KINGSPORT BOARD OF ZONING APPEALS AGENDA

Thursday, June 6, 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: 13-701-00010 – Property located at 1645 East Stone Drive Control Map 46L, Group A, Parcel Lot 15.20 Requests a10 foot 6 inch variance to [Sect.114-1195(f) (1)(e)] in order to construct a restaurant at this location. The code requires a 30 foot rear yard setback.

INTERESTED PARTIES:

Owner: John Haynes
P.O. Box 4054
Kingsport, TN 37665
(276)225-0002
johnsjas@centurylink.com

Applicant /Agent: Uwe Rothe
123 Lambert Road
Johnson City, TN 37601
(423) 202-2641
rothearp@aol.com

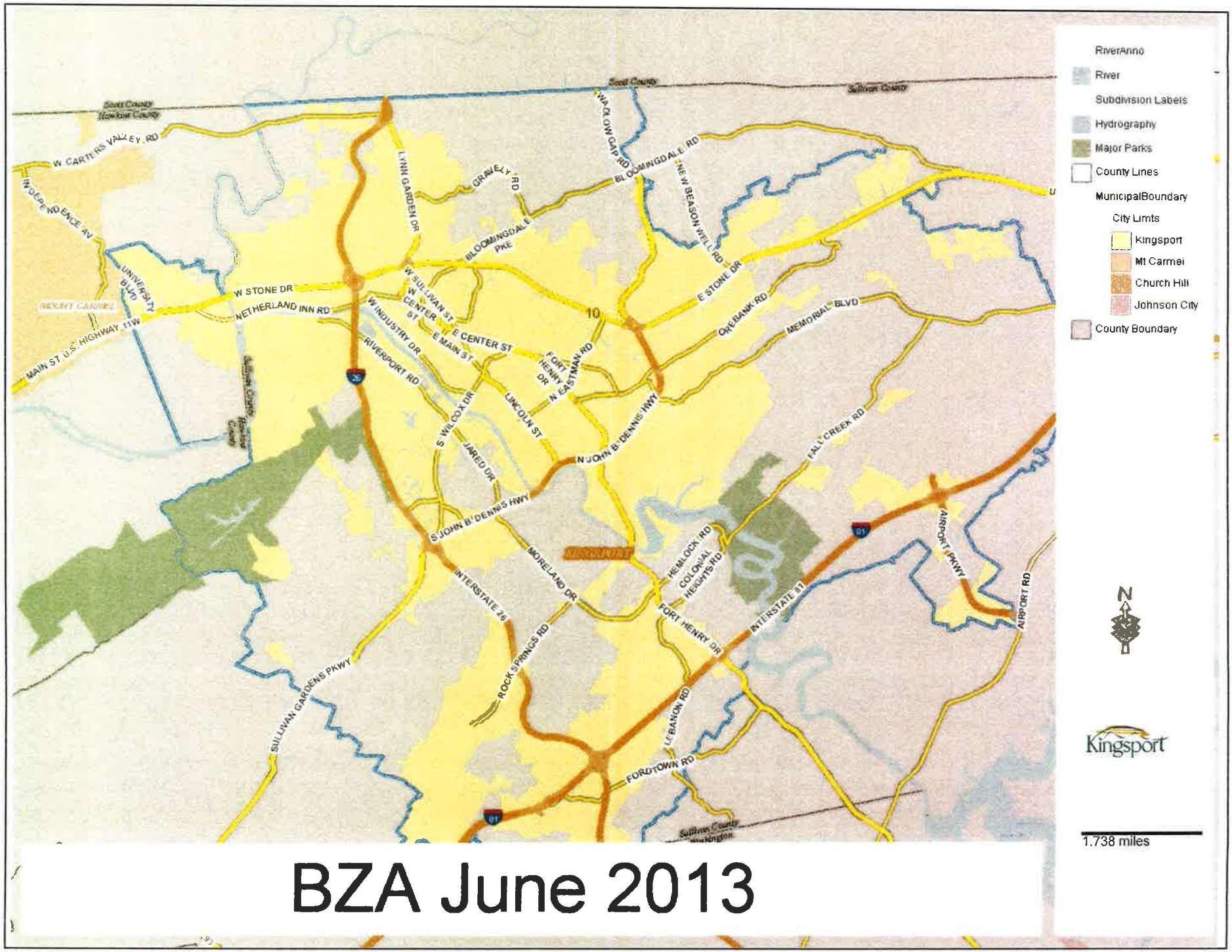
Engineer/Architect: Not Known

BUSINESS:

- Approval of the May 2, 2013 minutes.
- Stating for the public record, the next application deadline June 17, 2013 at noon, and meeting date (Thursday, July 4, 2013). Staff recommends that the meeting be moved to July 11, 2013 due to the holiday.
- Staff Reports

ADJUDICATION OF CASES:

ADJOURNMENT:



BZA June 2013

MEMORANDUM

TO: KINGSPORT BOARD OF ZONING APPEALS

FROM: Karen B. Combs, PRINCIPAL PLANNER

DATE: April 15, 2013

RE: 1645 East Stone Drive

The Board is asked to consider the following request:

Case: 13-701-00010 – Property located at 1645 East Stone Drive Control Map 46L, Group A, Parcel Lot 15.20 Requests a10 foot 6 inch variance to [Sect.114-1195(f) (1)(e)] in order to construct a restaurant at this location. The code requires a 30 foot rear yard setback.

APPLICATION
Board of Zoning Appeals

Kingsport

APPLICANT INFORMATION:			
Last Name HAYNES	First JOHN	M.I. E	Date 5/13/13
Street Address P.O. BOX 4054		Apartment/Unit # --	
City KINGSPORT	State TENNESSEE	ZIP 37665	
Phone (276) 225-0002	E-mail Address JOHNSJAS@centurylink.net		

PROPERTY INFORMATION:			
Tax Map Information	Tax map: 046L Group: A Parcel: Lot: 015.20		
Street Address 1645 EAST STONE DRIVE		Apartment/Unit # _	
Current Zone B-3	Variance Request/ Special Exception REAR YARD SETBACK VARIANCE		
Current Use BANK/OFFICE (VACANT)	Proposed Use FAST FOOD RESTAURANT		

REPRESENTATIVE INFORMATION: ROTHE GREEN ARCHITECTURE AND PLANNING

Last Name ROTHE AIA	First DAVE	M.I. E	Date 5/13/13
Street Address 123 LAMBERT RD		Apartment/Unit # —	
City JOHNSON CITY	State TENNESSEE	ZIP 37601	
Phone (423) 202-2641	E-mail Address ROTHEARP@AOL.COM		

REQUESTED ACTION:

- GRANT A REAR YARD VARIANCE OF 10 FEET 6 INCHES INTO THE 30 FOOT REAR YARD

114-195(f)(1)(e)

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: John E. Haynes Date: 5-13-13

