

KINGSPORT BOARD OF ZONING APPEALS AGENDA
REGULAR MEETING: September 3, 2015
Development Services Building – Bob Clear Conference Room

CALL TO ORDER – 12:00 P.M. NOON

INTRODUCTION / MEETING PROCEDURES

PUBLIC HEARING:

Case: 15-701-00007 – Property located at 1405 Garden Drive, Control Map 061C, Group K, Parcel 002.00 requests a 14.2 foot front yard variance to Sec 114-183(e)1(c). The code requires a 30 foot front yard. The property is zoned R-1B, Residential District.

INTERESTED PARTIES:

Owner: Karen Moles
1405 Garden Drive
Kingsport, TN 37664
(423) 247-6430

Representative: Glenn Bortz

BUSINESS:

Approval of the August 6, 2015 regular meeting minutes and August 6, 2015 called meeting minutes

Stating for public record, the next application deadline is September 15, 2015 at noon, and meeting date (Thursday, October 1, 2015).

Staff Reports: Training Update

ADJUDICATION OF CASES:

ADJOURNMENT:

MEMORANDUM

TO: KINGSPOUR BOARD OF ZONING APPEALS

FROM: Ken Weems, AICP, Zoning Administrator

DATE: August 18, 2015

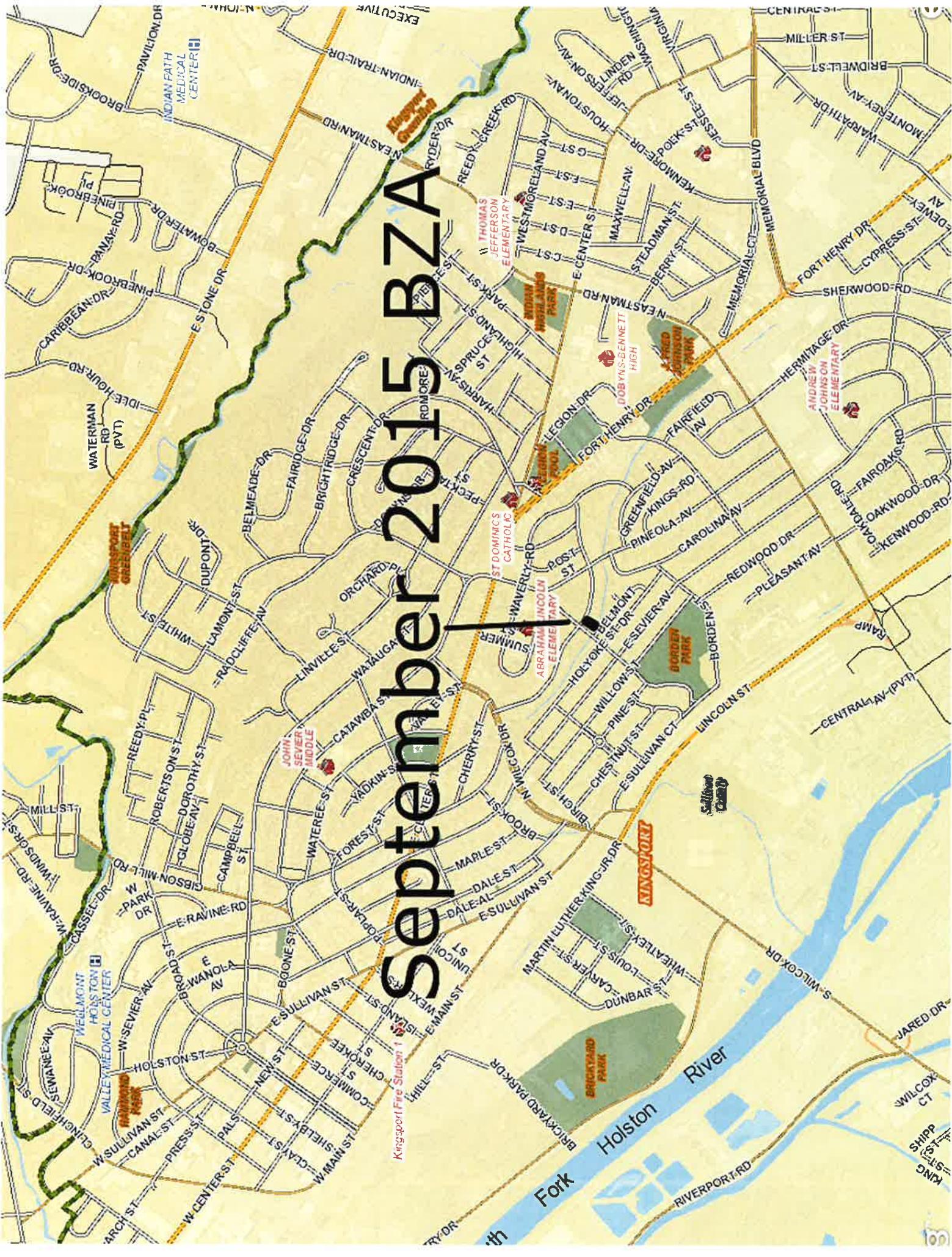
RE: 1405 Garden Drive

The Board is asked to consider the following request:

Case: 15-701-00007 – Property located at 1405 Garden Drive, Control Map 061C, Group K, Parcel 002.00 requests a 14.2 foot front yard variance to Sec 114-183(e)1(c). The code requires a 30 foot front yard. The property is zoned R-1B, Residential District.

The variance request is associated with the desire to cover an existing concrete porch. The applicant has supplied examples of the finished product in her packet submittal.

September 2015 BZA



Kingsport Fire Station 1

Sullivan County

Fork Holston River

KINGSPORT

THOMAS JEFFERSON ELEMENTARY

ST DOMINIC'S CATHOLIC

ABRAHAM LINCOLN ELEMENTARY

JOHN SEEVER MIDDLE

ST DOMINIC'S CATHOLIC

ST DOMINIC'S CATHOLIC

ST DOMINIC'S CATHOLIC

ST DOMINIC'S CATHOLIC

1405 Garden Drive



GARDEN DR
KINGSPOINT

BELMONT DR

HOLYOKE ST

LANOM ST

BELMONT CIR

PINEOLA

Zoned R-3

