

**TOWN OF KIMBALL  
BZA MEETING  
JANUARY 5, 2002  
5:30 PM**

*January 15, 2002 (Pf)*

**Members Present:** Jack Keef      Scott Hawkins      Rodger Ford

**Others Present:** Shannon Copas, Community Planner; Ronnie Blevins, Building Inspector; Ronnie Stephens for Ruby Tuesday Restaurant; Kevin Featherston, Town Atty; Peggy Thomas, Town Clerk

Call to order:

Quorum established:

No Old Business:

New Business:

**Floor open for nomination of officers:**

**A:** Motion by R.Ford to appoint J.Keef Chairperson, Second by S. Hawkins: All voted aye

**B:** Motion by R.Ford to appoint S.Hawkins Secretary, Second by J.Keef: All voted aye

(J.Keef, newly appointed Chairperson took floor to chair meeting)

Each Member drew pre-numbered papers to designate their length of terms:

The drawing went at follows

**1 year** Rodger Ford

**2 years** Scott Hawkins

**3 years** Jack Keef

In the absence of the following members J.Keef drew their numbers

**4 years** Mike Cagle

**5 years** Martha Holland

**C: Ruby Tuesday Restaurant Sign height appeal:**

Ronnie Stephens representative for Ruby Tuesday was given the floor to explain their need for a variance on the sign height. He stated that there were in depth studies of

the Kimball site made regarding the visibility of a sign at their proposed location. The study indicated that a 60' sign would not be visible from I-24. This restaurant chain depends greatly on interstate trade to meet their income expectations. He also felt that a taller sign would give the interstate traffic ample time to safely exit. The request for sign variance is for a 100' sign.

K.Featherston, Town atty, suggested that the motion should state the reason for the variance.

Each member contributed to general conversation regarding this issue. The shopping center elevation is low and visibility is less because of that. There are several other signs at the junction that are either 100' or close to same. Some were erected before Southern Building Codes was adopted.

S.Hawkins stated because of the low elevation a taller sign seems acceptable to him at the Ruby Tuesday location, but would set a precedent for all signs in Kimball.

1:S.Hawkins made motion to accept the 100' sign variance on the grounds that Ruby Tuesday Restaurant is going to be in a low area and they depend on interstate traffic for a great portion of their income. Second by R.Ford. All voted Aye

R.Ford made motion to adjourn. Second S.Hawkins. All voted Aye.

Meeting Adjourned

DATE: 1-31-03

MINUTES APPROVED BY:

Jack Keef  
Chairman

Attached to minutes a written opinion regarding the Ruby Tuesday variance request by Shannon Copas-Department for Economic Community Development/ Southeast Tennessee Local Planning Assistance

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

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**MEMORANDUM**

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**TO:** KIMBALL BOARD OF ZONING APPEALS  
**FROM:** SHANNON COPAS, COMMUNITY PLANNER II  
**DATE:** 1/15/02  
**RE:** RUBY TUESDAY – VARIANCE REQUESTS

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**BACKGROUND:**

Ruby Tuesday, which will be located in Kimball, Tennessee, in the Kimball Crossing Shopping Center, is requesting a variance of 40 feet so it may be allowed to construct a sign that is 100 feet high. Within the C-2 Commercial Zone, the maximum height for this type of sign is 60 feet. There are numerous considerations to be taken into account by the Board of Zoning Appeals in this circumstance.

**ANALYSIS:**

After review of the Town of Kimball Zoning Ordinance, the following is an analysis of Ruby Tuesday variance request.

- The purpose of the variance is to modify the strict application of the specific requirements 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 reasonable use of his/her land. This variance shall be used only where necessary to overcome some obstacle, which is preventing an owner from using his property under this ordinance. (Section 14-708 of the Town of Kimball Zoning Ordinance).

- When a variance is requested, the Board of Zoning Appeals shall ascertain that the criteria or standards are met in this section. The Board of Zoning Appeals should also consider the ramifications of granting variances that do not meet these criteria. Once a variance is granted it sets precedent. All the business owners in this area who meet the current height restriction of 60 feet can then request a variance. If a variance is granted for one property owner without meeting the criteria found in the zoning ordinance, then all should be granted a variance.

