

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
October 17, 2016**

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

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

I. CALL TO ORDER

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

II. PLEDGE

The pledge was recited.

III. ROLL CALL

Jona Burton, Dave Mail, Benjamin Tipton, Paul Sellman, 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 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. OTHER BUSINESS

Motion: **Mr. Tipton moved to discuss Item A under Other Business before New Business.**

Mr. Burton seconded the motion.

Vote: **The motion passed 5 – 0.**

A. Pursuant to Planning Commission request, discussion of BZA Member’s rationale for vote in BZ16-018a

Mr. Fink stated based upon the last hearings of the Board of Zoning Appeals and Planning Commission and based upon further discussion of the transcripts, the City of Kent no longer feels that this discussion is necessary. He said the Board of Zoning Appeals could have continued discussion if they wanted.

PUBLIC COMMENTS

Reverend Aaron Meadows, 1456 East Summit Street, Kent, Ohio, stated he was pastor of the Presbyterian Church. He said their position all along has been that comment is out of order, so they have no objection that the Board asks to have it struck from the agenda.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Tipton has reviewed the minutes of the meeting and did not feel the need to add anything.

Mr. Burton agreed.

Mr. Sellman concurred.

Mr. Fink stated the City of Kent's decision was also based on the Certificate of Resolution signed by the Chair of the Board of Zoning Appeals.

Ms. Howard stated the City of Kent and the Planning Commission have withdrawn their request for further discussion on this matter. There were no further comments or questions, so she asked for a motion to close the matter.

Motion: **Mr. Mail moved to close the discussion of Case BZ16-018a.**

Mr. Sellman seconded the motion.

Vote: **The motion passed 5 – 0.**

VII. NEW BUSINESS

A.	BZ16-025	Steve & Susan Mileski
		333 College Court
	Sections:	1122.05(a) and 1122.06(a)

- Requests:**
- 1) The applicant is requesting a 3657.66 square foot variance from the 10,000 square foot minimum lot size to allow a single family dwelling to be converted to a rooming house with a 6342.34 square foot lot (Section 1122.05(a)), and**
 - 2) A variance from Section 1122.06(a) to allow parking to be 0 feet from the side yard property line.**

Ms. Howard asked the applicants to present their requests.

Susan Mileski, 1461 River Edge Drive, Kent, Ohio, stated there are college rentals around their property. She said they had appeared before the Planning Commission and they did approve their project with no more than three unrelated people and that they had to apply for variances from the Board of Zoning Appeals.

Ms. Howard asked how many bedrooms were in the house.

Ms. Mileski replied there are three bedrooms, which are on the first floor. They were not asking for bedrooms in the basement nor on the second floor.

Mr. Tipton asked if the three bedrooms currently existed.

Ms. Mileski replied yes. There are finished rooms in the basement not to be used as bedrooms.

Mr. Tipton asked if anything has been added. He asked if there were three bedrooms when they purchased the property.

Ms. Mileski replied yes and there have been no changes.

Ms. Howard confirmed that there were no bedrooms in the basement, but it was accessible to the residents.

Mr. Sellman said it was common area.

Steve Mileski 1461 River Edge Drive, Kent, Ohio stated the garage and shed will be torn down in order to fit the parking in the rear of the house. He showed the plan and pictures of the area.

Mr. Mail asked if the dumpster was on their property and if it would stay.

Mr. Mileski replied it will stay. He said they pay extra for the dumpster so that the residents only have to take out their trash bags and put them in the dumpster.

Mr. Burton noticed the gravel near the dumpster. He asked if it would stay or if it would revert to grass.

Mr. Mileski replied he was willing to do whatever. He said if there was plenty of parking in the back, it will probably go back to grass.

Mr. Tipton stated he did not feel that the criteria the Board of Zoning Appeals has to consider to approve a variance was adequately addressed. He asked that the applicants to address them.

Ms. Howard stated the first to be addressed was that the strict application of the provisions of the zoning code would result in practical difficulties or unnecessary hardships inconsistent with the general purpose of the zoning ordinance.

Ms. Mileski replied that in the past, stacked parking was allowed, but it is not now and that is a hardship. On this property, there is parking in the back for the three people. She said that it is very difficult to police only two people in a three bedroom house in a college area. She said they do not want a situation where tenants let other people in because they do not have a lease with this person. She said they have to give a 24-hour notice before they enter the house, so the people in the house have time to change things. They are asking for help from the City of Kent so that it will be easier for them to police and manage the house.

