

**KINGSPORT BOARD OF ZONING APPEALS AGENDA**

**Thursday, July 11, 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: 13-701-00011 – Properties located at 1401, 1405 Prospect Street and 1308 Post Street Control Map 61C, Group D, Parcel 4.00, 5.00 and 3.00** Requests a special exception to [Sect.114-182(c)(4)] in order to use property for church purposes and special exception to [Sect.114-563(4)] and a landscaping variance to [Sect. 114.600(d)(4)(a)] in order to construct a parking lot in a Single Family Residential District. The properties are located in a R-1B, Single Family Residential District that requires Board approval.

***INTERESTED PARTIES:***

Owner: Waverly Road Presbyterian Church  
1415 Waverly Road  
Kingsport, TN 37664  
(423)247-5121  
wrpc@charter.net

Applicant /Agent: Richard Johnson  
4841 Preston Park Drive  
Kingsport, TN 37664  
(423) 967-2785  
rickjohnson@charter.net

Engineer/Architect: Not Known

**2. Case: 13-701-00013 – Property located at 1503-1505 Fort Henry Drive Control Map 61C, Group C, Parcel 3.00** Requests a 10 foot front yard variance to [Sect.114-195(f)(1)(c)] in order to construct an addition to the existing structure at this location. The code requires a 20 foot front yard setback.

***INTERESTED PARTIES:***

Owner: William Monday  
625 N. Central Street  
Knoxville, TN 37917

Applicant /Agent: John Moody  
333 Lynn Garden Drive  
Kingsport, TN 37660  
(423) 247-4181  
Jmoody5562@aol.com

Engineer/Architect: Not Known

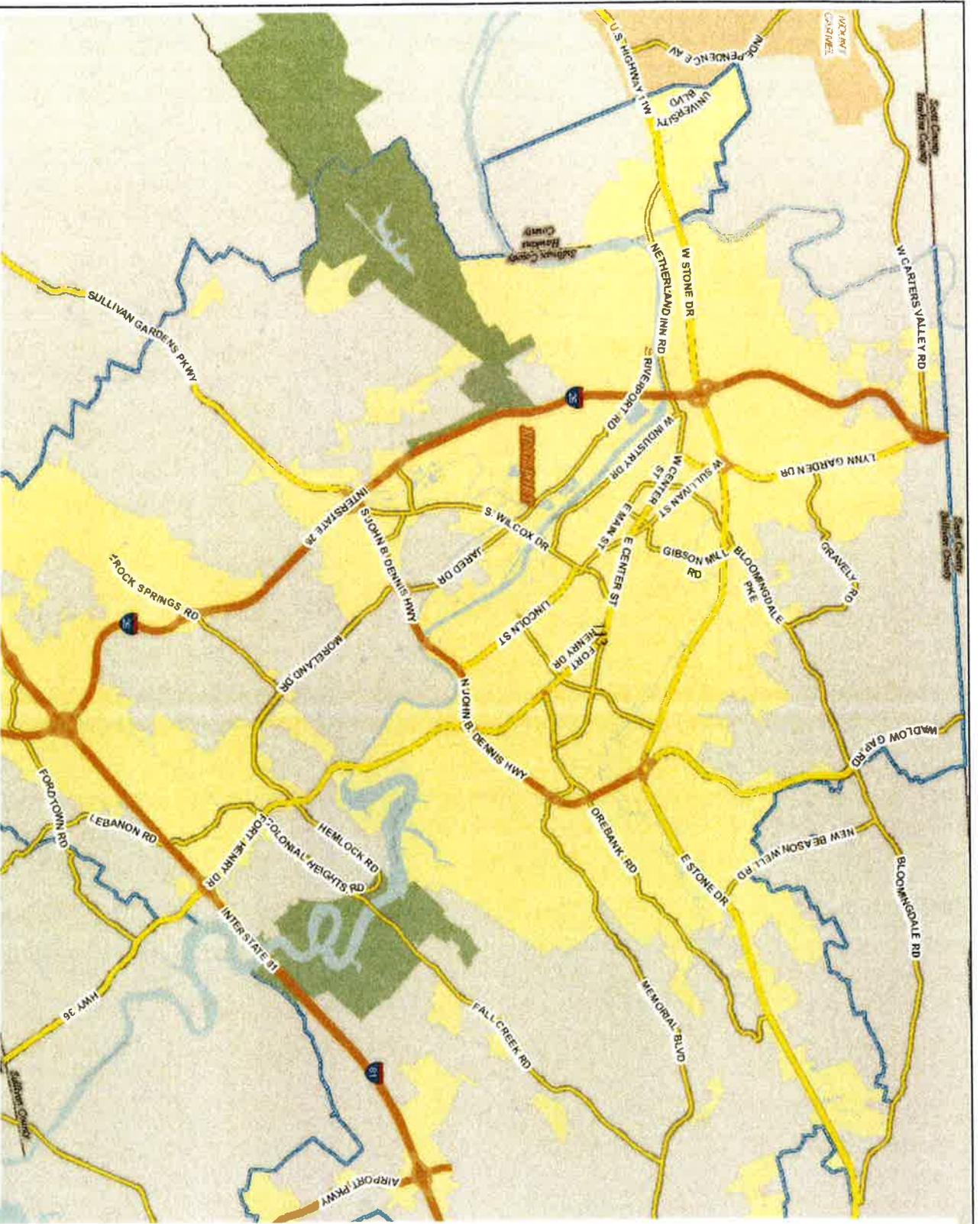
**BUSINESS:**

- Approval of the June 6, 2013 minutes.
- Stating for the public record, the next application deadline July 15, 2013 at noon, and meeting date (Thursday, August 1, 2013).
- Staff Reports
  - Receipt of Reasonable Accommodation to KHRA

**ADJUDICATION OF CASES:**

**ADJOURNMENT:**

# July 2013 BZA



- River
- River/anno
- Subdivision Labels
- Hydrography
- Major Parks
- County Lines
- Municipal Boundary
- City Limits
  - Kingsport
  - Mt Carmel
  - Church Hill
  - Johnson City
- County Boundary



1.510 miles

## MEMORANDUM

TO: KINGSFORT BOARD OF ZONING APPEALS  
FROM: Karen B. Combs, PRINCIPAL PLANNER  
DATE: June 17, 2013  
RE: 1401 & 1405 Prospect Street and 1308 Post Street

The Board is asked to consider the following request:

**Case: 13-701-00011 – Properties located at 1401, 1405 Prospect Street and 1308 Post Street Control Map 61C, Group D, Parcel 4.00, 5.00 and 3.00**

Requests a special exception to [Sect.114-182(c)(4)] in order to use property for church purposes and special exception to [Sect.114-563(4)] and a landscaping variance to [Sect. 114.600(d)(4)(a)] in order to construct a parking lot in a Single Family Residential District. The properties are located in a R-1B, Single Family Residential District that requires Board approval.

