

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
August 1, 2022**

MEMBERS PRESENT:

Paul Sellman
Dave Mail
Steven Protzman
Michelle Sahr
Jona Burton

STAFF PRESENT:

Bridget Susel, Community Development Director
Eric Fink, Assistant Law Director
Kailyn Cyrus, Development Planner Intern

I. CALL TO ORDER

Mr. Sellman called the meeting to order at 7:00 p.m.

II. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

III. ROLL CALL

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

IV. 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.

Mr. Fink stated that the cases being heard at this meeting are different than those covered by the Preamble and that the applicant's legal counsel can advise him of his appeals rights.

V. ADMINISTRATION OF OATH

Mr. Fink instructed members of the audience wishing to be heard on any of the cases presented at this meeting to raise their right hand. Mr. Fink 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.

VI. OLD BUSINESS

Mr. Sellman read Sections 1111.03(D)(1)(f) thru (i), which describes the presenting of the case and the voting procedures for an appeal case.

Mr. Fink clarified that when the city staff makes a decision, they have done so based on clear and convincing evidence that is at higher standard of proof under Ohio Law. He stated that the Board of Zoning Appeals makes its decision based on a preponderance of the evidence; more probable than not probable as defined by the Judicial Conferences. Mr. Fink stated that each of the cases being heard are labeled A&H Investment Holding, LLC, A&H Investment Joint Venture, and related names because the applications were originally filed in 2020 and these were the owners at that time. He stated that the properties have changed hands and a new application has been presented from the current owners. He stated that the applications should be viewed as to what the current property owners are intending to do and presenting today.

Ms. Susel stated that the property owner has changed to PAIGMAX DEVELOPMENT, LLC but the properties and the appeal requests are the same.

**B. BZ20-006 A&H INVESTMENT JOINT VENTURE / PAIGMAX Development, LLC
506 EAST SUMMIT STREET**

Section: 1109.10(B)

Request: The applicant is appealing the Community Development Department's decision to deny a certificate of non-conforming use to allow three unrelated residents in one unit of the duplex.

Attorney Steven Funk will present all five cases at one time as there are many similarities. Motions will be made individually for each case.

Attorney Funk, Roetzel & Andress, stated that they are presenting applications for non-conforming uses for five properties. He stated that all of the properties are located in relatively the same location and very close to the southern campus of Kent State University in areas that are heavily validated as student rentals. He stated that with regards to 506 Summit, 535/537 S. Lincoln, and 545/547 S. Lincoln, the properties to the south are some large student rental complexes such as The Province and Summit Hill. He stated that the properties now owned by his client have been there well before 1968 and were used as student housing. He stated that with regard to 532 S. Lincoln, the properties on the western side of S. Lincoln Street also consist primarily of student housing. He stated that with regard to 318 Summit, which is just a block from the other properties, it is also surrounded by primarily student housing. He stated that these properties are located in either an R-3 or R-4 Zoning District and each has three bedrooms and has been used for student rental purposes. He stated that the use of the properties isn't difficult to prove due to the location and there are no facts to present to show that they have not been used for student housing. He stated that the prior owner, Jim Hauch, researched the all of the previous owners back to 1968 and obtained sworn affidavits stating that the houses were rented during that time. He stated that Mr. Koberna, principal at PAIGEMAX Development, took ownership of the properties in December 2020 and had a meeting with the City of Kent to discuss the status and to move forward with the properties that need a non-conforming use approval. He stated that as a result of the meeting, inspections *[not conducted by City of Kent]* were

performed for each of the properties and violations were corrected. He stated that the current owners have obtained new supplemental affidavits to address some of the doubts that arose from Mr. Hauch's application. He stated that Mr. Koberna and two of his companies own a large number of properties in the City of Kent, but they are only here for five properties totaling eight dwelling units. He stated that there is one dwelling unit for each address listed and two 3-bedroom units for 318 Summit. He added that 318 Summit actually has three units but only two are 3-bedrooms. He stated that these properties were selected to seek a non-conforming approval because there was evidence to support such an approval. He stated that two of the affidavits that were obtained by Mr. Hauch were questioned due to how they were executed. He stated that Mr. Hauch can attest that the affidavits from Mr. Waliga were prepared by attorneys based on the facts that were told to Mr. Hauch by Mr. Waliga and Mr. Hauch personally witnessed Mr. Waliga's signature. He stated that the affidavits from Gary Roberts were for properties that he owned as well as others he just observed. He stated that Mr. Roberts's affidavits document that the properties were all three bedroom dwelling units that had been rented for student housing. He stated that in 1996 Mr. Roberts signed a permit application for plumbing work, which stated that he lived at the property, but that is inaccurate; an honest mistake.