#### **RECOMMENDATION:**

Staff recommends that the Town of Kimball follow the regulations of the zoning ordinance, unless a variance request meets the criteria found within this ordinance. As stated above, every time a variance is granted a precedent will be set. Staff's recommendation is based upon the definition of a variance that is found within the zoning ordinance. Another option is to study the height requirements that are currently in place, and determine if they are too restrictive for this particular zone. If they are found to be too restrictive then the Town of Kimball could possibly amend the zoning ordinance to allow 100 feet tall signs within the C-2 Commercial Zone.

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**A G E N D A**

**KIMBALL BOARD OF ZONING APPEALS**

**SEPTEMBER 17, 2002**

**TOWN HALL - 5:30PM**

- I. CALL TO ORDER/DETERMINATION OF A QUORUM
- II. READING AND APPROVAL OF PREVIOUS MINUTES
- III. NEW BUSINESS:
  - A. Berton Cagle Mobile Home Park - Site Plan Variance Requests
  - B. Jason Collins - Front Yard Setback Variance
- IV. ADJOURNMENT

**NEXT SCHEDULED MEETING AS NECESSARY**

**TOWN OF KIMBALL  
BOARD OF ZONING APPEALS  
SPECIAL CALLED MEETING  
SEPTEMBER 17, 2002 - 5:30pm**

**Those Present:**

Board Members: Scott Hawkins, Martha Holland, Mike Cagle, Rodger Ford  
Attorney Featherston  
Clerk Thomas  
S. Copas-Local Planning Offc.  
Property owners of Mountain Meadows Subdivision

In the absence of Jack Keef, Secretary, Scott Hawkins presided.

**Motion** to approve the minutes of January 5, 2002 made by S.Hawkins, second by R.Ford, all voted aye.

**OLD BUSINESS:** None

**NEW BUSINESS:**

Burton Cagle request for setback variance for trailer on Ponderosa Dr, was withdrawn.

Jason Collins requested a setback variance on his building site at lot #3, Mountain Meadows Subdivision. There had been some confusion regarding which would be considered the front yard because Jason's house will face Mountain Meadows Dr. and his side yard is on a main arterial road. Because of low land behind Mr. Collins' proposed building he could not build a complete 40' off Mountain Meadows Dr. S.Copas' office and The building inspector, R.Blevins were both in the opinion that the 40" front setback would be taken on the arterial road side of the lot which would give Mr. Collins the allowed side yard setback on his building front. Numerous adjoining property owners were present and voiced their disagreement to grant said setback variance. They stated that verbal promises given by the developer to keep a uniform look on said road, Tommy Dobson assured them that setbacks would all be the same on the Mountain Meadows Drive and they also stated the subdivision covenant confirmed this promise. Much discussion followed mostly directed at the developer and not Mr. Collins. Committee agreed that this was not a BZA matter, but should be taken up with the developer.

M.Holland made a **motion** not to grant the variance, second by R.Ford, all voted aye with M.Cagle voting ney. Variance denied

R.Ford made a **motion** to adjourn, second by S.Hawkins, all voted aye

Signed: Jack Keef, Chairman Jack Keef, Date 7-31-03

**Local Planning Assistance Office**  
Southeast Tennessee Region  
Chattanooga State Office Building, Suite 626  
Chattanooga, Tennessee, 37402  
423-634-6146

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**MEMORANDUM**

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**TO:** KIMBALL BOARD OF ZONING APPEALS  
**FROM:** SHANNON COPAS, COMMUNITY PLANNER II  
**DATE:** 9/11/02  
**RE:** BERTON CAGLE MOBILE HOME PARK – VARIANCE REQUESTS

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**BACKGROUND:**

Mr. Berton Cagle is requesting a variance from the front yard setback within the R-2 Residential District. Within the R-2 Residential Zone, the minimum front yard setback is 40 feet from the street right-of-way. According to the site plan the mobile homes will need a variance of 17 feet. It also appears that there will be more than one principle structure on the lot containing the mobile home park. There is already a commercial use located on this property along with 2 other mobile homes. There are numerous considerations to be taken into account by the Board of Zoning Appeals in this circumstance.

**ANALYSIS:**

After review of the Town of Kimball Zoning Ordinance, the following is an analysis of the variance requests.

**Variance One: Front Yard Setback Variance.**

- The purpose of the variance is to modify the strict application of the specific requirements 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 reasonable use of his/her land. This variance shall be used only where necessary to overcome some obstacle, which is preventing an owner from using his property under this ordinance. (Section 14-708 of the Town of Kimball Zoning Ordinance).

