

**KINGSPORT BOARD OF ZONING APPEALS AGENDA**

**Thursday, May 3, 2012**

Development Services Building - first floor, Bob Clear Conference Room

CALL TO ORDER – 12:00 P.M. NOON

INTRODUCTION / MEETING PROCEDURES

ADMINISTRATION OF OATH TO PERSONS WISHING TO TESTIFY

**PUBLIC HEARINGS:**

**Case: 12-701-00002 – Property located at 128 Old Mill Ct; Control Map 63O, Group C, Parcel 31.00** Requests variance of 3 feet 9 inches on one side yard to [Sect.114-196.(e)(1)(d)] in order to construct a covered deck in a R-1B Single Family Residential District. The code requires an 8foot side yard setback.

***INTERESTED PARTIES:***

Owner: John Whitten  
128 Old Mill Ct.  
Kingsport, TN 37664  
(423) 742-0059

Applicant /Agent: Same As Above

Engineer/Architect: Same As Above

**Case: 12-701-00003 – Property located at 1220 Tuscany Way; Control Map 78A, Group E, Parcel 00100** Requests variance of 8 feet to the periphery yard requirement [Sect.114-196.(e)(1)(d)] in order to construct a single family house in a PD, Planned Development District. The code requires a 30 foot undeveloped periphery yard surrounding the district.

***INTERESTED PARTIES:***

Owner: Chase Meadows  
Ken Bates  
P.O. Box 5243  
Kingsport, TN 37663  
(423) 276-6997

Applicant /Agent: Same As Above

Engineer/Architect: Same As Above

**BUSINESS:**

- Approval of the April 5, 2012 minutes.
- Stating for the public record, the next application deadline May 15, 2012 at noon, and meeting date (Thursday, June 7,2012).
- Staff Reports