Mr. Mail questioned the ownership of the properties as it is different that the owner listed on the agenda.

Attorney Funk stated that Ben Koberna is the principle of PAIGMAX Development, LLC.

Ms. Sahr questioned why no leases were submitted as part of their supporting documents.

Attorney Funk stated that they have presented affidavits in place of leases. He stated that based on where they are located, it isn't unbelievable to think that these units were used for student housing and renting to three unrelated occupants.

Ben Koberna, 7394 St. Rt. 43, Kent, Principal of PAIGMAX Development, LLC stated that he has 65 licensed rental properties in the City of Kent, representing 420 bedrooms. He stated that his goal is to own every licensed property in the City. He stated that as of two weeks ago, he is now the official housing partner for Kent State Athletic Department, where they have committed to placing every scholarship athlete that is eligible for off-campus housing into his houses. He stated that he thinks he is also the only landlord in the country approved by the NCAA for Kent State to make direct payment for scholarship athlete housing directly to the corporation. He stated that they are in the process of getting the team members scheduled for leasing signups for next year. He stated that they have logo rights so they will be putting a KSU logo on the door of each of the 65 units and they will be re-siding the structures with Kent colors. He stated that some of the houses being discussed now have already been selected by the soccer and field hockey teams to be the team houses that will be handed down forever. He stated that their partnership with the University is worth mentioning and their rent is about \$150/month less than what was done before. He stated that in addition to saving Kent State money they have committed to a higher level of conditions for each of the houses; carpet, flooring, mechanicals, roofs, etc. He stated that there has not been one request from the City regarding a garbage or condition that hasn't been honored and at no time have they tried to obviate an inspection process. He stated that he will be full by April 2023 for the following school year. He stated that the University has committed to 200 bedrooms but will likely grow to 300. He stated that they have no designs to do anything but exactly what the City tells them relative to the code. He stated that they want a

realistic approach to where students want to live and provide them the best possible housing. He stated that the University stated that they don't have enough housing for Graduate Assistants (GA) so they will be submitting for permits to construct housing to address GA needs. He stated that they are responding to what the community and the market want and doing it in a very responsible way. He stated that there isn't an inspection that the City could ask him to have that he wouldn't agree to and they respond to issues immediately. He stated that the properties in question are currently being rented in the way that they are asking approval for tonight.

James Hauch, 217 E. Main St., Kent, stated that he purchased the properties in question years ago and was only purchasing licensed student rental properties at the time. He stated he questioned why the properties weren't licensed and was told that they didn't have to be because they were three units. He stated that he traced the ownership of the properties back to the late 1960's and collected affidavits from them. He stated that he only bought properties that he could trace the ownership for and know that they had been rented to students. He stated that when he sold the properties to Mr. Koberna, he gave him the affidavits and explained the dispute. He stated that Mr. Walliga was one of the most significant property owners of this type of housing in the City of Kent and was one of his sources when he needed affidavits as he previously owned many of his properties. He stated that he had a local law firm prepare the affidavits for validity purposes. He stated that the properties on the westside of S. Lincoln St. are used as student housing; no single family housing. He stated that 318 Summit has been student housing and continues to be.

Ms. Susel stated that the map that was provided to the Board shows the uses of the properties based on Zoning Use Certificates in the City's files.

Mr. Koberna stated that the one house on Summit St. that is a single family home is 312 Summit St. and they are looking at that house tomorrow to purchase.

Ms. Susel reminded him that the seller needs to secure a Zoning Use Certificate before transferring ownership.

Mr. Hauch clarified that he can only speak to how the properties are being used and not what the zoning is.

Gary Roberts, 1655 Woodway Rd, Kent stated that he got into the rental business in the early 1980's. He stated that he purchased 318 Summit with Mr. Hornyak from Betty Bowers. He stated that there were 3 bedrooms on both the first and second floor with a one bedroom above the garage. He stated that 312 Summit was about the only house that wasn't renting to students at the time. He confirmed that the affidavits he provided do contain his signature and are correct. He stated that he was wrong when he said that he lived in 318 Summit when applying for a plumbing permit.

