

**KINGSPORT BOARD OF ZONING APPEALS AGENDA**

**Thursday, May 2, 2013**

Development Services Building - first floor, Bob Clear Conference Room

CALL TO ORDER – 12:00 P.M. NOON

INTRODUCTION / MEETING PROCEDURES

**PUBLIC HEARINGS:**

**1. Case: 13-701-00007 – Property located at 724 Brookhaven Drive Control Map 45B, Group C, Parcel 4.00** Requests a to [Sect.114-133 (1)(2)] in order to construct a garage in the front yard at this location.

***INTERESTED PARTIES:***

Owner: Jonathan Henderson  
724 Brookhaven Drive  
Kingsport, TN 37660  
(423)480-9188  
Hendersonjon01@yahoo.com

Applicant /Agent: Same as above

Engineer/Architect: Not Known

**2. Case: 13-701-00008 – Property located at 311 Rock Valley Drive Control Map 105P, Group B, Parcel 12.00 lot 12** Requests a variance of 340 square feet to [Sect.114-133(2)] in order to increase the size of an accessory structure at this location. The allowed square footage for an accessory structure is 1,100 square feet.

***INTERESTED PARTIES:***

Owner: Eugene Yerke  
311 Rock Valley Drive  
Kingsport, TN 37664  
(423)349-9443

Applicant /Agent: Same as above

Engineer/Architect: Not Known

**3. Case: 13-701-00009 – Property located at 633 Branch Street Control Map 46H, Group H, Parcel 7.00** Requests a variance of 7 feet to [Sect.114-187(e)(1)(d) and a lot coverage percent increase to (e)(2)] in order to construct a carport on this property. The property is zoned R-4, Medium Density Apartment District with a side yard setback of 10 feet and a lot coverage maximum of 30 percent.