- When a variance is requested, the Board of Zoning Appeals shall decide if the criteria or standards are met in this section. The Board of Zoning Appeals should also consider the ramifications of granting variances that do not meet these criteria. Once a variance is granted it sets precedent. All the homeowners in this area who meet the current front yard setbacks can then request a variance. If a variance is granted for one property owner without meeting the criteria found in the zoning ordinance, then all should be granted a variance.

#### **Variance Two: More Than One Principle Structure on One Lot**

- It also appears that there will be more than one principle structure on the lot the proposed mobile home park will be located on. There appears to be a commercial use located on this lot along with the proposed mobile home park. In order to place more than one principle structure on the lot it must meet certain requirements found within the zoning ordinance. These requirements are found under Title 14-506 of the zoning ordinance. If the proposed development does not meet these requirements then the property would have to be subdivided. If the property were subdivided the rules and regulations of the subdivision regulations and zoning ordinance would have to be met.

#### **RECOMMENDATION:**

Staff recommends that the Town of Kimball follow the regulations of the zoning ordinance, unless a variance request meets the criteria found within this ordinance. As stated above, every time a variance is granted a precedent will be set. Staff's recommendation is based upon the definition of a variance that is found within the zoning ordinance.

The Kimball Planning Commission cannot approve the current site plan for this mobile home park unless the above variances are granted. If the variances are granted and the site plan contains and meets the regulations of the Kimball Zoning Ordinance then the Planning Commission could approve the site plan.



Local Planning Assistance Office  
Southeast Tennessee Region  
Chattanooga State Office Building, Suite 600  
Chattanooga, Tennessee, 37402  
423-634-5446

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## MEMORANDUM

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**TO:** KIMBALL BOARD OF ZONING APPEALS  
**FROM:** SHANNON COPAS, COMMUNITY PLANNER II  
**DATE:** 9/11/02  
**RE:** JASON COLLINS - FRONT YARD SETBACK VARIANCE

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### BACKGROUND:

Staff was asked what constituted the front yard setback for a corner lot that abuts upon a major street and a local street. According to the Building Inspector Lot 3 of the Mountain Meadow Subdivision is a corner lot that fronts on Main Street and on Mountain Meadow Drive, which is in a R-1 Residential Zone. According to this plat the lot has a 40-foot front yard setback on Main Street and a 20-foot side yard setback on Mountain Meadow Drive. According to the building inspector the owner of the lot is going to face his/her lot toward Mountain Meadow Drive.

### ANALYSIS:

After review of the Town of Kimball Zoning Ordinance and Subdivision Regulations, the following is an analysis of the proposed development.