**APPLICATION**  
Board of Zoning Appeals



**APPLICANT INFORMATION:**

Last Name WAVERLY ROAD PRESBYTERIAN CHURCH M.I. \_\_\_\_\_ Date 6/14/13  
 Street Address 1415 WAVERLY ROAD Apartment/Unit # \_\_\_\_\_  
 City KINGSPORT State TN ZIP 37664-2520  
 Phone 423-247-5121 E-mail Address wrpc@charter.net  
 300, 400, 500

**PROPERTY INFORMATION:**

Tax Map Information Tax map: 61C Group: D Parcel: \_\_\_\_\_ Lot: \_\_\_\_\_  
 Street Address 1401, 1405 PROSPECT DRIVE ; 1308 POST ST. Apartment/Unit # \_\_\_\_\_  
 Current Zone R-2 R-1B Proposed Zone -  
 Current Use Vacant Residential Structures Proposed Use - Parking lot & Church Structure

**REPRESENTATIVE INFORMATION:**

Last Name JOHNSON First RICHARD M.I. L Date 6/14/13  
 Street Address 4841 PROSPECT PARK DRIVE Apartment/Unit # \_\_\_\_\_  
 City KINGSPORT State TN ZIP 37664  
 Phone 423-288-5411 (home) E-mail Address rickjohnson@charter.net  
423-967-2785 (cell)

**REQUESTED ACTION:**

- 1) VARIANCES FROM 30' setback requirement at rear of 1405 PROSPECT DR. & front of <sup>1308</sup> Post St
  - 2) APPROVAL TO CONDUCT CHURCH ACTIVITIES IN ~~R-2~~ ZONE @ 1401 PROSPECT DR.
  - 3) APPROVAL TO CONSTRUCT PARKING LOTS AT 1405 PROSPECT DR. & 1308 POST ST.
- ① Sect. 114.600(d)(4)(a) - ② - Sect. 114.182(c)(4) - ③ Sect. 114-563(4)

**DISCLAIMER AND SIGNATURE**

Zoned R-1B - Setback 54-8 <sup>FY-30</sup> R4-30

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: Barbara Lane, President Date: June 13, 2013  
Waverly Road Presbyterian Church, Inc.

Signed before me on this 13 day of JUNE, 2013,  
 a notary public for the State of TENNESSEE  
 County of SULLIVAN

Notary Sheila White Postell  
 My Commission Expires \_\_\_\_\_ My Commission Expires Jul. 24, 2013



2-Special Exception  
1-Variance Request

**CITY PLANNING OFFICE**

Received Date: 6-14-13

Application Fee Paid: \$50.00

Board of Zoning Appeals Meeting Date: July 11, 2013

Section of Applicable Code: Multiple

Building/Zoning Administrator Signature: [Signature]

Completed Site Plans Received:

Previous requests or file numbers:

Signature of  
City Planner:

Received By: Karen Combs

Date:

Date:



## *Waverly Road Presbyterian Church*

*1415 Waverly Road • Kingsport, Tennessee 37664*

*(423) 247-5121*

June 12, 2013

Board of Zoning Appeals  
City of Kingsport  
201 W. Market Street  
Kingsport, TN 37660

Dear Sir or Madam:

Waverly Road Presbyterian Church was established in 1945 and has been serving the Kingsport Community in many significant ministry areas for over 65 years. In addition to providing a place of worship and service for our 330 members, the church and its members provide a number of important services and ministries to our community. The church operates a Food Pantry weekly that distributes food free of charge to an average of 70 families per week. The Food Pantry receives annual donations from our members, from Food City, from several area churches and from the United Way of Greater Kingsport to assist in the funding for this ministry. We have operated this ministry since 1984.

The church provides one of two kitchen facilities for the community Meals on Wheels Program. Approximately 235 meals per day are prepared in these two church kitchens and picked up and distributed by community volunteers. The people to whom these meals are delivered depend on this service to bring them what may be their only hot meal each day.

Our church is a member of Family Promise of Greater Kingsport (formerly Interfaith Hospitality Network). As a member of this network, our church building is used one week every twelve weeks to provide temporary shelter and meals for families who find themselves in the midst of a crisis. Members of Waverly Road work closely with the guest families, prepare evening meals, stay overnight, and assist the guest families any way we can to help families with children under 18 on their quest to regain independence.

We provide meeting space to Boy Scout Troop 255 for their regular meetings and activities. We have provided these facilities for the use of Troop 255 for over 55 years.

The church provides facilities for child care for working parents. Waverly Road Child Care Center provides childcare to children between the ages of 6 weeks and 5 years old. The Child Care Center has a maximum enrollment of 45 children which allows specialized and direct attention.

The church members conduct an after school tutoring and fellowship program once per week during the school year for approximately 10 children, many of whom are from single parent homes.

As previously mentioned, Waverly Road Presbyterian Church was constructed over 65 years ago, and currently has only 19 parking spaces, including 2 handicapped access spaces on the church premises. There is no available space on the current church campus on which to construct additional parking spaces or buildings.

For many years, the church has depended on the generosity and willingness of business and property owners across Waverly Road to allow our members, community volunteers who use our facilities, and community citizens who wish to avail themselves of services and ministries we provide to park on their premises across Waverly Road.

During the past two years, ownership of this property has changed. Mafair United Methodist Church has acquired the building currently occupied by Mac's Medicine Mart, and Mac's Medicine Mart is planning to relocate its pharmacy business to the area currently used by Waverly Road for most of our parking needs. This space currently has a maximum parking capacity of 49 spaces. During construction of the new pharmacy that is being planned, none of these spaces will be available to us, and even after completion of construction, the number of available spaces will be reduced even if we were allowed to use them during our Sunday morning worship service.

We are unsure what the long term plans are for the current Mac's Medicine Mart location, but this building and its associated parking spaces now belong to Mafair United Methodist Church, who will be using both the building and parking spaces for their own ministries.

Without adequate parking, our church will be unable to maintain our current ministry program and indeed the viability of the church itself will be threatened. Studies have shown that adequate parking in close proximity to a church is one of the most important criteria to enable church viability and growth.