Zoned R-1C

Shiloh County

Zoned R-3

REGULAR MEETING
& PUBLIC HEARING
Kingsport Board of Zoning Appeals

NOTICE IS HEREBY GIVEN to all citizens of the City of Kingsport, Tennessee, to all persons interested, and the public at large that an open and public meeting of the Kingsport Board of Zoning Appeals scheduled for Thursday, September 3, 2015 will be conducted beginning at NOON in the Bob Clear Conference Room, on the first floor of the Development Services Building, 201 West Market Street, Kingsport, Tennessee.

A tour of the property will be conducted starting at 10:30a.m. prior to the meeting.

Public Hearing: The Kingsport Board of Zoning Appeals will conduct a Public Hearing during this meeting to consider the following case:

Case: 15-701-00007 – Property located at 1405 Garden Drive, Control Map 061C, Group K, Parcel 002.00 requests a 14.2 foot front yard variance to Sec 114-183(e)1(c) to accommodate a covered front porch. The code requires a 30 foot front yard. The property is zoned R-1B, Residential District.

All interested persons are invited to attend this Public Hearing. Additional information concerning this case may be obtained by contacting City of Kingsport Planning Division staff, telephone (423) 229-9485.

City of Kingsport, Tennessee
Jim Demming, City Recorder
PIT 8/21/15



APPLICATION

Board of Zoning Appeals

APPLICANT INFORMATION:

Last Name MOLES First KAREN M.I. D
 Street Address 1405 GARDEN DR Apart
 City Kingsport State TN ZIP 37664
 Phone 423-247-6430 E-mail Address Kmoles@Charter.net

PROPERTY INFORMATION:

Tax Map Information Tax map: Group: Parcel: Lot:
 Street Address Apart
 Current Zone Proposed Zone
 Current Use Proposed Use

REPRESENTATIVE INFORMATION:

Last Name Bertz First Glenn M.I.
 Street Address 554 Countryview Dr Apa
 City Blountville State TN ZIP
 Phone 423-302-9054 E-mail Address 37617

REQUESTED ACTION:

Seeking adjustment on the setback ordinance
 14.2' front yard variance to accommodate a
 covered porch.

