

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
May 16, 2016**

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

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

I. CALL TO ORDER

Ms. Howard called the meeting to order at 7:00 p.m.

II. PLEDGE

There was no flag so the pledge was not recited.

III. ROLL CALL

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

IV. 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 swore in Dave Mail and Jona Burton. He asked Mr. Mail and Mr. Burton if they solemnly swore to uphold the Constitution of the United States, Constitution of the State of Ohio, the Charter or Ordinances of the City of Kent and if they did hereby faithfully, honestly, and personally discharge their duties of their offices and member of the Board of Zoning Appeals of the City of Kent, Ohio for as long as they continue in office. Mr. Mail and Mr. Burton both replied "I do".

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. BZ16-005	Plaso Construction
Board of Zoning Appeals	

1519 Enterprise Way

Section: 1155.04(a)

Request: The applicant is requesting a 25-foot variance from the 50-foot minimum front yard setback requirement to allow a new building to be constructed 25 feet from the front property line along State Route 261 (Section 1155.04(a)).

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

Dan Plaso, 1249 Kennedy Road, Streetsboro, Ohio, stated he was the contractor for the owner of the property. He said they would like to construct a cold storage building 25 feet from the south property line and would sit south of the existing building. He said this property has vehicular access from Enterprise, which is the frontage of the property and abuts State Route 261 on the south with no access.

Mr. Burton asked for clarification of the property lines, so Mr. Plaso showed them to him.

Mr. Mail asked about the distance from the ditch.

Mr. Plaso referred to the site plan to show the Board where the vegetation begins. He said they will access from the current driveway. He said they want a variance for all of it but the new construction will be done now and future construction in phases.

PUBLIC COMMENTS

None

BOARD DISCUSSION

Mr. Mail stated that the practical difficulty is that there is limited access. It is in an industrial area. There were also exceptional circumstances because State Route 261 is a frontage with no access.

Mr. Sellman stated extraordinary circumstances were that there were two fronts.

Mr. Burton agreed with the comments and said it will not impact the ditch.

Mr. Tipton added that it is corner lot.

Ms. Howard summarized the comments made and said it was a corner lot with multiple front yards and the fact that there would never be any egress from State Route 261 would be the exceptional extraordinary circumstances, as well as the practical difficulties. It would not be a detriment to the adjacent properties.

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

Motion: **Mr. Mail moved in Case BZ16-005, Plaso Construction, property located 1519 Enterprise Way, that the Board of Zoning Appeals grants the request for a 25-foot variance from the 50-foot minimum front yard setback requirements to allow a new building to be constructed 25 feet from the front property line along State Route 261, as defined in Section 1155.04(a) in the City of Kent Zoning Code.**

Mr. Burton seconded the motion.

Vote: **The motion passed 5 – 0.**

**B. BZ16-006 Coleman Professional Services
732 and 738 West Main Street**

Section: 1135.03(f)

Request: The applicant is requesting a 30 percent variance from the 25 percent maximum lot coverage requirement to allow the new Coleman apartment project to have 55 percent lot coverage (Section 1135.03(f)).

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

Alan Ambuske, stated he was with Perspectus Architecture located at 13212 Shaker Square, Cleveland, Ohio and was the architect for the owner of the property. The two properties currently have single family dwellings that will be razed for the project. He showed the Board pictures and the site plan of the area to show them where the building will be located. The two lots will be combined into one parcel and a two-story building will be constructed. There will be eleven units that will be similar to the apartments next to Sheetz. The building will be designed to resemble existing

neighboring houses in both scale and materials. He said all the setback requirements have been met and open space requirements have been met, but the project exceeds the lot coverage. He said the Architectural Review Board has approved the project. He said all the lights will be retained on site. He said they have met with the City Engineer on this project.

Ms. Howard clarified that the applicant was requesting a variance from the maximum lot coverage so that the apartment building, as well as driveways and the parking area could be constructed on the lot.

Mr. Mail asked the applicant if he owned the two lots and if the posts for the deck on the north elevation were for support.

Mr. Ambuske replied yes.

Mr. Mail asked who the tenants will be.

Mr. Ambuske replied there will be single adults who have gone through the Coleman Professional Services process. The tenants will be at least 21 years of age and will be self-sufficient.

Mr. Mail stated that it sounded like the units were for Section 8 candidates.

Ms. Susel explained the units will be transitional housing from foster care for tenants from Coleman Center.

Mr. Mail stated there are three other apartment buildings along Main Street but as far as he knew Coleman Professional Services does not have anything to do with them. He asked the applicant if he had spoken with the Council person representing that area to make them aware of the project.