**ADJUDICATION OF CASES:**

**ADJOURNMENT:**

River/Arroyo

River

Subdivision Labels

County Lines

Hydrography

Major Parks

Municipal Boundary

City Limits

Kingsport

Mt. Carmel

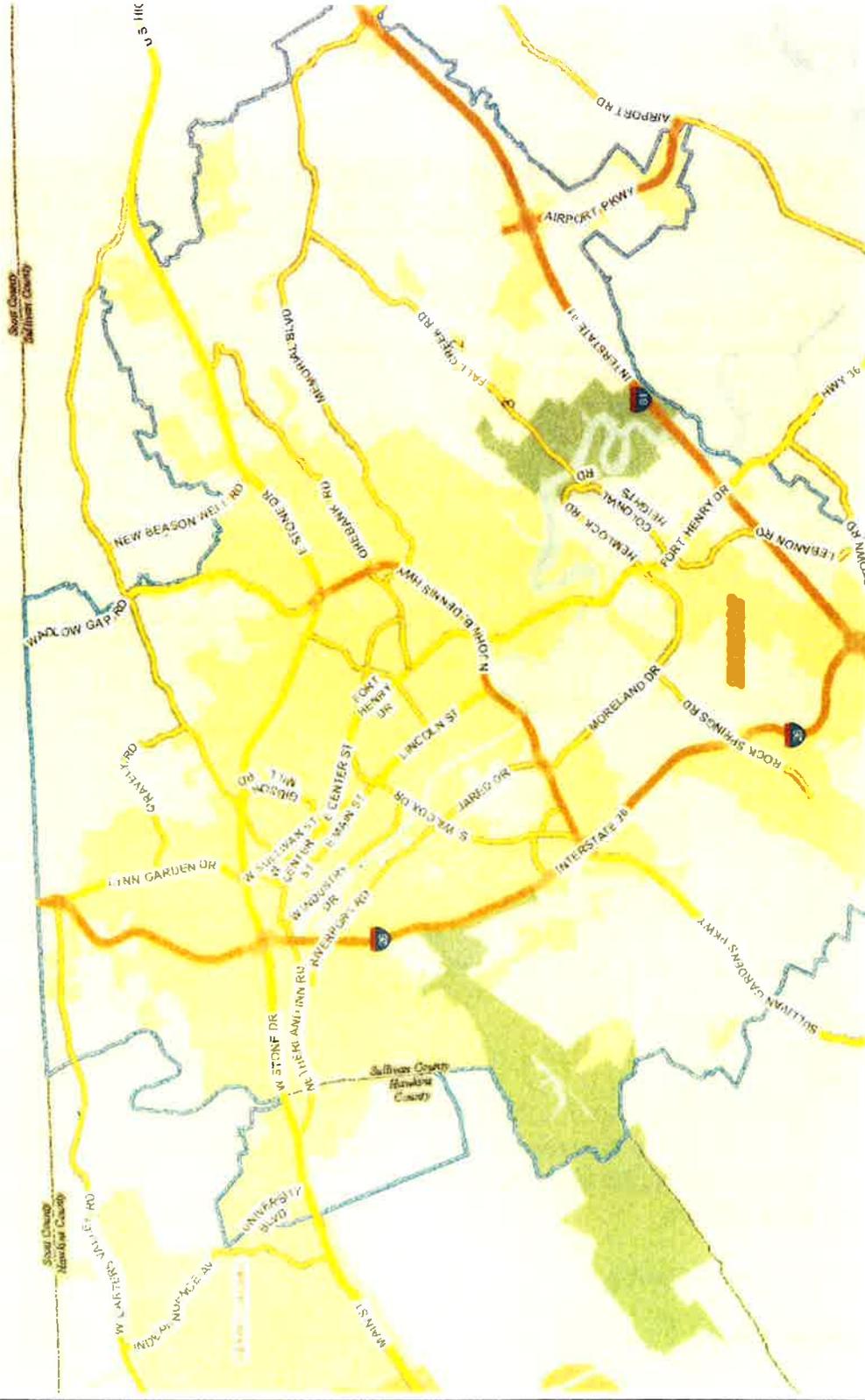
Church Hill

Johnson City

County Boundary



1.87 miles



# BZA May 2012

## MEMORANDUM

TO: KINGSFORT BOARD OF ZONING APPEALS  
FROM: Karen B. Combs, PRINCIPAL PLANNER  
DATE: April 16, 2012  
RE: 128 Old Mill St

The Board is asked to consider the following request:

**Case: 12-701-00002 – Property located at 128 Old Mill Ct; Control Map 630, Group C, Parcel 31.00**

Requests variance of 3 feet 9 inches on one side yard to [Sect.114-196.(e)(1)(d)] in order to construct a covered deck in a R-1B Single Family Residential District. The code requires an 8foot side yard setback.

Board of Zoning Appeals Application  
Deadline: 12:00 Noon/15th of the month prior to meeting  
Meeting Date: 1st Thursday of every month

Application Date: 4-16-12  
Application Number: 12-701-00000

Applicant/Owners Name: John Whitten  
Owners Signature: [Signature]  
Mailing Address: 128 Old Mill Ct, Kingsport, TN 37664  
Daytime Phone: 423-742-0059  
Representative Name: \_\_\_\_\_

Address of Property requesting variance: 128 Old Mill Ct. Kingsport, TN 37664

Property Tax Map # 630 group# C parcel # 31.00

Requested Action: I would like to Redo And Cover my Deck. To do so I will need to square up the deck which will encroach on the 10' side setback. I am Requesting A VARIANCE to have the corner of the deck to come to 5'3" from the property line. Please see Attached plat & sketch

\* Special exception requests require a letter from petitioner addressing the rationale.  
A fifty (\$50) application fee is required before application will be processed.

Requesting 3' 9" variance to Side Yard  
oned R-1B - 8ft Required

For Staff Use Only

Building/Zoning Administrator: [Signature]  
Completed Site Plans Received: \_\_\_\_\_  
Section of Applicable Code: 114-192(e)(1)(d)

Appl. Received: 4-16-12  
Fee Paid: 4-16-12

Meeting Date: May 3rd, 2012

OLD MILL C

LOT 31  
0.29 ACRES+-

CONC. DRIVE

32.02'

N 25°13' 00" W  
127.85'

CONC.

BRICK/FRAME SPLIT FOYER

WOOD DECK  
12' x 18'

2.3' OVERHANG

4' WOOD FENCE

AGE 58

33.39'

48.00'

35.98'

101.78'

S 78°41' 18" W

10.27'