Signed before me on this 13th day of MAY, 2013

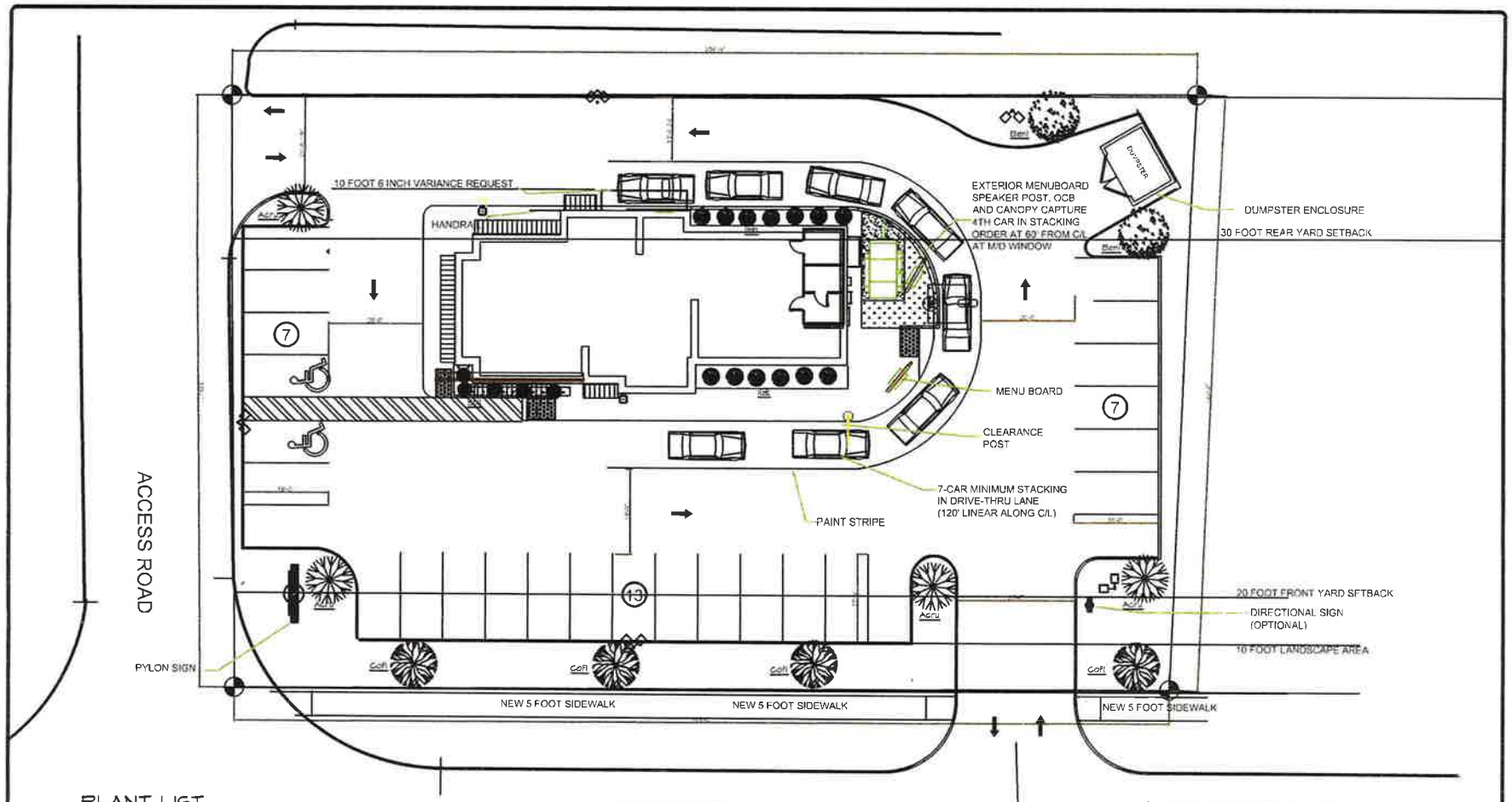
a notary public for the State of TENNESSEE

County of SULLIVAN

Notary Charles P. Finley, Jr.

My Commission Expires 5/2/16

CHARLES P. FINLEY JR. NOTARY PUBLIC AT LARGE WASHINGTON COUNTY, TENN.



PLANT LIST

QTY	MARK	SCIENTIFIC NAME	COMMON NAME	SIZE
4	Cofl	Cornus Florida	Flowering Dogwood	2" Cal. 8'-10'
4	Acru	Acer Rubrum	Red Maple	2" Cal. 8'-10'
2	Beni	Betula Nepla	River Birch	2" Cal. 8'-10'
6	Ilex	Ilex Attentuata	12 Foster Holly	1-4 gal 5'-6'
5	Sli	Seringa	French Hybrid Lilac	3 gal 36'-48'
7	Ilex	Ilex x Meserveae	Blue Angel Holly	3 gal 18'-24'

