

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
August 21, 2023**

MEMBERS PRESENT: Steven Protzman
Michelle Sahr
Laura Scarnecchia

STAFF PRESENT: Bridget Susel, Community Development Director
Kailyn Cyrus, Development Planner

I. CALL TO ORDER

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

II. ROLL CALL

Steven Protzman, Michelle Sahr, and Laura Scarnecchia were present.

III. 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.

IV. ADMINISTRATION OF OATH

Ms. Susel instructed members of the audience wishing to be heard on any of the cases presented at this meeting to raise their right hand. She administered the oath. The participants responded affirmatively.

Ms. Susel noted that because the Board of Zoning Appeals currently only has 3 members, a unanimous vote is required to move forward with any variance request. She stated that the applicants may ask for a continuance of their case at any time before a motion is voted on.

V. NEW BUSINESS

**A. BZ23-010 ABBY GREER & CHRIS LASKO
219 EAST WILLIAMS STREET**

The applicant is requesting:

- 1. A variance from Section 1106.10(A) to allow an 8-foot 6-inch variance where 10 feet is the minimum requirement to allow an addition to an accessory structure to be located 1-foot 6 inches from the side property line.**
- 2. A variance from Section 1106.10(A)(3) to allow an 8-inch variance where 15 feet is the maximum height permitted to allow an addition to an accessory building to be 15-foot 8 inches tall.**

Ms. Cyrus stated that the property is located in an R-3: High Density Residential Zoning District and is surrounded by residential uses on all sides. She stated that the applicants are constructing an addition to an existing accessory structure, which is located 1-foot 6 inches from the property line. She stated that the addition will be no more intrusive than what is existing and the proposed height of the addition is designed to be consistent with the house.

Chris Lasko, 219 E. Williams St., stated that they have a 100 year old garage that is in very good shape but it is too small to park a vehicle inside so they would like to add on to the front of the garage so that it will be wide enough to park the vehicles inside. He added that they will also fix the old driveway.

Mr. Protzman questioned what the use of the original structure will be.

Mr. Lasko stated that it will be used for storage.

Ms. Sahr stated that it looks like the new and old roof lines will be continuous.

Mr. Lasko stated that the new roof will be parallel to the street and match the house roofline; it will be slightly higher than the original.

PUBLIC COMMENT

None

BOARD OF ZONING OF APPEALS DISCUSSION

Ms. Sahr stated that it looks like the proposed addition does not extend into the side yard any more than the current garage. Ms. Sahr also stated that once again, it is a lot that was created before the Zoning Code existed, so it is too small for the current zoning standards.

MOTION: In Case BZ23-010, applicants Abby Greer and Chris Lasko, located at 219 E. Williams St., Ms. Sahr moved that the Board of Zoning Appeals grant the applicant's request for a variance from Section 1106.10(A) to allow an 8-foot 6-inch variance where 10 feet is the minimum requirement to allow an addition to an accessory structure to be located 1-foot 6 inches from the side property line.

Ms. Scarnecchia seconded the motion.

VOTE: The motion carried 3-0.

MOTION: In Case BZ23-010, applicants Abby Greer and Chris Lasko, located at 219 E. Williams St., Ms. Sahr moved that the Board of Zoning Appeals grant the applicant's request for a variance from Section 1106.10(A)(3) to allow an 8-inch variance where 15 feet is the maximum height allowed to allow an addition to an accessory building to be 15-foot 8 inches tall.

Ms. Scarnecchia seconded the motion.

VOTE: The motion carried 3-0.

**B. BZ23-011 DAVID & DIANE DELANEY
234 GOUGLER AVENUE**

The applicant is requesting a variance from Section 1106.12(A) to allow a 6-foot tall fence to be constructed where 4 feet is the maximum height allowed.

Ms. Cyrus stated that the property is located in an N-C: Neighborhood Commercial Zoning District. She stated that the property is surrounded by a religious use to the south, manufacturing to the east, and residential uses to the north and west. She stated that the applicant is requesting a variance to allow a 6-foot fence in a front yard area along Gougler Ave. where only a 4-foot maximum height is permitted for the purposes of extra security and privacy.

David Delaney, 234 Gougler Ave., stated that they live on a busy road and a lot of trash gets thrown into their yard. He stated it is also for the safety of his grandkids and his dog as a lot of people like to reach over the fence and pet the dog. He stated that he did not check with the City before installing the fence and did not know about the height regulation. He stated that the current fence is located where the previous 4-foot-tall fence had been located and that they used the same posts.

PUBLIC COMMENT

None

BOARD OF ZONING OF APPEALS DISCUSSION

Ms. Scarnecchia asked if the Board was just discussing the portion past the front corner of the house.

Staff stated that yes, the Board was only considering the fence past the front corner of the house.