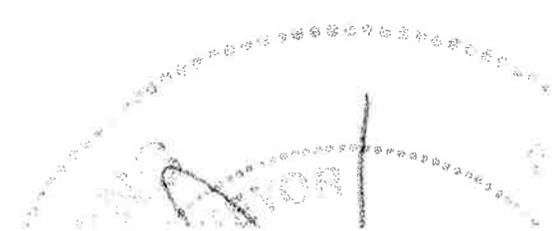
LOT 33

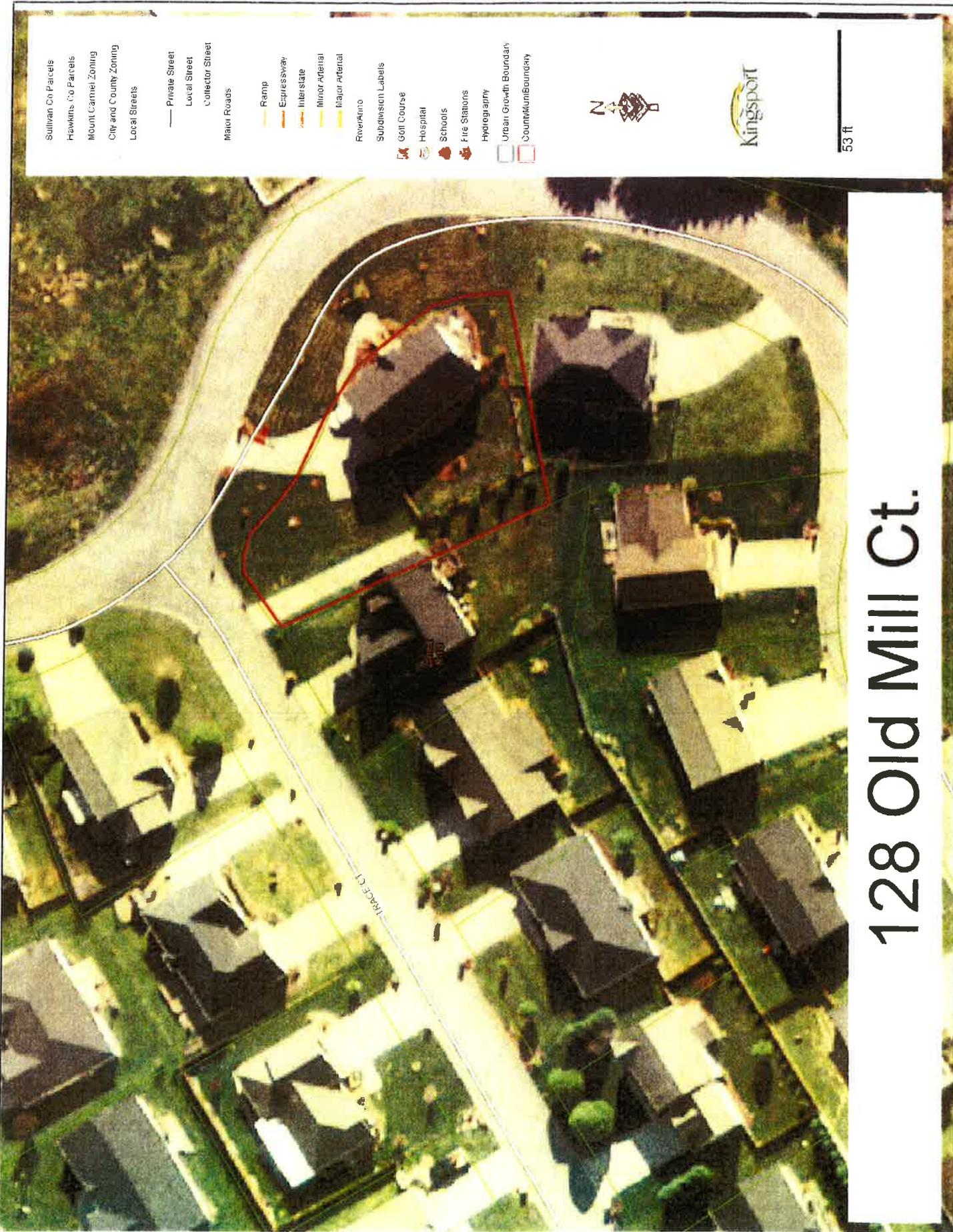
(F) (F)

(F)

4

LC





Sullivan Co Parcels  
 Hawkins Co Parcels  
 Mount Carmel Zoning  
 City and County Zoning  
 Local Streets  
 Private Street  
 Local Street  
 Collector Street  
 Major Roads

- Ramp
- Expressway
- Interstate
- Minor Arterial
- Major Arterial
- River/Kinno
- Subdivision Labels
- Golf Course
- Hospital
- Schools
- Fire Stations
- Hydrography
- Urban Growth Boundary
- County/Muni Boundary