LANDSCAPING CALCULATIONS

TOTAL PROPERTY = 25193 SF
TOTAL PAVED AREA = 16122 SF
GRASSED AND MULCHED = 4315 SF
TOTAL INTERIOR LANDSCAPING= 941 SF
(5% OF TOTAL PAVED = 806 SF)
TOTAL FOUNDATION LANDSCAPING= 331 SF
(20% OF INTERIOR = 188 SF)
TOTAL GREEN SPACE AREA = 4227 SF
(10% OF TOTAL PROPERTY = 2519 SF)

B-3 ZONING W/ ADJACENT SAME

SITE PLAN

SCALE 1" = 10'
SHOWN WITH LANDSCAPING

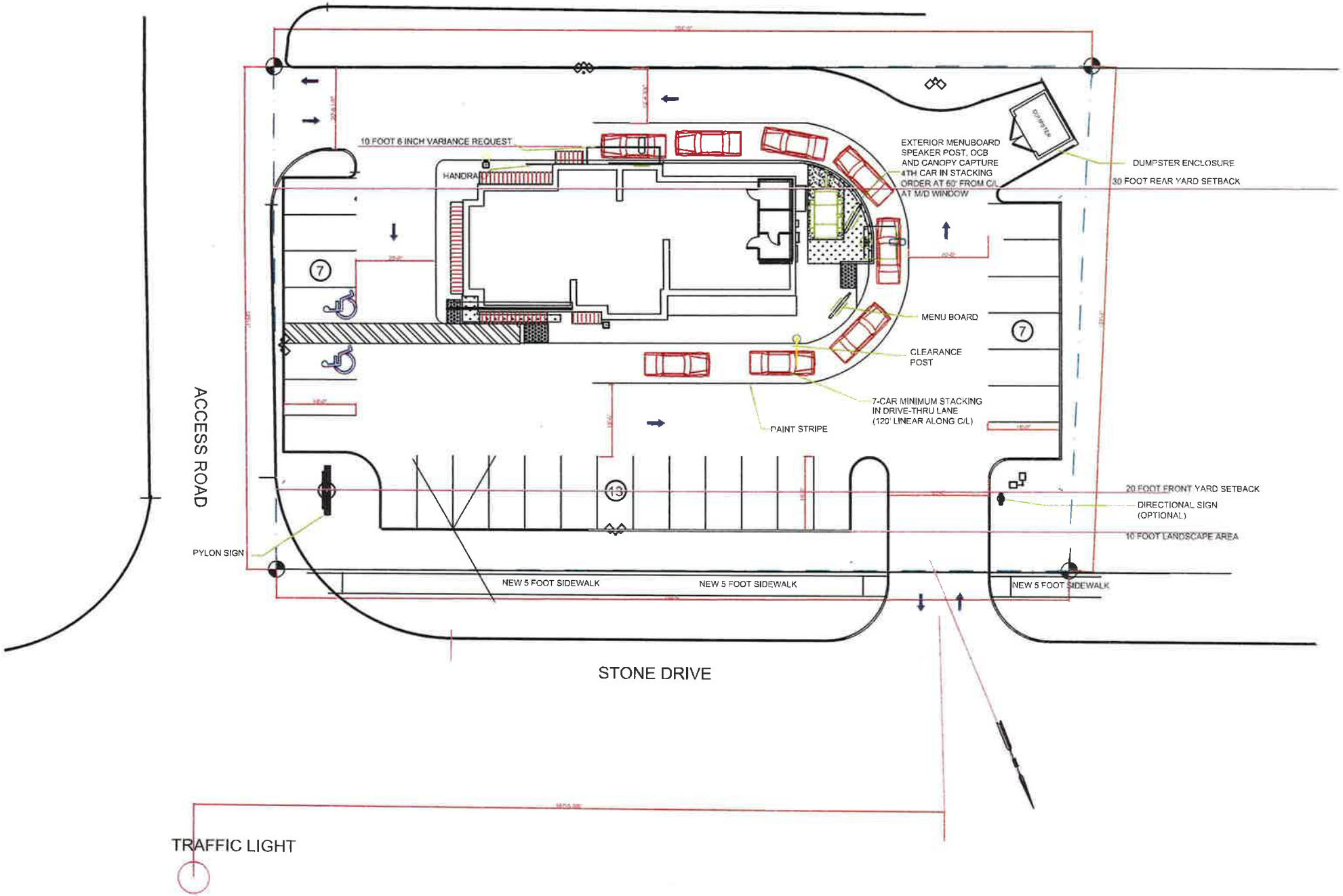
ROTHE GREEN ARCHITECTURE & LAND PLANNING

