

TOWN OF KIMBALL
BOARD OF ZONING APPEALS
JULY 31, 2003 MEETING
6:00 PM CST
AGENDA

- I. CALL TO ORDER/DETERMINATION OF QUORUM
- II. READING AND APPROVAL OF PREVIOUS MINUTES
- III. NEW BUSINESS:
 - A. DOBSON/SHIELDS SETBACK VARIANCE REQUEST-MISTY MEADOWS SUBDIVISION-LOT #12
- IV. ADJOURNMENT

NEXT SCHEDULED MEETING AS NECESSARY

**TOWN OF KIMBALL
BOARD OF ZONING APPEALS
JULY 31, 2003 MEETING
6:00 PM**

MEMBERS PRESENT: Jack Keef Rodger Ford Martha Holland
Mike Cagle

OTHERS: Kevin Featherston Kimball's Attorney Ronnie Blevins Kimball's
Building Inspector Peggy Thomas Kimball Clerk Citizens of Kimball

Meeting was called to order by Chairman Jack Keef and a quorum was established

Minutes of the 1/5/02 and 9/17/02 BZA meetings were read by the members
Motion to approve these minutes as read was made by M.Holland, second by R.Ford, all vote yes

OLD BUSINESS: None

NEW BUSINESS:

Lot 12 of Misty Meadows Subdivision, On Old Dixie Highway, owned by Travis Shields and Joshua Dobson:

Request for a setback variance

T.Shields co-owner stated that the corner pins of this lot were moved without his knowledge and when he staked the house out he used these pins. It was believed that a neighbor unknowingly moved them. The setback on the front, which is 31.6ft, is in conflict with the subdivision regulation of 40ft. Also it was determined that this lot is on a cul-de-sac that was small. The house position is not out of line compared to the other homes in the cul-de-sac. The error was not discovered until the prospective buyer's mortgage company required another survey.

R.Blevins-building inspector agreed with Mr. Shields in that he also used the corner pins to measure the setback on the house and had determined it to be in compliance.

The Board questioned Mr. Shields thoroughly and after much discussion with suggestions to assure no reoccurrence of this situation, they requested the K. Featherston draw ordinance sample to present to Mayor Jackson and the Aldermen. This ordinance would require builders to have a certified survey completed on their lot before a building permit would be issued.

Motion was made by M.Cagle to approve this variance request with K.Featherston's follow-up ordinance sample being presented to the Mayor and Alderman, Second by R.Ford, All voted Yes.

With no further business to discuss a **Motion** was made by J.Keef to adjourn, second by R.Ford, All voted Yes

NEXT SCHEDULED MEETING AS NEEDED

MINUTES SIGNED BY CHAIRMAN Jack Keef DATE: 10-21-03
Jack Keef



Local Planning Assistance Office
Southeast Tennessee Region
Chattanooga State Office Building, Suite 690
Chattanooga, Tennessee, 37402
423-634-6446

MEMORANDUM

TO: Kimball Board of Zoning Appeals

FROM: Shannon Copas, Community Planner

DATE: July 30, 2003

SUBJECT: Travis Shields – Front Yard Setback Variance

BACKGROUND:

The Town of Kimball has adopted zoning regulations through Tennessee Code Annotated Section 13-7-201 through 13-7-401, to provide for the establishment of districts within the corporate limits of Kimball, Tennessee; to regulate within such districts the location, height, and size of buildings and other structures; the percentage of lot which may be occupied; the sizes of yards, courts and other open spaces; the density and distribution of population; and the uses of buildings and structures for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation or other purposes. (Ord. 61, Aug. 1988).

The Travis Shields property in question is located along Misty Meadows Drive on a cul-de-sac inside the Current Corporate Limits of Kimball, Tennessee. The property is located in an R-1 Zone, which is a Low Density Residential District. The R-1, Low Density Residential District, is established to provide as far as possible, adequate standards of development in order to prevent overcrowded and unhealthy conditions in the older established neighborhoods. The intensity of land use should not be so great as to cause congestion of buildings or traffic or overload sanitary facilities. Density should be limited to provide adequate light, air, and usable open space for the residents and adequate space for all related structures.