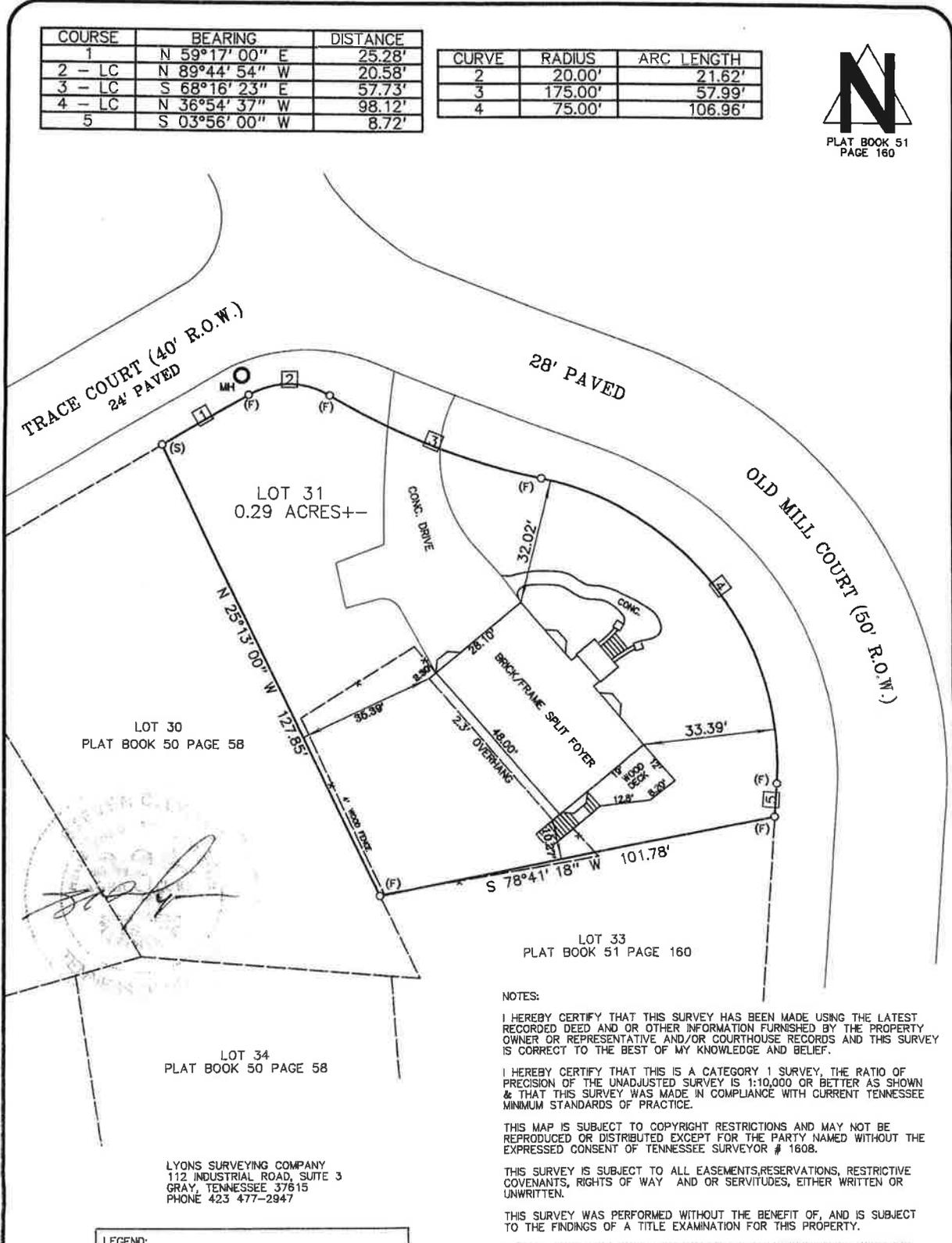


53 ft

# 128 Old Mill Ct.

| COURSE | BEARING        | DISTANCE |
|--------|----------------|----------|
| 1      | N 59°17' 00" E | 25.28'   |
| 2 - LC | N 89°44' 54" W | 20.58'   |
| 3 - LC | S 68°16' 23" E | 57.73'   |
| 4 - LC | N 36°54' 37" W | 98.12'   |
| 5      | S 03°56' 00" W | 8.72'    |

| CURVE | RADIUS  | ARC LENGTH |
|-------|---------|------------|
| 2     | 20.00'  | 21.62'     |
| 3     | 175.00' | 57.99'     |
| 4     | 75.00'  | 106.96'    |



TRACE COURT (40' R.O.W.)  
24' PAVED

28' PAVED

OLD MILL COURT (50' R.O.W.)