To address this important need, Waverly Road Presbyterian Church has purchased three properties, 1401 Prospect Drive, 1405 Prospect Drive, and 1308 Post Street. These properties provide the best and only option available to us to secure the number of parking spaces needed to replace those that we will be losing due to new business construction. We are requesting approval to conduct church activities, including supervised youth group meetings and recreation, in the property at 1401 Prospect Drive. We are also requesting approval to construct parking lots for church worship services, activities and ministries on the properties located at 1405 Prospect Drive and 1308 Post Street.

### **Comments Regarding Special Exception Use Variance Standards**

1. **The property would be uniquely restricted from a reasonable use for the purposes permitted in the zone district.**

All three properties are owned by Waverly Road Presbyterian Church. Activities and ministries conducted by the church, while not detrimental to the nature and character of a residentially zoned area, do not fall into the category of residential housing. Furthermore, the church has no need for construction of residential housing on any of these properties. The church does have an immediate need for more meeting space for church activities, which would be provided by the structure at 1401 Prospect Drive, and for parking spaces that can replace the ones that will be lost by construction of a new business across Waverly Road from the church.

2. **The plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions.**

There are no general neighborhood conditions that would suggest a need to alter the current R-2 zoning for the entire area. The need for the special exception is unique to the properties owned by Waverly Road Presbyterian Church and is precipitated by the need for additional meeting space and parking spaces to replace the ones being lost due to planned construction activities.

3. **The use would not alter the essential character of the area.**

The essential character of the area would remain unchanged. The exterior of the property at 1401 Prospect Drive has recently been improved by its former owner, including improvements to the driveway and drainage and removal of a rusting

chain link fence. Waverly Road Presbyterian Church intends to further improve the property by planting new shrubbery and landscaping for the property.

The former owner of the properties at 1401 Prospect Drive, 1405 Prospect Drive, and 1308 Post Street has installed attractive white privacy fencing at the boundaries between these lots and other properties in the community. The houses that were located at 1405 Prospect Drive and 1308 Post Street, which were in very poor condition not consistent with other houses in the community, have been removed by the prior owner. Waverly Road Presbyterian Church would install attractive well-landscaped parking lots on these two properties that would meet all City of Kingsport parking lot requirements.

Storm water runoff from all three properties would be collected at the rear corner where the three lots converge and can be drained to a storm sewer. The collection of storm water runoff from these three properties would improve the drainage for the other neighborhood property owners whose property is impacted by storm water runoff from these properties during heavy rains at the present time.

Both Mafair United Methodist Church and Waverly Road Presbyterian Church are located in the area of the properties in question. Both have parking facilities and church buildings located immediately across Prospect Drive and Waverly Road from the three properties for which a special exception is being requested. This further demonstrates that the requested special exception would not alter the essential character of the area.

#### **4. The problem is not self-created.**

The need for replacement parking spaces for Waverly Road Presbyterian Church has resulted from the acquisition of the current Mac's Medicine Mart Building by Mafair United Methodist Church, who now use the parking spaces associated with this facility during their worship services and likely will have other uses for this property after Mac's Medicine Mart relocates by the end of 2014.

The relocation of Mac's Medicine Mart is planned to take place on the property immediately across Waverly Road from Waverly Road Presbyterian Church. This property has provided 49 parking spaces that have been used by our church members for many years with the permission of prior owners of the property. Construction activities on this property will eliminate the availability of any of these

parking spaces for 12-18 months, and following construction completion the number of available spaces will be reduced.

Waverly Road Presbyterian Church did not have any involvement with these events which have created this need for our church.

**5. The other general requirements are met.**

To our knowledge, there are no other applicable general requirements that are not met by this request.

**Variance Requests**

In addition to the Special Exception request, Waverly Road Presbyterian Church is also requesting variances from the 30-foot setback requirement at the rear of 1405 Prospect Drive and the 30-foot setback requirement at the front of 1308 Post Street. These setback variances are needed in order to obtain the number of parking spaces needed to replace the spaces which will no longer be available for church parking. We are requesting that these setback requirements be reduced to 10 feet.

A privacy fence has been installed at the rear of 1405 Prospect Drive, which effectively shields the property from view by neighboring properties on Post Street. Thus the width of this setback change should not be visible from neighboring properties.

An entrance to and exit from the parking lot located at 1308 Post Street would be constructed from Post Street. We believe that construction of this entrance/exit would be safer than an entrance/exit on Waverly Road due to lower traffic on this short section of Post Street and the relatively flat grade that could be achieved by an entrance/exit at this point. No other structures would be built on this space other than the parking lot itself and its associated landscaping. The aforementioned privacy fencing has been installed between 1308 Post Street and the neighboring property by the prior owner to match the line of the front of other homes on this side of Post Street.

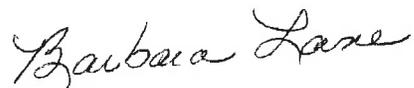
Traffic load on both Prospect Drive and Post Street should not be negatively impacted by the proposed construction of these parking lots. Our church members arrive by Center Street and Waverly Road, and would exit using these same streets.

The proposed parking lot entrances are located at the ends of Prospect Drive and Post Street very close to their intersections with Waverly Road. We do not anticipate any increase in traffic load on Prospect Drive or Post Street.