Ms. Howard stated that the second thing is that there are exceptional or extraordinary circumstances or conditions applying to the property involved or the intended use or development of the property that do not apply to other properties within the same zoning district.

Ms. Mileski replied their house is an exception to what is in the neighborhood, because the majority of the houses around their property are student rentals.

Ms. Howard stated the third criteria is that the granting of the variance will not be a substantial detriment to the public or to adjacent properties or improvements in such districts in which the variance is sought and will not materially impair the purpose of the Zoning Ordinance.

Ms. Mileski replied no it would not be a detriment. If they were asking to have this property zoned in a residential area, they would be asking for something different and it would be a detriment to the surrounding area. This property is surrounded by student rentals. This would be more conforming to the area.

Mr. Mail asked if 324 and 326 College Court were single family homes.

Ms. Mileski replied that they own 326 and they rent it to a single family. It is a smaller house.

Mr. Mail asked how many people were living in 324 and 326.

Ms. Mileski replied they do not own 324. She said two people live in 326.

Mr. Tipton asked if a new door will be put in.

Ms. Mileski replied a new interior door will be put in. She referred to the plan and showed the Board where the new door will be installed.

The Board discussed interior changes, including doorways.

Mr. Mileski told the Board there are two entrances off the porch.

PUBLIC COMMENTS

None

Ms. Howard read an email received from Jeff Bower who owns the property at 323 College Court: "We received a letter regarding zoning changes to a house beside us. Our concern is parking. We have had issues in the past with parking on the circle. We would like to know the plan for parking."

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mileski responds to the email from Mr. Bowers. He said Mr. Bower is correct, there is a problem with parking everywhere on the street. The new 345 Flats has 120 parking spaces with over 300 bedrooms. Currently, they are having major problems with people from there parking in their area. People are parking in driveways and cutting through neighbors' properties. He said Mr. Bower's problem is their problem also.

Mr. Tipton stated that the rooming house issue needs to be looked at. He felt that the map the City staff provided showing where the single family homes are located was helpful. He said there is a single family house directly across the street. He felt the 36 percent variance for the square footage is large and the Board of Zoning Appeals tries to grant the minimize variance requests.

Mr. Burton agreed with Mr. Tipton's comments, especially with the large size of the variance. He said it seemed that at one time, the living room was cut in half and that is not how houses are built. He did not see the hardship.

Mr. Sellman also felt the lot variance was large.

Ms. Howard stated that the property is land locked and there is no expanding. There is a number of rooming houses on the street. She asked if there was any information on 324 College Court.

Ms. Phile replied it is owned by Kent State Foundation.

Ms. Susel said they have been cited for being over the permitted number in the house.

The Board referred to the map supplied by staff and located the single family units in the area.

Ms. Howard stated that this is a neighborhood that is predominantly rentals. The character of the neighborhood is rooming house.

Mr. Tipton stated it is a small lot and the size of the lot is related to the parking. He said there is a lot being squeezed into a small area. He said there is a lot of trash. He said it is a large 36 percent variance being requested. He did not see that there was a hardship. He said it was purchased as a single family home.

Mr. Mileski stated they rented to a teacher from Roosevelt, who only stayed there for 45 days because of people playing basketball on the cul-de-sac. He said he has tried to rent to a single family or professional, but has not been successful.

Ms. Howard stated that they can still rent to students even though it is classified as a single family home.

Mr. Fink stated the City of Kent has the three factors that must be found and the Supreme Court of Ohio applies the Duncan v. Middlefield standards which finds when granting a size or area variance that if there is a lesser standard it should be employed. The other

findings are whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. He said the following is what the courts will apply if the case does to court 1) whether there are practical difficulties or unnecessary hardships, 2) Whether the variance is substantial, 3) whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance; 4) whether the variance would adversely affect the delivery of governmental services; 5) whether the property owner purchased the property with knowledge of the zoning restriction; 6) whether the property owner's predicament feasibly can be obviated through some method other than a variance; 7) whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. He pointed out that the City of Kent's zoning code has never formerly adopted the Duncan v. Middlefield standards, but this is what the courts will apply down the road, as the City of Kent found out with 312 South Willow.

Ms. Howard stated that it would be a substantial variance. She asked what the third factor was that had to be considered.

Mr. Fink stated the third factor is whether the essential character of the neighborhood would be altered as a result of the variance.

Ms. Howard stated a good point has been raised that four properties are designated single family.

Mr. Fink replied whether the variance would adversely affect the delivery of governmental services, such as water and sewer.