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 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 appe:

Signature: [Handwritten Signature]
 Signed before me on this 13th day of Aug., 2015
 a notary public for the State of Tenn.
 County of at Large

Date 8-13-15

Notary [Handwritten Signature]
 1



Variance Worksheet – Finding of Facts

Variations. 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.

I am currently unable to enjoy and fully utilize the space of the porch. It is unpleasant to sit on the porch in the full sun

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

My intent is to put a simple roof over a pre-existing porch.

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.

Because of the ordinance condition of 30 feet from setback line.

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

In no way do I want to disrupt the character of the neighborhood by blocking or obscuring anyone's view. I want to be able to sit and enjoy nature and my neighbors as they walk by. Also to increase the value of my property.

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

Photo from Aug 12, 2015

Karen D Moles [kmoles@charter.net]

Sent: Wednesday, August 12, 2015 9:16 PM

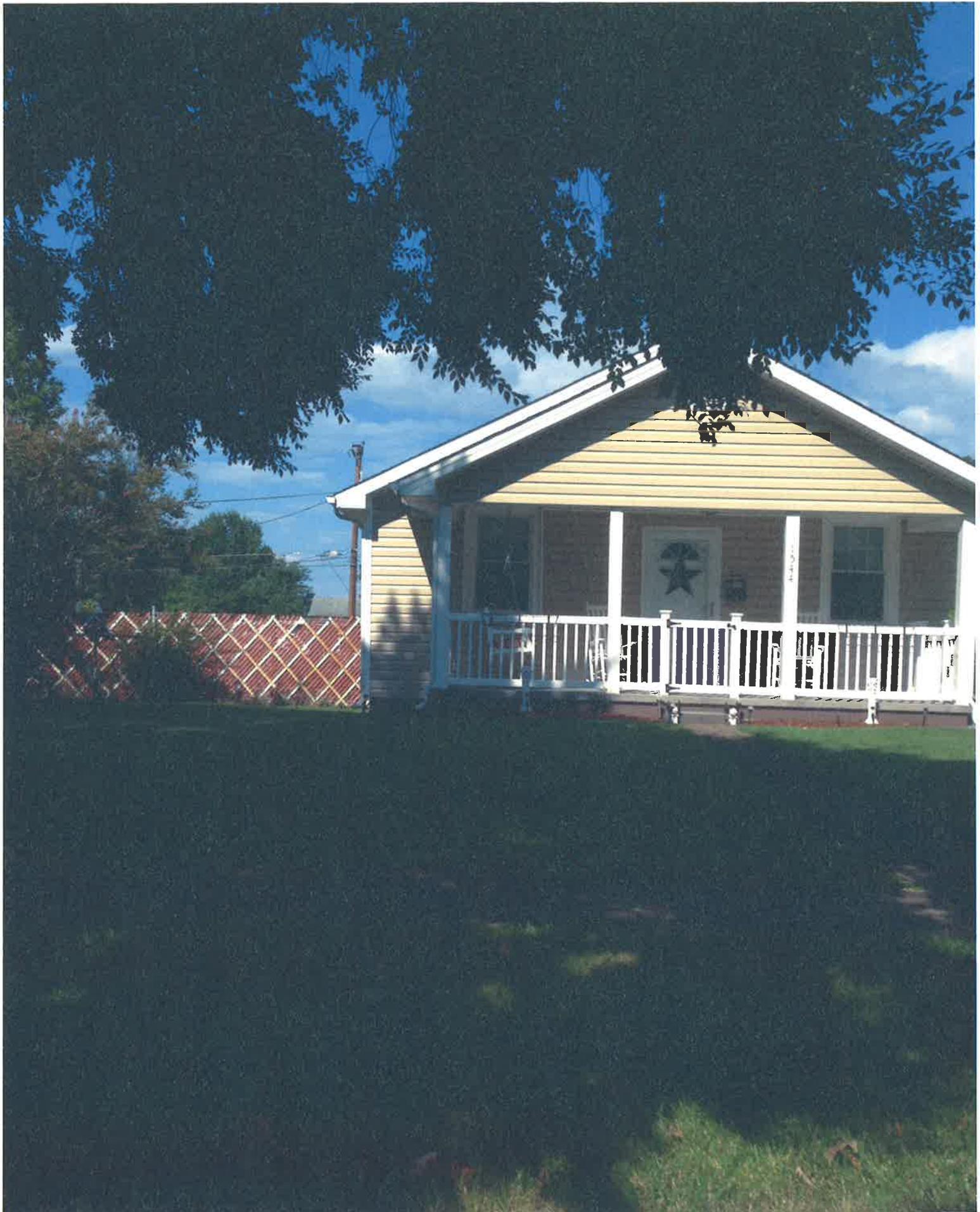
To: Dan



Example



Example



EXAMPLE

Dear Sirs,

As long time residents of Kingsport and living on Garden Dr, we love our city for its beauty and the uniqueness that comes with living in a small town.

Karen Moles has been our neighbor for many years and has continually tried to update and maintain her property.

We feel that any improvements that Karen makes to her home increases the value of not only her property, but also of the whole neighborhood.

So, in conclusion, we have no problems with Karen's new addition of a roof over her porch and in no way will it de-value our property, but increase it and that of the neighborhood.

Sincerely,

Carmie Payne
Carmen S. Payne
1401 Garden Drive
Kingsport, TN 37664
8-10-15

Dear Sirs,

