

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
August 15, 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, Steven Protzman, Dave Mail, Jona Burton and Michelle Sahr 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

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.

VII. NEW BUSINESS

**A. BZ22-008 WALTER AND LAURA CHEGES
615 FRANKLIN AVENUE**

Section: 1103.14 and 1106.10

- Request:
1. The applicant is requesting a variance from the section 1106.10(A) to allow a 1 foot variance where the minimum requirement is 15 feet to allow an accessory building to be located 14 feet from the principal building.
 2. A variance from section 1106.10(A) to allow a 5 foot variance where 15 feet is the minimum requirement to allow an accessory building to be located 10 feet from the principal building.
 3. A variance from section 1103.14(E) to allow a 4-foot 8-inch variance from the 10 feet minimum side yard setback requirement to allow an addition to be constructed 5 feet two inches from the property line.

Walter Cheges, 615 Franklin Ave., stated that they are proposing an 18' by 24' single floor addition with a full basement attached to the house. He stated that the house sits at an angle on a fairly narrow parcel. He stated that the addition is inset 2' farther from the side property line than the house to maximize the side yard setback. He stated that the addition is as small as it can be to still accommodate the sewing equipment.

Mr. Sellman questioned the style of roof.

Mr. Cheges stated that it will be a gabled truss roof.

Mr. Protzman questioned the 11' x 4' area noted on the drawings.

Mr. Cheges stated that it is a Bilco stair access to the basement.

Laura Cheges, 615 Franklin Ave., stated that since they purchased the property in 1982, they have done many improvements to the house, which also helped improve the neighborhood. She stated that the addition will be her sewing room and will need to accommodate a 10' long quilting machine.

Mr. Sellman questioned if this is a home business.

Ms. Cheges stated that it is not. She stated that she needs more room for her sewing supplies.

Mr. Protzman questioned Mr. Cheges' statement about being told he didn't need a variance for the addition.

Ms. Susel responded that there were not any written notes from the former Development Planner that would indicate her reasoning, but when other staff reviewed the site drawings, it was determined that he would need a variance for the addition.

Mr. Cheges noted that the addition before the Board today is smaller than the addition that was previously reviewed as well. He stated that they constructed a family room addition on 2002 and did not need a variance for that.

PUBLIC COMMENTS

Mr. Sellman read correspondence from the property owner, Mary Jo Steinert-Miller, at 627 Franklin Ave., who was in favor of the addition.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail noted the lot size and configuration of the house. He stated that the distances between the houses would not restrict a fireman and he does not see an issue with the request for the addition variance.

Ms. Sahr stated that the current house is already 4 to 5 feet from the side property line so this is similar. She stated that when the house was constructed, the current rules didn't exist and now the rules are prohibitive to construct anything without a variance.

Mr. Protzman stated that he has no comments.

Mr. Sellman state that he agrees with the Board and feels that the request is reasonable. He stated that the hardship is the narrow city lot.

Mr. Protzman stated that he appreciates that the applicant reduced the size of the addition to be mindful of the setbacks.

MOTION: In Case BZ22-008, Glenn and Carolyn Kasper, 615 Franklin Ave., Mr. Burton moved that the Board of Zoning Appeals approve a variance from section 1103.14(E) to allow a 4-foot 8-inch variance from the 10 feet minimum side yard setback requirement to allow an addition to be constructed 5 feet 2 inches from the property line.

Mr. Mail seconded the motion.

VOTE: The motion carried 5-0.

Mr. Sellman announced that they will now look at the variances for the accessory building.

Mr. Cheges stated that he is requesting a 1 foot variance on the north side of the accessory building. He stated that the barn size is the minimum size that he needs to accommodate his needs such as storage, growing plants, etc. He stated that the 1 foot variance for the distance between structures is instead of a 1 foot variance to the side yard setback to the south. He stated that they will make a nice patio courtyard between the buildings. He stated that the accessory building will have glass garage doors that face the courtyard.

