

The following Summary Minutes are an administrative accounting of the meeting.

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
June 20, 2016**

MEMBERS PRESENT: **Dave Mail
Jona Burton
Benjamin Tipton**

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

I. CALL TO ORDER

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

II. PLEDGE

The pledge was recited.

III. ROLL CALL

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

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 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.”

Mr. Mail 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

Mr. Mail announced to all that because there are only three members present at tonight's meeting the applicants have the right to have their cases rescheduled to a future meeting where more members are present. Mr. Mail explained that with only three members present, a unanimous vote is needed for approval.

Mr. Fink further explained that they may ask for the delay at any time prior to the Board's vote on the case.

A. BZ16-010 GB Home Services & Renovations, LLC
609 Edgewood Dr.

Section: 1133.04(b)

Request: The applicant is requesting a 3.33-foot variance from the 30-foot minimum rear yard setback requirement to allow a deck addition to be 26.67 feet from the rear property line (Section 1133.04(b)).

Greg Beatty, owner of GB Home Services & Renovations, 1405 Loop Rd., stated that he has completed the first floor deck and now needs to seek a variance for the second floor deck, which is partially over the first floor deck.

Mr. Mail explained the three criteria that the Board bases their decision on.

Georgia Foster, 609 Edgewood Dr., owner, stated that she is constructing the second story deck to help secure and enclose the hot tub below it. Ms. Foster added that it would also be a safety feature for her grandchildren. Ms. Foster stated that the project began when she purchased a hot tub for her sister who is suffering from the long-term effects of polio.

Mr. Mail questioned the deck measurements.

Mr. Beatty stated that the upper deck will 10 feet by 18 feet and the lower deck is 10 feet by 30 feet.

Ms. Foster stated that the reason it needs to extend 10 feet from the house is so that the support posts line up with the deck below and not be in the middle of the hot tub. Ms. Foster stated that the hot tub is 6 inches from the house.

Mr. Tipton stated that he understands that it's a large hot tub that they are trying to enclose with the upper deck and the tub cannot be shifted towards the house.

PUBLIC COMMENTS

None

BOARD DISCUSSION

Mr. Tipton stated that he feels that the drawing is very tasteful.

Mr. Burton stated that he feels that the unnecessary hardship is the need for the hot tub for medical reasons. Mr. Burton added that the property is not very deep, which is why they need the extra 3 feet. Mr. Burton stated that he doesn't feel that it will be substantially detrimental to the public interest.

Mr. Mail stated that it is a very private back yard and probably not very visible to the neighbors.

Motion: In Case BZ16-010, GB Home Services & Renovations, LLC, 609 Edgewood Dr., Mr. Burton moved that the Board of Zoning Appeals grant the request for a 3.33-foot variance from the 30-foot minimum rear yard setback requirements to allow a deck addition to be constructed 26.67 feet from the rear property, as defined in Section 1133.04(b) in the City of Kent Zoning Code.

Mr. Tipton seconded the motion.

Vote: The motion passed 3 – 0.

**B. BZ16-011 Chuck Crowder
 1063 Fraternity Circle**

Section: 1147.04(a)

Request: The applicant is requesting a 42.2-foot variance from the 60-foot minimum front yard setback requirement to allow an addition to be 17.8 feet from the front yard setback (Section 1147.04(a)).

Mr. Crowder, 10925 Ambler Lane, Mantua, OH, stated that he is his the contractor for the project. Mr. Crowder stated that they are requesting a variance to construct an entry addition and porch onto the sorority house. Mr. Crowder explained that they are unable to construct an addition in the rear or side yards due to the parking lot and utilities, and are in need of a variance because of the curvature of the front yard. Mr. Crowder stated that currently there is only a four foot area inside the door and they would like an area where they can gather and greet their guests.

The Board asked about hardships.

Virginia Anderson, 5759 Rhodes Rd, stated that she has been affiliated with the Alpha Phi sorority on campus since the 1980's. Ms. Anderson stated that their membership is nearly 200 girls and the house hasn't have any renovations since 1972.

Mr. Crowder stated that the hardship is needing to get people out of the weather.

PUBLIC COMMENTS

Susan Little, 5151 East Blvd. NW, Canton, OH, stated that she is the president/treasurer of the house corporation of the Delta Zeta sorority, which is immediately across the street. Ms. Little stated that she is concerned that the 17 foot setback will become an issue if the street ever becomes a dedicated street.

BOARD DISCUSSION

Mr. Burton stated that the structure currently is 21 feet from the street.

Mr. Mail stated that the structure was created with a central hallway and with the way the rooms are configured and the close proximity of the parking area, there isn't another place for the addition. Mr. Mail stated that if the road was reconstructed to city standards, it wouldn't affect the structural integrity of the proposed addition.

Mr. Burton stated that he doesn't feel that it will impact the line of sight.