***INTERESTED PARTIES:***

Owner: Karen Bailey  
633 Branch Street  
Kingsport, TN 37660  
(423)245-8681

**Applicant /Agent: Timothy Warren**  
614 Lazy Lane  
Kingsport, TN 37663  
(423) 302-9283

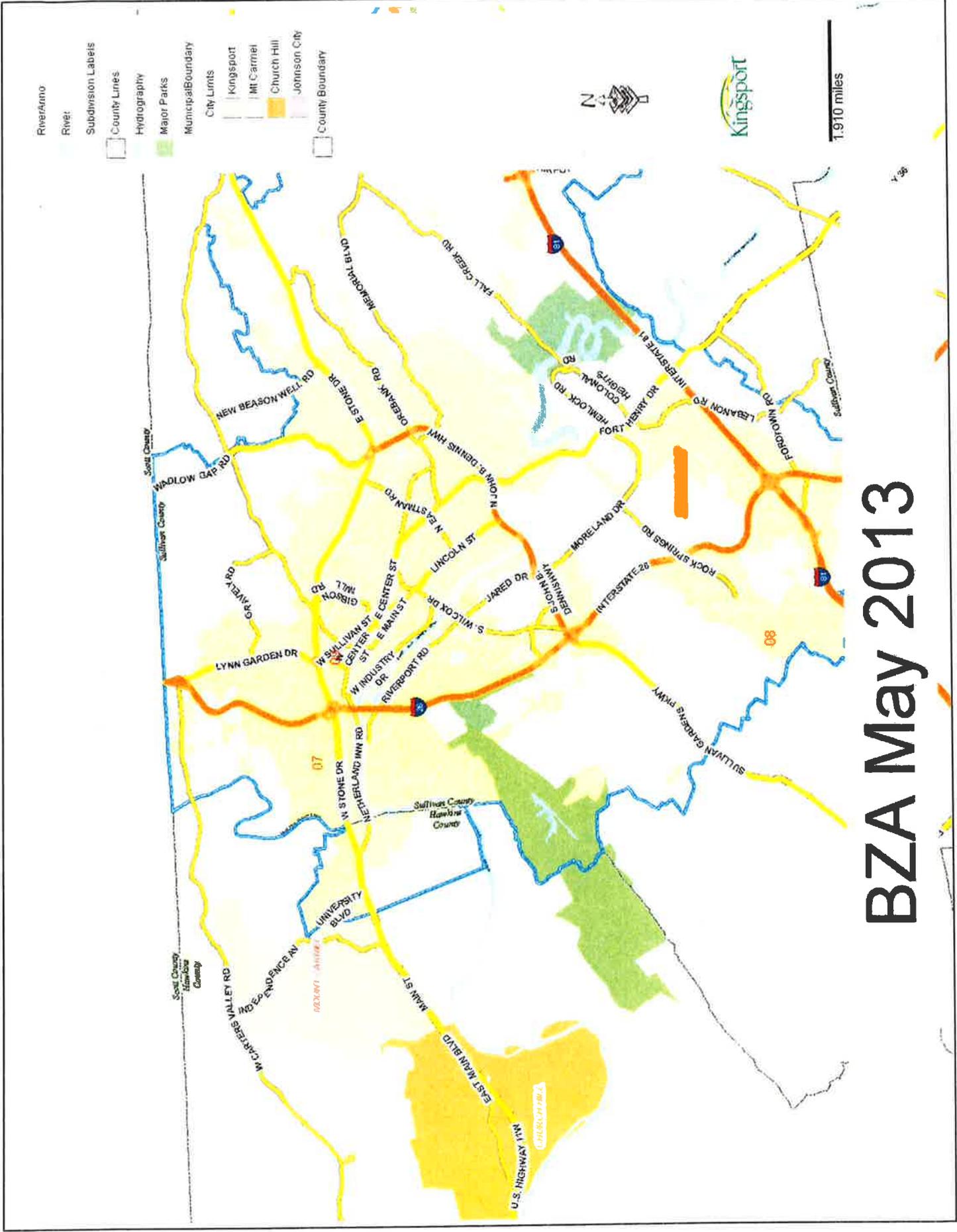
**Engineer/Architect: Not Known**

**BUSINESS:**

- Approval of the April 4, 2013 minutes.
- Stating for the public record, the next application deadline May 15, 2013 at noon, and meeting date (Thursday, June 6, 2013).
- Staff Reports

