

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
MARCH 21, 2022**

MEMBERS PRESENT: Paul Sellman
Dave Mail
Jona Burton
Steven Protzman

STAFF PRESENT: Bridget Susel, Community Development Director
Heather Heckman, Development Planner

I. CALL TO ORDER

Mr. Sellman called the meeting to order at 7:02 p.m.

II. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

III. ROLL CALL

Paul Sellman, Jona Burton, Dave Mail, and Steven Protzman were present.

V. PREAMBLE

The Board of Zoning Appeals, Kent citizens serving without pay, hear evidence at public meetings both in support of and in opposition to an applicant's request before rendering a decision. Generally, the Board will decide to approve or deny each requested application at the meeting that it hears the testimony. Some decisions may be continued for further review. Once a decision has been made, the case is closed for the Board, as there is no provision in the code for the Board to reopen a case. If the petitioner disagrees with the findings of the Board, there are only two proper procedures. One is to resubmit a revision of the request that is more compatible with the code and the second is to file an appeal in the Common Pleas Court. Anyone interested in appealing a decision of the Board is advised to seek private legal counsel.

VI. ADMINISTRATION OF OATH

Ms. Susel instructed members of the audience wishing to be heard on any of the cases presented at this meeting to raise their right hand. Ms. Susel administered the oath, "Do you swear or affirm that the testimony that you are about to give this evening is the truth, the whole truth, and nothing but the truth, so help you God? Please say "I do". The participants responded affirmatively.

VII. NEW BUSINESS

**A. BZ22-003 ST. PATRICK SCHOOL
302 N. Depeyster St.**

Request: The applicant is requesting the following:

- 1) A 27-foot variance from the 35-foot minimum front yard setback requirement to allow a modular classroom building to be installed 8 feet from the north property line along Alley No. 1 (Section 1103.11(E)), and
- 2) A 15-foot variance from the 35-foot minimum front yard setback requirement to allow a modular classroom building to be installed 20 feet from the east property line along North Depeyster Street (Section 1103.11(E)).

John Moosbrugger, Modular Classrooms, LLC, 1545 Brennen Rd., Columbia, SC, stated that he is the contractor for the project. He stated that the school is seeking to install a 64' x 24' double wide modular classroom building on the property. He stated that because the structure is classified as 5B construction, they are required to maintain fire separation from the school and house that are also located on the property. He stated that the needed location infringes on the zoning setbacks. He explained that the slope of the property also limits their location options.

Mr. Mail questioned the materials the structure is made of.

Mr. Moosbrugger stated that it has a steel frame with 2" x 4" wooden wall construction and 2" x 6" wooden floor joists; it is shipped as two sections and joined on the property.

Mr. Sellman questioned the number of classrooms that will be provided.

Mr. Moosbrugger stated that it will be two 32' x 24' classrooms.

Mr. Protzman questioned if the 35.98' distance between the brick building and the proposed classroom was the required distance for fire separation.

Mr. Moosbrugger stated that it is primarily required because of the slope of the property.

Mr. Burton questioned if the modular classrooms are intended to be a long term solution.

Mr. Moosbrugger stated that he believes that it is a 3-5 year stop-gap solution. He stated that the building code fire setbacks are required regardless if it is temporary or permanent.

Mr. Burton explained that sometimes when they grant a variance, they set a time limit otherwise the variance is in perpetuity. He stated that this is done in case the property changes uses or if some other longer term plan is put in place.

Mr. Moosbrugger stated that he has no information on when the modular building will be removed.

Ms. Susel suggested a use limit rather than a time limit because if the units are required to be removed based on a set date, the granted variances go away.

Mr. Mail questioned if the structures would have plumbing.

Mr. Moosbrugger stated that there will be no plumbing; only electric, heat and air conditioning.

PUBLIC COMMENTS

Mary Jane Stone, 133 Brady St., stated that she doesn't have any issues with the proposed variances but she is concerned with the lighting on the new unit. She stated that she has noticed an increase in lighting in her neighborhood. She stated that she would like to see a "Long Dark Sky" guideline. She stated that the shadows and glare from the super bright lights installed in the area, especially on the upper exterior walls of St. Patrick's Church, make it feel unsafe.

Ms. Susel stated that lighting will be reviewed under the site plan review with the Planning Commission. She stated that the plans will be required to show any lighting for the project and that the Code requires zero illumination at the lot line. She stated that the church was not required to go before the Planning Commission for review and is probably unaware of the lighting requirements. She stated that the City will let the church know.

Mr. Moosbrugger stated that the lights are required at the exterior doors when the building is in use as well as emergency lighting. He stated that the porch lights will be on motion sensors and will only come on when they are in use. He added that the lights are equivalent to a 75-100 watt light bulb. He stated that there are no other lights on the building.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Sellman reviewed the criteria for approving the variances. He stated that he feels that they are dealing with a very small corner lot with limited usable space.

Mr. Mail stated that he feels that the use is very important to the City. He stated that given the lot they have to work with, there isn't much else that can be done to maintain the required fire separation. He stated that it is also a temporary structure.

Mr. Protzman stated that he feels that it is important to put a condition on the motion regarding the use of the modular building.

Mr. Burton stated that he would have liked more information from the school as to the reason for the need. He stated that there are some unique elevation challenges on this parcel.

Ms. Susel stated that according to the civil engineer for the project, the modular structures are needed for the increased class size. She stated that there were some other ancillary uses that were occurring in a building that can no longer be used in that capacity. She stated that she believes that this is a longer term interim measure until they can determine how to maneuver a fixed building on the site.

Mr. Protzman stated that he sees in the notes that similar variances were approved for another structure that was not built for St. Patrick's School 10 years ago.

Mr. Sellman stated that he feels that it is reasonable.

MOTION: In Case BZ22-003, St. Patrick School, 302 N. Depeyster St., Mr. Protzman moved that the Board of Zoning Appeals grant a 27-foot variance from the 35-foot minimum front yard setback requirement from Section 1103.11(E) to allow a modular classroom building to be installed 8 feet from the north property line along Alley No. 1, for the current identified academic use.

Mr. Mail seconded the motion.

VOTE: The motion carried 4-0.

MOTION: In Case BZ22-003, St. Patrick School, 302 N. Depeyster St., Mr. Protzman moved that the Board of Zoning Appeals grant a 15-foot variance from the 35-foot minimum front yard setback requirement from Section 1103.11(E) to allow a modular classroom building to be installed 20 feet from the east property line along North Depeyster Street, for the current identified academic use.

Mr. Mail seconded the motion.

VOTE: The motion carried 4-0.

VIII. MEETING MINUTES

MOTION: Mr. Mail moved that the Board of Zoning Appeals approve the February 21, 2022 Minutes as presented. Mr. Burton seconded the motion. The motion carried 3-0-1. Mr. Sellman abstained.

IX. OTHER BUSINESS

None.

X. ADJOURNMENT

MOTION: Mr. Mail moved to adjourn the meeting. Mr. Sellman seconded the motion. The motion carried 4-0.

The meeting adjourned at 7:31 pm.