

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

**September 5, 2024, Regular Meeting**

Noon

Montgomery-Watterson Boardroom, City Hall

Members Present:

Bill Sumner  
Joe White  
Tracey Cleek

Members Absent:

Calvin Clifton  
Wes Combs

Staff Present:

Lori Pyatte  
Ken Weems  
Jessica McMurray

Visitors:

|                 |                |
|-----------------|----------------|
| Marcy Walker    | Lynn Tully     |
| David Bernstein | Melissa Gatton |
| Allison Wintez  | Mark Freeman   |
| Glenda Hurd     | Jianhui Zhou   |
| Drendall Hurd   | Bob Bingham    |
| Sherry Bingham  | Jacob Bingham  |

Chairman Bill Sumner called the meeting to order at 12:02pm.

Chairman Sumner explained the meeting procedures.

Ms. Lori Pyatte conducted the swearing in ceremony for those wishing to speak during the regular meeting. All visitors were sworn in.

**Public Hearing:**

**Case: BZA24-0152– The owner of property located at 354 Shadowtown Road, Control Map 064, Parcel 0138.00** requests special exception to Sec 114-195(c)41 for the purpose of storing vehicles in the existing parking lot and storing construction material outdoors in a designated area. The property is zoned B-3, Highway Oriented Business District.

Ms. Marcy Walker from Hunter Davis Law Firm, along with Mr. David Bernstein, the property owner, presented their case to the board. Ms. Walker explained that they are seeking a special exception for the storage of vehicles and construction materials. She highlighted photos of the property and the improvements made by the current owner. Ms. Walker noted that there is ample parking available on-site, and the owner intends to utilize this space for storing and parking commercial vehicles, such as vans and trucks, with individual spaces leased.

She referenced renderings provided by the owner, which included a fenced parking area and outdoor lighting. Chairman Sumner inquired about the storage of construction materials. Mr. Bernstein confirmed that these materials would be kept in a fenced area outside. He added that this storage space is necessary as they plan to rent portions of the interior for office use, potentially including office space for construction companies.

Staff reported that calls regarding drag racing and loitering had ceased, and they noted that the wall the owner plans to construct will serve as a good visual buffer. Staff also commented that no public comments were received.

Chairman Sumner, seeing no one wishing to speak further on the item, closed the public hearing.

**Case: BZA24-0154 – The owner of property located at 1843 Topsail Court, Control Map 077F, Group A, Parcel 032.52** requests a 38 foot deviation from rear yard to Sec 114-133(1) for the purpose of constructing a detached two-car garage in the side yard. The property is zoned PD, Planned Development District.

Mr. John Hoffman, the contractor, and Mr. Tim Lewis, the property owner, presented their case to the board. Mr. Hoffman stated that the property owner wishes to construct a two-car garage in the side yard of the property. He clarified that the garage would be entirely brick with a concrete driveway, situated on a double lot that has been combined into one parcel.

Chairman Sumner noted that a 38-foot variance is substantial and inquired about the reason for the request. He also questioned the garage's location relative to the neighbor's yard. Mr. Hoffman responded that the garage would be set back 10 feet from the property line, not the 5 feet indicated on the site plan. Chairman Sumner asked whether a 10-foot setback was required for the property. Staff explained that, since this is a Planned Development (PD) zone, the only setback requirement is a 30-foot peripheral yard around the entire development, which does not affect this lot.

Chairman Sumner mentioned the utility easement running down the center of the property and asked if this was the reason they could not attach the garage. Mr. Hoffman confirmed this was the case. Staff noted they had received one call from a neighbor expressing concern about the garage's proximity to her property line.

Ms. Stephanie Carr, property owner at 1851 Topsail Court, voiced her concerns about the garage's placement, stating it is located near the back corner of her property line. She expressed worries that the garage would negatively impact her home's property value and feared that granting exceptions for one property could lead to more requests. Chairman Sumner inquired if Ms. Carr had the opportunity to purchase the lot, to which she responded that Mr. Lewis had purchased it.

Mr. Drendall Hurd, property owner at 1842 Topsail Court across the street, also expressed concern about the garage encroaching on his property.

Chairman Sumner, seeing no one wishing to speak further on the item, closed the public hearing.

**Case: BZA24-0159 – The owner of property located at TBD E. Aesque Street, Control Map 030A, Group A, Parcel 032.00** requests a 5 foot front yard variance to Sec 114-183(e)(1)c and an 8 foot 6 inch rear yard variance to Sec 114-183(e)(1)e for the purpose of constructing a new single family modular home. The property is zoned R-1B, Residential District.