**ADJUDICATION OF CASES:**

**ADJOURNMENT:**



# BZA May 2013

River/Stream

River

Subdivision Labels

County Lines

Hydrography

Major Parks

Municipal Boundary

City Limits

Kingsport

Mt Carmel

Church Hill

Johnson City

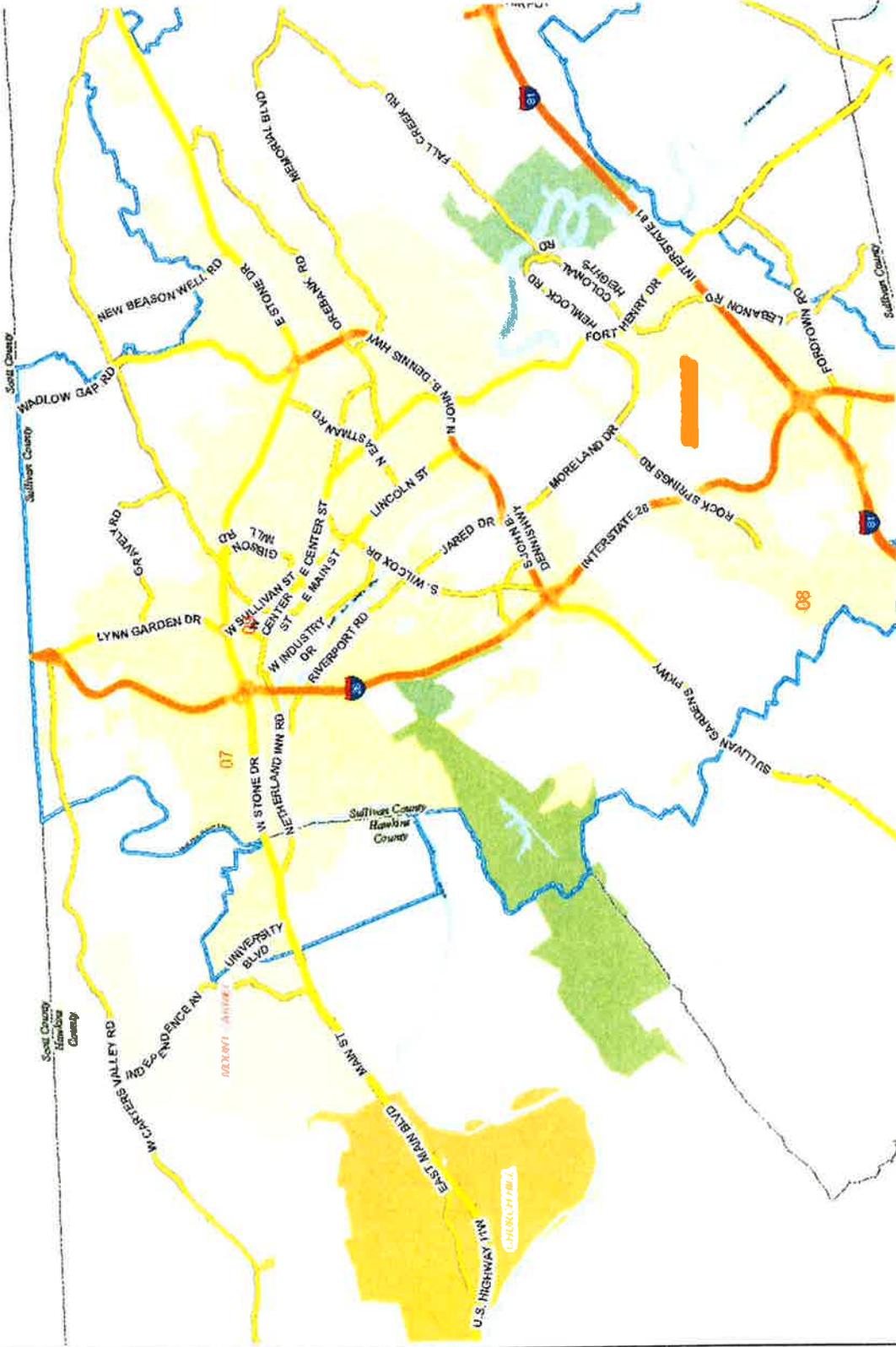
County Boundary



1.910 miles



1:96



U.S. HIGHWAY 421  
CLINCH RIVER

## MEMORANDUM

TO: KINGSFORT BOARD OF ZONING APPEALS  
FROM: Karen B. Combs, PRINCIPAL PLANNER  
DATE: April 15, 2013  
RE: 724 Brookhaven Drive

The Board is asked to consider the following request:

**Case: 13-701-00007 – Property located at 724 Brookhaven Drive Control Map 45B, Group C, Parcel 4.00**

Requests a to [Sect.114-133 (1)(2)] in order to construct a garage in the front yard at this location.

Due April 15<sup>th</sup> @ noon  
 Meeting May 2 @ noon  
 \$50 fee



**APPLICATION**  
 Board of Zoning Appeals

**APPLICANT INFORMATION:**

Last Name	Henderson	First	Jonathan	M.I.	L	Date	4-8-13
Street Address	724 Brookhaven Drive			Apartment/Unit #			
City	Kingsport	State	TN	ZIP 37660			
Phone	423-480-9188		E-mail Address Henderson Jon 01@yahoo.com				

**PROPERTY INFORMATION:**

Tax Map Information	Tax map: 45B	Group: C	Parcel: 4 <sup>00</sup>	Lot:
Street Address	724 Brookhaven Drive			Apartment/Unit #
Current Zone	Variance Request/ Special Exception			
Current Use	PARKING AREA		Proposed Use DETACHED GARAGE	

**REPRESENTATIVE INFORMATION:**

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

**REQUESTED ACTION:**

Variance to Sec 114(B3)(1)(2) to allow construction of garage in frontyard.