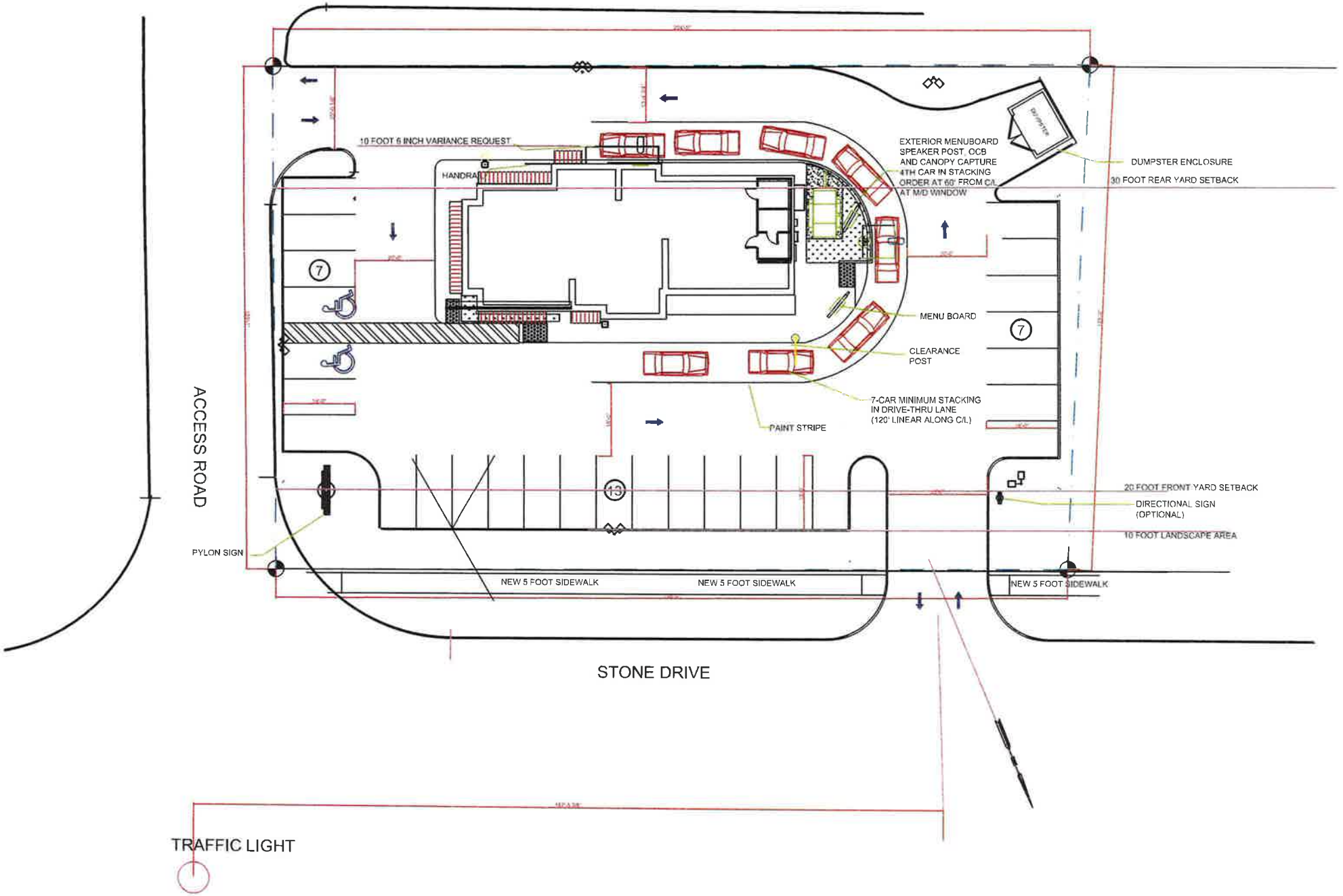
POPEYES
1645 EAST STONE DRIVE
KINGSPORT TENNESSEE

BASE SITE PLAN

A-2.1

1645 East Stone Dr


10 FOOT 6 INCH VARIANCE REQUEST
HANDRAIL
EXTERIOR MENUBOARD
SPEAKER POST, OCB
AND CANOPY CAPTURE
4TH CAR IN STACKING
ORDER AT 60' FROM C/L
AT M/D WINDOW
DUMPSTER ENCLOSURE
30 FOOT REAR YARD SETBACK
MENU BOARD
CLEARANCE
POST
7-CAR MINIMUM STACKING
IN DRIVE-THRU LANE
(120' LINEAR ALONG C/L)
PAINT STRIPE
ACCESS ROAD
20 FOOT FRONT YARD SETBACK