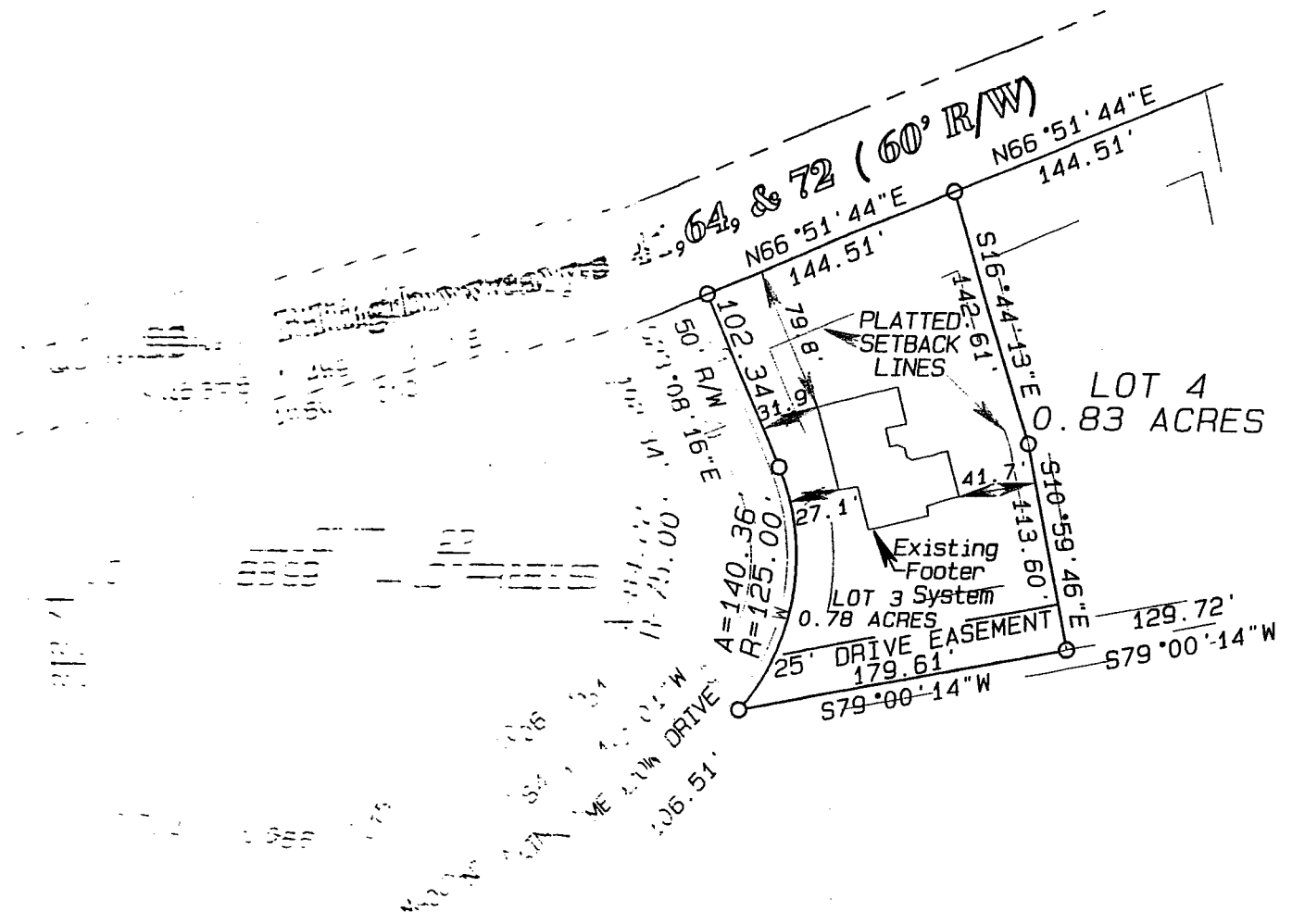
- According to Section 14-404, the minimum depth of the front yard shall be 40 feet from the street's right-of-way. Also in this section if the side yard abuts a local street or cul-de-sac, the side yard setback shall be 20 feet. This requirement applies to all corner lots as is Lot 3.
- According to the Kimball Building Inspector the setbacks for this particular zone will not be violated. There are questions as to whether or not that since the house will be facing and accessing Mountain Meadows Drive, should this

be considered the front yard. It is the opinion of Staff that it does not matter how a house sets on a lot as long as the setbacks are being adhered to. As stated earlier it appears that all the requirements of the zoning ordinance are being followed.

- As stated earlier it does not matter which way the house is situated, the setbacks should be adhered to. Even though the house is facing Mountain Meadow Drive, according to the zoning ordinance this is still the side yard setback.

#### **RECOMMENDATION:**

The Kimball Zoning Ordinance clearly states what the setbacks are for this particular zone and the orientation of a structure will not dictate the setbacks. The building setbacks apparently will not be violated, according to the building inspector. If the Town of Kimball feels that the front and side yard setbacks for corner lots should be 40 feet for all lots that abut upon the right-of-way of all streets, then the zoning ordinance could be amended to reflect this. The zoning ordinance can state that the side yard setback for a lot that abuts upon a local street shall have a 40 feet side yard setback as well as a 40 feet front yard setback.