Ms. Howard asked what the fifth factor was.

Mr. Fink replied whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Mr. Mail stated it was a 3657 square foot variance from the 10,000 square foot requirement. He said there are a lot of single family homes that have that much larger square footage and there are others that have less. He said this is an older part of Kent. He said there is a tremendous amount of people and traffic. He said the area is turning into a student housing area. He said the property could be rented to two students and it would be a nice place for two students. He said this is an odd area because the lots are long and narrow. He would not be surprised to get the same request from others in the area. He said this is a student rental area.

Ms. Susel stated it is, but regardless of that, she saw the reason for the larger lot size. It was needed to accommodate the parking, green space, and landscaping.

Mr. Mail stated that if the garage is razed, he can use the backyard as parking for three people. The fourth parking space might be rented to someone from 345 Flats.

Ms. Susel stated that side yard parking is not allowed.

Mr. Burton stated that the term “right sized” housing was used by staff in the joint meeting and he felt this spoke directly to the scenario, because this is a substandard lot that a small house sits on. The intention was originally for two bedrooms. He said adding the third person making it a rooming house might not benefit the property. He said it was purchased as a single family home and has been used as single family unit.

Ms. Howard stated that it was an obvious there is an add-on bedroom and she would not want that bedroom. People would walk through the third bedroom to get to the living room. She said the flow of the house is odd. She said the bedroom would become a through way. She said that the Board members do not see practical difficulties or hardships. If there are exceptional circumstances, it would be that it is single family home. She said while there are three other single family houses, the area is primarily rooming houses. She said the extraordinary circumstance is that single family homes are definitely a minority in the area. The Board appears to be divided as to whether granting the variance would not be a detriment. She said the house is not the right size, because it is not really a three bedroom house. The City services are near and can monitor the numbers living in the unit.

Mr. Sellman stated he was in favor of preserving the house as a single family unit. This is a student rental area, but the request is for a large variance.

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

Motion: **Mr. Burton moved in Case BZ16-025, Steve & Susan Mileski, property located at 333 College Court, that the Board of Zoning Appeals denies the 3657.66 square foot variance from the 10,000 square foot minimum lot size to allow a single family dwelling to be converted to a rooming house with 6342.34 square foot lot, as defined in Section 1122.05(a) in the City of Kent Zoning Code.**

Mr. Tipton seconded the motion.

Vote: **The motion passed 4 – 1.**

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a single family dwelling to be converted to a rooming house with a 9239.08 square foot lot (Section 1122.05(a)), and

- 2) A variance from Section 1122.06(a) to allow parking to be 0 feet from the side yard property line.**

Ms. Howard asked the applicants to present their requests.

Susan Mileski, 1461 River Edge Drive, Kent, Ohio, stated they appeared before the Planning Commission last month and they approved the site plan with the stipulation that they come before the Board of Zoning Appeals to get variances approved for the lot size and for the parking. She said this is a much smaller variance request for the lot size. She said they have provided a plan of the house. The house does have five bedrooms. This is a large house and renting to a family has not worked out. She said they would like to rent to five people.

Steve Mileski, 1461 River Edge Drive, Kent, Ohio, stated they have had financial hardships with this house having five rooms and the taxes are high. He said they would like to rent the house to five people. He said Eric Fink from the Law Department and Bob Nitzsche from the Building Department have walked through and checked everything out. They are up to code on everything such as ingress/egress, smoke detectors, and fire extinguishers. Everything was inspected.

Mr. Sellman confirmed there are five bedrooms and if there are two bedrooms on the first floor, two on the second floor, and one in the basement.

Mr. Mileski replied yes.

Mr. Sellman asked if there was a secondary egress/ingress for the basement.

Mr. Mileski replied there are three ways to get out of the basement.

Mr. Fink stated he did not know what Mr. Nitzsche was looking for at the time of the walk through, but he was there to backup Mr. Nitzsche's findings.

Ms. Howard stated that these are the same two requests that they asked for in the previous case. She said they have seen this type of request for a lot variance has been before the Board before.

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Mr. Sellman asked if the parking was pre-existing.

Mr. Mileski replied that the parking area has been the way it is for many years. The gravel is very old in the backyard. Mr. Bauer came by to take pictures to see if anything had been changed.

Mr. Mail state there are seven parking spaces with rail road ties stacked up in the area.

Mr. Mileski located the parking spaces on the drawing.

Mr. Mail stated that three of the spaces are 0 feet from the side yard property line.

Ms. Phile stated the house is approximately 1600 square feet, including the basement.