ANALYSIS:

All uses permitted in the R-1 Low Density District shall comply with the following dimensional regulations found under Section 14-404 of the Kimball Zoning Ordinance:

- A. Front yard. The minimum depth of the front yard shall be 40 feet from the streets right-of-way.

- B. Rear yard. The minimum depth of the rear yard shall be 15 feet for the principle structure.
- C. Side Yard. The side yard shall be a minimum of 10 feet for one and two story structures, plus 5 additional feet of side yard for each additional story over 2. If the side yard abuts a local street or cul-de-sac, the side yard setback shall be 20 feet.

According to Section 14-708 of the Kimball Zoning Ordinance, the purpose of a variance is to modify the strict application of the specific requirement of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the use of his/her land. The variance shall be used only where necessary to overcome some obstacle, which is preventing an owner from using his property under this ordinance.

Standards for Variances (Section 14-708). In granting a variance, the BZA shall ascertain that the following criteria are met:

1. Variances shall be granted only where special circumstances or conditions, fully described in the findings of the board, do not apply generally in the district;
2. Variances shall not be granted to allow a use otherwise excluded from a particularly district in which the request is made;
3. For reasons fully set forth in the findings of the BZA the aforesaid circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variance. There must be a deprivation of beneficial use of land;
4. The granting of any variance shall be in harmony with the general purposes and intent of this ordinance and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development; and
5. In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the person applying therefor.

RECOMMENDATION:

Staff Planner recommends that the regulations found in the Kimball Zoning Ordinance be followed and strictly applied to any situation, and Staff Planner would like to point out to the Board of Zoning Appeals that by granting a variance it sets a precedence for future requests. Once a variance is granted the Board of Zoning Appeals would have to grant variances that are similar to this request in the future. Staff cannot recommend that a variance be given based on standards mentioned in the above. There are really no grounds for a variance. A building permit

was issued for the construction of the single-family home. It appears that the building permit was not rejected, but was issued due to erroneous information as stated in the letter provided by Travis Shields. Usually a variance is considered when the building inspector rejects a building permit because a structure will not meet the setbacks due to the standards mentioned above. Staff also recommends that the BZA act only on Lot 12 of Misty Meadows Subdivision. Staff would also like to mention, if a variance is not granted the only remedy to this situation would be for the owner of the house to physically move it to meet the setbacks for the R-1, Residential Zone.

APPLICATION FOR PROPERTY RECLASSIFICATION/ZONING APPEAL
KIMBALL, TENNESSEE

GENERAL INFORMATION:

Name of applicant * SHIELDS TRAVIS LAMAR
(last) (first) (middle)

Applicant's Interest in Property: Owner Lessor ()

Prospective Purchaser () Option Holder () Other: (State Relationship)

NATURE AND CHARACTER OF APPLICATION

Planning Commission

Requested Action: () PROPERTY RECLASSIFICATION

Board of Zoning Appeals

- Requested Action: () APPEAL ALLEGING ERROR OF BUILDING INSPECTOR
 VARIANCE (REDUCTION OF MIN. SETBACK LINE)
() SPECIAL EXCEPTION
() INTERPRETATION OF BUILDING INSPECTOR
() INTERPRETATION OF ORDINANCE

PROPERTY LOCATION - Address: 330 MISTY MEADOWS DRIVE, KIMBALL
LOT(S) 12 OF BLOCK _____ STREET _____ of the Tax TN 373

Maps Dated: 1180 GROUPB PARCEL 17

Present Zoning Classification R-1 Proposed Zoning Classification R-1

Description of Intended Use of Property:

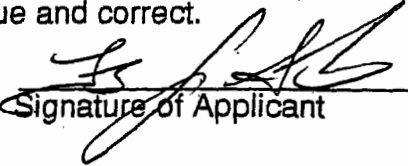
RESIDENTIAL DWELLING

Reasons for Request: HOUSE VIOLATES 40' MINIMUM SETBACK
FROM RIGHT-OF-WAY LINE AS SHOWN BY ATTACHED DRAWING.

*If more than one applicant is filing, attach each applicant's name with other pertinent information to this form.

PROPERTY DESCRIPTION: Attach map showing dimensions and topographic characteristics**, street right-of-way and street pavement, the location of existing and proposed structures or uses including setbacks, yards and heights, the spatial relationship of the property to adjoining properties showing use, and the distance from the nearest traffic intersections at a scale of not more than one (1) inch equals fifty (50) feet.

