

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
April 18, 2016**

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

STAFF PRESENT: Bridget Susel, Community Development Director
 Eric Fink, Assistant Law Director
 Heather Phile, Development Planner

I. CALL TO ORDER

Ms. Howard called the meeting to order at 7:03 p.m.

II. PLEDGE

The pledge was recited.

III. ROLL CALL

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

IV. ELECTION OF OFFICERS

Dave Mail nominated Elizabeth Howard as Chair of the City of Kent Board of Zoning Appeals.

Benjamin Tipton seconded the nomination.

Vote: 5 – 0

Elizabeth Howard nominated Dave Mail as Vice Chair of the City of Kent Board of Zoning Appeals.

Paul Sellman seconded the nomination.

Vote: 5 – 0

Jona Burton nominated Paul Sellman as Secretary of the City of Kent Board of Zoning Appeals.

Dave Mail seconded the nomination.

Vote: 5 – 0

Board of Zoning Appeals

V. 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 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."

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 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".

VII. NEW BUSINESS

**A. BZ16-004 DS Architecture / Universalist Unitarian Church
228 Gougler Avenue**

Sections: 1135.04(b), 1135.03(e), and 1135.03(f)

Requests: The applicant is requesting the following:

- 1) A 20-foot variance from the 30-foot minimum rear yard setback to allow the new fellowship hall to be 10 feet from the rear property line (Section 1135.04(b)),**
- 2) A 6 percent variance from the 30 percent minimum usable open space requirement to allow the project to have 24 percent open space (Section 1135.04(e)), and**
- 3) An 18 percent variance from the 25 percent maximum lot coverage to allow 43 percent lot coverage (Section 1135.03(f)).**

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

Melissa Carvill Ziemer, 905 Vine Street, Kent, Ohio, stated she served as the minister of the Universalist Unitarian Church. She said she has been serving for about eleven years and about eight or nine years ago, they realized they needed to expand in order to accommodate the growing congregation. She said they started on a plan of discovery, which included many winding steps along the way. At one point, they thought they might have to move out of their location because they could not see how they could expand the site, which was an issue with the congregation, because this church is the longest continuously occupied church in the City of Kent. They will be celebrating their 150th anniversary this year. It was concluded that if they could acquire the adjacent property, they would be able to expand. It did take several more years before they were able to do this and then DS Architects were contacted to explore the

possibility of expanding their site. There is a unanimous agreement in the congregation on the expansion plan. She said the congregation sees themselves as an anchor in the area and they look forward to continue being good neighbors for the next 150 years.

Kathie Slater, 740 Governor's Circle, Kent, Ohio, stated she is serving as the moderator for the Board of Trustees. She said they are hoping to see progress and break ground sometime this spring. She said the church was founded in 1868; four years after the City of Kent was incorporated. She said they really wanted to stay in the City of Kent.

Doug Fuller, 136 North Water Street, Kent, Ohio, from DS Architecture, stated this was the longest continuous congregation in the City of Kent; perhaps in the county. He said the church wants to expand but variances are needed. He referred to the site plan and pointed out the boundaries on each side. The church has purchased property for the addition. He said the Fellowship Hall will be built to the west of and behind the existing church. The proposed addition will be 5,800 square feet addition that can accommodate 224 people and will include a 600 square foot kitchen, two classrooms, a library, and restrooms. The property is located in N-C: Neighborhood Commercial and the R-4 district, with the church largely in the N-C zoning district. He said the variances they were asking for are three fold. One is for a 20-foot variance from the 30-foot minimum rear yard setback. The second variance is for a 6 percent variance from the 30 percent minimum usable open space requirement to allow the project to have 24 percent open space. He showed the location of the open space on the site plan and said they have tried to use as much of the open space they could between the existing church and the church offices and the area in the back. He said this area will actually have some recreational space. The intense use of the space will be highly developed. While it may be smaller than desired, it won't be less useful. The third variance is for an 18 percent variance from the 25 percent maximum lot coverage to allow 43 percent lot coverage. This would include all the driveways, all the sidewalks, and the existing parking.