Mr. Jianhui Zhou introduced himself as the property owner and presented his case to the board. He requested a 5-foot variance for the front yard and an 8-foot, 6-inch variance for the rear yard, citing the irregular shape of the lot. Staff noted that they had received one phone call regarding the location of the home. Mr. Zhou mentioned that he had spoken with that neighbor and resolved the issue.

Chairman Sumner, seeing no one wishing to speak further on the item, closed the public hearing.

**Case: BZA24-0169 – The owner of property located at 1392 E. Center Street, Control Map 046N, Group K, Parcel 019.00** requests approval from the Board of Zoning Appeals to Sec. 114-8(4) to re-establish a non-conforming use of a duplex on the property. The property is zoned P-1, Professional Offices District.

Mr. David Machado, the property owner, presented his case to the board. He expressed his desire to convert the former duplex, which was most recently used as a chiropractor's office, back into a duplex. He noted that in 1955, the property operated as the Phippen Tourist Home, equipped with two power and two water meters. Chairman Sumner inquired about the reasons for its non-conformance. Staff explained that the property is located in a P-1 Professional Office District, which does not permit residential use. Staff noted they received a letter from a neighboring property expressing concerns about the request. The board reviewed this letter, and Mr. Machado addressed each concern raised.

Mr. Jacob Bingham, an employee of a nearby business, voiced concerns about a collapsed fence that he felt was unsightly. He questioned whether this was the only issue being addressed. Mr. Machado clarified that the fence had not collapsed on his side; it shares a boundary with the rear property, and the fallen section was on the neighbor's property. He mentioned that he had approached the neighbor and offered permission to straighten the fence. Additionally, Mr. Machado stated that the wood being added for stabilization will be painted gray weatherstone.

Chairman Sumner, seeing no one wishing to speak further on the item, closed the public hearing.

**Case: BZA24-0171 – The owner of property located at 1621 Newbern Road, Control Map 061E, Group A, Parcel 006.00** requests a 6 foot side yard variance to Sec 114-185(e)(1)d for the purpose of constructing a new wooden carport for an existing home. The property is zoned R-1B, Residential District.

Mr. Mark Freeman, the owner's representative, and Mr. DJ Burrell, the property owner, presented their case to the board. Mr. Freeman explained that the project began as a renovation in the rear of the home, but the property owners later decided they wanted to build a more attractive carport on the side. He noted that the lot is narrow, and the existing carport is currently within the side yard setback. The request today is for a 6-foot side yard variance to accommodate the construction of the new carport. Staff mentioned that they received only one inquiry from a neighbor, who had questions but no concerns about the project.

Chairman Sumner, seeing no one wishing to speak further on the item, closed the public hearing.

**Case: BZA24-0172** The applicant requests a zoning interpretation of Sec 114-194(d)3 the B-2, Central Business District and Sec 114-203(d)3 the B-2E, Central Business Edge District. The purpose of this request is to seek an interpretation of an animal boarding facility as a prohibited use in the B-2 and B-2E zones.

Mrs. April Carder presented her case to the board. Chairman Sumner inquired about the purpose of this administrative review. Staff explained that the boarding aspect of the code in the B-2 and B-2E zones, particularly regarding cats, is currently in question. Mrs. Carder expressed her and her husband's desire

to open a cat café that offers boarding and grooming services in downtown Kingsport. Before making a significant investment, they seek a determination on whether they can operate in the B-2 and B-2E zones. She pointed out that the ordinance mentions land-intensive uses but assured the board that cat boarding and care would take place entirely within the business premises. Staff noted that the standard in question has been in effect for about 7 or 8 years, primarily due to concerns about barking dogs disturbing nearby residents. Mrs. Carder emphasized that their facility would be exclusively for cats.

Chairman Sumner, seeing no one wishing to speak further on the item, closed the public hearing.

**Case: BZA24-0187– The owner of property located at 1720 Park Meadow Place, Control Map 076, Parcel 006.91** request is a special exception to Sec 114-382(1) for the purpose of constructing a new childcare facility. The property is zoned BC, Business Conference Center District.

Ms. Lynn Tully, the owner’s representative, presented the case to the board. She explained that the YMCA wishes to build a childcare center adjacent to their current location. The purpose of the request is to obtain a special exception in the BC, Business Conference Center zone. Ms. Tully noted that the project will be carried out in phases, ultimately accommodating a maximum of 180 children once completed. She emphasized that securing the necessary zoning is essential for obtaining grant funding they plan to apply for. Staff mentioned that, due to the site's location, this presentation is the first of three boards they will appear before, including the Planning Commission and Gateway.

Chairman Sumner, seeing no one wishing to speak further on the item, closed the public hearing.

**BUSINESS:**

Staff commented there will be BZA training available in November, dates and times will be provided.