I hereby certify that the statements made by me herein and the maps and other accompanying data submitted herewith are true and correct.



Signature of Applicant

REVIEW AND ADMINISTRATION

Recommendations from Other Agencies, Boards or Departments:

Application Reviewed By Building Inspector

Date _____

**Required only in the case of variance.

Application Reviewed By Planning Staff

Date _____

Comments and Action _____

Application Reviewed by Planning Commission

Date _____

Comments and Action _____

DISPOSITION

Publication Date of Public Hearing _____ (Attach newspaper notice)

Public Hearing Commentary _____

ACTION BY BOARD OF MAYOR AND ALDERMEN

**KIMBALL BOARD OF ZONING APPEALS
MEETING
OCTOBER 21, 2003.....5:30 P.M.**

MEMBERS PRESENT: Jack Keef Mike Cagle Rodger Ford
Martha Holland(arriving after sign variance vote)

OTHERS PRESENT: Liu Jing Fang and interpreter Kevin Featherston,Atty
Mayor David Jackson Peggy Thomas
Ronnie Blevins,Bldg.Inspector

Minutes of the August 19, 2003 BZA meeting were reviewed. R.Ford made a motion to approve the minutes as written with M.Cagle seconding the motion. All voted aye.

Old Business: None

New Business: Kimball Chinese Buffet Restaurant, 102 Battle Creek Rd. requested a setback variance for a sign installed by Acme Sign Co. Ronnie Blevins had previously informed Mr. Fang that the sign must be set 10 feet from the property line. Due to confusion in communication the sign company put the sign right on the property line. There was discussion by both Mr. Fang (through his interpreter) and members of the BZA board. The Board sympathized with his problem, but could find no reason to legally permit the sign to remain where it was initially installed. Attorney Featherston advised that the request did not meet any of the factors that would allow a variance be granted. Shannon Copas strongly advised against allowing the variance. **Motion** by R.Ford not to grant the variance was **seconded** by M.Cagle and all voted **aye..** Request denied

Motion to adjourn was made by J.Keef, **second** by M.Holland with all voting **aye.** Meeting adjourned.

Signed by Jack Keef, Chairman

Date

A G E N D A

KIMBALL BOARD OF ZONING APPEALS

OCTOBER 21, 2003

TOWN HALL - 5:30PM

- I. CALL TO ORDER/DETERMINATION OF A QUORUM
- II. READING AND APPROVAL OF PREVIOUS MINUTES
- III. NEW BUSINESS:
 - A. Liu Jing Fang - Variance Requests
 - B. Any Other Properly Presented New Business
- IV. ADJOURNMENT

NEXT SCHEDULED MEETING AS NECESSARY



STATE OF TENNESSEE
DEPARTMENT OF ECONOMIC & COMMUNITY DEVELOPMENT

LOCAL PLANNING ASSISTANCE OFFICE
SOUTHEAST TENNESSEE REGION
540 McALLIE AVENUE, SUITE 690
CHATTANOOGA, TENNESSEE 37408
TELEPHONE: 423.634.6446 — FAX: 423.634.6351
HTTP://WWW.TNECD.GOV

MEMORANDUM

TO: KIMBALL BOARD OF ZONING APPEALS
FROM: SHANNON COPAS, PRINCIPAL PLANNER
DATE: 10/15/03
RE: KIMBALL CHINESE BUFFET SIGN VARIANCE

BACKGROUND:

The Town of Kimball has adopted zoning regulations through Tennessee Code Annotated Section 13-7-201 through 13-7-401, to provide for the establishment of districts within the corporate limits of Kimball, Tennessee; to regulate within such districts the location, height, and size of buildings and other structures; the percentage of lot which may be occupied; the sizes of yards, courts and other open spaces; the density and distribution of population; and the uses of buildings and structures for trade, industry, residence, recreation, agriculture, forestry, soil conservation, water supply conservation or other purposes. (Ord. 61, Aug. 1988).