Having lived on Garden Dr for years and a resident of Kingsport, I do not have a problem with Karen Moles adding a roof over her porch.

Adding improvements only increases the value of our neighborhood, and in no way does it de-value hers or my property.

Sincerely,

 8-12-15

LARRY D. CASTLE

1404 GARDEN DR

**MINUTES OF THE DRIVING TOUR OF THE
KINGSPORT BOARD OF ZONING APPEALS (BZA)**

August 6, 2015

10:30 a.m.

Members Present:

Leland Leonard, Chairman
Frank Oglesby, Vice Chairman
Bill Sumner

Members Absent

Bob Winstead, Jr.
Sharon Duncan

Staff Present:

Ken Weems, AICP

At 10:30 a.m., the BZA departed the Development Services Building, 201 W. Market St. to conduct a driving tour of 145 Shipp Springs Road, 4209 Fort Henry Drive, and 1104 Riverbend Drive, all of which were to be considered for a variance during the day's meetings. No official action was taken.

The driving tour concluded at 11:45 a.m.

Respectfully Submitted,

Ken Weems, AICP, Zoning Administrator

MINUTES OF THE KINGSPORT BOARD OF ZONING APPEALS (BZA)

August 6, 2015, Regular Meeting

Noon

Bob Clear Conference Room, 1st floor of the Development Services Building

Members Present:

Leland Leonard, Chairman
Frank Oglesby, Vice-Chairman
Sharon Duncan
Bill Sumner
Bob Winstead, Jr.

Members Absent

none

Staff Present:

Ken Weems, AICP
Page Jeffers

Visitors:

Ryan Estabrooks
Andrew Begley
Jerry Begley
Joe Misciaga
Rod Harper
Dan Elcan
Brad Israel

Chairman Leonard called the meeting to order.

Chairman Leonard explained the meeting procedures.

Ms. Page Jeffers conducted the swearing in ceremony for those wishing to speak during the regular meeting. Mr. Rod Harper and Mr. Ryan Estabrooks were sworn in.

Public Hearing:

Case: 15-701-00004 – Property located at 145 Shipp Springs Road, Control Map 300, Group A, Parcel 012.00 requests a non-conforming sign size reduction variance to Sec 114-531(b). The code permits variance relief upon finding that the granting of a variance will reduce the degree of nonconformance of an existing sign. The property is zoned R-1B, Residential District.

