-195(f)1(c) to accommodate a new restaurant on parcel 8. The code requires a 20 foot front yard; a 30 foot planting strip boundary variance to Sec 114-600(4)a to accommodate a new car wash on parcel 7 (rear yard). The code requires a 30 foot planting strip; a 30 foot planting strip boundary variance to Sec 114-600(4)a to accommodate a new restaurant on parcel 8 (rear yard). The code requires a 30 foot planting strip; a 10 foot planting strip variance to Sec 114-600(d)2 to accommodate a new car wash on parcel 7 (front yard). The code requires a 10 foot planting strip; an 10 foot planting strip variance to Sec 114-600(d)2 to accommodate a new restaurant on parcel 8 (front yard). The code requires a 10 foot planting strip; an 8.7 foot planting strip variance to Sec 114-600(d)2 to accommodate a new restaurant on parcel 8 (side yard). The code requires a 10 foot planting strip; a parking space reduction variance of 6 spaces to Sec 114-564(4)d to accommodate a new car wash on parcel 7. The code requires a total of 20 parking spaces. The property is zoned B-3, Highway Oriented Business District.

This agenda item contains a total of 8 variances. At this time, a car wash exists on parcel 7 and a tire store exists on parcel 8. The applicant's plan is to raze all existing structures on the property and put a new car wash on the same parcel that contains the existing car wash (parcel 7) and to place a restaurant on the parcel that contains the existing tire store (parcel 8). Both parcels require front yard variances for the new buildings. Both parcels require full relief from their 30 foot planting strip requirements in the rear of the structures since they abut an existing residential zone. Both parcels also require variance relief from the 10 foot planting strip abutting Lynn Garden Drive. The proposed restaurant use (parcel 8) requires relief of most of the 10 foot planting strip that is required along Glen Avenue. Last, the proposed car wash needs a parking requirement reduction.



MULLINS ST

LYNN GARDEN DR

MAY AV

FAIRWAY AV

TIP-TOP AV

WALKERS ST

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Parcel 8

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REGULAR MEETING  
& PUBLIC HEARING  
Kingsport Board of Zoning Appeals

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**Case: 16-701-00002 – Property located at 1300 Lynn Garden Drive, 1308 Lynn Garden Drive, and 201 Glen Avenue, Control Map 029E, Group H, Parcels 007.00 and 008.00** requests a 20 foot front yard variance to Sec 114-195(f)1(c) accommodate a new car wash on parcel 7. The code requires a 20 foot front yard; a 4.9 foot front yard variance to Sec 114-195(f)1(c) to accommodate a new restaurant on parcel 8. The code requires a 20 foot front yard; a 30 foot planting strip boundary variance to Sec 114-600(4)a to accommodate a new carwash on parcel 7 (rear yard). The code requires a 30 foot planting strip; a 30 foot planting strip boundary variance to Sec 114-600(4)a to accommodate a new restaurant on parcel 8 (rear yard). The code requires a 30 foot planting strip; a 10 foot planting strip variance to Sec 114-600(d)2 to accommodate a new carwash on parcel 7 (front yard). The code requires a 10 foot planting strip; an 10 foot planting strip variance to Sec 114-600(d)2 to accommodate a new restaurant on parcel 8 (front yard). The code requires a 10 foot planting strip; an 8.7 foot planting strip variance to Sec 114-600(d)2 to accommodate a new restaurant on parcel 8 (side yard). The code requires a 10 foot planting strip; a parking space reduction variance of 6 spaces to Sec 114-564(4)d to accommodate a new car wash on parcel 7. The code requires a total of 20 parking spaces. The property is zoned B-3, Highway Oriented Business District.

All interested persons are invited to attend this Public Hearing. Additional information concerning this case may be obtained by contacting City of Kingsport Planning Division staff, telephone (423) 229-9485.

City of Kingsport, Tennessee  
Jim Demming, City Recorder  
P1T 1/25/16

**APPLICATION**  
Board of Zoning Appeals



**APPLICANT INFORMATION:**

Last Name	Berry	First	Jeffrey	M.I.	A	Date	1/15/16
Street Address	750 Virgil Lane			Apartment/Unit #			
City	Kingsport	State	TN	ZIP	37665		
Phone	423 707 4239		E-mail Address	jberry1111@earthlink.net			

**PROPERTY INFORMATION:**

Tax Map Information	Tax map:	Group:	Parcel:	Lot:			
Street Address	1300 Lynn Garden Dr., 1308 Lynn Garden Dr., 201 Glen Ave			Apartment/Unit #			
Current Zone	B3	Proposed Zone	B3				
Current Use	Carwash, Tire Center		Proposed Use	Carwash, Tire Center, Restaurant			

**REPRESENTATIVE INFORMATION:**

Last Name	Same	First		M.I.		Date	
Street Address				Apartment/Unit #			
City		State		ZIP			
Phone			E-mail Address				

**REQUESTED ACTION:**

Front yard variance of 20' to accommodate new car wash, 4.9' variance for restaurant planting strip boundary variance of 30' on both. Planting strip variance of 10' on Lynn Garden and 8.7' for Glen Ave. Parking space variance of 6 spaces for car wash.