Liu Jing Fang owns the Kimball Chinese Buffet at 102 Battle Creek Road in Kimball, Tennessee. The property is located in a C-2 Zone, which is the Highway Business District. It appears that Liu Jing Fang is seeking a variance from the front yard setbacks for ground signs, in order to be closer to the right-of-way of Battle Creek Road. The application does not specify how much of a variance is being requested. The specific setback for a pole sign in the C-2 Zoning District is 10 feet from the right-of-way. The C-2 Zoning District, is established along selected portions of major thoroughfares to provide areas for those amusements, specialized sales, and travel accommodations activities which depend on visibility or proximity to automobile traffic. It is intended that such areas have properties with lot sizes, yards and performance standards to insure that activities performed on any one lot will not unduly impede the flow of traffic and etc. It is further intended to exclude those activities or uses that are not necessary for service to traffic.

ANALYSIS:

Ground signs within the C-2 , Zoning District are permitted as long as they shall comply with the following dimensional regulations found under Section 14-902 of the Kimball Zoning Ordinance:

- (i) Do not exceed 900 square feet and that no one sign is larger than 600 square feet;
- (ii) Are setback ten feet from the public right-of-way. This measurement is taken from the edge of the sign to the right-of-way, not from the pole supporting the ground sign;
- (iii) Are not higher than 100 feet from the finished grade except as provided in 14-902(4)(f);
- (iv) Are spaced so that they are not closer than 50 feet to another ground sign;
- (v) Do not exceed three signs per tract of property.

According to Section 14-708 of the Kimball Zoning Ordinance, the purpose of a variance is to modify the strict application of the specific requirement of this ordinance in the case of exceptionally irregular, narrow, shallow, or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship which would deprive an owner of the use of his/her land. The variance shall be used only where necessary to overcome some obstacle, which is preventing an owner from using his property under this ordinance.

Standards for Variances (Section 14-708). In granting a variance, the BZA shall ascertain that the following criteria are met:

1. Variances shall be granted only where special circumstances or conditions, fully described in the findings of the board, do not apply generally in the district;
2. Variances shall not be granted to allow a use otherwise excluded from a particular district in which the request is made;
3. For reasons fully set forth in the findings of the BZA the aforesaid circumstances or conditions are such that the strict application of the provisions of this ordinance would deprive the applicant of any reasonable use of his land. Mere loss in value shall not justify a variance. There must be a deprivation of beneficial use of land;
4. The granting of any variance shall be in harmony with the general purposes and intent of this ordinance and shall not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the comprehensive plan for development; and;
5. In reviewing an application for a variance, the burden of showing that the variance should be granted shall be upon the person applying therefor.

RECOMMENDATION:

Staff Planner recommends that the regulations found in the Kimball Zoning Ordinance be followed and strictly applied to any situation, and Staff Planner would like to point out to the Board of Zoning Appeals that by granting a variance it sets a precedence for future requests. Once a variance is granted the Board of Zoning Appeals would have to grant variances that are similar to this request in the future. Staff cannot recommend that a variance be given based on the standards mentioned above. It appears that a building permit was not issued for this particular sign. Usually a variance is considered when the building inspector rejects a building permit because a structure will not meet the setbacks due to the standards mentioned above. Staff would also like to mention, if a variance is not granted the only remedy to this situation would be for the owner physically move the sign to meet the required setbacks.

Permit No. 11485

APPLICATION FOR SIGN PERMIT

Date _____ Permit Fee \$ 42

STATE TAX MAP NUMBER		
Map	Group	Parcel
PROPERTY LOCATION		
102		
Street Number.		Apt. Number
Battle Creek Rd		
Street Name		
37380		
Zip Code		Direction
OWNER INFORMATION		
KIMBALL CHWSE BUFFET		
Name		
102 Battle Creek Rd		
Street Address		
S. Pittsburg	TN	37380
City	State	Zip Code
Area Code		Phone Number
423-837-0089		
Ownership is:		
1. <input checked="" type="checkbox"/> PRIVATE		
2. <input type="checkbox"/> PUBLIC		
TYPE OF WORK		
1. <input type="checkbox"/> NEW CONSTRUCTION		
2. <input type="checkbox"/> ALTERATION		
3. <input type="checkbox"/> REPAIR/REPLACE		
4. <input type="checkbox"/> DEMOLITION		
5. <input type="checkbox"/> MOVE		
6. <input checked="" type="checkbox"/> ADDITION		
PROPERTY OCCUPIED/USED AS		
1. <input type="checkbox"/> INSTITUTIONAL		
2. <input type="checkbox"/> RESIDENTIAL		
3. <input type="checkbox"/> INDUSTRIAL		
4. <input checked="" type="checkbox"/> COMMERCIAL		
_____ No. of dwelling units, if residential.		
_____ No. of buildings, if multi-family residential.		