**MOTION:** made by Mr. Joe White, seconded by Mr. Tracey Cleek, to approve the Kingsport Board of Zoning Appeals minutes for August 1, 2024.

**VOTE:** 3-0 to approve the minutes.

**Adjudication of Cases:**

**Case: BZA24-0152– The owner of property located at 354 Shadowtown Road, Control Map 064, Parcel 0138.00** requests special exception to Sec 114-195(c)41 for the purpose of storing vehicles in the existing parking lot and storing construction material outdoors in a designated area. The property is zoned B-3, Highway Oriented Business District.

Chairman Sumner asked if there was additional discussion. There was none.

**MOTION:** made by Ms. Tracey Cleek, seconded by Mr. White, to approve special exception for the purpose of storing vehicles in the existing parking lot and storing construction material outdoors in a designated area.

**VOTE:** 3-0 to approve the request.

**Case: BZA24-0154 – The owner of property located at 1843 Topsail Court, Control Map 077F, Group A, Parcel 032.52** requests a 38 foot deviation from rear yard to Sec 114-133(1) for the purpose of constructing a detached two-car garage in the side yard. The property is zoned PD, Planned Development District.

The board noted that the hardship stems from the utility easement located in the center of the property. They have modified the original plan to set the structure back 10 feet from the side property line instead of 5 feet. The board also inquired about the composite materials to be used. Mr. Lewis responded that the exterior will be brick, designed to match the existing home.

**MOTION:** Made by Ms. Cleek and seconded by Mr. White to approve the 38-foot rear yard deviation, contingent upon the detached garage being set back 10 feet from the side yard property line and the use of composite building materials that match the existing home.

**VOTE:** 3-0 to approve the request.

**Case: BZA24-0159 – The owner of property located at TBD E. Aesque Street, Control Map 030A, Group A, Parcel 032.00** requests a 5 foot front yard variance to Sec 114-183(e)(1)c and an 8 foot 6 inch rear yard variance to Sec 114-183(e)(1)e for the purpose of constructing a new single family modular home. The property is zoned R-1B, Residential District.

The board noted that it appeared the owner had addressed the neighbors' concerns, and they found the variance request reasonable given the irregular shape of the lot.

**MOTION:** made by Mr. White, seconded by Ms. Cleek, to approve variances as requested.

**VOTE:** 3-0 to approve the request.

**Case: BZA24-0169 – The owner of property located at 1392 E. Center Street, Control Map 046N, Group K, Parcel 019.00** requests approval from the Board of Zoning Appeals to Sec. 114-8(4) to re-establish a non-conforming use of a duplex on the property. The property is zoned P-1, Professional Offices District.

The board acknowledged that this corner has undergone significant changes over the years and recognized the ongoing need for housing.

**MOTION:** made by Mr. White, seconded by Ms. Cleek, to approve the non-conforming use.

**VOTE:** 3-0 to approve the requested.

**Case: BZA24-0171 – The owner of property located at 1621 Newbern Road, Control Map 061E, Group A, Parcel 006.00** requests a 6 foot side yard variance to Sec 114-185(e)(1)d for the purpose of constructing a new wooden carport for an existing home. The property is zoned R-1B, Residential District.

Chairman Sumner asked if there was additional discussion. There was none.

**MOTION:** made by Mr. White, seconded by Ms. Cleek, to approve 6 foot side yard variance.

**VOTE:** 3-0 to approve the requested.

**Case: BZA24-0172** The applicant requests a zoning interpretation of Sec 114-194(d)3 the B-2, Central Business District and Sec 114-203(d)3 the B-2E, Central Business Edge District. The purpose of this request is to seek an interpretation of an animal boarding facility as a prohibited use in the B-2 and B-2E zones.

The board discussed the intent of the current zoning code and concluded that a "feline-only" indoor boarding facility is not a prohibited use and is not considered land-intensive.

**MOTION:** made by Ms. Cleek, seconded by Mr. White, to allow a "feline only" indoor boarding facility in the B-2 and B-2E zones.

**VOTE:** 3-0 to approve the requested.

**Case: BZA24-0187– The owner of property located at 1720 Park Meadow Place, Control Map 076, Parcel 006.91** request is a special exception to Sec 114-382(1) for the purpose of constructing a new childcare facility. The property is zoned BC, Business Conference Center District.

Chairman Sumner asked if there was additional discussion. There was none.

**MOTION:** made by Mr. White, seconded by Ms. Cleek, to approve the special exception for a childcare center located in the BC, Business Conference District.

**VOTE:** 3-0 to approve the requested.

With no further business the meeting was adjourned at 1:02 pm.

Respectfully Submitted,

*Jessica McMurray*

Jessica McMurray  
Development Coordinator