

**CITY OF KENT  
BOARD OF ZONING APPEALS  
PUBLIC HEARING & BUSINESS MEETING  
September 19, 2022**

**MEMBERS PRESENT:** Dave Mail  
Steven Protzman  
Michelle Sahr  
Jona Burton

**STAFF PRESENT:** Bridget Susel, Community Development Director  
Eric Fink, Assistant Law Director  
Kailyn Cyrus, Development Planner

**I. CALL TO ORDER**

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

**II. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was recited.

**III. ROLL CALL**

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. OLD BUSINESS**

### **A. BZ22-008 A&H INVESTMENT JOINT VENTURE 535-537 SOUTH LINCOLN STREET**

**Section:** 1107.15

**Request:** 1) The applicant is appealing the Community Development Department's decision to deny a certificate of non-conforming use to allow three unrelated residents in both units of the duplex.

Ms. Susel explained why the case needed to be presented to the Board again. She explained that the case was one of the five cases that had been presented during the special meeting held on August 1, 2022. The agenda and staff report used for the August 1<sup>st</sup> special meeting were based on the versions originally drafted in 2020, when the applications were originally submitted. After the August 1, 2022 meeting while staff was preparing the notices and resolutions for each case, however, Assistant Law Director Eric noted that for 535-537 South Lincoln, the case report and the motion did not match the original appeal request included in the 2020 application. The motion approving the appeal authorized no more than three unrelated occupants in the upper unit only. This was incorrect because the property is a side by side duplex and the original appeal request was for no more than three unrelated in each dwelling unit. She stated that the Board must vote to either grant or deny the appeal request to allow three unrelated occupants in each dwelling unit of the duplex.

### **PUBLIC COMMENTS**

None

### **BOARD OF ZONING OF APPEALS DISCUSSION**

Ms. Sahr and Mr. Burton both stated that it would not have affected their decision on whether or not it was the upper unit rather than both units of a side by side duplex.

**MOTION:** In Case BZ20-008 A & H INVESTMENT JOINT VENTURE, CURRENTLY DBA, PAIGMAX Development, LLC Development, with the address 535-537 S. Lincoln St., Mr. Burton moved that the Board of Zoning Appeals approve the applicant's appeal and issue a Certificate of Non-Conforming Use to allow three unrelated residents in both units of the duplex with the following condition:

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

**Ms. Sahr seconded the motion.**

**The motion was approved 3-1.**

**VIII. NEW BUSINESS**

**A. BZ22-010 ZACHARY ROZLER  
1072 ELNO AVENUE**

**Section:** 1107.15

**Request:** 1) A variance from section 1107.15 to allow a 20 feet by 9 feet gravel parking pad to be installed where the driveway must be the same length from the road to the terminus.

Zachary Rozler stated that he is requesting a variance for a gravel bump out for a place to park his RV. He stated that he had previously been parking it in the same location in the grass.

**PUBLIC COMMENTS**

None.

**BOARD OF ZONING OF APPEALS DISCUSSION**

Mr. Protzman asked Ms. Susel why the current bump out in his driveway is allowed.

Ms. Susel stated that the driveway configuration has been there for a long period of time, based on the average age of houses in that area so the configuration of the driveway more than likely has been in existence prior to the Zoning Code driveway requirements that are currently in place. The location of the tree is the reason driveway does not meet current standards and adding concrete over the tree roots will result in new concrete heaving and/or cracking.

Ms. Sahr stated that most applications state a hardship and questioned the applicant for his hardship with regards to parking the RV. The RV currently does fit in the existing driveway without the bump out so what is the hardship?

Mr. Rozler stated that it is hard to maneuver cars around the RV.

Mr. Burton questioned whether or not the applicant would be willing to switch the bump out from perpendicular to the drive to parallel to the drive.

Mr. Rozler stated that it is not what he really wants to do, but he would be willing to do it.

**MOTION:** In Case BZ22-010, Zachary Rozler, 1072 Elna Ave., Mr. Burton moved that the Board of Zoning Appeals grant a variance from section 1107.15 to allow a 20 foot by 9 foot gravel parking pad to be installed where the driveway must be the same length from the road to the terminus.

Ms. Sahr seconded the motion.

**VOTE:** The motion was denied 3-1.

**B. BZ22-011 WILLIAM DUNN  
1626 SOUTH LINCOLN STREET**

**Section:** 1106.12(A)

**Request:** 1) A variance from 1106.12(A) to allow a 6 foot tall fence to be constructed in the front yard where 4 feet is the maximum height allowed.