Mr. Mail stated that they have a very odd shaped lot on a dead end street.

Mr. Burton stated that ignoring the internal layout of the building, there still isn't another location on the property for the addition that would meet the code.

Mr. Mail stated that he doesn't see the addition as a detriment.

Mr. Tipton stated that the impact for the addition on a dead end street is less than a through street. Mr. Tipton stated that the gazebos are the portions that require the variance and because they are open, they are not a line of site issue.

Motion: Mr. Tipton moved in Case BZ16-011, Chuck Crowder, 1063 Fraternity Circle, that the Board of Zoning Appeals grants the request for a 42.2 foot variance from the 60 foot minimum front yard setback to allow the new addition to be located 17.8 feet from the front yard setback, as defined in Section 1147.04(a) in the City of Kent Zoning Code.

Mr. Burton seconded the motion.

Vote: The motion passed 3 – 0.

**C. BZ16-012 Kellie Rossini & Patrick Ryel
502 Miller Avenue**

Section: 1161.14(a)

Request: The applicant is requesting a 9.5-foot variance from the 15-foot minimum setback from a main structure requirement to allow an accessory building to be 5.5 feet from the house (Section 1161.14(a)).

Kellie Rossini, 502 Miller Avenue, stated that the hardship is that their backyard is very wet and their current two car garage doesn't allow for other storage of yard equipment. Ms. Rossini stated that the location they would like to put the shed is 13.5 feet from the property line but that only leaves 5.5 feet from their house, which is what they are asking a variance for.

Mr. Tipton questioned the wetness of the backyard.

Patrick Ryel, 502 Miller Avenue, stated that the backyard slopes so the farther back the wetter it can be. Mr. Ryel stated that the slope of the houses behind them are steeper and so they get a lot of runoff from them. He explained that this location keeps them within the allowed property line setbacks.

Mr. Mail questioned the foundation.

Ms. Rossini stated that it is not a permanent foundation with no water or electric utilities; storage only.

PUBLIC COMMENTS

Charles Dionne, 512 Miller Avenue, stated that he lives directly next door. Mr. Dionne stated the shed is currently blocking the airflow of his bedroom window. Mr. Dionne added that the previous owners had 2 full size cars and did not have an issue storing their yard equipment in the garage.

Mr. Mail explained that the current location is not where it currently sits.

Mr. Tipton invited Mr. Dionne to view the proposed site plan.

Mr. Dionne stated that he would still like to not see the shed. Mr. Dionne also stated that he has never had a water issue.

Ms. Rossini stated that the previous owners did disclose that there was water in the basement during the sale of the home.

Mr. Mail stated that the Board also received a letter from Terri Karas, 637 Steele Street, which he read into the record; the letter was in opposition to the proposed shed citing privacy, safety, and property values for 512 Miller.

BOARD DISCUSSION

Mr. Burton stated that the proposed accessory building exceeds the minimum setback by more than 3.5 feet. Mr. Burton explained that the variance is for the distance from the shed to the house; closer to their own structure and further from the side yard property line. Mr. Burton stated that if they moved the shed to be on the side yard setback, they would gain some distance from the house.

Mr. Mail stated that the applicant wanted to move the shed as far from the neighbor as possible. Mr. Mail reminded the Board that this is a temporary structure. Mr. Mail recognized that a wet backyard can be problematic. Mr. Mail stated that he doesn't feel that it is a substantial detriment to the neighborhood.

Mr. Burton stated that they try to grant the smallest variance possible and this request is 2/3 of the requirement. Mr. Burton suggested moving the structure 3 feet to the north and 3 feet west then they would be closer to the 15 feet requirement.

The Board concurred that that moving the shed per Mr. Burton's suggestion reduces the variance request down to 6 feet.

Mr. Mail asked the applicants if they are okay with the Board's suggested relocation. Mr. Mail reminded the applicant that they have the option to reschedule their case for a meeting where there are more members present.

Mr. Ryel stated that there is a hedge that separates the property that would conceal the shed more the farther back it is.

Mr. Tipton suggested that they wait until they have a chance to speak with the company that they purchased the shed from to see if it is possible to place it in a location that does not require a variance.

The applicants stated that they would like to delay the case until the July 18th meeting.

VII. MEETING MINUTES

A. Minutes from the May 16, 2016 meeting

Motion: Mr. Burton moved to approve the minutes of May 16, 2016, as presented.

Mr. Tipton seconded the motion.

Vote: The motion passed 3 – 0.

VIII. OTHER BUSINESS

Mr. Fink stated that the Planning Commission is requesting a joint meeting regarding administrative processes.

VIII. ADJOURNMENT

Motion: Mr. Tipton moved to adjourn.

Mr. Burton seconded the motion.

Vote: The motion passed 3 – 0.

Meeting adjourned at 7:57 p.m.