**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: Jonathan J Henderson Date: 4-8-13

Signed before me on this 10<sup>th</sup> day of April, 2013  
 a notary public for the State of Tennessee  
 County of Sullivan  
 Notary Gail Matthews  
 My Commission Expires 11/29/2015



To whom it may concern,

I am requesting a variance to sec.114-133(1)(2) to allow construction of a garage in my front yard. Because of the topography of my property, this is the only place I can build a garage. My back yard is on such a slope as to make it unfeasible to construct a garage or a driveway. The proposed building would be of post-steel construction with color and trim matching the house. The dimensions would be 30x40x10. It would be 12ft from the property line and 31ft from the edge of the road. I hope you can allow this as I have plenty of space in the proposed spot for the garage and I would like to have a building big enough to park our cars\motorcycle and have room for a decent work\storage area.

Thank you,  
Jonathan Henderson

# 724 Brookhaven Dr



- Sullivan Co Parcels
- Hawkins Co Parcels
- Municipal Zoning
- Local Streets

- Private Street
- Local Street
- Collector Street
- Major Roads

- Ramp
- Expressway
- Interstate
- Minor Arterial
- Major Arterial

- River/Arroyo
- Subdivision Labels
- Golf Course
- Hospital
- Schools
- Fire Stations

- Hydrography
- Urban Growth Boundaries
- County/Municipal Boundaries



148 ft

Variance Worksheet – Finding of Facts for:

**Case: 13-701-00007 – Property located at 724 Brookhaven Drive Control Map 45B, Group C, Parcel 4.00** Requests a to [Sect.114-133 (1)(2)] in order to construct a garage in the front yard at this location.

***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.

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

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.

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

**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.**

## MEMORANDUM

TO: KINGSPOINT BOARD OF ZONING APPEALS  
FROM: Karen B. Combs, PRINCIPAL PLANNER  
DATE: April 15, 2013  
RE: 311 Rock Valley Drive

The Board is asked to consider the following request:

**Case: 13-701-00008 – Property located at 311 Rock Valley Drive Control Map 105P, Group B, Parcel 12.00 lot 12**

Requests a variance of 340 square feet to [Sect.114-133(2)] in order to increase the size of an accessory structure at this location. The allowed square footage for an accessory structure is 1,100 square feet.

**APPLICATION**  
Board of Zoning Appeals



**APPLICANT INFORMATION:**

Last Name	<i>Yerke</i>	First	<i>Eugene</i>	M.I.	<i>E</i>	Date	<i>4/15/13</i>
Street Address	<i>311 Rock Valley Dr</i>			Apartment/Unit #			
City	<i>Kingsport</i>	State	<i>TN</i>	ZIP <i>37664</i>			
Phone	<i>(423) 349-4943</i>		E-mail Address <i>None</i>				

**PROPERTY INFORMATION:**

Tax Map Information	Tax map: <i>105P</i> Group: <i>B</i> Parcel: <i>01200</i> Lot: <i>12</i>	Apartment/Unit #
Street Address	<i>311 Rock Valley Dr</i>	
Current Zone	Variance Request/ Special Exception <i>storage for trailers</i>	
Current Use <i>Residential</i>	Proposed Use <i>storage (sheltered)</i>	

**REPRESENTATIVE INFORMATION:**

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

**REQUESTED ACTION:**

*Additional sq. ft. of Accessory Bldg. - Needed to move trailers from inside building to protected area outside - 340 sq. ft. extra - 114-133(2)*

*Total 1440.*

**DISCLAIMER AND SIGNATURE** *Eugene Yerke*

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: *Eugene Yerke* Date: *4/15/13*