Mr. Rod Harper presented the case to the Board. Mr. Harper verified that the proposed sign, though larger than what is allowed in an R-1B zone, is more conforming to the sign regulations than the existing freestanding sign on the property. Mr. Harper requested variance approval.

Chairman Leonard seeing no one else wishing to speak closed the public hearing.

Case: 15-701-00005 – Property located at 4209 Fort Henry Drive, Control Map 092G, Group C, Parcel 052.00 requests a 15 foot rear yard variance to Sec 114-195(f)1(e). The

code requires a 30 foot rear yard. Additionally, a reduction in building perimeter landscaping is requested to Sec 114-600(d)3(c). The code requires a minimum of 20 percent of required landscaping to be building perimeter plantings for any buildings side fronting an access street. The property is zoned B-3, Highway Oriented Business District.

Mr. Ryan Estabrooks presented the case to the board. Mr. Estabrooks stated that the requested setback variance was necessary due to the topographic relief along the rear and eastern part of the property and that sufficient land area is not adequate for the functionality of the proposed use. Additionally, Mr. Estabrooks noted that for the landscaping variance, a proposed canopy will overhang the front sidewalk and the store will have a high volume of traffic. Additionally, the landscaping variance is necessary since the front sidewalk will not allow sufficient water and sunlight for vegetation.

Chairman Leonard seeing no one else wishing to speak closed the public hearing

Other Business:

On a motion by Bill Sumner, seconded by Sharon Duncan, the Board voted unanimously to approve the minutes of the March 5, 2015 regular meeting and the June 4, 2015 called meeting.

The Board stated for public record the next application deadline is on August 17, 2015 at noon. The next scheduled meeting will be held on September 3, 2015.

Staff Report:

Planner Ken Weems provided follow up information about the upcoming training opportunity. Mr. Weems stated that the training will be held August 24, 2015 from 0830-1230 hours. Mr. Weems also stated that the training would be held at the Meadowview Convention Center.

Adjudication of Cases:

Case: 15-701-00004 – Property located at 145 Shipp Springs Road, Control Map 30O, Group A, Parcel 012.00

Chairman Leonard noted that the criteria for supporting a sign that is more in conformance with the sign code than the current sign was supplied by the applicant.

MOTION: made by Vice-Chairman Oglesby, seconded by Bill Sumner to grant the non-conforming sign request as presented.

VOTE: 4-0 to approve the request as presented as the proposal introduced a sign that is more in conformance with the zoning code than the current non-conforming sign.

Case: 15-701-00005 – Property located at 4209 Fort Henry Drive, Control Map 092G, Group C, Parcel 052.00

Chairman Leonard noted that the topography towards the rear of the property will require lots of grading and potential stormwater mitigation. Vice-Chairman Oglesby acknowledged the letter in the packet from an adjacent property owner which stated support for the proposed site plan. Though able to see the need for the rear setback relief, Chairman Leonard questioned why building perimeter landscaping could not be accomplished anywhere within 20 feet of the

front or left/street side of the building. Bill Sumner added that different types of plants and landscaping materials area available to deal with less than full sun conditions.

PROOF PRESENTED (15' rear yard setback relief request):

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 parcel contains an extremely steep ditch in the middle rear of the property, which will not allow development close to the southwestern property line.*
2. The manner in which the strict application of this chapter would deprive the applicant of a reasonable use of the land. *The strict application of this chapter would force the proposed building to be built over a stormwater mitigation area.*
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 lot size and configuration is not a result of actions of 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 will preserve the neighborhood and not alter the essential character of the neighborhood by allowing the building to be built farther away from Fort Henry Drive and not significantly impact the stormwater mitigation necessary for development of the parcel.*

MOTION: made by Bob Winstead, seconded by Vice-Chairman Oglesby to grant the variance of 15 feet on the rear yard of the property.

VOTE: 4-0 to approve the request as presented because the variance would have no negative impact on the existing area.

Building perimeter landscaping variance request: Vice Chairman Oglesby noted that the building perimeter landscaping is required for all new B-3 zoned structures in the City. Chairman Leonard stated that no hardship has been identified and that the landscaping can be located anywhere within 20 feet of the building sides that face an access street.

