

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
January 25, 2016**

MEMBERS PRESENT: Elizabeth Howard
 Dave Mail
 Paul Sellman
 Jona Burton
 Benjamin Tipton

STAFF PRESENT: Heather Phile, Development Planner
 Eric Fink, Assistant Law Director
 Sheila Uzl, Transcriptionist

I. CALL TO ORDER

Ms. Howard called the meeting to order at 7:04 p.m.

II. PLEDGE

The pledge was recited.

III. ROLL CALL

Dave Mail, Paul Sellman, Jona Burton, Benjamin Tipton, and Elizabeth Howard were present.

PREAMBLE

Variance requests will be considered in the order that they appear on the agenda. Each variance applicant or their representative will first explain the request to the Board and will respond to Board questions. The Board will then hear statements from persons supporting the variance, followed by statements from those persons opposing the variance. All persons making statements will do so under oath, and shall state their names and addresses for the record. Their testimony shall be directed to the Board and not to the audience. If a member of the audience wishes to ask a question of one of the speakers, he or she shall first be recognized by the Chair of the Board and direct the question to the Chair. The Chair will then direct the question to the appropriate witness. This will allow the meeting to be conducted in an orderly manner. If written statements have been provided to the Board, they will be included in the record of this meeting. At the Chair's discretion, they may be read into the record during the meeting. After all testimony has been taken, the Board will discuss and review the request. Generally, the Board of Zoning Appeals will decide to approve or deny each requested variance at the

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meeting that it hears the testimony. Some decisions may be continued for further review. Mr. Fink read the General standards from Section 1109.09 that the Board of Zoning Appeals follows in the granting of any variance. "In every instance where the Board grants or recommends a variance, there must be a finding by the Board that: (1) The strict application of the provisions of the Zoning Code would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the Zoning Ordinance. (2) There are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use or development of the property that do not apply generally to other properties or uses within the same zoning district. (3) The granting of such variances will not be of substantial detriment to the public interest or to adjacent property owners or improvements in such districts in which the variance is sought and will not materially impair the purpose of the Zoning Ordinance." Ms. Howard read the following statement that summarizes the Board's authority: "The Board of Zoning Appeals operates according to the provisions of the Kent City Zoning Code which provides for the establishment of the Board. Members of the Board, Kent citizens serving without pay, visit sites and hear evidence both pro and con at public meetings before carefully and conscientiously rendering a decision. After 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 institute legal procedures in the Common Pleas Court."

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 rise and 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, "I do".

VI. . NEW BUSINESS

**A. BZ16-001 Stina Olafsdottir & Timothy Foster
429 Primrose Lane**

Sections: 1135.04(a) and 1135.4(b)

Requests: The applicant is requesting the following:

- 1) A 12-foot variance from the 25-foot front yard setback requirement to allow a new home to be built**

- 13 feet from the south front property line (Section 1135.04(a)),
- 2) A 25-foot variance from the 25-foot front setback requirement to allow a new home to be built 0 feet from the west front property line (Section 1135.04(a)), and
 - 3) A 15.5-foot variance from the 30-foot rear yard setback requirement to allow a new home to be built 14.5 feet from the rear property line (Section 1135.04(b)).

Ms. Howard asked the applicant to present the variance requests.

Stina Olafsdottir, 562 Valleyview Street, Kent, Ohio, stated they were applying for a 12-foot variance from the front yard setback on the south property line, a 25-foot variance from the front yard setback on the west front property line, and a 15.5-foot variance from the rear yard setback.

Ms. Howard asked the applicant to address the criteria the Board of Zoning Appeals has to consider when approving a variance: practical difficulties or unnecessary hardship, exceptional or extraordinary circumstances and whether approval would be a substantial detriment to the neighborhood or surrounding area.

Ms. Olafsdottir stated the hardship is that the lot is odd shaped. It is very narrow; especially towards the front and it is very long. She said it would be hard to build any house on the property without some sort of variance. She did not think it would be any detriment to the surrounding neighborhood or adjacent property owners. She says it is a nice house that faces the street and aesthetically fits the neighborhood. It would not cause any hardship to the neighborhood to the south or to the east.

Mr. Sellman asked what the direction the garage door would be facing.

Ms. Olafsdottir replied it will face east.

There was confusion of the variances and where the front yards are.

