

**MEETING OF THE
MONTEAGLE BOARD OF ZONING APPEALS
February 20, 2007**

I. CALL TO ORDER

1. Andy Baggenstoss – Setback Variance Request

II. ADJOURNMENT

**Board of Zoning Appeals
Agenda Summary**

I.1. Andy Baggenstoss – Setback Variance Request

Background

This is a rear setback variance request for property located at the corner of Forsite Avenue and State Route 2 (Dixie Lee Avenue). There is an existing building on the property (Larry's Army-Navy), and the variance is requested due to an addition that will violate the setback requirement by 2.18 feet. The property is zoned C-3 where the rear setback requirement is 10 feet.

Analysis

Staff has provided information from the zoning ordinance for the BZA to review in making a decision. There appears to be no topographical reasons that make this request necessary. This is a hardship created by the developer, and could be corrected by moving the rear lot line parallel to the back of the existing building.

Recommendation

With the information that Staff has been provided, there is no justification for the variance based on the Monteagle Zoning Ordinance.

6.080 VARIANCES

The purpose of this 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 uses of his 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.

BZA Guidelines

6.070 BOARD OF ZONING APPEALS (BZA)

A Board of Zoning Appeals (BZA) is hereby established in accordance with 13-7-205 through 13-7-207 of the Tennessee Code Annotated. The BZA shall consist of five (5) members appointed by the Board of Mayor and Aldermen.

A. Procedure

Meetings of the BZA shall be held at the call of the chairman, and at such other times as the BZA may determine. Such chairman or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the BZA shall be open to the public. The BZA shall adopt rules of procedure and shall keep records of applications and action taken thereon which shall be public records.

B. Appeals to the BZA

An appeal to the BZA may be taken by any person, firm, or corporation aggrieved, or by any governmental office, department, board, or bureau affected by any decision of the building inspector based in whole or in part upon the provisions of this ordinance. Such appeal shall be taken by filing with the BZA a notice of appeal specifying the grounds thereof. The building inspector shall transmit to the BZA all papers constituting the record upon which the action appealed was taken. The BZA shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing, any person or party may appear in person, by agent, or by attorney.

C. Powers of the BZA

The BZA shall have the following powers:

1. Administrative Review:

To hear and decide appeals where it is avowed by the appellant that there is error in any order, requirement, permit, decision, determination or refusal made by the building inspector or other administrative official in the carrying out or enforcement of any provision of this ordinance.

2. Special Exceptions:

To hear and decide applications for special exceptions as specified in this ordinance, hear requests for interpretation of the zoning map, and for decision on any special questions upon which the BZA is authorized to pass.

3. Variances:

To hear and decide applications for variances from the terms of this ordinance.

6.080 VARIANCES

The purpose of this 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 uses of his 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.

A. Application

After written denial of a permit, a property owner may make application for a variance using the standard form made available by the BZA.

B. Hearings

Upon receipt of an application and a ten (\$10.00) dollar fee, the Board of Zoning Appeals shall hold a hearing to decide whether a variance to the ordinance provisions is, in fact, necessary to relieve unnecessary hardships which act to deprive the property owner of the reasonable use of his land. The BZA shall consider and decide all applications for variances within thirty (30) days of such hearing and in accordance with the standards provided below.

C. Standards for Variances

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 the 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.

OWNER / DEVELOPER
 THOMAS A BAGGENS
 FORESITE DEVELOPMENT LLC
 P.O. BOX 997
 MONTEAGLE, TENN 37386

LOT ACREAGE: 6178

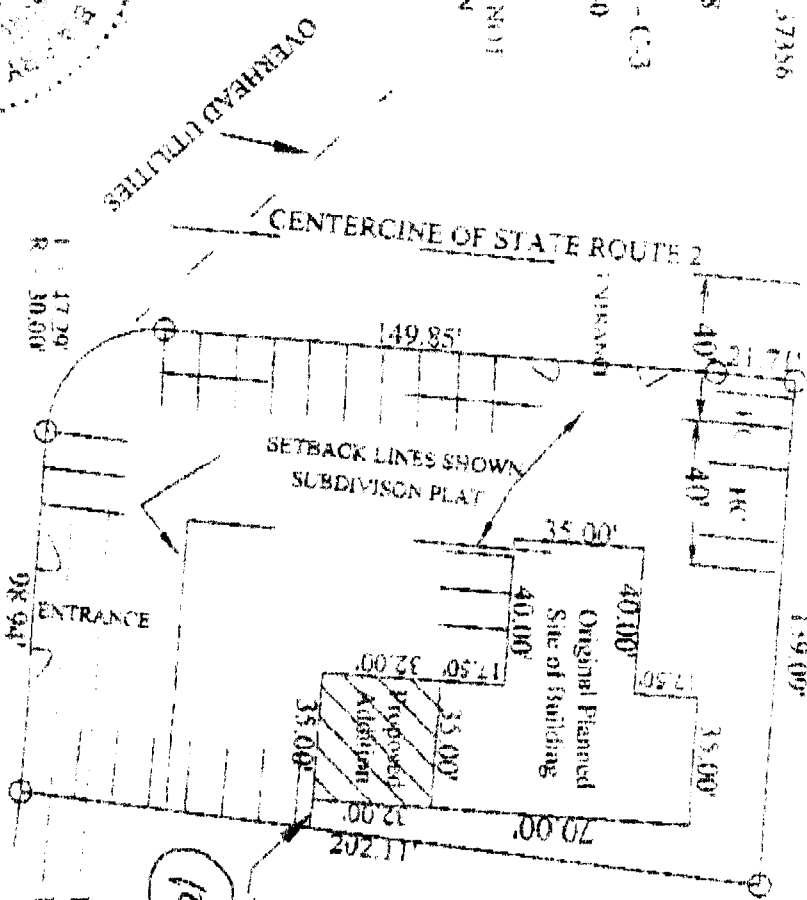
PRESENT ZONING: C-3
 FRONT SETBACK 40
 REAR SETBACK 25

THERE ARE UTILITIES NOT
 SHOWN ON THIS PLAN

SITE PLAN

LOT 1 OF EAST GATE SUBDIVISION PHASE 3

PROUD REVIEW AND
 THE TITLE PROPERTY IS
 THE OWNER OF MONTEAGLE



NOTE:
 Plan drawn from the information
 provided by Andy Baggens
 The existing building was not located
 by the surveyor.



MICHAEL A. BARRY
 LAND SURVEYING & FORESTRY

DATE: 10/20/07	PREPARED BY: MARK RMR	CREATED BY: JRS
DRAWN BY: JRS	CHECKED BY: JRS	DATE: 10/20/07

2001 HENRIE MOUNTAIN ROAD, NEW ANDY, TN 37386
 (931) 598-0314

SITE PLAN FOR ANDY BAGGENS
 FILED: 10/20/07