DIRECTIONAL SIGN
(OPTIONAL)
10 FOOT LANDSCAPE AREA
PYLON SIGN
NEW 5 FOOT SIDEWALK
NEW 5 FOOT SIDEWALK
NEW 5 FOOT SIDEWALK
STONE DRIVE
TRAFFIC LIGHT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ACCESS ROAD
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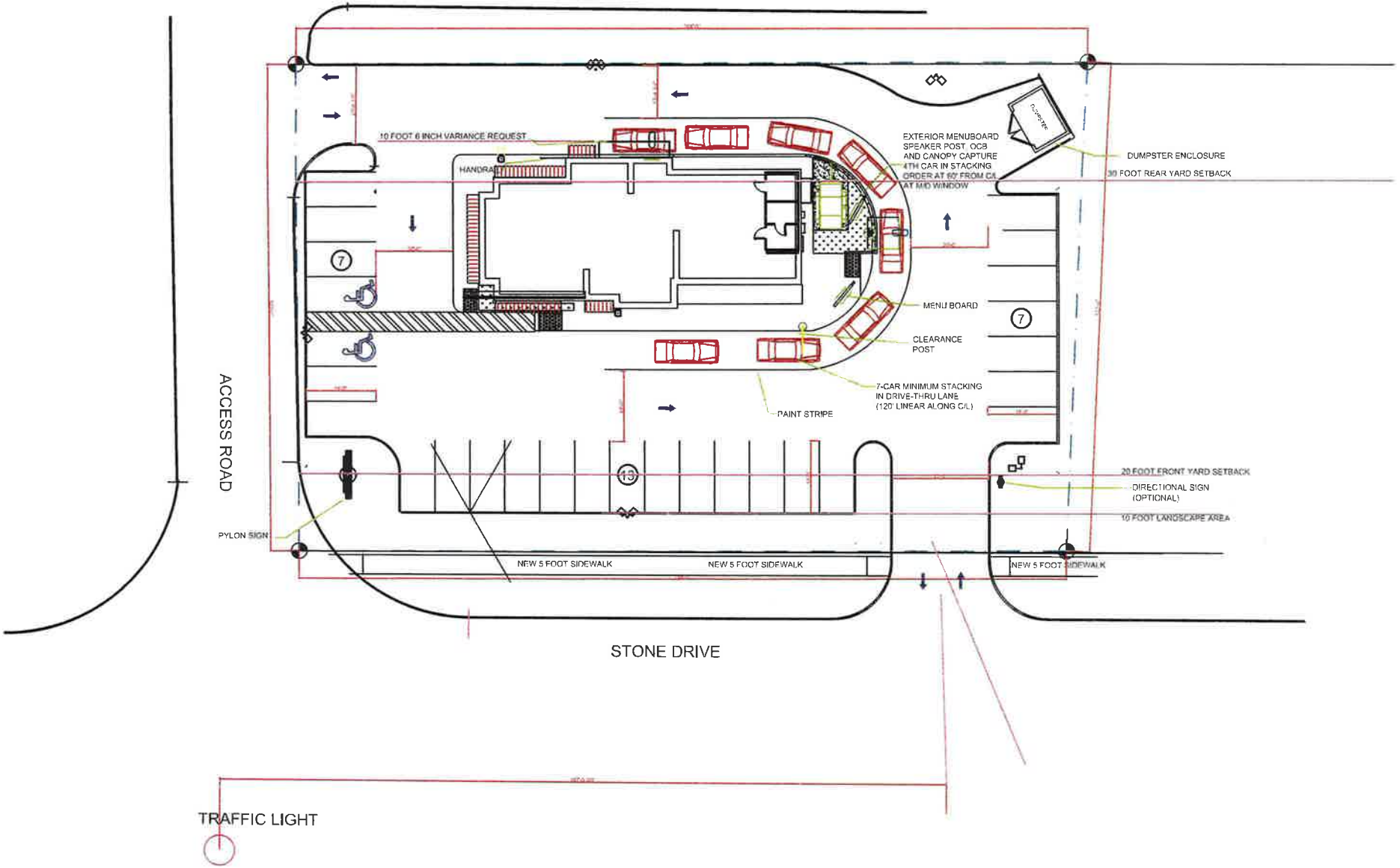
TRAFFIC LIGHT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7-CAR MINIMUM STACKING
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STONE DRIVE
TRAFFIC LIGHT