Ms. Olafsdottir approached the Board members and reviewed the drawing and showed the locations of the front yards.

There were no other comments so Ms. Howard asked if there were any comments from the public.

PUBLIC COMMENTS

Tim Kearns, 11560 Park Way, Munson, Ohio, stated he was the father of the applicant. He is the zoning inspector for Munson, Ohio. He was in favor of approval of the variances. It is a nice house.

Kelly Turner, 491 Marigold Lane, Kent, Ohio, asked to see the layout of the house. She approached the Board and Ms. Howard showed her the drawing of the house. She was told by Ms. Howard that the doors of the garage would be on the side. She encouraged a traditional neighborhood style of house.

Andy Lowther, 425 Primrose Lane, Kent, Ohio, stated he had questions about the variances and asked how the house would be laid out.

Ms. Howard showed Mr. Lowther the drawing for the site and showed him the location of the garage. She explained the first two variance requests were for setback requirements for the front yard and the last variance was for the setback requirement for the rear yard.

There were no other comments from the public.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Sellman stated that variances would be required no matter how the house was situated, because it is an odd-shaped lot.

Mr. Tipton stated that the house could actually be moved back to the west, but the layout presented was not a bad idea. He said this house is actually “capping” off the street, so it does not have to line up.

Mr. Mail agreed with the Mr. Tipton’s comments. He thought it would look good. He did not think that it would be a detriment to the surrounding neighborhood or adjacent properties.

Mr. Burton also agreed with the comment made. He was okay with the variance requests. He said it was good to see that neighbors come to the meeting to get things clarified and ask questions.

Ms. Howard reviewed the criteria the Board of Zoning Appeals had to consider when approving a variance: practical difficulties or unnecessary hardship, exceptional or extraordinary circumstances, and whether approval would be a substantial detriment to

the neighborhood or surrounding area. She said it appeared that the criteria that the Board had to consider had been met. She stated that the front yard is causing problems. She said it is an odd shaped lot. She said the extraordinary circumstances is that this was not originally part of the original plat design but was re-platted when this project was undertaken. She was glad to see the neighbors come to the meeting to get answers and have things clarified.

There were no other comments, so Ms. Howard asked for a motion.

Motion: Mr. Sellman moved in Case BZ16-001, Stina Olafsdottir & Timothy Foster, property located at 429 Primrose Lane, that the Board of Zoning Appeals grants the owner's request for a 12-foot variance from the 25-foot front yard setback requirement to allow a new home to be built 13 feet from the south front property line, as defined in Section 1135.04(a) in the City of Kent Zoning Code.

Mr. Mail seconded the motion.

Vote: The motion passed 5 – 0.

Motion: Mr. Sellman moved in Case BZ16-001, Stina Olafsdottir & Timothy Foster, property located at 429 Primrose Lane, that the Board of Zoning Appeals grants the owner's request for a 25-foot variance from the 25-foot front yard setback requirement to allow a new home to be built 0 feet from the west front property line, as defined in Section 1135.04(a) in the City of Kent Zoning Code.

Mr. Mail seconded the motion.

Vote: The motion passed 5 – 0.

Motion: Mr. Tipton moved in Case BZ16-001, Stina Olafsdottir & Timothy Foster, property located at 429 Primrose Lane, that the Board of Zoning Appeals grants the owner's request for a 15.5 foot variance from the 30-foot rear yard setback requirement to allow a new home to be built 14.5 feet from the rear yard property line, as defined in Section 1135.04(b) in the City of Kent Zoning Code.

Mr. Mail seconded the motion.

Vote: The motion passed 5 – 0.

VII. MEETING MINUTES

A. Minutes from the December 21, 2015 meeting

Motion: Mr. Sellman moved to approve the minutes of December 21, 2015, as presented.

Mr. Burton seconded the motion.

Vote: The motion passed 4 – 0. 1 Abstention

VIII. OTHER BUSINESS

Mr. Fink stated that he had received information on the explanation on chicken wire which he has put in the property file. He does not believe that chicken wire and chain link fences are the same.

IX. ADJOURNMENT

Motion: Mr. Mail moved to adjourn.

Mr. Sellman seconded the motion.

Vote: The motion passed 5 – 0.

Meeting adjourned at 7:45 p.m.