CONTRACTOR INFORMATION		
Contract Value \$ <u>2,700</u>		
State Lic. County Bus. Lic. Phone		
Dan Smith (Acme Sign)		
Contractor Name		
Pho: 867-2917-206-459-1501		
FAX: 867-5980		
Street Address		
City State Zip Code		
ARCH/ENGR. INFORMATION		
W.F. McBee Electric		
00039511 931-598-9339		
State Lic. City Business Lic. Phone		
William F. McBee		
Arch/Engr. Name		
ST Long's Lane, Bob Stewart Rd		
Street Address		
Sewanee	TN	37375
City	State	Zip Code
AGENT INFORMATION		
Name of Agent		Phone No.
Address of Agent		
City State Zip Code		
NOTICE -- This permit is issued with the distinct understanding that the building for which this Permit is issued is to be built in strict accordance with the building laws of State of Tennessee and Marion County.		
Persons performing construction work under this permit must observe Tenn. Law. (Pub. Chap. 289 Acts of 1955) providing for precautions to be taken in vicinity of high voltage wires.		
THIS DOCUMENT BECOMES A BUILDING PERMIT WHEN SIGNED.		

- What is to be built, installed, moved, repaired, altered or demolished? Lighted sign
- Type of construction? free standing pole
- Plan, specifications, drawings, and land survey must accompany application. Land survey must show location of proposed building and property lines.
- Is property located in a designated 100 year flood plain? YES ___ NO ___
If yes, what is the elevation? _____

The undersigned does hereby declare that the statements contained in this document and on the attachments hereto, are true and correct to the best of his or her knowledge, information and belief.

* Lin JING FANG
Owner or Agent

NOTICE - This permit must be accompanied by septic system approval from the Health Department.

Is approval on file? YES ___ NO ___

NOTE: Location of residence on lot:
Minimum front yard setback is 40 foot.
Minimum side yard setback is 10 foot (interior lot)
Minimum size yard setback is 25 foot (corner lots).
Minimum rear yard is 20 foot.

For Kenneth Blew Chief Building Official
By _____ Date _____

(Hold until ROW. Property line is determined)

6.9 AC.

1.54 AC.

2.3 AC.

1.5 AC.

19

"B"

13

12

9.01

211.83'

180'

138.09'

120.85'

218.82'

128'M

219.3'

15 "A"

69.95'

37.04'

22.75'

147 M

190'M

"A"

390'

13

14

110'

100' 100' 6"

124.61'

11

200'