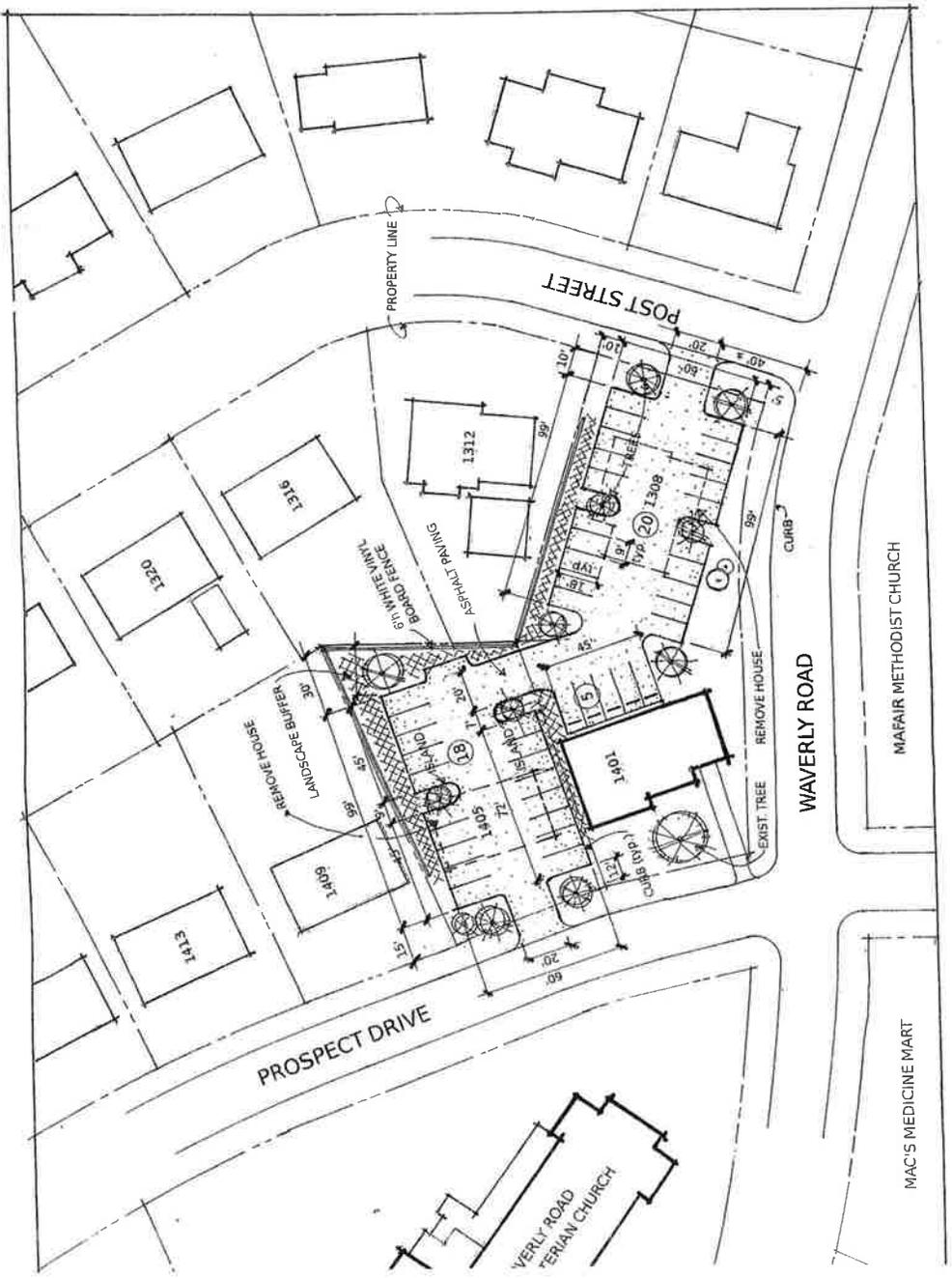
It is likely that the construction of these parking lots would actually reduce the traffic congestion on Prospect Drive on Friday mornings when our Food Pantry distributes food to clients from the community. This food distribution takes place in our Fellowship Hall whose entrance is on the lower level of the church on Prospect Drive. Since there are so few parking spaces on that side of our church, most clients park on the street, resulting in traffic congestion. Availability of off-street parking in the two proposed parking lots would help alleviate this traffic congestion.

Thank you for considering our request.

Very truly yours,

A handwritten signature in cursive script that reads "Barbara Lane".

Barbara Lane,  
Clerk of Session/Corporation President  
Waverly Road Presbyterian Church



(B)

PARKING LOT STUDY for WAVERLY ROAD PRESBYTERIAN CHURCH  
5 JUNE 2013  
43 TOTAL SPACES

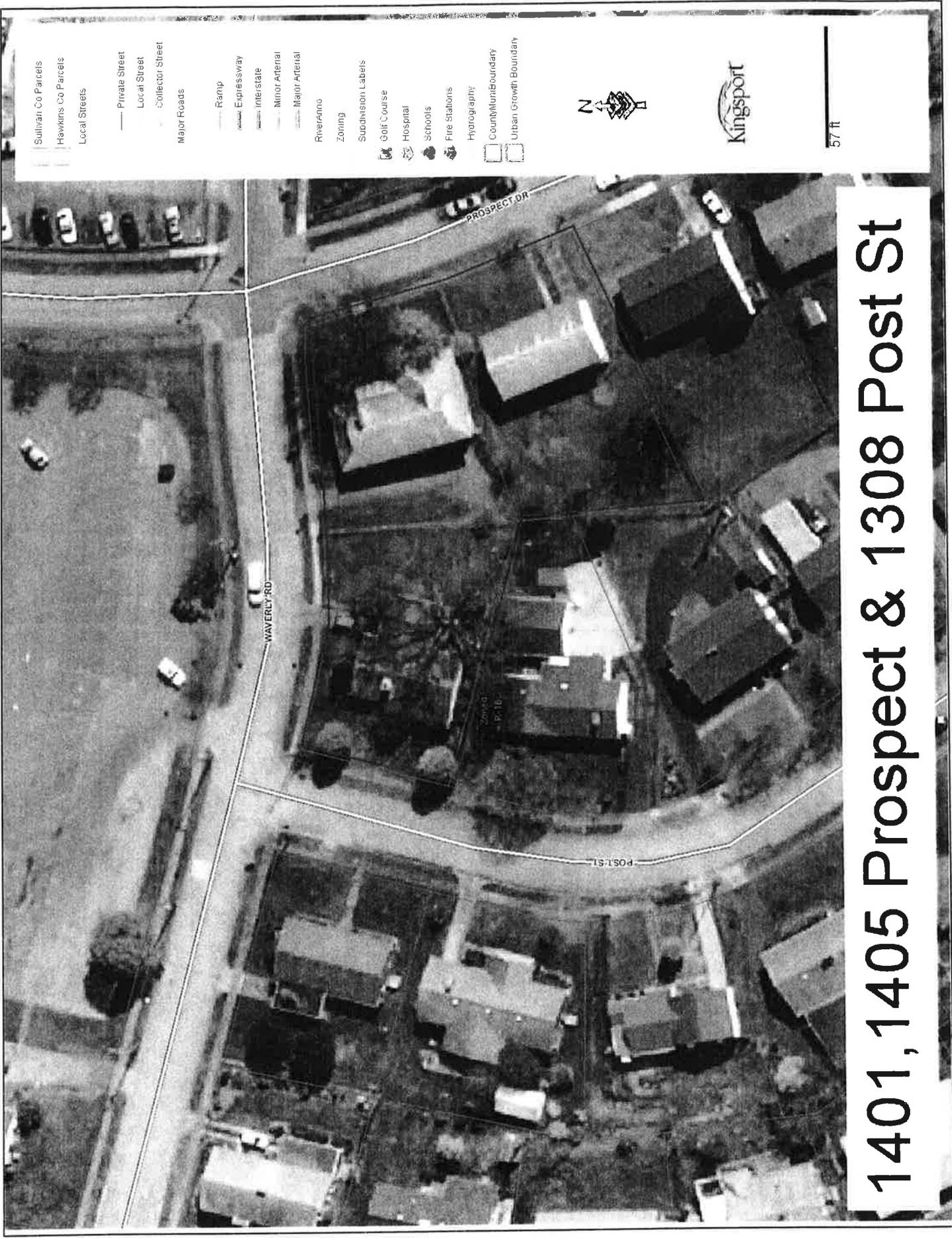
**SITE PLAN**  
1"=50'