Plat North  
as per Area  
Surveying Plat  
dated 9/06/1995

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OVILEE F. DANCY, JR. AL R.L.S. #18392  
GA R.L.S. #2551  
TN R.L.S. #1602



Mike Cagle  
Tax Map 119  
Parcel 57.02  
192/72

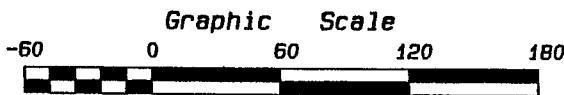
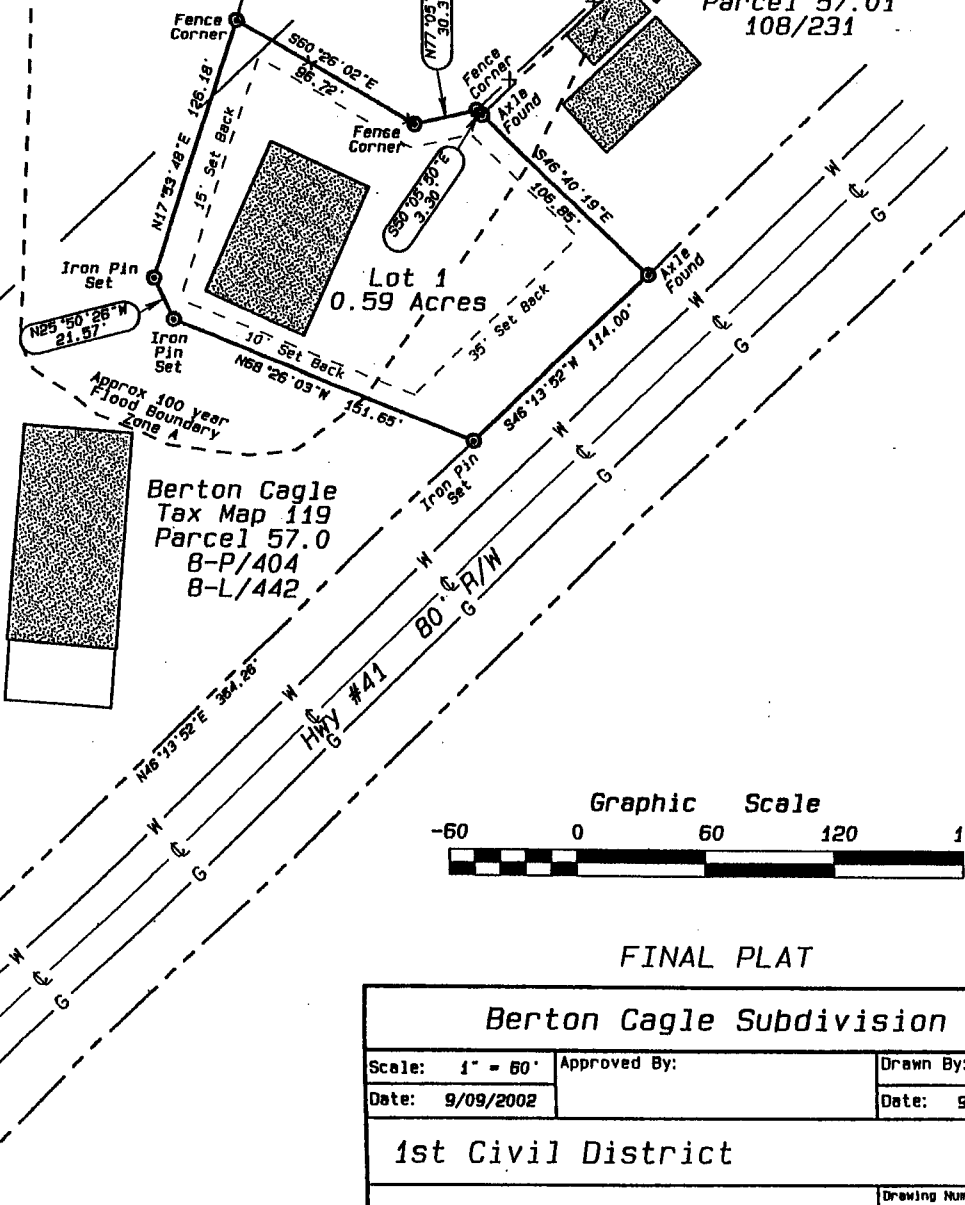
1.14 Acres

Berton Cagle  
Tax Map 119  
Parcel 57.0  
8-P/404  
8-L/442

5.7 Acres +/-

Roger Powell  
Tax Map 119  
Parcel 57.01  
108/231

Zoned R-2  
Zoned C-2



FINAL PLAT

<b>Berton Cagle Subdivision</b>		
Scale: 1" = 60'	Approved By:	Drawn By:
Date: 9/09/2002		Date: 9/11/2002
1st Civil District		
Marion County, Tennessee		Drawing Number 6075-02