Mr. Ambuske replied yes.

Mr. Tipton asked if the size could be reduced to meet the requirements of the code.

Mr. Ambuske replied no.

Mr. Mail asked about the parking.

Mr. Ambuske replied the parking requirements are met.

Mr. Burton asked if there were any other comparable units in Kent.

Ms. Susel replied there really was not anything in Kent that compares to this project.

Mr. Sellman asked if the apartments in Franklin Township area was a similar operation.

Ms. Susel replied yes, it is just that those are for persons with severe and persistent mental illness and chronically disabled.

Mr. Mail asked if the neighbors know what the targeted population was for this development.

Ms. Susel replied that there is no requirement to notify neighbors of a population group. People with disabilities are of a protective class.

PUBLIC COMMENTS

Donna Testa, 723 West Main Street, Kent, Ohio, stated she has lived in Royal Arms West which is right across the street from where this development will be. She asked if there were any other options that could be considered for this project in Portage County.

Mr. Ambuske replied said they had looked around.

Theresa Kordinak, 727 West Main Street, Kent, Ohio, stated she lives in Royal Arms Condos. She said this development looks like an army barracks. She understood that the owners cannot discriminate against the tenants, but felt they will be bringing in drugs. She said the existing houses have been neglected.

Ms. Susel stated that the two existing houses will be torn down and a new facility built. She said the new building will look like a two story family home from the road. She stated that the tenants will be monitored by an on-site case worker, who will monitor them.

BOARD DISCUSSION

Mr. Tipton stated it will not be a crowded site and most of the building will not be seen from the street.

Mr. Sellman agreed with Mr. Tipton's comments. He felt the building would be aesthetically pleasing and that it will look like a residential structure. He said the lots are small.

Mr. Burton stated that the two lots will be combined and the developer is trying not to be intrusive.

Mr. Mail stated the design of the building is nice and will look better than some of the older apartment buildings. He did have some concerns about how Coleman will be monitoring and handling concerns about the tenants. He felt the existing neighbors should be protected.

Ms. Susel stated that Coleman is not very far away.

Ms. Howard stated Ms. Susel had identified the extraordinary circumstances, as well as the difficulties. She said that there only a few places zoned for this kind of development and finding properties that are available can be difficult. Funding for this type of project presents challenges. There are practical difficulties and unnecessary hardships. She supported the comments about detriment to the public interest. There is no problem with the lot coverage.

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

Motion: **Mr. Burton moved in Case BZ16-006, Coleman Professional Services, property located at 732 and 738 West Main Street, that the Board of Zoning Appeals grants the request for a 30 percent variance from the 25 percent maximum lot coverage requirement to allow the new Coleman apartment project to have 55 percent lot coverage, as defined in Section 1135.03(f) in the City of Kent Zoning Code.**

Mr. Sellman seconded the motion.

Vote: **The motion passed 5 – 0.**

**C. BZ16-008 DS Architects / Unitarian Universalist Church
228 Gougler Avenue**

Section: 1171.01(1)

Request: The applicant is requesting a 97-foot variance from the 100-foot setback requirement for all structures and activity areas to allow the church office building to be 3 feet from the property line (Section 1171.01(1)).

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

Doug Fuller, 136 North Water Street, Kent, Ohio, from DS Architects, stated that the church is very old. He said the proposal is for a new fellowship hall and will be located in the R-4 zoning district. He said nothing has changed on the site plan from last month.

Ms. Phile refers to the site plan and explains that Staff had missed a variance for the project, so the applicant is now before the Board of Zoning Appeals for approval for a variance of the 100-foot building and activity setback as described. The parcels will be combined. Staff believes the variance should be from the existing building that is currently being used as offices, because it is closest to the property lines at 3 feet from the north property line. All the other buildings, existing and proposed, play areas and parking areas will be more than 3 feet from the property lines.

PUBLIC COMMENTS

Randal Leeson, 3553 Charring Cross, Stow, Ohio, stated he represented the Building Expansion Team from the church and that the people from the church are trying to be good neighbors. The fellowship hall will be used for coffee hour and occasional church functions. There will no change in the use of the property.

Mark Messerly, 234 North Mantua Street, Kent, Ohio, just wanted clarification of the setbacks and the new variance. He said he understood that there would be a 10-foot variance. He had never heard anyone say anything about a 3-foot variance from the property line.

Ms. Howard replied it was a clerical error. She said Staff had looked at the new construction rather than looking at the existing structures. She said the four lots will be combined into one and the closest place to the property line is the existing church office in the house, which sits three feet off the property line. She said if the lots had not been combined, all the setbacks would have been legal.

