

MINUTES KINGSPORT BOARD OF ZONING APPEALS (BZA)

Thursday April 5, 2012

NOON

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

MEMBERS PRESENT:

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

MEMBERS ABSENT:

Bob Winstead Jr

STAFF PRESENT:

Karen Combs

VISITORS:

Staci Robinson

Eric Robinson

Chairman Leonard called the meeting to order.

Chairman Leonard then explained the meeting procedures. Those wishing to testify were sworn in.

Public Hearing:

Case: 12-701-000001 – Property located at 109 East Stone Drive; Control Map 46B, Group G, Parcel 005.00 Requested an additional variance for the landscape strip to use State R.O.W. as the front landscape buffer of 25' as required by Sec. 114-648. (a); Requested a variance for the B-4P periphery yard which requires a 30' landscaped, development free yard as required by Sec. 114-252.(c); Requested a variance regarding the landscape buffer between commercial and residential zones as required by Sec. 114-144.(1). Ms. Robinson presented the case to the Board. In her presentation, discussion ensued on the irregular shape of the lot and the placement of the church versus a resident next to the lot and the topographical layout of the lot. Ms. Robinson presented the Board with a letter from the Department of Transportation allowing the use of the ROW for the landscaping requirement as long as drainage problems are not created and sight distance is not impaired. Staff received no phone calls on this item. No one spoke for or against 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 January 5, 2012 minutes as mailed.

The BZA stated for the public record the next application deadline on April 16, 2012 at noon and that the next meeting date would be on May 3, 2012.

Staff reported that the Board members have the new (SOP) for the BZA. Staff explained that the standard operating procedures are how staff handles the cases that come before this Board. The Board members stated that if Bob Winstead's questions were answered, that they would have no issue with staff using the SOP.

Adjudication of Case:

Case: 12-701-000001 – Property located at 109 East Stone Drive; Control Map 46B, Group G, Parcel 005.00

There was a brief discussion concerning the need for the entire 30 foot variance because the plan showed a 10 foot landscaped area between the parcel and the residential zone where the Church is sited. The Board also acknowledged the letter received from the Department of Transportation concerning the use of the ROW as the 10 foot landscaped buffer adjoining a roadway. There is 50 feet available and the Board directed Ms. Robinson that she could landscape up to 25 feet of the existing ROW with the conditions that the letter stated. The 25 feet is the portion directly adjoining the property with the remaining 25 feet planted in grass and maintained by Ms. Robinson. The Board also discussed a "right in and right out onto Stone Drive and requested that the change be made to the site plan; Ms. Robinson agreed. The Board discussed the following requirements.

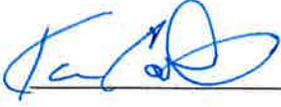
PROOF PRESENTED:

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 irregular in shape and the steep topography on the side of the lot facing the Church forms a unique buffer between the two zones.*
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, a building could not be installed without a variance.
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 boundaries of the lot were changed by the City of Kingsport when the new alignment of Gibson Mill Road was constructed and are unique to this property and were not 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.
There has been existing businesses on this lot for years prior to the re-alignment of Gibson Mill Road. The topography of the property provides a natural buffer between the Church and the business. There are no residents directly adjoining this property. The Right in/right out ingress off of Stone Drive will protect public safety.

MOTION: made by Frank Oglesby; seconded by Bill Sumner – To approve a request of the use of TDOT ROW as the 25 foot landscape strip fronting a highway while maintaining the other 25 feet as grassed; a 20 foot periphery yard variance for the B-4P because 10 feet landscaped area

between the zones was shown on the plan in order to construct an Subway Restaurant on the property contingent upon the placement of a right in/right out only access onto Stone Drive.

VOTE: 3-0 to grant the variance request as presented with conditions.



Karen B. Combs, Principal Planner