**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: [Handwritten Signature] Date: 1/15/16

Signed before me on this 15<sup>th</sup> day of Jan., 20 15

a notary public for the State of Tennessee

County of at Large

Notary Page Jeffers

My Commission Expires 8/24/16





## 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.

The subject property has been a carwash since 1986 and does not meet the requirements for the size of the front and rear yard for Zone class B-3. The lot was originally part of a residential neighborhood along Lynn Garden Drive and is consistent of the size of a shallow residential lot (150' deep). I am requesting the variance, not to change how the property is used, but to be able to build a new building to replace the old one and allow traffic flow to continue very similar to how it currently flows.

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

I would not be able to meet requirements and maintain adequate traffic flow to not cause a backup into Glen Avenue and therefore could not construct a new facility if the requirements were imposed. The lot would not be large enough.

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.

The front and rear offsets (basically zero feet) of the subject property is consistent with the other businesses in the area. The buildings were constructed in close proximity to the property line along Lynn Garden Drive. I would request that the new structure follow this same practice. I will work with an architect to incorporate as much greenery/landscaping as possible with the new facility which will improve the aesthetics of the area tremendously.

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 will not change the current conditions or use of the land. It will enhance both safety and aesthetics of the area by providing new structures built to current codes.

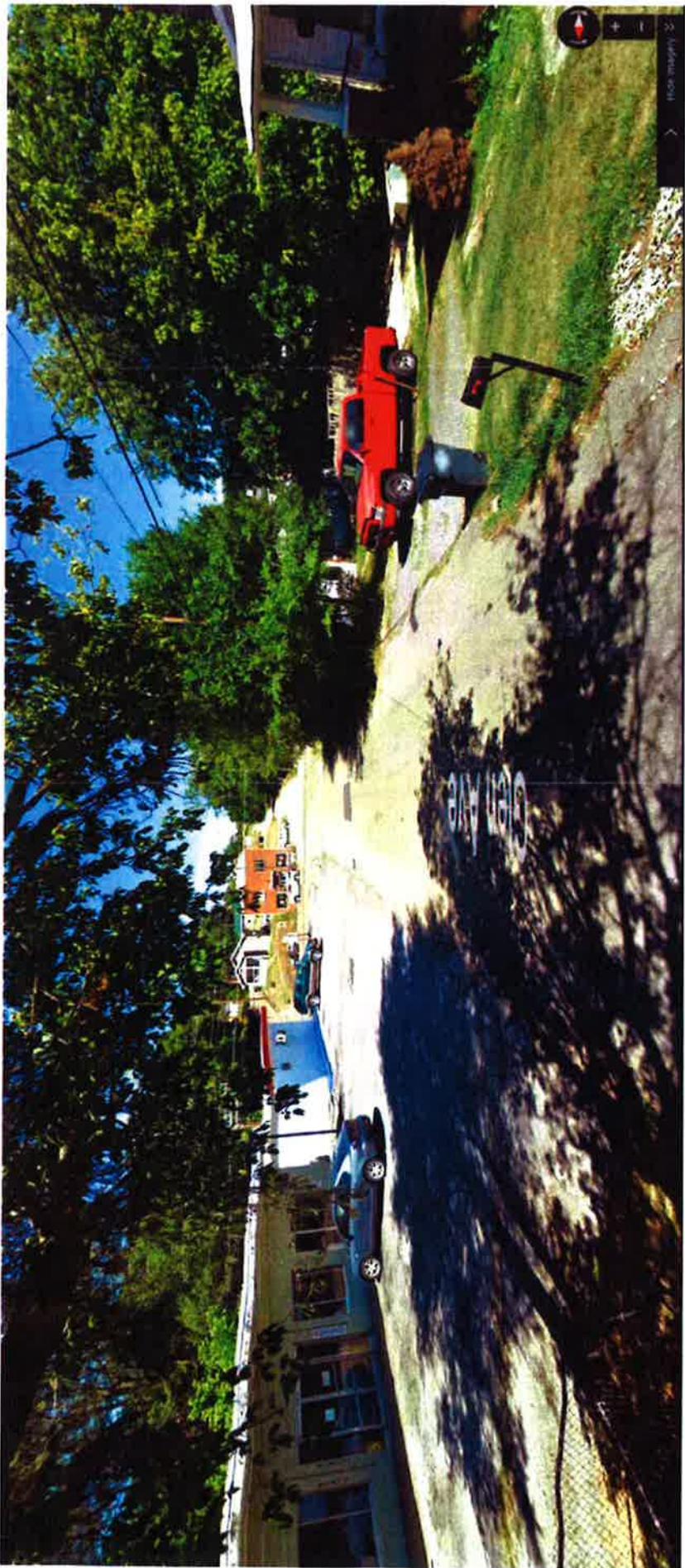
Further, a variance may be granted only if the Board finds that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zoning plan and this chapter. Variances shall not be granted permitting an increase in floor area 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)**