Ms. Sahr stated that Gougler is a busy road, and she has no problem with the fence. She stated that there was an industrial use abutting the property.

Mr. Protzman stated that the parking lot next door was the old Triangle Cleaners parking lot.

Ms. Susel stated that the parking lot is currently leased to OnUs and is used as employee parking during the day and public parking after hours.

Mr. Protzman stated that he did not have a problem with the fence, but he had an issue that they did not check with the City before constructing and installing the fence.

MOTION: In Case BZ23-011, applicants David & Diane Delaney, located at 234 Gougler Ave., Ms. Sahr moved that the Board of Zoning Appeals grant the applicant's request for a variance from Section 1106.12(A) to allow a 6-foot tall fence to be constructed where 4 feet is the maximum height allowed.

Ms. Scarnecchia seconded the motion.

VOTE: The motion carried 3-0.

**C. BZ23-012 NICHOLAS RUSSO
5123 SUNNYBROOK ROAD**

The applicant is requesting a variance from Section 1106.10(A)(2) to allow an accessory structure to be located in front of the primary structure.

Ms. Cyrus stated that the primary structure is situated 460 feet from the right of way. She explained that the Zoning Code does not allow accessory structures to be located in front of the primary structure. She stated that the applicant stated that the variance is needed due to the steep topography in the rear yard.

Nicholas Russo, 5123 Sunnybrook Rd., stated that they constructed the house in the most practical location to avoid grading and tree removal that would have made it cost prohibitive. He stated that the land behind the house is very steep and would require significant leveling, and boulder and tree removal. He explained that the proposed location would cause less disruption to the surrounding environment.

Mr. Protzman stated that it appears that the house is still visible.

PUBLIC COMMENT

Mr. Russo agreed. He stated that the structure is actually offset and not right in front of the house. He stated that you cannot really see the house from the road and you will not be able to see the proposed building either due to the trees and a neighboring building.

Gene Roberts, 5131 Sunnybrook Rd., stated that he is the neighbor that owns the outbuilding that will basically block their house view of Mr. Russo's new building. He explained that Mr. Russo's lot is a flag lot and Mr. Robert's lot sits inside that flag. He stated that his outbuilding is 24' x 36' and is situated 10' off of the property line. He stated that if Mr. Russo is granted the variance, the new structure will be behind the existing outbuilding and will not be visible to any other abutting properties. He stated that Mr. Russo's house sits behind his barn as well as the adjoining property to the south. He explained that the only property that it will be visible from is Shaw Drive because of the elevation difference but there is a privacy fence that will make it difficult to see.

Virginia Shaw, 5110 Sunnybrook Rd., stated that she lives across the street and one house down from the proposed project. She stated that the limitations of the lot were apparent when it was purchased. She stated that her only concern is that the accessory structure is a prelude to operating a heavy equipment business from that structure. She stated that right now a floodlight of some sort is shining into her windows at night. She stated that she

is sure that her neighbor will design the structure very carefully with consideration to the neighbors. She expressed her concerns regarding traffic and safety in the area.

Ms. Susel stated that if a commercial use were to be proposed for this location, there are Zoning Code requirements that will need to be met and that Ms. Shaw should notify her if she feels that the activity is more than what is expected. Ms. Susel also explained that lighting is required to be zero bleed at the lot line, which means that illuminations cannot go past the parcel line.

Mr. Russo stated that the light is not coming from his property as he only has 2 carriage light fixtures on the front of the house. He agreed that light pollution is awful.

BOARD OF ZONING OF APPEALS DISCUSSION

Ms. Scarnecchia stated that she does not have any reservations concerning the project and recognizes the hardship with the property. She added that given that the structure will have a large setback from the road and will be behind another structure, she doesn't see it as being an issue.

Mr. Protzman stated that he appreciates the care that has been taken to preserve as many trees as possible. He stated that the proposed location makes sense in terms of the topography and preserving the trees on the lot.

Ms. Sahr agreed. She stated that the reason the Board exists is because all lots are not created equal and this one is clearly not made to conform with the requirement of accessory building placement.

MOTION: In Case BZ23-012, applicant Nicholas Russo, located at 5123 Sunnybrook Rd., Ms. Sahr moved that the Board of Zoning Appeals grant the applicant's request for a variance from Section 1106.10(A)(2) to allow an accessory structure to be located in front of the primary structure.

Ms. Scarnecchia seconded the motion.

VOTE: The motion carried 3-0.

VI. OTHER BUSINESS

None.

VII. MEETING MINUTES

MOTION: Ms. Sahr moved to approve the June 19, 2023 meeting minutes as presented. Ms. Scarnecchia seconded the motion. The motion carried 3-0.

VIII. ADJOURNMENT

MOTION: Ms. Sahr moved to adjourn the meeting. The meeting adjourned at 7:12 pm.