Signed before me on this *15* day of *April*, 20*13*  
 a notary public for the State of *Tennessee*  
 County of *Sullivan*

Notary *Karen Bailey Combs*  
 My Commission Expires *May 12, 2013*



84 ft



- Sullivan Co Parcels
- Hawkins Co Parcels
- Mount Carmel Zoning
- Zoning**
- Local Streets
- Private Street
- Local Street
- Collector Street
- Major Roads**
- Ramp
- Expressway
- Interstate
- Minor Arterial
- Major Arterial
- River/Arroyo**
- Kd 311 Address
- Subdivision Labels**
- Golf Course
- Hospital
- Schools
- Fire Stations
- Hydrography**
- Urban Growth Boundary
- County/Muni Boundary



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

**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.**

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## MEMORANDUM

TO: KINGSFORT BOARD OF ZONING APPEALS  
FROM: Karen B. Combs, PRINCIPAL PLANNER  
DATE: April 15, 2013  
RE: 633 Branch Street

The Board is asked to consider the following request:

**Case: 13-701-00009 – Property located at 633 Branch Street Control Map 46H, Group H, Parcel 7.00**  
Requests a variance of 7 feet to [Sect.114-187(e)(1)(d) and a lot coverage percent increase to (e)(2)] in order to construct a carport on this property. The property is zoned R-4, Medium Density Apartment District with a side yard setback of 10 feet and a lot coverage maximum of 30 percent.

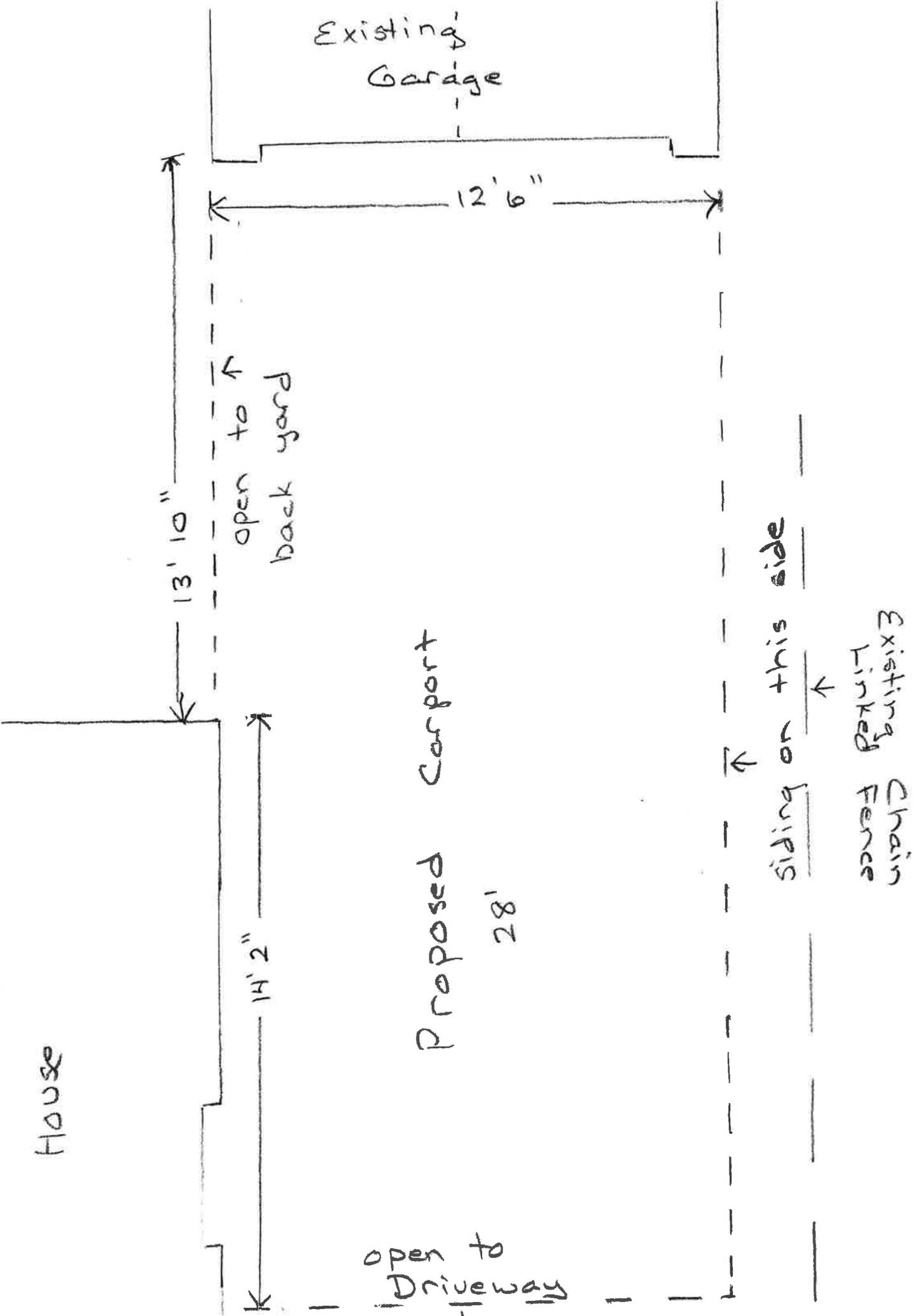
**APPLICATION**  
Board of Zoning Appeals