Mr. Protzman questioned if he could move the accessory building farther to the east.

Mr. Cheges stated that he could but he didn't to keep away from the flagpole, which is permanent, and to give him more backyard space for gardening. He stated that the building location ties into the L shaped patio; more intimate to the garage. He stated that there are double doors on the garage that will face the barn. He stated that it will be pole barn construction.

Ms. Cheges stated that they also moved the accessory building to the north to open up the side yard for access. She noted that they couldn't add onto the garage due to the garage gable roofline.

PUBLIC COMMENTS

No further comments.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail stated that he feels that they have maximized the use of their property. He stated that he feels that it makes sense for the accessory building to be closer to the garage given its proposed use and patio configuration. He stated that because there isn't any vehicle access, he doesn't feel that it is restricting anything.

Mr. Sellman agreed and added that the variances are reasonable.

Ms. Sahr questioned the reason for the 15 foot setback between main structures and accessory buildings.

Ms. Susel stated that it is partially for safety.

Ms. Sahr stated that there is more reason for the setback than just aesthetics and they need to consider that as well. She stated that she doesn't think that there is a hardship that would necessitate a variance. She also noted that if the building was farther from the garage, it may eliminate the need for the other 1 foot variance request.

Ms. Susel stated that they need to be careful not to create the need for another variance. She stated that the rear yard setback is 30 feet.

The Board agreed that the 1 foot variance to allow the accessory building to be located 14 feet from the addition is okay.

Mr. Burton questioned the open space for the rear yard.

Ms. Susel stated that there isn't an open space requirement like the front yard but his point regarding impervious areas and runoff is valid.

Mr. Cheges added that there is a triangular parcel behind his property that is owned by his wife's family and that they maintain so their back yard is bigger than what is shown on the drawing; approximately 10-15 feet wide onto their side. He also noted that the patio area will have raised beds and landscaping not just concrete.

Ms. Susel clarified for Ms. Sahr because she is the newest member that there have been variances for distances to a principal building before the Board in the past. She explained that the Board considers the size of the lot when looking at those considerations.

Mr. Protzman questioned if there was anything above the garage such as living space.

Mr. Cheges stated that there is not. He stated that the neighboring building to the south is a two story all cement block structure that is closer to his property line than what the minimum is.

Mr. Sellman explained that the concern is for the distance between the structures on his property.

Ms. Sahr stated that she has concerns but understands that if they move the building, they create the need for a variance on the other side.

Mr. Sellman stated that this is the classic small lot issue where they want to help them to be able to reasonably use their property without disturbing the neighborhood or creating an undue safety hazard. Mr. Sellman added that the variance request is also between the garage and accessory structure.

Mr. Mail questioned if the size of the building is locked in; a barn kit.

Mr. Cheges stated that it will be a custom sized barn. He stated that the size of the barn is needed for storage but he can make an adjustment to the size if needed.

Mr. Burton suggested a compromise with regards to the size and the variance needed.

The Board and applicant discussed the options. It was decided to reduce the length of the barn to 22 feet, which would lower the variance needed to 3 feet; increasing the distance to the house to 12 feet.

MOTION: In Case BZ22-008, Glenn and Carolyn Kasper, 615 Franklin Ave., Mr. Burton moved that the Board of Zoning Appeals approve a variance from the section 1106.10(A) to allow a 1 foot variance where the minimum requirement is 15 feet to allow an accessory building to be located 14 feet from the principal building.

Mr. Protzman seconded the motion.

VOTE: The motion carried 5-0.

MOTION: In Case BZ22-008, Glenn and Carolyn Kasper, 615 Franklin Ave., Mr. Burton moved that the Board of Zoning Appeals approve a variance from section 1106.10(A) to allow a 3 foot variance where 15 feet is the minimum requirement to allow an accessory building to be located 12 feet from the principal building.

Mr. Mail seconded the motion.