Mr. Tipton asked what the height of the building would be.

Mr. Fuller replied it would be 26 feet at its highest point.

Mr. Mail stated that the church did not own the parking adjacent to the site.

Mr. Fuller agreed. He said it is owned by Kent City Schools.

Ms. Susel stated there needed to be some the clarification on the parking agreement with Kent City Schools. She said it was not fully executed. It was just signed by the church and the City of Kent would need documentation to count those spots so we

would need a lease agreement also signed by the schools. She said it terminates on July 31st and with construction beginning around that same, an updated copy is needed to count those spots. The letter from Mr. Fuller references 36 spaces from Kent City Schools, but the lease agreement references 30 spaces, so clarity is needed on that as well. She said this was being raised because if the onsite parking is not fully documented with a lease agreement, a variance will be needed for the parking. Documentation for the nine spaces behind the existing Township Hall is needed also. The twenty-two spaces on the Family and Community Service parking lot are fine. The hours of operation is needed for the spaces at Family and Community Service and the ten spaces in the City parking lot on front of the West River Medical.

Randy Leeson, 3553 Charring Cross Drive, Stow, Ohio, stated he is on the construction committee. He has been negotiating with the Kent City Schools to get the final lease agreement and will get it clarified whether the lease is for thirty or thirty-six spaces. They will be getting it soon. He said they just got an agreement from Franklin Township today on the parking spaces behind the Township Hall.

Ms. Susel stated that the City of Kent will need the hours of operation to see if they can meet the parking requirements on evenings and the weekends.

Mr. Leeson stated that they do not anticipate any use in the building at any capacity during the weekdays.

Ms. Susel referred to a letter the Board of Zoning Appeals received which references the parking spaces in the City parking lot and that is fine because it is available after 5:00 p.m. and weekends.

Mr. Leeson stated they have contacted them about additional uses of the lot.

Ms. Susel stated that one of the things that has not been addressed and needs to be addressed is that they may be doing construction at their own building, which may make that parking limited for you.

Mr. Leeson stated in the short term it is not going to be too much of a problem as the building is being built. They normally park on the street.

Ms. Susel stated they need a copy for the record and the City needs an updated one from Family and Community Services and Kent City Schools.

Ms. Howard stated that the Board of Zoning Appeals is not voting on the parking because there is no variance being requested. The information shared at this meeting on

parking was given to clarify that the church would have parking for the new addition. If a variance is requested for the parking, it will be in the future. She said that the Board of Zoning Appeals has to consider three criteria 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 asked Mr. Fuller to address them.

Mr. Fuller stated that the church has a practical difficulty in that they would like to remain in this location. The church has been at the same location for 150 years. He said the addition will add aesthetics to the neighborhood and will not be a substantial detriment to the neighborhood, but would rather be a huge benefit to the public interest.

Ms. Carvill Ziemer stated that there are two services with an average of 70 – 90 adults at each service and 30 – 40 children each Sunday.

Mr. Fuller stated that one of the long term goals of the church is for it to return to its original configuration. Currently, the sanctuary is on the west end of the building, whereas the original sanctuary covered another area, which he referred to on the site plan. He said this is a stepping stone process and this is the first step to revise the sanctuary.

Mr. Sellman asked what the exterior materials would be.

Mr. Fuller replied they would be using masonry and traditional materials. He said the new addition will be traditional and not conflict with the history or the look of the existing buildings along the street. It will be of wood construction with brick perimeter about three feet high and then going to a clapboard look above that. He said their engineers are designing the building so that there will be energy savings.

Mr. Tipton asked what the Fellowship Hall would be used for.

Mr. Fuller stated it is an area for tables and a gathering area, but is not a gymnasium.

Mr. Leeson stated that the church had bought only the back part of the property adjacent to them and are currently negotiating with the owners to buy additional properties.

Ms. Carvill Ziemer stated that Kent City Schools has agreed they can remove the fence between the parking lot and the church property.