Mr. Mileski said the first floor and second floor have full baths, with none in the basement.

PUBLIC COMMENTS

Roger Carter, 811 Valdes Street, Akron, Ohio, stated he owned the adjacent property. He had no issues with the variance requests.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Fink stated the City of Kent has its three requirements, however the Ohio Supreme Court follows the less strict standards in the Duncan v. Middlefield court case for size and area variances which are if there is a lesser standard it should be employed. The other findings are whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. Additional factors are: 1) whether there are practical difficulties, unnecessary hardships, 2) Whether the variance is substantial, 3) whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance; 4) whether the variance would adversely affect the delivery of governmental services; 5) whether the property owner purchased the property with knowledge of the zoning restriction; 6) whether the property owner's predicament feasibly can be obviated through some method other than a variance; 7) whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. There are Ohio Supreme standards for size and area and the City of Kent standards.

Mr. Sellman stated this was a larger house on a larger lot. He did not think it would be a detriment to the neighborhood.

Ms. Howard stated there are three criteria that the Board of Zoning Appeals have to consider. She asked if there were practical difficulties or unnecessary hardships.

Mr. Mail stated he saw none.

Mr. Sellman said the applicant did mention that the taxes were much higher on this house.

Ms. Howard stated that one of the Supreme Court factors was whether it does yield a reasonable return.

Mr. Mail stated that in this area you could probably expect more than two people living in the houses.

Mr. Sellman said it is a larger house on a larger lot. He did not think it would be a detriment to the neighborhood.

Mr. Mail stated this house is surrounded by rooming houses. Approving the variance would not change the essential character of the neighborhood and would not be a substantial detriment.

Mr. Tipton stated that the Board of Zoning Appeals has been asked by Kent City Council to follow the strictest application of the zoning code. He said the area is not 100 percent rooming houses. He said the Housing Study has shown a decrease in single family homes. He said there are single family houses directly adjacent to this house. He said converting this house to a rooming house would increase the density of the neighborhood. It was purchased as a single family home and it should be used as a single family unit.

Mr. Mail stated a lot of similar properties were eliminated in this area when the police station was built. There is a desire for students to want to live near campus. He said there will be more of these conversions in this and similar neighborhoods. When the property is appraised, it has to be determined what the highest and best use of the property would be.

Mr. Sellman stated the neighborhood is mostly college rental. He said if it becomes a legally licensed house, the property would probably be cleaned up.

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Mr. Mail stated that as a legally licensed house, the City of Kent's Department will inspect the house.

Mr. Burton hoped the Police Department located in the neighborhood will help clean up the area. He did not see the practical difficulties or extraordinary circumstances. The house was purchased as a single family house and is currently operating as a single family house.

Ms. Howard stated that according to Duncan v. Middlefield there are no real practical difficulties or unnecessary hardships and are not high on the list and actually not even on the list. She said the City of Kent requires the Board of Zoning Appeals to look at that, but the Duncan v. Middlefield case does not require the Board to look at that. She said it does not appear to have exceptional or extraordinary circumstances. She said it seemed that the Board was divided on whether approval of the variances would be a substantial detriment to the public interest or adjacent properties. She said in the immediate sense, it would not necessarily be a detriment because it is largely college rentals in this area. Increasing the number of people from two to five in this house may not be a problem. There will be substantial changes made when the police station goes into the neighborhood. A yield of a reasonable return was mentioned by the owner. She said it is not a substantial variance. Government services will not be drastically affected. She said it was purchased as a single family home, so the owners knew that from the beginning. She said the Board is divided on whether the property owner's predicament feasibly can be obviated through some method other than a variance because some do not think there is a problem. She said No. 7 from the Duncan v. Middlefield case refers to whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Mr. Sellman asked if the City of Kent overrules the court case.

Mr. Fink replied that is a tough question to answer. He said sometimes both may apply. He said the Board members have taken an oath to uphold the City of Kent's ordinances and the State of Ohio Constitution. The Ohio Supreme Court follows the less strict standards of the Duncan v. Middlefield court case.

Mr. Mail stated that the Board is authorizing the conversion of a single family house into a rooming house.

Mr. Sellman asked if the number could be reduced.

Ms. Howard asked the applicants if they would reduce the number of people in the house.

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Ms. Mileski replied the taxes will go up on the house. They are not changing the structure. She said it is hard to police five bedrooms. They are trying to comply with the zoning code.

Mr. Mileski stated there were four unrelated people living in the house when he purchased the house. He felt that there is a hardship.