Mr. Protzman stated that he appreciates the willingness of both the applicants and the Board to compromise.

VOTE: The motion carried 5-0.

**B. BZ22-009 RANDY AND RENEE RUCHOTZKE
237 HIGHLAND AVENUE**

Section: 1103.14 and 1106.10

Request: 1. The applicant is requesting a variance from section 1106.10(A) to allow a 15 foot variance where the minimum requirement is 15 feet to allow an accessory building to be located 0 feet from the principal building.
2. A variance from section 1103.14(E) to allow a 10-foot variance to the 10 feet minimum side yard setback requirement to allow an accessory building to be located 0 feet from the property line.

Randy Ruchotzke, 237 Highland Ave., stated that their hardship is the lack of parking that allows them easy access during the colder months. He stated that the proposed carport is an all metal structure and will not present a fire hazard. He stated that it will not create any more impervious surfaces as it will be covering an asphalt driveway. He noted that they removed a lot of concrete in the backyard and planted a permaculture forest and they retain all the storm water from their house and allow it to soak in. He stated that it is difficult to plug in their electric cars as the old garage in the backyard is not electrified and is only big enough for one car.

Ms. Protzman stated that because of the electrical requirements, there isn't another location for the carport.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Ruchotzke stated that in order to be able to have a functional automobile parking space that falls within the side yard setbacks, they would need to build a structure that would be behind the house, which would add to the impervious surfaces.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Protzman stated that this lot is smaller than the lot from the previous case. He stated that he is in favor of not increasing the impermeable surfaces and he would not want to take away from the garden in the rear yard.

Ms. Sahr questioned the issues that could be created with a 0 setback.

Mr. Burton stated that his initial reaction was that because it is located on the existing driveway that is already located on the property line, and how fencing is allowed to be on the property line, this doesn't seem much different. He stated that given the proximity of the drives and houses in the area and the adjacency of the carport to the house, he feels that it is a reasonable request.

Ms. Susel suggested that Mr. Burton is also pointing out that this isn't a structure with a solid wall that will be at the lot line, it will be open, unlike an accessory building with a solid wall that would be less aesthetically pleasing if located at the same proximity.

Mr. Protzman questioned the setback for structures on the neighboring property.

Mr. Ruchotzke stated that he estimates that it is approximately 15 feet to the neighboring driveway.

Mr. Mail noted that they didn't receive any objectionable correspondence from neighbors. He stated that it will be less obtrusive because it doesn't have solid walls.

Mr. Ruchotzke stated that they own the house to the north.

Mr. Sellman stated that he also feels that the request is reasonable. He stated that it is an old narrow lot.

MOTION: In Case BZ22-009, Randy and Renee Ruchotzke, 237 Highland Ave., Mr. Protzman moved that the Board of Zoning Appeals approve a variance from section 1106.10(A) to allow a 15 foot variance where the minimum requirement is 15 feet to allow an accessory building to be located 0 feet from the principal building.

Mr. Mail seconded the motion.

VOTE: The motion carried 5-0.

MOTION: In Case BZ22-009, Randy and Renee Ruchotzke, 237 Highland Ave., Mr. Protzman moved that the Board of Zoning Appeals approve a variance from section 1103.14(E) to allow a 10-foot variance to the 10 feet minimum side yard setback requirement to allow an accessory building to be located 0 feet from the property line.

Ms. Sahr seconded the motion.

Mr. Mail noted that the carport is 10 feet wide, which is less than the 12 foot setback of the house.

VOTE: The motion carried 5-0.

VIII. MEETING MINUTES

MOTION: Mr. Protzman moved that the Board of Zoning Appeals approve the July 18, 2022 Minutes as presented. Ms. Sahr seconded the motion. The motion carried 4-0-1. Mr. Burton abstained.

IX. OTHER BUSINESS

None

X. ADJOURNMENT

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

The meeting adjourned at 8:00 pm.