Mr. Sellman questioned if the code changed with regards to 2 unrelated occupants after 1971.

Mr. Fink stated that previously the Zoning Code referenced R-5 & R-6 Districts, which allowed for more than 2 unrelated, but were merged into the current districts.

Mr. Funk concluded that the affidavits and applications that were submitted are comprehensive in providing evidence about the use of each of the three buildings since 1968 in that they were all dwelling units with 3 bedrooms and given their proximity to

the University, it makes sense that they were used for student rental housing. Eric Fink, Assistant Law Director for the City of Kent, 930 Overholt Rd. stated that City of Kent does not have any designation of what student housing is but rather is concerned with the number of occupants; 2 or more unrelated individuals regardless of their age or status. He stated that the code states that affidavits that are self-serving are to be given a lesser standard, therefore the affidavits were investigated and some concerns were raised. He stated that they recognize that Mr. Hauch hired an independent law firm to do the work and due diligence, which relieves some of the initial concerns but they also still recognize that they are affidavits with a lower standard; not suggesting that there is anything fraudulent or deceptive in gathering those affidavits. Mr. Fink stated that for clear convincing evidence, it is essential that they are able to determine that the occupancy has existed prior to the zoning code without any interruptions, which is the level of proof that the City did not feel comfortable in finding in these matters even with the affidavits. He stated that if any non-conforming use certificate is granted, that there be a condition attached to clarify that these all need to be legal bedrooms according to the Ohio Building Code standards. Mr. Fink clarified that the document where Mr. Roberts stated that he lived at 318 Summit was a Homeowners Exception Form, which is an affidavit completed by Mr. Roberts; not just a checkbox on a form. He stated that this document is why the City had concerns regarding the affidavits and he would like the Board to take this into account when trying to determine what they believe. He stated that the lack of leases was also a concern for the City although they understand that it is a big ask for 50 years but if it were available, it may have been enough to create clear convincing evidence. Mr. Fink stated that he is not suggesting that Mr. Hauch in any way was misrepresenting his affidavits and the City believes that he acted in good faith but it doesn't mean that there still isn't concern about what is contained in the affidavits regardless of who it is from. He summarized that these are the reasons that the City could not find clear convincing evidence and that is why it is coming before the Board.

Ms. Sahr questioned the 506 E. Summit notes regarding ignoring zoning restrictions in Mr. Fink's letter and also the reference to the Zoning Use Certificate.

Mr. Fink stated that with regards to 506 E. Summit St., some of the evidence presented was a market report from John Emig, who does property appraisals. Mr. Emig described this property as a rental use property but no rental use certificates were ever put with his investigation or city documents.

Ms. Susel explained that Zoning Use Certificates for properties are issued to verify the allowed use of the property. She stated that Mr. Emig's report did not include a review of the Zoning Use Certificate, but if it did the City would have notified him that the property was approved for a single family dwelling for no more than 2 unrelated persons. Ms. Susel stated that a Zoning Use Certificate from 2007 was issued for 506 E. Summit for a legal non-conforming 3 unit dwelling with no more than 2 unrelated in each unit allowed. She explained that the non-conforming refers to the 3 units.

Mr. Hauch stated that this dwelling is a 2 unit structure not 3 and is an example of how the structures over the years haven't been properly documented. He explained that this is why he did his research.

Ms. Sahr asked for clarification of the basement bedroom at 545 and 547 S. Lincoln.

Mr. Koberna stated that he is unsure of this reference as well and if there is an inspection that finds a bedroom that is not in compliance, they will fix it. He stated that

they did look at the property and agreed that there should be an egress window there but not because a City inspector told them to do so; the window is on order. He stated that they are seeking a Use Certificate but if any of their properties didn't comply with the building code, they would seek to remedy it.

Mr. Fink stated that the information regarding a basement bedroom was added so that if a non-conforming use certificate is granted, it would ensure that the City could require them to update any bedrooms that are non-compliant. Mr. Fink stated that there are notations in the property file regarding a bedroom in the basement but it has not been inspected to confirm.

Mr. Funk stated that there is a bedroom in the basement and if there is an issue with that bedroom needing a full ingress/egress, they will take care of it. He stated that the granting of a non-conforming use certificate does not mean that they are exempt from the Ohio Building Code standards.

Mr. Koberna stated that that condition is fine with him.