MOTION: made by Vice Chairman Oglesby, seconded by Sharon Duncan to deny the building perimeter landscaping variance due to lack of hardship.

VOTE: 4-0 to deny the request due to lack of hardship.

With no further business the meeting was adjourned.

Respectfully Submitted,

Ken Weems, AICP, Zoning Administrator

**MINUTES OF THE CALLED MEETING OF THE
KINGSPORT BOARD OF ZONING APPEALS (BZA)**

August 6, 2015, Called Meeting

12:30p. m.

Bob Clear Conference Room, 1st floor of the Development Services Building

Members Present:

Leland Leonard, Chairman
Frank Oglesby, Vice-Chairman
Sharon Duncan
Bill Sumner
Bob Winstead, Jr.

Members Absent

none

Staff Present:

Ken Weems, AICP
Page Jeffers

Visitors:

Dan Elcan
Brad Israel

Chairman Leonard called the meeting to order.

Chairman Leonard explained the meeting procedures.

Ms. Page Jeffers conducted the swearing in ceremony for those wishing to speak during the regular meeting. Mr. Dan Elcan was sworn in.

Public Hearing:

Case: 15-701-00006 – Property located at 1104 Riverbend Drive, Control Map 77H, Group C, Parcel 001.05 requests a 5 foot main entrance sign height variance to Sec 114-533(9)b(4). The code requires a 35 foot maximum sign height. The property is zoned B-4P, Planned Shopping Center District.

Mr. Dan Elcan presented the case to the Board. Mr. Elcan stated the need of the height increase of the sign is due to the topography of Fort Henry Drive. Mr. Elcan further stated that upon receiving initial approval of his sign package in a B-4P district from the Planning Commission in July of 2014, his desire was for a full 35 feet of allowed main entrance sign to be viewable. Upon accomplishing the finished grading for the placement of the sign, it was noticed that a 5 foot difference in elevation was noticed between where the sign will be placed and the adjacent elevation of Fort Henry Drive. Mr. Elcan noted that a 5 foot variance will provide a full 35 feet of sign visibility. Mr. Elcan also stated that the Bojangles' restaurant that is currently under construction wants to raise their allotted 8 foot tall monument sign, which would make his main entrance sign difficult to see for motorists driving southbound on Fort Henry Drive.

Chairman Leonard seeing no one else wishing to speak closed the public hearing

Adjudication of Cases:

Case: 15-701-00006 – Property located at 1104 Riverbend Drive, Control Map 77H, Group C, Parcel 001.05

Chairman Leonard stated to the Board how the proposed main entrance sign will still be viewable from Fort Henry Drive despite being constructed 5 feet below Fort Henry Drive and despite the desire for Bojangles' to raise their monument sign. Bill Sumner noted that the terrain issues associated with the proposal did impact sign visibility. Bob Winstead questioned the need for a variance based upon the 40 foot tall main entrance sign having only 35 feet of visibility on Fort Henry Drive. Mr. Weems described the sign calculation per the zoning code as the sign being measured from either the base elevation of the sign or the street elevation adjacent to the sign, whichever provided the least height.

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 parcel upon which the B-4P main entrance sign will be placed is 5 feet lower than the adjacent elevation of Fort Henry Drive.*
2. The manner in which the strict application of this chapter would deprive the applicant of a reasonable use of the land. *The strict application of this chapter would limit visibility of the main entrance sign from Fort Henry Drive.*
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 lot size and configuration is not a result of actions of 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 will preserve the neighborhood and not alter the essential character of the neighborhood by only allowing the zoning-designated height of the main entrance sign to be viewable from Fort Henry Drive.*

MOTION: made by Bob Winstead, seconded by Vice-Chairman Oglesby to grant the variance of 5 feet to the height of the main entrance sign in the Riverbend B-4P district.

VOTE: 4-0 to approve the request as presented because the variance would have no negative impact on the existing area.

With no further business the meeting was adjourned.

Respectfully Submitted,

Ken Weems, AICP, Zoning Administrator