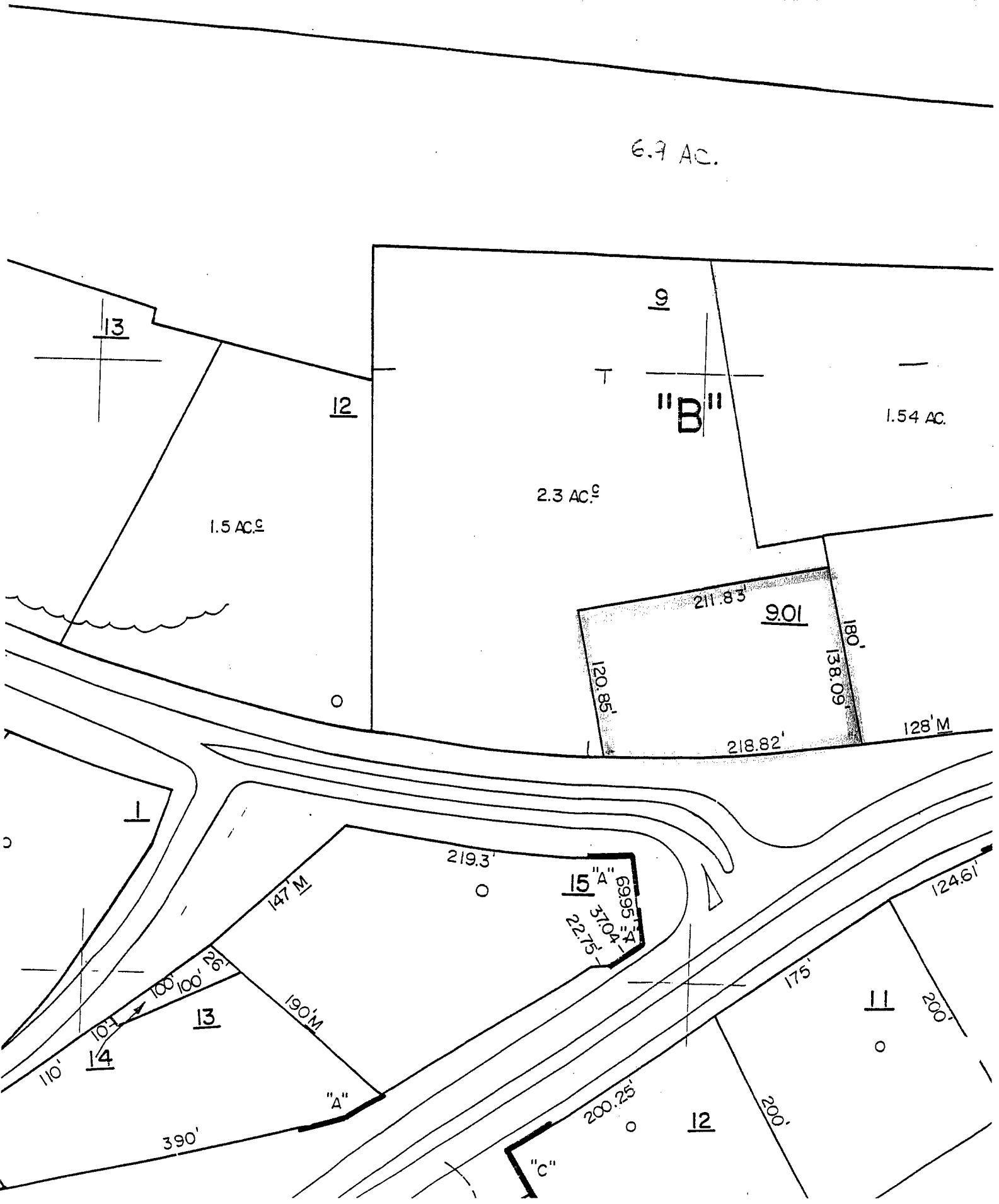
175'

12

200'

200.25'

"C"



**APPLICATION FOR PROPERTY RECLASSIFICATION/ZONING APPEAL
KIMBALL, TENNESSEE**

GENERAL INFORMATION:

Name of applicant * FANG Lin Jing
(last) (first) (middle)

Applicant's Interest in Property: Owner () Lessor ()

Prospective Purchaser () Option Holder () Other: (State Relationship)

NATURE AND CHARACTER OF APPLICATION

Planning Commission

Requested Action: () PROPERTY RECLASSIFICATION

Board of Zoning Appeals

Requested Action: () APPEAL ALLEGING ERROR OF BUILDING INSPECTOR

VARIANCE

() SPECIAL EXCEPTION

() INTERPRETATION OF BUILDING INSPECTOR

() INTERPRETATION OF ORDINANCE

PROPERTY LOCATION - Address: 102 Battle Creek Ad.

LOT(S) _____ OF BLOCK _____ STREET _____ of the Tax

Maps Dated: _____

Present Zoning Classification _____ Proposed Zoning Classification _____

Description of Intended Use of Property:

Reasons for Request: Closer To Right of way.

Sign

*If more than one applicant is filing, attach each applicant's name with other pertinent information to this form.

PROPERTY DESCRIPTION: Attach map showing dimensions and topographic characteristics**, street right-of-way and street pavement, the location of existing and proposed structures or uses including setbacks, yards and heights, the spatial relationship of the property to adjoining properties showing use, and the distance from the nearest traffic intersections at a scale of not more than one (1) inch equals fifty (50) feet.

I hereby certify that the statements made by me herein and the maps and other accompanying data submitted herewith are true and correct.

JING FANG LIU
Signature of Applicant

REVIEW AND ADMINISTRATION

Recommendations from Other Agencies, Boards or Departments:

Application Reviewed By Building Inspector

Date _____

**Required only in the case of variance.