**December 3, 2015**

10:30 a.m.

Members Present:

Leland Leonard, Chairman  
Frank Oglesby, Vice Chairman  
Bill Sumner

Members Absent

Bob Winstead, Jr.  
Sharon Duncan

Staff Present:

Ken Weems, AICP

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At 10:30 a.m., the BZA departed the Development Services Building, 201 W. Market St. to conduct a driving tour of 1121 Bridwell Street, 1460 Belmont Drive, and 3828 Hemlock Park Drive, all of which were to be considered as action items during the regular meeting. No official action was taken.

The driving tour concluded at 11:55 a.m.

Respectfully Submitted,

Ken Weems, AICP  
Zoning Administrator

## MINUTES OF THE KINGSPORT BOARD OF ZONING APPEALS (BZA)

### December 3, 2015, Regular Meeting

Noon

Bob Clear Conference Room, 1<sup>st</sup> floor of the Development Services Building

#### Members Present:

Leland Leonard, Chairman  
Frank Oglesby, Vice Chairman  
Bill Sumner  
Bob Winstead, Jr.

#### Members Absent

Sharon Duncan

#### Staff Present:

Ken Weems, AICP  
Page Jeffers

#### Visitors:

Kathy Richards  
Bertie Fowler  
Billy Fowler  
Kevin McCarty

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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. Kathy Richards, Bertie Fowler, and Kevin McCarty were sworn in.

#### **Public Hearing:**

**Case: 15-701-00010 – Property located at 1121 Bridwell Street, Control Map 062P, Group B, Parcel 014.00** requests a 27.3 foot front yard variance to Sec 114-183(e)1(c) and a 7.8 foot side yard variance to Sec 114-183(e)1(d) necessary to accommodate a carport addition. The code requires a 30 foot front yard and an 8 foot side yard. The property is zoned R-1B, Residential District.

Mrs. Fowler presented the case to the Board. Mrs. Fowler described the need for the carport that would violate the zoning district's front and side yard setbacks. Mrs. Fowler stated that she is in failing health due to a cancer diagnosis and that her doctor has advised her that she will be wheelchair bound in the future. Mrs. Fowler stated that she would need the carport so that her husband would be able to safely get her in and out of her car during inclement weather. Chairman Leonard asked Mrs. Fowler how she would overcome the 6" differential in the level of ground from her driveway to her porch. Mrs. Fowler stated that she would have a ramp installed to accommodate the differential. Vice Chairman Oglesby confirmed with the applicant that the sides of the carport would be open on the sides. Mr. Sumner confirmed with the applicant that the house was built in 1929 and that Bridwell Street had not yet been constructed.

**Case: 15-701-00011 – Property located at 1460 Belmont Drive, Control Map 061C, Group K, Parcel 030.00** requests a 4.2 foot front yard variance to Sec 114-184(e)1(c) and a 4.4 foot side yard variance to Sec 114-184(e)1(d). The code requires a 25 foot front yard and an 8 foot side yard. The property is zoned R-1C, Residential District.

Mr. Kevin McCarty presented the case to the Board. Mr. McCarty stated that he desired to build an enclosed garage and covered porch on his house but was constrained by the atypical lot configuration the home resides on. Chairman Leonard noted that he could bring his garage closer to Holyoke Street and not need a variance. Mr. McCarty stated that he could make a smoother transition to the garage by keeping it in line with the rest of the home. Mr. McCarty noted that the existing detached accessory building would be removed from the property. Mr. McCarty noted that the shingles for both the carport and covered porch would consist of architectural shingles and siding to match the existing home.