LOT 31  
0.29 ACRES+-

LOT 30  
PLAT BOOK 50 PAGE 58

LOT 33  
PLAT BOOK 51 PAGE 160

LOT 34  
PLAT BOOK 50 PAGE 58

LYONS SURVEYING COMPANY  
112 INDUSTRIAL ROAD, SUITE 3  
GRAY, TENNESSEE 37615  
PHONE 423 477-2947

NOTES:

I HEREBY CERTIFY THAT THIS SURVEY HAS BEEN MADE USING THE LATEST RECORDED DEED AND/OR OTHER INFORMATION FURNISHED BY THE PROPERTY OWNER OR REPRESENTATIVE AND/OR COURTHOUSE RECORDS AND THIS SURVEY IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

I HEREBY CERTIFY THAT THIS IS A CATEGORY 1 SURVEY, THE RATIO OF PRECISION OF THE UNADJUSTED SURVEY IS 1:10,000 OR BETTER AS SHOWN & THAT THIS SURVEY WAS MADE IN COMPLIANCE WITH CURRENT TENNESSEE MINIMUM STANDARDS OF PRACTICE.

THIS MAP IS SUBJECT TO COPYRIGHT RESTRICTIONS AND MAY NOT BE REPRODUCED OR DISTRIBUTED EXCEPT FOR THE PARTY NAMED WITHOUT THE EXPRESSED CONSENT OF TENNESSEE SURVEYOR # 1608.

THIS SURVEY IS SUBJECT TO ALL EASEMENTS, RESERVATIONS, RESTRICTIVE COVENANTS, RIGHTS OF WAY AND/OR SERVITUDES, EITHER WRITTEN OR UNWRITTEN.

THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF, AND IS SUBJECT TO THE FINDINGS OF A TITLE EXAMINATION FOR THIS PROPERTY.

LEGEND:

Variance Worksheet – Finding of Facts for:

**1. Case: 12-701-00002 – Property located at 128 Old Mill Ct; Control Map 630, Group C, Parcel 31.00**

Requests variance of 3 feet 9 inches on one side yard to [Sect.114-196.(e)(1)(d)] in order to construct a covered deck in a R-1B Single Family Residential District. The code requires an 8foot side 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.

## MEMORANDUM

TO: KINGSPORT BOARD OF ZONING APPEALS  
FROM: Karen B. Combs, PRINCIPAL PLANNER  
DATE: April 16, 2012  
RE: 1220 Tuscany Way

The Board is asked to consider the following request:

**Case: 12-701-00003 – Property located at 1220 Tuscany Way; Control Map 78A, Group E, Parcel 00100**

Requests variance of 8 feet to the periphery yard requirement [Sect.114-196.(e)(1)(d)] in order to construct a single family house in a PD, Planned Development District. The code requires a 30 foot undeveloped periphery yard surrounding the district.

Karen Combs  
224-2482  
Thursday, May 3rd

Board of Zoning Appeals Application  
Deadline: 12:00 Noon/15th of the month prior to meeting  
Meeting Date: 1st Thursday of every month

Application Date: APRIL 16, 2012  
Application Number: 12-761-00003

Applicant/Owners Name: CHASE MEADOWS DRU.  
Owners Signature: Kenneth W. Bates  
Mailing Address: P.O. Box 5243 KPT, TN 37663  
Daytime Phone: 423-276-6997  
Representative Name: KEN BATES

Address of Property requesting variance: 1220 TUSCANY WAY

Property Tax Map # 078A group# E parcel # 00100

Requested Action: VARIANCE TO 30' PERIPHERY YARD  
APPROX 8'