Variance Worksheet – Finding of Facts for:

Case: 13-701-00010 – Property located at 1645 East Stone Drive Control Map 46L, Group A, Parcel Lot 15.20 Requests a10 foot 6 inch variance to [Sect.114-1195(f) (1)(e)] in order to construct a restaurant at this location. The code requires a 30 foot rear yard setback.

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.

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
Diane Hills

MEMBERS ABSENT:
Bob Winstead Jr
Bill Sumner

STAFF PRESENT:
Karen Combs

Chairman Leonard, Vice Chairman Oglesby and Board Member Hills visited all sites on the agenda. During the drive to 311 Rock Valley Drive, Chairman Leonard commented on the beautiful landscaping at a house on Rock Springs Road. The other members also commented on the beautiful pieces of property located along Rock springs Road and how the area got its name; being all rock and wet weather springs. Chairman Leonard also commented on the old school building and asked what was there now. Staff informed him that it was now a very active community center. On the way back into town the Board discussed where to go eat since time was short. The Board decided to go to the new Burger King, 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:
Ed McCall
Eugene Yerke
Larry Bishop
Darryl Zeh
Timothy Warren
Mary Ann McCall
Jonathan Henderson
Karen Bailey

Chairman Leonard called the meeting to order.

Chairman Leonard then explained the meeting procedures.

Public Hearing:

Case: 13-701-00007 – Property located at 724 Brookhaven Drive Control Map 45B, Group C, Parcel 4.00 Requested a to [Sect.114-133 (1)(2)] in order to construct a garage in the front yard at this location. Mr. Jonathan Henderson was sworn in by Karen Combs. Mr. Henderson presented the case to the Board. In his presentation he stated that he wanted to construct a 30x40garage on his property. Mr. Henderson told the Board the due to topography the garage could not be placed in the rear of the house. The Board noted that the garage could be placed closer to the house and in the rear with some excavation. The slope was not too steep. No one spoke for this item. Mr. Ed McCall spoke against this item stating that the steel post garage in front of the property would line up with the entrance to his new subdivision. Mr. McCall has been redeveloping the neighborhood and stated that the type and size of the building would be out of character in the neighborhood. Mr. Henderson agreed that no other building of this type existed in the neighborhood. Mr. Larry Bishop spoke on this item stating that the City put the neighbors in a bad position and that they (the neighbors) did not want to take sides but that this home would be a starter home for Mr. Henderson and his family and would be eventually sold. Mr. McCall has been spending quite a bit of money to improve the neighborhood through redevelopment. Seeing no one else to speak Chairman Leonard moved to the next item.