MAC'S MEDICINE MART

MAFAIR METHODIST CHURCH

WAVERLY ROAD  
PRESBYTERIAN CHURCH

# 1401, 1405 Prospect & 1308 Post St



**Special Exception Worksheet  
for**

**Case: 13-701-00011 – Properties located at 1401, 1405 Prospect Street and 1308 Post Street  
Control Map 61C, Group D, Parcel 4.00, 5.00 and 3.00**

***Standards for Special Exception Use Variances***

A Special Exception allows a use of land that is not permitted in the district in which the property is placed. Because this type of relief is so significant, granting of a special exception requires the existence of an unnecessary hardship, which is demonstrated by showing that:

***1. The property would be uniquely restricted from a reasonable use for the purposes permitted in that zone district.***

The principle behind a special exception is that it is necessary because the property is so uniquely restrictive that it cannot be reasonably used as it is zoned. Therefore, a thorough review is needed to first establish that none of the uses currently permitted in the district are appropriate for the property. While it is true that financial considerations are not generally the subject of review for variances, this standard may be satisfied by a finding that the property would essentially be valueless if an attempt were made to develop it as zoned. Part of this review will require determining if the property can be reasonably used for any of the uses permitted in the district. This does not mean that the use has to be the most profitable, or the use proposed by the applicant. It only requires a finding that there is one or more uses permitted in the district which could reasonably be placed on the property.

***2. The plight is due to unique circumstances peculiar to the property and not to general neighborhood conditions.***

This standard is generally similar to that for variances, particularly with respect to the necessity for having unique circumstances that are specific to a property and not related to the applicant's personal situation. The other important aspect is the requirement that the situation on the property not be common in the area. If conditions are common to the area, a special exception would not be appropriate because the area should be reviewed by the planning commission to determine if the zoning for the entire area should be changed. But that is the function of the planning commission and not that of the zoning board of appeals.

***3. The use would not alter the essential character of the area.***

Probably the most difficult aspect of this standard is determining what the essential character of an area is, and if the special exception is approved, what effect might the special exception have on that character.

***What is the “area” affected by a use variance?***

The “area” which may be affected by a special exception will depend on the nature of the request and the size of the property that is the subject of the requested special exception. For example, a small residential lot requesting a use variance for an office will affect a smaller area than a request on a large site for an intensive commercial use. One of the easiest ways to determine the essential character of an area is through a site visit to examine the area and see the various land uses that exist. In some cases the character may be evidenced simply by the dominance of one land use over any others. In others it may not be as obvious. For example, some areas may have a wide variety of uses, occupying different sizes of lots. Viewing the area may not directly lead to a conclusion as to the character of the area and may require some degree of judgment.

Another way to determine the character of an area and the possible effect of a special exception is to examine the community’s master plan. The plan may clearly indicate the existing or intended character of an area. The BZA may also seek the advice of the planning commission to help interpret the master plan, or to provide guidance when there is no plan or if it is out-of-date. Any opinion of the commission is simply advice, and should be considered only as input to the BZA’s deliberations. After determining the essential character, the next step is to evaluate whether or not approval of the special exception would alter that character. This decision might hinge on whether or not the proposed use variance may tip the scales in one direction or another. If an area appears to be in transition from a residential to commercial area, for example, a commercial use special exception may be appropriate. However, if the specific character of the area is unclear, a special exception may not be appropriate since it could tend to establish a specific character. This type of decision will require the exercise of discretion by members of the BZA, as assisted by staff and consultants.

***4. The problem is not self-created.***

This standard is essentially the same as that for variances. If the applicant created a particular situation that made a property essentially unusable as zoned, that applicant would not be entitled to relief by approval of a special exception. For example, if a property owner subdivides a large, residentially zoned property, leaving a corner lot as an isolated parcel, an argument that the parcel should only be used for nonresidential purposes could fail because the parcel was created by the direct action of the applicant.

***5. The other general requirements are met.***

As in the case of variances, an applicant must show that the special exception meets the state law requirements, that the spirit of the ordinance shall be observed, public safety secured and substantial justice done.

**\*\*\* FYI Use Variances and Rezoning - The Paragon Rule**

Understanding use variances was made more important by a 1996 decision of the Michigan Supreme Court, *Paragon Properties Company v City of Novi*, (452 Mich 568, 550 NW2d 772 (1996)) in which the court required a "final decision" of the municipality. Under the *Paragon* decision, it will not be deemed that a final decision has been rendered by the municipality until the property owner seeks a use variance from the Board of Zoning Appeals. The *Paragon* decision, therefore, requires submission of a use variance application following a rezoning request denial by the legislative body before any legal disputes may be brought before the court.

Variance Worksheet – Finding of Facts for:

**Case: 13-701-00011 – Properties located at 1401, 1405 Prospect Street and 1308 Post Street Control Map 61C, Group D, Parcel 4.00, 5.00 and 3.00** Requests a special exception to [Sect.114-182(c)(4)] in order to use property for church purposes and special exception to [Sect.114-563(4)] and a landscaping variance to [Sect. 114.600(d)(4)(a)] in order to construct a parking lot in a Single Family Residential District. The properties are located in a R-1B, Single Family Residential District that requires Board approval.

*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: June 17, 2013  
RE: 1503-1505 Fort Henry Drive

The Board is asked to consider the following request:

**Case: 13-701-00013 – Property located at 1503-1505 Fort Henry Drive Control Map 61C, Group C, Parcel 3.00** Requests a 10 foot front yard variance to [Sect.114-195(f)(1)(c)] in order to construct an addition to the existing structure at this location. The code requires a 20 foot front yard setback.