Ms. Susel stated that the applicant is seeking occupancy for one person more than what is allowed under the current zoning code and that is contingent upon the number of bedrooms and the City wants to ensure that the bedrooms meet the legal definition of a bedroom under the Ohio Building Code. Ms. Susel clarified that the reason the properties haven't been inspected by the City of Kent yet is because the BZA appeals were pending but all rental properties are subject to inspection through either the Health Department or the Community Development Department.

Attorney Funk stated that with respect to the difference in student housing and 3 unrelated individuals, he uses "student housing" as a descriptive term in terms of who is being rented to and that is why they feel very confident that it was 3 or more unrelated individuals but if you look at the affidavits, they closely set forth facts that relate to it being used for 3 unrelated individuals or more. He stated that the key facts are that the properties are 3 bedroom structures. He stated that the affidavits are the best evidence that they have to be able to go back to 50 years. He stated that they submitted the appraisals from Mr. Emig to corroborate the fact that these are 3 bedroom rental structures. He restated that Mr. Roberts made an error on the Homeowner's Exception form back in 1996. He stated that he feels that they have gone above and beyond to prove their cases.

Mr. Protzman stated that he doesn't give a lot of weight to the appraisals as it is subjective to determine how many people live there based on the number of beds; there could be unoccupied rooms for guests. He stated that no leases have been submitted to show otherwise. He noted that there isn't any owner affidavit for 506 E. Summit for the period of 1984 – 1990.

Mr. Hauch stated that George Walliga sold the property and held the mortgage under land contract during that period. He stated that Mr. Waliga had firsthand knowledge of what was going on at the property at that time.

Mr. Protzman questioned if he had knowledge of Mr. Walliga seeing the leases.

Mr. Hauch stated that Mr. Walliga's office was on S. Lincoln Street during that time, he was on that street daily, his brother owned the properties across the street that he managed, and he managed all the DuBois properties that were adjacent to that property

around that corner; he was very knowledgeable about the rental market in that period.

Mr. Protzman stated that while he could have intimate knowledge of who lives in the properties around him, he doesn't know how many people live in each unit.

Mr. Funk stated that Mr. Waliga's affidavit is the most detailed, which they believe shows he had the best knowledge of that property from 1968 to 1990.

Mr. Protzman stated that there aren't any owner affidavits for 545/547 S. Lincoln St. until 2013. He stated that for 535/537 S. Lincoln there is a period of 1984 – 1990 without an owner affidavit. He stated that 532 S. Lincoln has a period of 1987 – 1999 without an owner affidavit. He stated that 318 E Summit is also missing owner affidavits from 1989 – 1996.

Mr. Funk stated that Mr. Waliga provided his factual knowledge of those properties for those periods. He stated that these issues were not raised by the City in terms of their review of the applications. He stated that while Mr. Waliga may not have owned the property at that time, he had knowledge of how it was being used.

Mr. Sellman asked Mr. Hauch if he witnessed Mr. Waliga filling and signing the documents.

Mr. Hauch stated that he went to Mr. Waliga's house and spoke to him at length about each property. He stated that he asked him how he knows the information and if he was there at that time. He stated that Mr. Waliga's response was that he was on that street all the time. Mr. Hauch stated that he was very comfortable with his knowledge of those properties and a few of the others he mentioned he had land contract mortgages on; 535, 537, 532, and 540 S. Lincoln St. He stated that he did his homework before purchasing properties and if he felt that it wasn't above board and could not be documented, then he did not purchase it.

Mr. Mail stated that paragraph 5 of the appraisal states that it is assumed that all applicable zoning and use regulations and restrictions have been complied with unless a nonconformity has been stated, defined, and considered in the appraisal report, but nothing has been pointed out in any of the appraisal reports. He stated that because it wasn't pointed out to the appraiser, it was not included in the report and may not have existed at that time, which is what the City is also saying. He stated that they were appraised as rental properties but Mr. Emig stated that he has no knowledge of an existing certificate unless it was presented to him, which it wasn't.

Ms. Sellman stated that there is also a Subject Summary Chart in the appraisals that lists the building size, address, number of bedrooms, number of tenants, which he feels is somewhat of a statement.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail questioned why previous owners didn't try to get a Zoning Use Certificate.

Mr. Hauch stated that he asked one of his land use professors in law school if he should go to the City with applications for the houses he is purchasing and his response was to

wait and go to court with the affidavits if he has to since the properties have been used this way since the 1960's; do not go to the City looking for a fight. He stated that he didn't have any issues while he owned the properties nor did the previous owners.