Case: 13-701-00008 – Property located at 311 Rock Valley Drive Control Map 105P, Group B, Parcel 12.00 lot 12 Requested 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. Mr. Eugene Yerke was sworn in by Karen Combs. Mr. Yerke presented the case to the Board. Mr. Yerke told the Board that his property was recently annexed and that he wanted to add onto his existing accessory building. After much discussion the Board concluded that the current building was 1280 square feet and that the addition would be 1280 square feet putting this accessory building out of compliance by 1460 square feet. The request was changed to reflect the correct math. Mr. Yerke stated that the addition would match the existing building in all respects, material and structure. He stated that he had a little over one acre of property. The Board noted that the building was in a great location and would meet all other setback requirements. No one spoke for or against this item.

Case: 13-701-00009 – Property located at 633 Branch Street Control Map 46H, Group H, Parcel 7.00 Requested 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.
Mr. Darryl Zeh was sworn in by Karen Combs and presented the case to the Board. In his presentation he stated that his client would like to place a carport on their property, attaching it to the garage and the house. The carport would be a wooden structure and materials would match the house. The roof would have a 6 to 12 pitch from the garage to the house and then would be a hip roof at the house. The Board question where the property line was located and had concerns over water runoff. It was stated that the water could not be run onto the adjacent property. There were also concerns that through the design discussed that water would run towards the house and that the owner needed to be aware of this. The Board noted that the property seems to narrow towards the road and wanted to make the owner aware that if the carport was built it would especially tight and still wouldn't cover all vehicles. The owner acknowledged these facts. Ms. Karen Bailey spoke in favor of this item.

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

Other Business:
On a motion by Bill Sumner, the Board voted unanimously to approve the April 4, 2013 minutes as mailed.

The BZA stated for the public record the next application deadline on May15, 2013 at noon and that the next meeting date would be on June 6, 2013. Staff stated that they may not be able to attend the meeting and if any items came in could a called meeting be hold at a later date in the month of June. Chairman Leonard said that he may not be able to make the June 6 meeting as well due to a surgical procedure. All members agreed to have a called meeting if any items came in before the 15th of April.

Adjudication of Cases:

Case: 13-701-00007 – Property located at 724 Brookhaven Drive Control Map 45B, Group C, Parcel 4.00
During discussion of this item it was noted that the property did not have steep topography in the rear that limited the placement of the garage and that in fact the garage could be moved closer to the house thus negating any variance.

MOTION: made by Frank Oglesby; seconded by Diane Hills – To deny a variance request

VOTE: 4-0 to deny the request as presented because there was no hardship presented and the garage could be built closer to the house and need no variances.

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

After a long discussion concerning the exact amount of variance needed, the Board and petitioner agreed that a request of 1460 square feet was the correct calculation.

> **MOTION**: made by Bob Winstead; seconded by Diane Hills – To grant a variance of 1460 square feet to the accessory building size requirement of 1100 square feet.
>
> **VOTE**: 4-0 to grant the request as presented because the size of the lot could keep the 30 percent lot coverage requirement and no other variances were needed.

Case: 13-701-00009 – Property located at 633 Branch Street Control Map 46H, Group H, Parcel 7.00

A brief discussion was held on the size and roof line of the proposal. The Board questioned the fact that no plan was presented. Staff informed them that a plan would be required that addressed the Board's concerns.

> **MOTION**: made by Diane Hills; seconded by Bob Winstead– To grant a **variance of 7 feet** to the side yard setback requirement of 10 feet due to topographical issues with the following conditions: 1. A survey be supplied to staff establishing the exact lot line on the right side of the house. 2. Guttering be installed to keep the water from running onto the adjacent property. The motion also contains an increase on the lot coverage requirement which is not to exceed 35%.
>
> **VOTE**: 4-0 to grant the request as presented.

With no further business the meeting was adjourned.

_____ Karen B. Combs, Principal Planner