**APPLICATION**  
Board of Zoning Appeals



**APPLICANT INFORMATION:**

Last Name MONDAY First William M.I. E. Date \_\_\_\_\_  
Street Address 625 N. Central St. Apartment/Unit # \_\_\_\_\_  
City KNOXVILLE State TN ZIP 37917  
Phone \_\_\_\_\_ E-mail Address \_\_\_\_\_

**PROPERTY INFORMATION:**

Tax Map Information Tax map: 0610 Group: C Parcel: 003.0 Lot: \_\_\_\_\_  
Street Address 1501-1507 - Records Show 1503505 Apartment/Unit # \_\_\_\_\_  
Current Zone B-3 Proposed Zone —  
Current Use Commercial Proposed Use Same

**REPRESENTATIVE INFORMATION:**

Last Name MOODY First John M.I. A. Date \_\_\_\_\_  
Street Address 333 Lynn Garden Dr Apartment/Unit # \_\_\_\_\_  
City Kingsport State TN ZIP 37660  
Phone 423-247-4181 E-mail Address jmoody5562@aol.com

**REQUESTED ACTION:**

SEE Attached Letter

Zoned B-3 - FY setback 20ft required

**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 A. Moody

Date: 6/13/13

Signed before me on this 13<sup>th</sup> day of June, 2013

a notary public for the State of Tennessee

County of Sullivan

Notary Colette P. George

My Commission Expires 11/27/16



**CITY PLANNING OFFICE**

Received Date: 6-17-13 @ 11:45 AM

Received By: Karen Combs

Application Fee Paid: \$50 = Check # 4669

Board of Zoning Appeals Meeting Date: 7-11-13

Section of Applicable Code: Sect. 114-195(F)(1)(c)

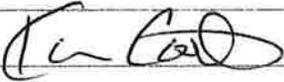
Building/Zoning Administrator Signature:

Date:

Completed Site Plans Received:

Previous requests or file numbers:

Signature of  
City Planner:



Date: 6-17-13

To The Board of Zoning Appeals

The Owner, Mr. William E. Monday, III, is requesting a 10 foot variance for the property located at 1501-1507 Fort Henry Drive. Mr. Monday is requesting this variance after realizing that the free standing 380sf building on the property is a non-compliant grandfathered structure. Monday would like to relocate the small 380sf building to the end of the existing building bringing the lot and structures more compliant with minimum request. This will also coincide with the proposed redevelopment of this busy corner.

By relocating the existing building, it will allow the Owner to clean up and improve the aesthetics of one of Kingsport's busiest intersections. In our opinion it will also allow for realignment of the highway entrance for visibility and public safety for the redevelopment along with improved parking for Monday's tenants. It will increase line of sight to the left down Center Street and will not obstruct any views to the right for the right turn out only from the parking lot. In our opinion this variance will solve a safety issue on this corner while increasing the visibility of Monday's building.

We appreciate your consideration of this variance request.

# 1503-1505 Fort Henry Drive



- Sullivan Dr Parcels
- Hawkins Dr Parcels
- Local Streets

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

- Ramp
- Expressway
- Inter State
- Minor arterial
- Major arterial

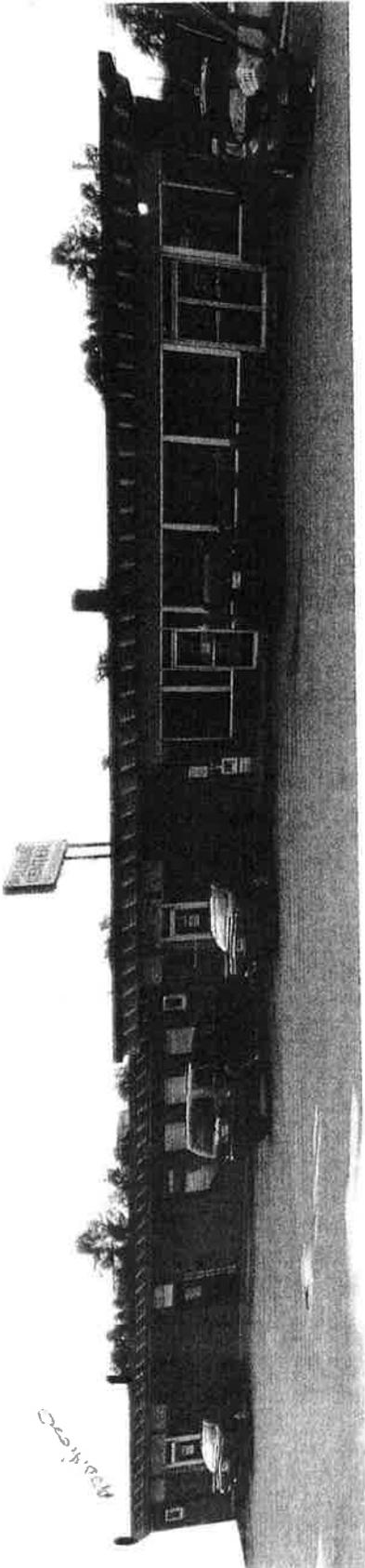
Shirburne

- Zoning
- Sunderson Canals
- Golf Course
- Hospital
- Schools
- Fire Stations

- Hydrography
- County/Parish Boundary
- Urban Growth Boundary



149 ft





Variance Worksheet – Finding of Facts for:

**Case: 13-701-00013 – Property located at 1503-1505 Fort Henry Drive Control Map 61C, Group C, Parcel 3.00** Requests a 10 foot front yard variance to [Sect.114-195(f)(1)(c)] in order to construct an addition to the existing structure at this location. The code requires a 20 foot front 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.**



## CITY OF KINGSPORT, TENNESSEE

### Letter to Grant a Request for a Reasonable Accommodation

Date of Issue: 6/3/2013

Greater Kingsport Alliance Development  
Attn: Doris Ladd  
P.O. Box 44  
Kingsport, TN 37662

RE: Property located at 129 Tennessee Street

Dear Ms. Ladd:

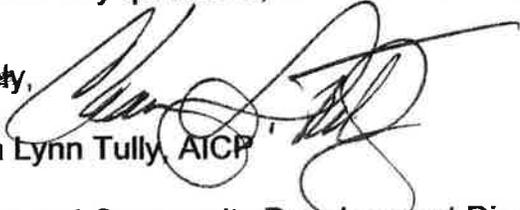
You submitted a request for a reasonable accommodation to this office on June 3, 2013. A copy of your request is attached for your reference.

This office APPROVES your request under the accommodation policy to construct a structure to be used as a dwelling for persons with disabilities with a front yard setback of 13 feet based on the larger house footprint required by installation of ADA width hallways and bathrooms. This should allow accommodation of a wide range of persons with disabilities to live in a home commensurate with the character of the area. The required front yard setback is 20 feet.