Mr. Sellman questioned when inspections started for rental properties.

Ms. Susel stated that all rentals that were inspected by the Health Department have been done since the late 1970's for properties with four or more unrelated occupants. She stated that in 2016, Council authorized all rentals including single family units, duplexes, and triplexes, which are limited to 2 unrelated occupants. She added that it was enacted and implemented in 2019.

Mr. Hauch stated that there are other houses on the same parcel as 506 S. Lincoln that were licensed showing that Mr. Waligia did get licenses that needed to be licensed.

Ms. Susel stated that those licensed structures had four or more units not occupants. She stated that the Health Department licensing is based on units.

Mr. Mail stated that he feels certain that the houses were rented to occupants at least equal to the number of bedrooms but the question is did the applicant provide a preponderance of the evidence. He stated that what has been presented are affidavits from a group of people that have lunch together and support each other. He stated that he doesn't feel that the applicant has answered the question well but logically based on location, the conditions of the lawns, the number of broken couches in the backyard, he feels that they have been student rentals since 1968. He stated that the Board's responsibility is to make a decision based on the City of Kent laws. He stated that their decision should be based also on logic to make a smart decision. He questioned the Board as to what they think the difference between the preponderance of evidence and the preponderance of being smart.

Mr. Sellman stated that he believes that they need to feel that the case is reasonably presented with accurate evidence. He stated that the appeal is also a variance to the law and if they apply their variance standards, he finds that it will not hurt the neighborhood and to deny it, may be an unfair restriction on the landowner's use of the property.

Mr. Fink stated that the Board's decision must be based on what they believe the preponderance of the evidence is; that they believe, more likely than not, that there has been more than 2 unrelated individuals residing in each dwelling unit with no interruptions of more than 2 years going back before 1971.

Mr. Burton stated that this is a challenge as they must decide on a preponderance of evidence, which aside from affidavits, there has been no evidence presented that they have operated continuously. He stated in other cases they have been presented with phone records/books, or a sample of leases to show to more of a preponderance of evidence. He stated that he believes that it would be foolish to say that the houses haven't been rented with as many tenants as possible but the law states that it must have been done continuously with no more than a two year gap and this is where he struggles.

Ms. Sahr stated that she agrees. She stated that the evidence they have are affidavits that show the continuance but the question is if this is enough for a preponderance of evidence. She stated that her presumption is that the sworn affidavits are correct as she

has no way to assess it any other way. She questioned if the affidavits are enough. Mr. Funk explained the preponderance of evidence in the record; what has been presented to the Board. He stated that they have presented affidavits that address the continual use of the property for a period of time. He stated that there isn't any evidence to dispute the affidavits.

Mr. Protzman stated that he still feels that Mr. Waliga's affidavit is circumstantial and as he feels that there is no qualifying statement that says that he knew the people, or he saw rental agreements, etc. He stated that this would have helped the owner affidavits if the affidavits stated "according to our rental records" or "the rental law". He stated that the preponderance isn't there for him.

Mr. Mail stated that based on the location and condition of the properties, it is clear that they were as full as they could be. He stated that in years past when hearing similar cases, there have never been rental receipts. He stated that the evidence is the affidavits but it is also what the Board knows about the City of Kent and the housing situation.

Mr. Sellman stated that the Board needs to make a decision on the scant information before them. He stated that he trusts that the affidavits are likely to be truthful. He stated that the evidence does point that the houses have probably been full rentals since probably the 1950's but it is up to the Board to decide.

**BZ20-006 A&H INVESTMENT JOINT VENTURE / PAIGMAX Development, LLC
506 EAST SUMMIT STREET**

Section: 1109.10(B)

**Request: The applicant is appealing the Community Development
Department's decision to deny a certificate of non-conforming use
to allow three unrelated residents in one unit of the duplex.**

**MOTION: In Case BZ20-006 PAIGMAX Development, LLC, 506 E Summit St.,
Mr. Burton moved that the Board of Zoning Appeals grant the
applicant's appeal and issue a Certificate of Non-Conforming Use to
allow three unrelated residents in one unit of the duplex with the
following condition *[upper floor only]*:**

- 1. Each bedroom in the dwelling unit must be compliant with the
Ohio Building Code Standards.**

Mr. Mail seconded the motion.