<b>APPLICANT INFORMATION:</b>			
Last Name <u>Bailey</u>	First <u>Karen</u>	M.I.	Date <u>4-15-13</u>
Street Address <u>633 Branch Street</u>		Apartment/Unit #	
City <u>Kingsport</u>	State <u>TN</u>	ZIP <u>37660</u>	
Phone <u>(423) 245-8681</u>	E-mail Address		
<b>PROPERTY INFORMATION:</b>			
Tax Map Information	Tax map: <u>46H</u> Group: <u>H</u> Parcel: <u>7</u> Lot:	Apartment/Unit #	
Street Address <u>Same as above</u>			
Current Zone	Variance Request/ Special Exception		
Current Use	Proposed Use		
<b>REPRESENTATIVE INFORMATION:</b>			
Last Name <u>WARREN</u>	First <u>TIMOTHY</u>	M.I. <u>A</u>	Date <u>4-15-13</u>
Street Address <u>614 LAZY LN.</u>		Apartment/Unit #	
City <u>KPT.</u>	State <u>TN</u>	ZIP <u>37663</u>	
Phone <u>(423) 302-9283</u>	E-mail Address		
<b>REQUESTED ACTION:</b> <u>To add to 2 car long carport from basement door of house to existing garage open to back yard - closed in on opposite side at 35% lot coverage Zone R-4 - 119-187-(e)(1)(d)(2)(a) Required 10 ft.</u>			
<b>DISCLAIMER AND SIGNATURE</b>			
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: <u>[Signature]</u>		Date: <u>4-15-13</u>	
Signed before me on this <u>15<sup>th</sup></u> day of <u>April</u> , 20 <u>13</u> , a notary public for the State of <u>Tennessee</u> County of <u>SULLIVAN</u>			
Notary <u>Martha S. Godsey</u>		My Commission Expires <u>11-27-16</u>	









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

**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.**

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

**Thursday April 4, 2013**

**10:30 a.m.**

**Tour of property at 1455 East Center Street**

**MEMBERS PRESENT:**

**Leland Leonard, Chairman  
Frank Oglesby, Vice Chairman  
Bill Sumner  
Diane Hills**

**MEMBERS ABSENT:**

**Bob Winstead Jr**

**STAFF PRESENT:**

**Karen Combs**

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**Chairman Leonard, Vice Chairman Oglesby and Board Members Sumner and Hills visited the site at 1455 East Center Street. The Board members took the concept plan with them and studied the parking ration issues. There was no discussion concerning this case. The Board drove through the neighborhood in the rear of the property looking at the next case regarding a parking lot in the residential zone. The Board then drove to have lunch at Henry's restaurant, no items were discussed. The Board arrived at the Development Services building for the scheduled meeting at noon.**