Mr. Delaney, 234 Gougler Avenue, Kent, Ohio, stated he lived next door to the church. He stated he just wanted clarification on how this would affect his property.

Ms. Howard stated the plans for the fellowship were approved last month at the Planning Commission meeting. The variances requested were approved also at the Board of Zoning Appeals last month. The focus at that time was on the new construction and the 10-foot setback and that is what the variance was granted for. The existing building is 3 feet from the property line, so the 10-foot variance did not allow

for its continual function. Tonight the variance is just addressing the setback for the current building.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail stated that the three criteria had already been addressed. This was just an administrative correction and he had no issues.

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

Motion: Mr. Sellman moved in Case BZ16-008, DS Architects/Unitarian Universalist Church, property located at 228 Gougler Avenue, that the Board of Zoning Appeals grants the request for a 97-foot variance from the 100-foot setback requirement for all structures and activity areas to allow the church office building to be 3 feet from the property line, as defined in Section 1171.01(1) in the City of Kent Zoning Code.

Mr. Mail seconded the motion.

Vote: The motion passed 5 – 0.

D. BZ16-009

**Joseph Johns
300 Woodard Avenue**

Section: 1161.14(b)

Requests: The applicant is requesting the following:

- 1) A 3-foot variance from the 5-foot minimum side yard setback requirement to allow an accessory building to be constructed 2 feet from the side property line (Section 1161.14(b)), and**
- 2) A 5-foot variance from the 10-foot minimum setback from the main structure to construct an accessory building 5 feet from the house (Section 1161.14(b)).**

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

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Joe Johns, 300 Woodard Avenue, Kent, Ohio, stated he was removing an existing one car garage and build a new larger garage. The new garage will be 22 feet deep and his

lot is 50 feet wide. He would like to have two parking spots directly in front of the garage to be able to maneuver into and out of the garage. He said the new garage will be 5 feet from the main structure and 10 feet from the pool deck. He said if the new garage was moved further back into the backyard, it would make it difficult to get in and out of the garage, because there is large tree that is in the way. He does not want to disturb the tree. He showed the Board the tree and the existing garage. He said moving the garage further back would also put it closer to the pool deck, which may result in narrowing the access to the backyard. He was concerned about safety. He said they do share the driveway with the neighbor. He said he has discussed and explained everything to the them. He said the roof of the new garage will match the hip roof of the house and it will have a 9-foot ceiling.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Ms. Howard asked if there were any regulations about the distance from one accessory structure to another.

Ms. Phile replied that there are setback requirements only for main structures.

Mr. Jones said he would not mind moving it closer to the pool and it may end up that way if there is still enough room to get in and out of the garage safely.

Ms. Howard stated that is a small lot and no neighbors seem to be against the variance request.

Mr. Mail stated the practical difficulty is tree in the middle of a joint driveway.

Mr. Burton stated there was no other practical way to position the garage. He said it is a small lot and is aesthetically pleasing.

Ms. Howard stated the practical difficulties are that it is tiny lot and that there is a tree in the middle of the drive.

Mr. Sellman stated that the garage would be 15 feet from the house without the deck.

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

Motion: Mr. Tipton moved in Case BZ16-009, Joseph Jones, property located at 300 Woodard Avenue, that the Board of Zoning Appeals grants the request for a 3-foot variance from the 5-foot minimum side yard setback requirement to allow an accessory building to be constructed 2 feet from the side property line, as defined in Section 1161.14(b) in the City of Kent Zoning Code.

Mr. Mail seconded the motion.

Vote: The motion passed 5 – 0.

Motion: Mr. Tipton moved in Case BZ16-009, Joseph Jones, property located at 300 Woodard Avenue, that the Board of Zoning Appeals grants the request for a 5-foot variance from the 10-foot minimum setback from the main structure to construct an accessory building 5 feet from the house, as defined in Section 1161.14(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 April 18 2016 meeting

Motion: Mr. Mail moved to approve the minutes of April 18, 2016, as presented.

Mr. Sellman seconded the motion.

Vote: The motion passed 5 – 0.

VIII. OTHER BUSINESS

Ms. Howard stated she will not be at the June or July meetings.

Mr. Sellman stated he will not be at the June meeting.

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IX. ADJOURNMENT

Motion: Mr. Mail moved to adjourn.

Mr. Burton seconded the motion.

Vote: The motion passed 5 – 0.

Meeting adjourned at 8:20 p.m.