

**STAFF REPORT**

**CASE:** BZA01-2014

**APPLICANTS:** Jeremy and Brandy Stover

**LOCATION:** 2467 Penewit Road  
Parcel L32000200180002300

**ZONED:** E (Estate Residential) District

**REQUEST:** Area/dimensional variances from Table 4-6 and Section 4.13 E. 11. of the Sugarcreek Township Zoning Resolution to allow for a wood boiler furnace to be permitted in the Estate Residential District/recorded subdivision, to allow for a wood boiler furnace (that is not EPA Phase 2 qualified) to be located less than 100' from an adjacent property line, and to allow for a wood boiler furnace and a firewood storage structure (less than 200 SF in area) to be located in the side yard

**DATE:** February 27, 2014

**DESCRIPTION OF REQUEST**

**Property Location:** The subject property is 2467 Penewit Road located in the E (Estate Residential) District. The subject property contains a 1368 SF single-family dwelling constructed in 1962. The subject property is also known as lot 4 in the Kettle Lane Acres subdivision. The subject parcel contains 4 acres. The applicants also own the adjacent 13.192 acre parcel to the north (with frontage both on Penewit Road and SR 725).

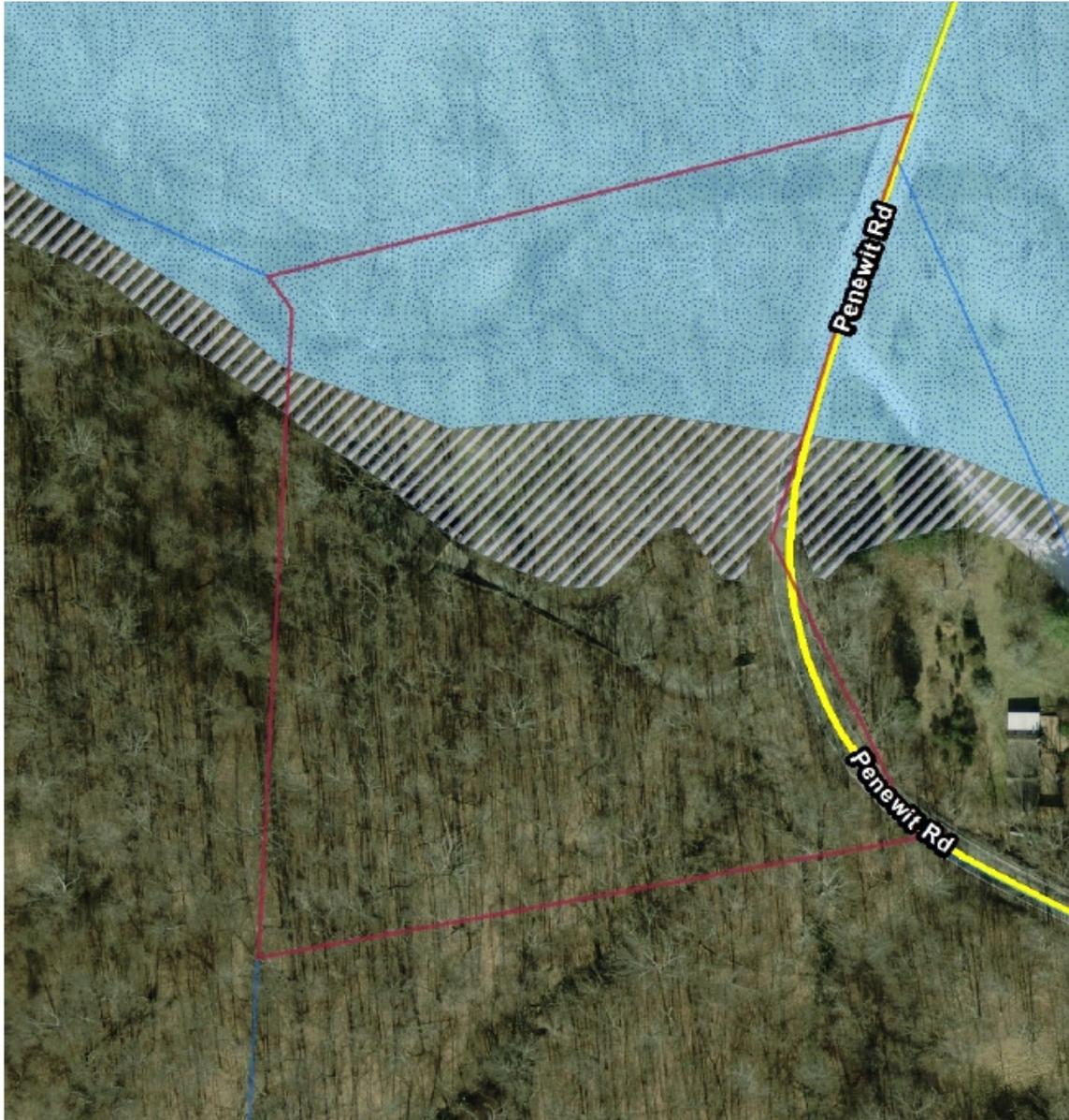
**Applicant Proposal:** The applicant is requesting approval of the following:

- 1.) Allow for a wood boiler furnace to be permitted in the Estate Residential District and a recorded subdivision;
- 2.) Allow for a wood boiler furnace (that is not EPA Phase 2 qualified) to be located less than 100' from an adjacent property line; and
- 3.) Allow for a wood boiler furnace to be located in the side yard; and
- 4.) Allow for a firewood storage structure (less than 200 SF in area) to be located in the side yard.

**Zoning of Adjacent Parcels:** The parcel to the north is located in the A-1 (Agricultural) District and is owned by the applicant. The parcel to the east across Penewit Road is located in the A-1 (Agricultural) District and is used for single-family residential

purposes. The parcel to the south is zoned E (Estate Residential), located in the Kettle Lane Acres subdivision and used for single-family residential purposes. The parcel to the east is located in the A-1 (Agricultural) District and is used for agricultural purposes (99.82 acres fronting on Waynesville Road).

**Subject Property:**





**Applicable Articles and Findings of Fact:**

- **Per Table 4-6 Permitted Accessory Uses and Structures, Wood Boiler Furnaces are permitted in the rear yard, subject to Section 4.13 (E)(11) and storage/utility sheds and similar buildings and structures are only permitted in the rear yard.**
  - The applicant is requesting a variance to allow for both a wood boiler furnace and a wood storage structure under 200 SF in area in the side yard. The wood boiler furnace is located approximately 56' from the rear property line just to the north of the house. The wood storage structure is located adjacent to the wood boiler furnace at a setback of approximately 40' from the rear property line.

- Section 4.13 (E.)(11.)(a.) states, ***“Wood boiler furnaces that supply heat to the principal structure are prohibited in the E, R-1A, R-1B, R-PUCD and PUD-R zoning districts or recorded subdivisions.”***
  - The applicant is requesting approval to allow for a wood boiler furnace in the E (Estate Residential) District and a recorded subdivision.
- Section 4.13 (E.)(11.)(a.) states, ***“All other wood boiler furnaces (those units that are not Phase 2 units) must be setback a minimum of 100’ from any adjacent property line and 300’ from any residence not served by the wood boiler furnace.”***
  - The applicant is requesting approval of a wood boiler furnace located approximately 56’ from an adjacent property line.
- The applicants’ requests are for area/dimensional variances.
- Area/dimensional variances are subject to the standards established below pursuant to Section 3.07 (D)(1):

#### ***1. Area/Dimensional Variances***

- a. ***The following factors shall be considered and weighed by the BZA to determine if a practical difficulty exists that would justify an area/dimensional variance:***
  - 1) ***Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;***
  - 2) ***Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;***
  - 3) ***Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;***
  - 4) ***Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;***
  - 5) ***Whether the variance would adversely affect the delivery of governmental services such as water, sewer, trash pickup;***
  - 6) ***Whether special conditions or circumstances exist as a result of actions of the owner;***

- 7) *Whether the property owner's predicament can feasibly be obviated through some method other than a variance;*
  - 8) *Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and*
  - 9) *Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.*
- The applicants have submitted statements relative to the foregoing standards.
    - b. *Decisions should take into consideration all applicable factors, however, not all factors may necessarily apply to a particular case. No single factor shall control.*

**Staff Comments:**

Staff received a complaint referencing the construction of a wood boiler furnace/wood storage structure without Zoning Certificates on file. Staff investigated the complaint and found it to be substantiated. An Advisory Notice was sent to the property owners, who contacted staff immediately upon receipt of the Advisory Notice. Staff explained our accessory structure and wood boiler furnace regulations and the applicants determined that requesting variances for the wood boiler and wood storage structure would be their best course of action. Staff has provided a topographical map, as well as an aerial map of the property indicating that slope, natural features and floodplain are all at play on this parcel. Wood boiler furnaces, for efficiency purposes, are required to be located area relatively near to the structure that they serve. The applicants' parcel is set-up such that the 100' setback requirement and the requirement for location in the rear yard could not be met concurrently. Staff has advised the applicants' to contact the Greene County Department of Building Regulations as both a Building Permit and a Floodplain Development Permit will be required. Should the BZA approve the requests, the applicants must apply for the requisite Zoning Certificates from Sugarcreek Township.

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Cara K. Tilford, AICP  
Director of Planning and Zoning