William Dunn, 7 Pinewood Ln, Hudson, and his tenant Sam Bourdunts, 1626 S. Lincoln St. came up to the microphone. They stated that the reason they are asking for the fence was for more privacy and for the safety of the tenants' children. They stated that their hardship is having two front yards due to a corner lot. They stated that they want the fence to be 6 feet tall on the west side of the property, which faces Beryl Drive.

**PUBLIC COMMENTS**

None.

**BOARD OF ZONING OF APPEALS DISCUSSION**

Mr. Mail stated that it was a classic Kent corner lot with two front yards.

Ms. Susel stated that the setback for the fence from the right-of-way on the Beryl Drive side of the property is 14 feet, which is more than what is required for signs so there should be no line-of-sight concerns with the fence.

The applicant reported the 6 foot fence will be white vinyl on the Beryl Drive side of the property to match the neighbor's white vinyl 6 foot fence that extends along the rear yard. The fencing in the front area facing South Lincoln Street will be 4-foot high black coated chain link to match the neighbors fencing that borders on the east side of the property.

Mr. Mail stated that there are two letters from neighbors in support of the fence and none against the fence.

**MOTION:** In Case BZ22-011, William Dunn, 1626 S. Lincoln St., Mr. Burton moved that the Board of Zoning Appeals grant a variance from section 1106.12(A) to allow a 6 foot fence to be constructed in the front yard where 4 feet is the maximum height allowed.

Mr. Protzman seconded the motion.

**VOTE:** The motion was approved 4-0.

**C. BZ22-012 SMITHERS-OASIS COMPANY  
919 MARVIN STREET**

**Section:** 1103.22(F)

**Request:** 1) A variance from 1103.22(F) to allow a 47 foot 7 inch variance where 100 feet is the minimum requirement to allow a principal building to be constructed 53 feet 5 inches away from the property line, which abuts a residential district.

Brent Artman, Artman Engineering, 13710 Cleveland Ave NW, Uniontown, and James Pitts, Smithers-Oasis, 919 Marvin St., both came to the microphone to present the case. They stated that the building will be used for storage of the floral foam that is produced by the company. Mr. Pitts stated that the foam is combustible but not flammable. Mr. Pitts stated that the current trees would stay where they are as a buffer.

Mr. Artman reported that the site currently has an existing building that is actually closer to the parcel line than the proposed new building that will be razed. The new storage building will be constructed in the same foundation footprint as a building that was demolished in 2010.

**PUBLIC COMMENTS**

Tiffany Jones, 331 Lake St., asked what the lighting would be like for the building. She stated that she can see the pink lighting on the existing greenhouse that is located on the company's site, but it is far enough west of her property it does not shine on her house. She wanted to know if lighting will be shining onto her property from the proposed new building.

Mr. Pitts stated that the lighting would just be regular lighting over the doors.

Ms. Susel reported that the City's Zoning Code limits illumination to be zero at the lot line so if lighting is shining onto other properties, shields need to be installed on the lights to limit the illumination off premises.

Jennifer Harris, 411 Lake St., asked if there was going to be an increase in noise. She stated that she can hear forklifts in the early morning from her

property.

Mr. Pitts stated that the noise levels would not change. He stated there might be less noise as the proposed building would block some of the sound.

The neighbors all gathered around to look at the site map.

There was discussion of the noise ordinance and the restricted times.

#### **BOARD OF ZONING OF APPEALS DISCUSSION**

**MOTION:** In Case BZ22-012, Smithers-Oasis Co., 919 Marvin St., Mr. Protzman moved that the Board of Zoning Appeals grant a variance from section 1103.22(F) to allow a 47 foot 7 inch variance where 100 feet is the minimum requirement to allow a principal building to be constructed 53 feet 5 inches away from the property line, which abuts a residential district.

Ms. Sahr seconded the motion.

**VOTE:** The motion was approved 4-0.

#### **IX. MEETING MINUTES**

**MOTION:** Mr. Protzman moved that the Board of Zoning Appeals approve the August 1, 2022 Minutes as presented. Mr. Burton seconded the motion. The motion carried 4-0.

**MOTION:** Ms. Sahr moved that the Board of Zoning Appeals approve the August 15, 2022 Minutes as presented. Mr. Protzman seconded the motion. The motion carried 4-0.

#### **X. OTHER BUSINESS**

None

#### **XI. ADJOURNMENT**

The meeting adjourned at 8:00 pm.