The next step is to telephone the Kingsport Building Division for information regarding the approval of the rest of the site plan and building plans prior to obtaining a building permit (423-229-9393). They are located in the Development Services Building at 201 West Market Street at its intersection with Shelby Street on the first floor below our office. Please include this letter in your documents presented to the Building Division.

If you have any questions, call me at 423-229-9485.

Sincerely,

  
Chanya Lynn Tully, AICP

Planning and Community Development Director  
City of Kingsport



## Application Form to Request a Reasonable Accommodation

A reasonable accommodation is any modification of a zoning rule, policy, or practice if that modification is reasonable and necessary in order to give a person with disabilities an equal opportunity to use and enjoy a dwelling in the City of Kingsport.

If you believe that you need a reasonable accommodation to live in a dwelling, or so that persons with disabilities may live in a dwelling that you own or operate, please complete this application form and return it to the Zoning Administration at 201 West Market Street, Kingsport, TN 37660. Please attach additional pages if necessary. If you have questions or need assistance, please call the Zoning Administration at 423-229-9393.

Name and Contact Information of Applicant:

Name: Greater Kingsport Alliance Development (GKAD)  
Attn: Doris Ladd

Address: P.O. Box 44  
Kingsport, TN 37662

Telephone: 423-392-2569

Alternate Telephone: 423-392-2512

Are the people who will live at the dwelling persons with disabilities?  Yes.  No.

If you answered yes, you must submit the verification of disability status form below.

Please describe the accommodation that you need. What rules or policies would you like the City to waive for the dwelling?

The request is to allow a 7 foot variance in the 20 foot setback requirement for the front of the house on Tennessee St.

Why do you need the accommodation? In other words, why is the accommodation necessary in order for persons with disabilities to live in the dwelling?

Larger bathrooms, hallways and bedrooms are needed to accommodate ADA. This will provide the greatest opportunity for the individuals to live as independently as possible

A person with disabilities is anyone who has a physical or mental impairment that limits a major life activity, such as caring for oneself, walking, seeing, hearing, speaking, breathing, learning, or working. Anyone who has a history of an impairment that limits a major life activity also is a person with disabilities.

Is the dwelling licensed or certified by the State of Tennessee? If so, please identify the type of license or certificate and attach a copy of it. No.

Please provide the following information if you are requesting an accommodation in order to house more than 4 unrelated people in a single-family dwelling: Not Applicable

Number of residents who will live in the dwelling:

Number of staff who will serve the dwelling:

Anticipated number of vehicles used by residents and staff:

Square footage of the dwelling:

Number of bedrooms in the dwelling:

For each bedroom, please state the square footage of the room and the number and size of each window:

Bedroom #1: \_\_\_\_\_

Bedroom #2: \_\_\_\_\_

Bedroom #3: \_\_\_\_\_

Bedroom #4: \_\_\_\_\_

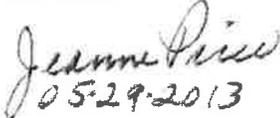
[Please attach additional sheets if needed.]

Is the number of residents necessary in order for the dwelling to be financially viable? If so, please explain why.

Is the number of residents necessary for the dwelling to be therapeutically beneficial for the residents? If so, please explain why.

I affirm under penalty of perjury that the information provided in this application is true and accurate:

Frontier Health (lessee)  
2001 Stonebook Dr.  
Kingsport, TN 37660

Signature:   
Date: 05-29-2013

GKAD (owner)  
P.O. Box 44  
Kingsport, TN 37662

Signature:   
Date: 05-29-2013

**Verification of Disability Status**

**[This verification form must be completed by someone  
who knows about the individuals' disabilities.]**

**Definitions:**

Federal law provides that "persons with disabilities" are persons who: (1) have any "physical or mental impairment" that substantially limits one or more "major life activities"; (2) have a record of having the impairment; or (3) are regarded by others as having the impairment.

A "major life activity" is any task central to most people's daily lives, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

A "physical or mental impairment" includes, but is not limited to, orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addiction, and alcoholism.

**Verification:**

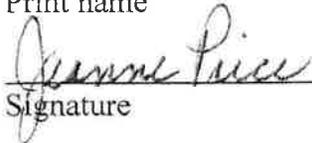
To the best of my knowledge, information, and belief, the person(s) who occupy (or who will occupy) the dwelling that is subject to the above request for a reasonable accommodation do meet the definition of "persons with disabilities." I am in a position to know about the persons' disabilities because I am a Licensed Clinical Social Worker (LCSW) and am trained in the behavioral health field

[NOTE: Please do NOT reveal the nature or severity of the persons' disabilities.]

I affirm under penalty of perjury that the information provided in this application is true and accurate:

Jeanne Price

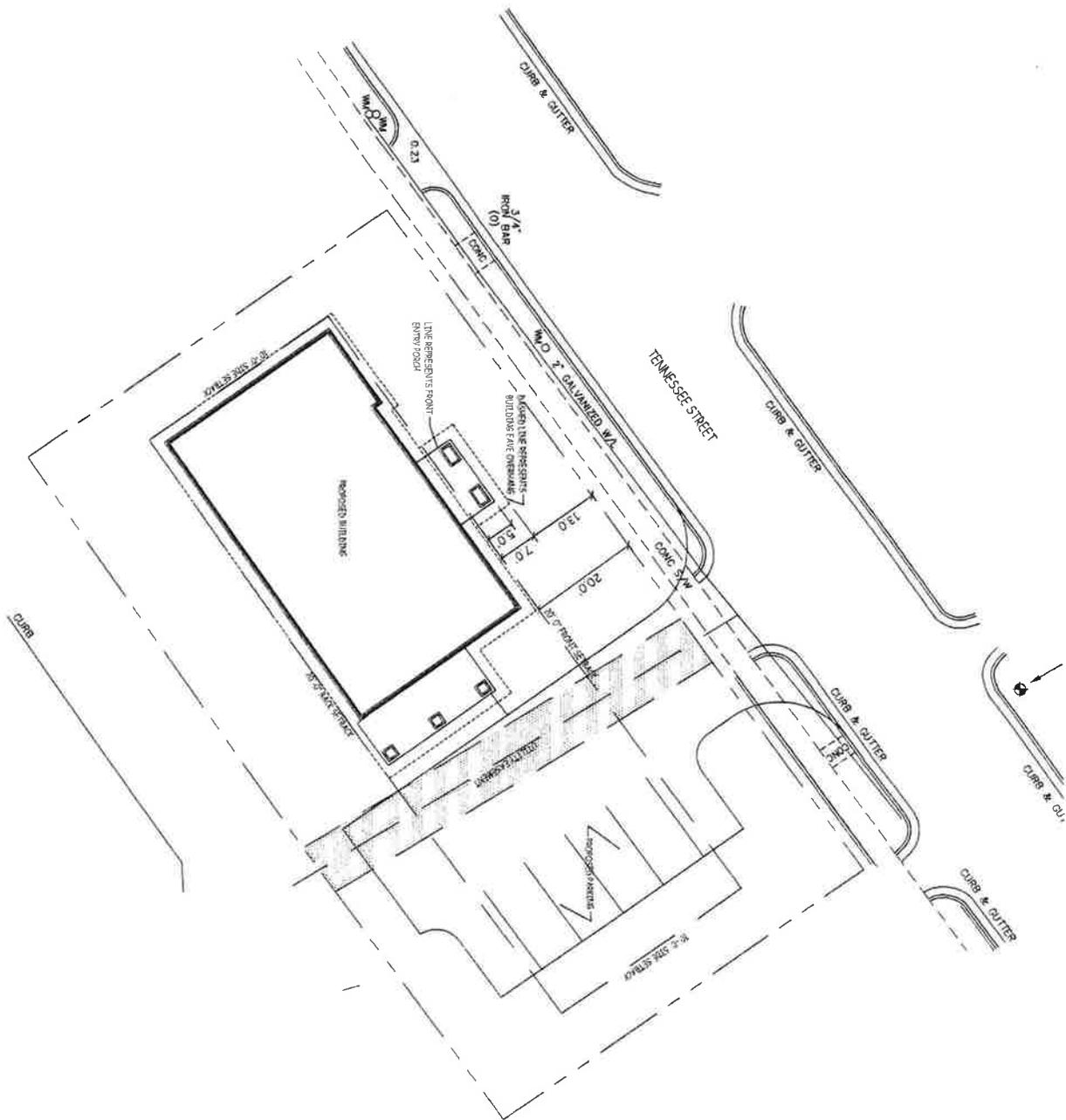
Print name

  
Signature

05-29-2013  
Date

Address: Frontier Health  
2001 Stonebrook Place  
Kingsport, TN 37660

Telephone: 423-306-2149



DRAWING TITLE:

# PROPOSED SITE PLAN

PROJECT:

HOUSING TRUST FUND GROUP HOMES - KHRA

ADDRESS:

TENNESSEE STREET  
KINGSPORT TN

COMMIT. NO.:

120457

DATE:

5-30-13

DRAWING NO.

1

100 N. WERSGARDER RD.  
KINGSPORT, TN 37652  
27874  
PHONE 423.334.1000  
FAX 423.334.1211  
www.michaelbradyinc.com

# MBI

michael brady inc.



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

**Thursday June 6, 2013**

**10:30 a.m.**

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

**MEMBERS PRESENT:**

**Bill Sumner**

**Diane Hills**

**MEMBERS ABSENT**

**STAFF PRESENT:**

**Karen Combs**

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Board Members Hills and Sumner visited the site on the agenda. During the drive to 1645 East Stone Drive, we discussed how we could drive by Eastman in honor of Vice Chair Oglesby. Diane Hills decided to go another route since she was driving. The members toured the property. The Board members decided to go to the Cheddars for lunch, no items were discussed. The Board arrived at the Development Services building for the scheduled meeting at noon where Chairman Leonard was waiting in the conference room.

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

## MINUTES KINGSPORT BOARD OF ZONING APPEALS (BZA)

Thursday June 6, 2013

NOON

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

MEMBERS PRESENT:  
Leland Leonard, Chairman  
Bill Sumner  
Diane Hills

MEMBERS ABSENT:  
Frank Oglesby, Vice Chairman  
Bob Winstead Jr

STAFF PRESENT:  
Karen Combs

VISITORS:  
Uwe Rothe

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Chairman Leonard called the meeting to order.

Chairman Leonard then explained the meeting procedures.

### Public Hearing:

**Case: 13-701-00010 – Property located at 1645 East Stone Drive Control Map 46L, Group A, Parcel Lot 15.20** Requested a 10 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. Mr. Uwe Rothe was sworn in by Karen Combs. Mr. Rothe stated that he was the architect for the project and presented the case to the Board. In his presentation he stated that Popeye's restaurant wanted to redevelop the site. He stated that it was impossible to remodel the existing building and it would have to be removed. He explained that several options were explored with the request for the rear yard setback being the least relief needed to move the project forward. Board member Bill Sumner asked if the new structure could be moved forward towards Stone Drive. Mr. Rothe stated that a variance would have been requested as well and that his client felt that the variance in the rear of the property would be less noticeable. No one spoke for or against this item.

### Other Business:

On a motion by Diane Hills, the Board voted unanimously to approve the April 4, 2013 minutes as amended.

The BZA stated for the public record the next application deadline on June 17, 2013 at noon. Since the next scheduled meeting (July 4) fell on a holiday; the Board requested that the meeting date moved to July 11, 2013 only if staff received items prior to noon on June 17, 2013. If no items are received by noon on June 17, 2013, the meeting would be cancelled and the Board would next meet on their scheduled meeting date on August 1, 2013.

Staff had no reports.

### Adjudication of Cases:

**Case: 13-701-00010 – Property located at 1645 East Stone Drive Control Map 46L, Group A, Parcel Lot 15.20**

Requested a 10 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.

**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. *This lot is a narrow lot with an extremely steep slope in the rear of the property. The City of Kingsport has new sidewalk requirement placed in the ordinance outside of zoning and the Board cannot grant a variance on this requirement. Therefore limited the Board's ability to grant relief to this applicant.*

2. The manner in which the strict application of this chapter would deprive the applicant of a reasonable use of the land.  
*With the shape of the lot and new ordinances in which the Board cannot grant relief, this variance is required for the construction of the structure.*

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 slope and sidewalk ordinance were not a result of any action taken by 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 as requested will not alter the essential character of the front of the structure along Stone Drive. Due to the slope of the property and the configuration of the new building it will improve the look of an existing structure that was not in compliance. Though a variance is granted, it will appear that the new structure is further away from the property line than current non compliant structure.*

**MOTION:** made by Bill Sumner; seconded by Diane Hills – To grant the variance of 10feet six inches to the rear yard setback as requested.

**VOTE:** 3-0 to approve the request as presented because there were topographical issues and the variance would have no impact on the existing parking lot located behind this property. Chairman Leonard also pointed out that the existing building was not in compliance with the zoning code and staff could not find any records that a variance was ever requested or granted. The existing building was constructed in 1985 after zoning was established.

With no further business the meeting was adjourned.

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Karen B. Combs, Principal Planner