PUBLIC COMMENTS

Matthew Slater, 1077 Jessie Avenue, Kent, Ohio, stated he has grown up with and in the church; almost thirty-seven years. He said when he was young, there were only he and his sister, but now there are a lot more children who attend the church. He pointed out that the Board of Zoning Appeals would be supporting the community with the approval of the variances.

Fred Pierre, 480 Longmere Drive, Kent, Ohio, stated he first attended the church in 1998 and later became a member. He joined the board of the church and has seen the church grow a lot since he has been there. He said he was very excited about the expansion. He said the professionalism that has been demonstrated has been great and everything is in order. He was in favor of the project.

Mr. Leeson stated this is a three phase project. The Fellowship Hall is the first phase which will create some fellowship space and new classrooms and will take some of the pressure off the existing church. The second phase will be to renovate the basement to create more classrooms so that it is much more useable and friendlier to families. The final phase will be to re-orient the sanctuary to its original configuration.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail stated that he did not think the variance requests were out of line. He was in favor of the project.

Mr. Sellman stated that the hardship is that the lot is a difficult shape.

Ms. Howard asked if approval of the variances should be contingent on the church getting the required number parking spaces.

Mr. Fink replied that if they do not get the site plan approved, they would need to come back to get a variance. It is more a site plan issue than a variance issue.

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

Motion: **Mr. Sellman moved in Case BZ16-004, DS Architects/Universalist Unitarian Church, property located at 228 Gougler Avenue that the Board of Zoning Appeals grants the request for a 20-foot variance from the 30-foot minimum rear yard setback to allow the new Fellowship Hall to be 10 feet from the rear 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.

Ms. Howard reiterated that Mr. Fuller did a good job meeting the criteria, since property is made of four different parcels.

There was additional discussion by the Board members on how the variances requests met the three criteria the Board of Zoning Appeals had to consider when approving a variance.

Motion: Mr. Mail moved in Case BZ16-004, DS Architects/Universalist Unitarian Church, property located at 228 Gougler Avenue, that the Board of Zoning Appeals grants the request for a 6 percent variance from the 30 percent minimum usable open space requirement to allow the project to have 24 percent open space, as defined in Section 1135.04(e) in the City of Kent Zoning Code.

Mr. Sellman seconded the motion.

Vote: The motion passed 5 – 0.

Mr. Mail stated they do not own the parking lot, but the property is not wall to wall building and it sits well where it is.

Motion: Mr. Burton moved in Case BZ16-004, DS Architects/Universalist Unitarian Church, property located at 228 Gougler Avenue, that the Board of Zoning Appeals grants the request for an 18 percent variance from the 25 percent maximum lot coverage to allow 43 percent lot coverage, as defined in Section 1135.03(f) in the City of Kent Zoning Code.

Mr. Mail seconded the motion.

Vote: The motion passed 5 – 0.

VIII. MEETING MINUTES

A. Minutes from the January 25, 2016 meeting

Motion: Mr. Sellman moved to approve the minutes January 25, 2016, as presented.

Mr. Mail seconded the motion.

Vote: The motion passed 5 – 0.

B. Minutes from the February 15, 2016 meeting

Motion: Mr. Mail moved to approve the minutes February 15, 2016, as presented.

Mr. Sellman seconded the motion.

Vote: The motion passed 4 – 0. 1 Abstention

IX. OTHER BUSINESS

Ms. Howard discussed emails she received. She said one of the email asked if she was the same Ms. Elizabeth Howard who also serves on the City of Kent's Board of Zoning Appeals. The sender had Kent.edu email address, undergraduate journalism student.

Mr. Mail asked what the question was.

Ms. Phile replied she has already sent a response to the student in the email. He wanted information to change the property into a rooming house, and she had sent him information regarding the R-3 zoning district and rooming houses.

IX. ADJOURNMENT

Motion: Mr. Burton moved to adjourn.

Mr. Tipton seconded the motion.

Vote: The motion passed 5 – 0.

The meeting adjourned at 8:07 p.m.