**Case: 15-701-00012 – Property located at 3828 Hemlock Park Drive, Control Map 077J, Group B, Parcel 001.00** requests a 6.3 foot front yard variance to Sec 114-183(e)1(c). The code requires a 30 foot front yard. The property is zoned R-1B, Residential District.

Ms. Kathy Richards presented the case to the Board. Ms. Richards stated that she would like to add a one car garage to the side of her home. She stated that the original plans for the garage placed it in the side yard. However, due to a lot reconfiguration, the former side yard that would accommodate the garage addition is now a more restrictive front yard. Chairman asked about the other building on the property. Ms. Richards state that the other building was an old garage that had been there for a long time.

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

Moving to the business meeting, the Chairman called for the approval of the minutes. On a motion by Bill Sumner, seconded by Bob Winstead Jr., the minutes on of the October 1st driving tour were approved unanimously. On a motion by Bill Sumner, seconded by Bob Winstead Jr., the minutes on of the October 1<sup>st</sup> regular meeting were approved unanimously.

The Board stated for public record that the next Board of Zoning Appeals application deadline is December 15, 2015 at noon with a meeting date of January 7, 2015.

Staff provided a 2015 training status update to the Board. Additionally, staff provided the Board with a summary of the Reed vs. Town of Gilbert Supreme Court Case. Staff explained that the Reed Case has impacted the way that many cities govern signs in that it exempts content from consideration. Staff commented that a revised sign ordinance, in the form of a zoning text amendment would be pursued in the near future.

#### **Adjudication of Cases:**

**Case: 15-701-00010 – Property located at 1121 Bridwell Street, Control Map 062P, Group B, Parcel 014.00**

Chairman Leonard identified the lot as non-conforming in regard to setback requirements and irregularly shaped. Due to the age of the property and the fact that the home was built prior to the street being built, hardships exist.

**MOTION:** made by Bill Sumner, seconded by Bob Winstead, Jr., to grant the front and side yard variances with the condition that the proposed carport be open on all sides.

**VOTE:** 3-0 to approve the request due to irregular lot shape and unique position of the existing decades-old home.

**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 existing home on the property was constructed prior to the street that serves the home. Subsequently, the home was never subjected to modern/ current zoning standards. This disposition creates hardship when attempting to add accessory to or enlarge the existing home.*
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 eliminate a similar feature for the subject property that enjoyed by many of the neighboring properties.*
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 lot size and configuration is not a result of actions 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 producing a resulting carport addition similar to adjacent properties.*

**Case: 15-701-00011 – Property located at 1460 Belmont Drive, Control Map 061C, Group K, Parcel 030.00**

Chairman Leonard confirmed the proposal would produce a result that is consistent throughout the neighborhood and that the lot in question is certainly shaped different from all the adjacent lots.

**MOTION:** made by Frank Oglesby, seconded by Bill Sumner, to grant the front and side yard variances as requested.

**VOTE:** 3-0 to approve the request due to the uniquely shaped lot and similarly configured adjacent homes.

**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 rear of the subject parcel is very difficult to*

*access due to its small land area and existing home structure occupying the rear portion of the lot.*

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 eliminate a similar feature for the subject property that enjoyed by many of the neighboring properties.*
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 lot size and configuration is not a result of actions 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 producing a resulting garage addition and covered porches similar to adjacent properties.*

**Case: 15-701-00012 – Property located at 3828 Hemlock Park Drive, Control Map 077J, Group B, Parcel 001.00**

Chairman Leonard noted the extreme topography surrounding the home that would make it very difficult to enlarge the home in any other yard other than the front yard. Bill Sumner verified that there were no calls against the proposal. Staff confirmed that the only caller on the item was supportive of the request.

**MOTION:** made by Frank Oglesby, seconded by Bill Sumner, to grant the front yard variance as requested.

**VOTE:** 3-0 to approve the request due to extreme topography preventing the garage from being built inside conforming setbacks.

**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 rear of the subject parcel is very difficult to access due to extremely steep topography leading down to Fort Patrick Henry Lake.*
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 eliminate a similar feature for the subject property that enjoyed by many of the neighboring properties.*
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 lot size and configuration is not a result of actions 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 producing a resulting garage addition similar to adjacent properties.*

With no further business the meeting was adjourned at 12:42 p.m..

Respectfully Submitted,

Ken Weems, AICP  
Zoning Administrator