\_\_\_\_\_ **Karen B. Combs, Principal Planner**

## MINUTES KINGSPORT BOARD OF ZONING APPEALS (BZA)

Thursday April 4, 2013

NOON

Bob Clear Conference Room, on the first floor of the Development Services Building

**MEMBERS PRESENT:**

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

**MEMBERS ABSENT:**

**STAFF PRESENT:**

Karen Combs

**VISITORS:**

Lynn Cole  
Robert Darter  
Dorathy Clayman  
Phillip McManus  
Wayne Noal  
Brenda Walters  
Hank Carr  
Ray Blevins  
Barbara Fitch

Eric Stidham  
William Clayman  
Jo Ellen Olinger  
Barry Walton  
Suzie Noal  
Pinky Horton  
Lindsey Harris  
Katherine Hyde  
William Alton

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Chairman Leonard called the meeting to order.

Chairman Leonard then explained the meeting procedures.

Chairman Leonard was notified that a petitioner wanted to pull an item for consideration. Mr. McManus addressed the Board and asked that item number 13-701-00005 – Properties located at 1401, 1405 Prospect Street and 1308 Post Street be pulled for consideration at this time. Mr. McManus stated that he was still in negotiations with the church and that this item will be presented at a later date when all information could be presented. Chairman Leonard then pulled the item for consideration and told individuals that were attending the meeting for this item that it would not be heard nor would there be any decision made regarding this item. Those in the audience were free to leave.

**Public Hearing:**

**Case: 13-701-00003 – Property located at 3720 Brandywine Road Control Map 22M, Group F, Parcel 13** Requested a front yard variance of 16 feet to [Sect.114-182 (e)(1)(c)] in order to construct an addition at this location. The property is located in a R-1A, Single Family Residential District that requires an 40 foot front yard setback. Mr. Eric Stidham was sworn in by Karen Combs. Mr. Stidham presented the case to the Board. In his presentation he stated that he wanted to construct an addition onto the existing house. Mr. Stidham told the Board the due to steep topography the addition could not be placed in the rear of the house. The Board noted that the house sat on a cul-de-sac and the addition would

be permitted without any variance if the right-of-way were straight and not curved. No one spoke for or against this item.

**Case: 13-701-00004 – Property located at 1455 East Center Street Control Map 61C, Group C, Parcel 2.00** Requested a variance to [Sect.114-600 (d)(2)] in order to use the required perimeter landscaping strip for parking at this location. The property is located in a B-3, General Business District that requires a 10 foot landscaped strip on the perimeter of property abutting a public street. Mr. Phillip McManus was sworn in by Karen Combs. Mr. McManus presented the case to the Board. Mr. McManus told the Board that this property was unique in that it fronted two public roads. The main entrance facing Center Street with the property extending to Waverly Road; Mr. McManus asked the Board for a variance to the landscaping (ten foot buffer) on the Waverly Road side so that parking could be used. This road is a minor roadway. Also during the discussion, staff pointed out that the parking ratio was not met by the design presented. Mr. McManus also requested a variance on the number of parking spaces required for the size of the building he proposed stated that the second floor would be used for storage and a break room with no commercial sales. No one spoke for or against this item.