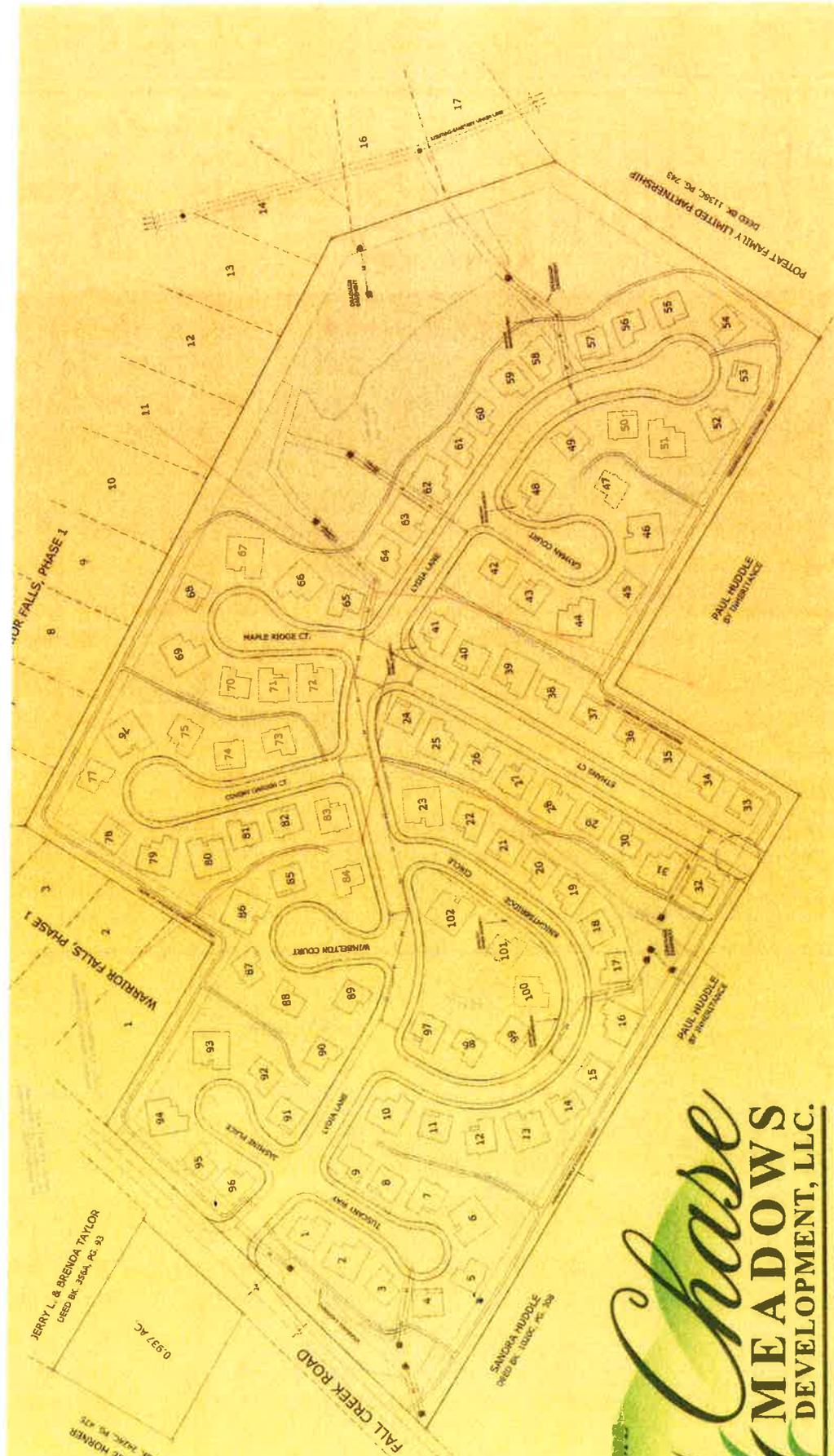
\* Special exception requests require a letter from petitioner addressing the rationale.  
A fifty (\$50) application fee is required before application will be processed.

Requesting 8' variance  
Zoned PD - Requires 30ft Periphery Yard  
For Staff Use Only

Building/Zoning Administrator: Michael Tuma  
Completed Site Plans Received: \_\_\_\_\_  
Section of Applicable Code: 114.357(d)

Appl. Received: 4-16-12  
Fee Paid: 4-16-12

Meeting Date: May 3, 2012



WELCOME HOME



**Chase**  
**MEADOWS**  
 DEVELOPMENT, LLC.

Sullivan Co Parcels  
 Hewitts Co Parcels  
 Mount Carmel Zoning  
 City and County 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 Boundary  
 County/Muni Boundary



Kingsport

213 ft



# 1220 Tuscany Way

Variance Worksheet – Finding of Facts for:

**2. Case: 12-701-00003 – Property located at 1220 Tuscany Way; Control Map 78A, Group E, Parcel 00100**

Requests variance of 8 feet to the periphery yard requirement [Sect.114-196.(e)(1)(d)] in order to construct a single family house in a PD, Planned Development District. The code requires a 30 foot undeveloped periphery yard surrounding the district.

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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 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

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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.

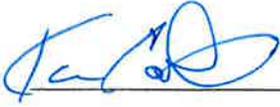
#### **PROOF PRESENTED:**

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