The motion carried 4-1.

**C. BZ20-007 A&H INVESTMENT JOINT VENTURE
545-547 SOUTH LINCOLN STREET**

Section: 1109.10(B)

**Request: The applicant is appealing the Community Development
Department's decision to deny a certificate of non-conforming use to
allow three unrelated residents in each unit of the duplex.**

MOTION: In Case BZ20-007 PAIGMAX Development, LLC, 545-547 S. Lincoln St., Mr. Burton moved that the Board of Zoning Appeals grant the applicant's appeal and issue a Certificate of Non-Conforming Use to allow three unrelated residents in each unit of the duplex with the following condition:

1. Each bedroom in the dwelling unit must be compliant with the Ohio Building Code Standards.

Mr. Mail seconded the motion.

Mr. Protzman stated that this request has the least evidence in terms of affidavits and other information.

The motion carried 4-1.

D. BZ20-008 A&H INVESTMENT JOINT VENTURE
535-537 SOUTH LINCOLN STREET

Section: 1109.10(B)

Request: The applicant is appealing the Community Development Department's decision to deny a certificate of non-conforming use to allow three unrelated residents in the upper unit of the duplex.

MOTION: In Case BZ20-008 PAIGMAX Development, LLC Development, 535-537 S. Lincoln St., Mr. Burton moved that the Board of Zoning Appeals grant the applicant's appeal and issue a Certificate of Non-Conforming Use to allow three unrelated residents in the upper unit only of the duplex with the following condition:

1. Each bedroom in the dwelling unit must be compliant with the Ohio Building Code Standards.

Mr. Mail seconded the motion.

The motion carried 4-1.

E. BZ20-009 HAUCH HOUSING
532 S LINCOLN STREET

Section: 1109.10(B)

Request: The applicant is appealing the Community Development Department's decision to deny a certificate of non-conforming use to allow three unrelated residents in the upper unit of the duplex.

MOTION: In Case BZ20-009 PAIGMAX Development, LLC, 532 S. Lincoln St., Mr. Burton moved that the Board of Zoning Appeals grant the applicant's appeal and issue a Certificate of Non-Conforming Use to allow three unrelated residents in the upper unit of the duplex only with the following condition:

1. Each bedroom in the dwelling unit must be compliant with the Ohio Building Code Standards.

Mr. Mail seconded the motion.

The motion carried 4-1.

A. BZ20-005 A&H INVESTMENT HOLDING, LLC
318 E SUMMIT STREET

Section: 1109.10(B)

Request: The applicant is appealing the Community Development Department's decision to deny a certificate of non-conforming use to allow three unrelated residents in the two units of the main structure.

PUBLIC COMMENTS

Mr. Funk stated that he feels that the affidavits do cover the entire period of ownership. He questioned whether the mistake Mr. Roberts made in the permit application disproves the affidavit. He stated that based on Mr. Roberts testimony, the mistake does not affect the non-conforming issue and the affidavit still supports his testimony.

Mr. Sellman stated that he found a 6 year gap in time between Bowers and Roberts in the affidavits presented.

Mr. Funk stated that there are two affidavits for this application; one for ownership from May 1996 to June 2019 and one stating that he was familiar with the conditional use of the property from 1988 to July 2019.

Mr. Burton stated that he feels that this property had the most opportunity to provide additional information or resources to prove their case.

Mr. Hauch stated that that is his fault. He stated that he did receive a zoning certificate from the City that was blank as to occupancy limits. He stated that he did present that certificate to Mr. Koberna at the purchase. He stated that he didn't try as hard because he had a certificate with no occupancy limits.

BOARD OF ZONING OF APPEALS DISCUSSION

MOTION: In Case BZ20-005 PAIGMAX Development, LLC Development, 318 E. Summit St., Mr. Burton moved that the Board of Zoning Appeals grant the applicant's appeal and issue a Certificate of Non-Conforming Use to allow three unrelated residents in two units of the main structure with the following condition:

1. Each bedroom in the dwelling unit must be compliant with the Ohio Building Code Standards.

Mr. Mail seconded the motion.

The motion carried 4-1.

VII. OTHER BUSINESS

None

VIII. ADJOURNMENT

MOTION: Mr. Mail moved to adjourn the meeting. Ms. Sahr seconded the motion.
The motion carried 5-0.

The meeting adjourned at 9:11 pm.