**Case: 13-701-00006 – Property located at 2300 Pavilion Drive Control Map 47A, Group , Parcel 28.60** Requested a Special Exception as allowed in [Sect.114-191(c)(2)] to establish a skilled nursing home facility (nursing home) in a P-1, Professional Office District. Ms. Lindsey Harris was sworn in by Karen Combs and presented the case to the Board. In her presentation she stated that Mountain States Health Alliance would like to use an old building on their compound for a skilled nursing health facility. The old use was also medical but specifically was used as a psychiatric ward and under the special exception use the specific use had changed. She presented a plan in which a small addition would be constructed but the main part of the building would remain the same. Parking was adequate. Mr. Ray Blevins spoke to clarify that the facility was not a drug treatment center but a facility that would help individuals recover from physical traumas. He stated that it was similar to a nursing home facility for individuals that needed care but were not eligible for a hospital setting and were too injured to be on their own a home. Hank Carr also spoke in favor of this item. No one spoke against this item.

Seeing no one else wishing to speak, Chairman Leonard closed the Public Hearing

#### **Other Business:**

On a motion by Diane Hills, the Board voted unanimously to approve the March 7, 2013 minutes as mailed.

The BZA stated for the public record the next application deadline on April 15, 2013 at noon and that the next meeting date would be on May 2, 2013.

Staff had no report this month. The Board did ask if there had been any progress on the Planned Development Ordinance and Sign Ordinance. Staff stated that the Planned Development Ordinance amendment would be going to the Planning Commission in April. Staff said that a copy of that ordinance would be placed in the Board's April agenda packet for their review but that no action from this Board was required. Staff also stated that the sign ordinance was in the City Attorney's office for legal review. The Board asked if staff had addressed the issues brought by this Board in that amendment. Staff related that they had indeed addressed the issues concerning this Board in the amendment but that we needed legal's approval to carry the amendment forward.

**Adjudication of Cases:**

**Case: 13-701-00003 – Property located at 3720 Brandywine Road Control Map 22M, Group F, Parcel 13**

During discussion of this item it was noted that the property did have steep topography in the rear that limited the placement of the addition and had a cul-de-sac in the front that threw the addition out of compliance with the front yard setback.

**MOTION:** made by Bill Sumner; seconded by Bob Winstead – To grant a variance of 16 feet to the front yard setback on property located at 3720 Brandywine Road.

**VOTE:** 4-0 to grant the request as presented because of topographical conditions and the presence of the cul-de-sac.

**Case: 13-701-00004 – Property located at 1455 East Center Street Control Map 61C, Group C, Parcel 2.00**

After a long discussion concerning the roadway and parking issues, the Board decided to give a variance to the landscaping requirement on the side fronting Waverly Road due to the limited traffic and the fact that no other property fronting that road had adhered to this requirement. The parking ratio was discussed at length. Since the Owner stated the second floor would not be used as retail and just for storage, the Board decided to grant a variance for the number of parking spaces limited the requirement to a one story building.

**MOTION:** made by Bill Sumner; seconded by Bob Winstead – To grant a variance to the landscaping requirement of 10ft buffer strip abutting a public road on the Waverly Road side of the property located at 1455 East Center Street.

**VOTE:** 4-0 to grant the request as presented.

**MOTION:** made by Frank Oglesby; seconded by Bill Sumner – To grant a variance of 31 parking spaces bringing the number of required spaces for a drug store located on the property located at 1455 East Center Street to 46 spaces.

**VOTE:** 4-0 to grant the request as presented.

**Case: 13-701-00006 – Property located at 2300 Pavilion Drive Control Map 47A, Group, and Parcel 28.60**

A brief discussion was held on way this item was brought to the Board again, if the property already had a special exception use permit. Staff related to the Board that a special exception use permit was not like a variance in that the permit does not run with the property forever and that when the specific use changes the petitioner must reapply to the Board. Staff felt that this item was really a housekeeping matter but to err on the side of caution we brought the use back to the Board for review.

**MOTION:** made by Diane Hills; seconded by Bob Winstead – To grant the special exception use of a skilled nursing facility on property located at 2300 Pavilion Drive.

**VOTE:** 4-0 to grant the request as presented.

With no further business the meeting was adjourned.

\_\_\_\_\_ Karen B. Combs, Principal Planner