Ms. Howard stated that did not matter because it was still a single family house.

Mr. Mileski stated that it used to be four unrelated people when they started their business over twenty years ago. He said fourteen licensed houses with a total of 36 bedrooms have been eliminated with four of the houses on College. He said seven houses in a row are gone and four of them were theirs and they were going to sell those houses to TGI Fridays. He said he bought a house that had four unrelated people living in it and has five bedrooms. He said he has not changed anything.

Ms. Howard stated it is still a single family home regardless what the previous owner did.

Mr. Mileski stated they purchased the house for a certain amount and then there was a fire so he had to repair all the damages. He is trying to recoup some money.

Ms. Howard stated that it would be a hardship for anyone if they had a fire in their home and if there was no insurance there would be an even bigger hardship because loans would have to be taken out to fix the damages.

Mr. Sellman stated that Board needs to uphold the zoning code. He said it is a single family home and can be rented to a single family. He said the code changed about five years ago.

Ms. Susel stated the rooming house chapter was changed in 2011 and 2015.

Ms. Howard stated that the practical difficulty she is hearing is that the area is primarily a student rental area. She said the difficulty is finding a family to move into the house.

Mr. Mail stated that it is a reasonable request in the neighborhood.

Ms. Susel stated that the City of Kent can verify zoning, as well as if interior and exterior property maintenance is in compliance. The City will respond to any type of violation whether it is litter or zoning violations. She said a 24-hour notice is sent to the resident when the City has been notified of a violation.

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

Motion: **Mr. Mail moved in Case BZ16-026, Steve & Susan Mileski property located at 241 College Street, that the Board of Zoning Appeals approves a 760.92 square foot variance from the 10,000 square foot minimum lot size to allow a single family dwelling o be converted to a**

rooming house with a 9239.08 square foot lot, as defined in Section 1122.05(a) in the City of Kent Zoning Code.

Mr. Sellman seconded the motion.

Ms. Howard asked if passage of this variance would automatically turn this house into a rooming house.

Mr. Fink stated that the Board of Zoning Appeals does not make a conversion to a rooming house. The Planning Commission would do this. The Board of Zoning Appeals only discusses the variances requested.

Ms. Susel stated it has already gone to the Planning Commission.

Vote: The motion passed 3 – 2.

Ms. Howard stated that second variance is to allow parking to be 0 feet from the side yard property line.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail stated that the parking has to be on the side yard property line for spaces to fit and so cars can turn around.

Ms. Howard stated that the Board uses only the City's ordinances and not the Duncan v. Middlefield standards because this variance is not for size or area. She asked if there were any practical difficulties or unnecessary hardships.

Mr. Mail replied the only practical difficulty is that parking has to go to the side if more than two cars go into the garage.

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Mr. Sellman agreed that this is an issue. He said the parking is behind the house.

Mr. Mail stated that a practical benefit is that that the parking is off the street.

Ms. Howard asked if there were any exceptional circumstances.

Mr. Sellman stated that if the parking is not approved, the parking will be on the street.

Ms. Howard asked if approval of the parking variance would be a detriment to the adjacent properties or neighborhood.

Mr. Mail replied no, it would not be a detriment.

Mr. Sellman agreed with Mr. Mail's comments.

Ms. Howard stated the practical difficulty is the length of the lot and the need to get the parking off the street. Exceptional circumstances are there is no parking in the front yard and parking will be kept off the road and in the back. She said there will be no detriment.

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

Motion: **Mr. Mail moved in Case BZ16-026, Steve & Susan Mileski, property located at 241 College Street, that the Board of Zoning Appeals approves a variance to allow parking to be 0 feet from the side yard property line, as defined in Section 1122.06(a) in the City of Kent Zoning Code.**

Mr. Sellman seconded the motion.

Vote: **The motion passed 4 – 0.** **1 Abstention**

VII. OTHER BUSINESS

B. Zoning Use Chart Discussion

Ms. Susel stated that the chart is a work in progress, so staff is going through it and making adjustments and trying to locate where everything should be. They want people to be able to look at it and see what is permitted or conditionally permitted in a district. She said they would like some input. They can always make adjustments. The chart

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tells a person what the district is and where the conditionally permitted uses are versus permitted uses. She said the City of Kent is hiring an outside person to review sections of the zoning code to determine where adjustments need to be made. This chart is a good start but can change. She asked the Board members to look it over.

She said she and Mr. Fink will schedule some time with Mr. Mail to go over some issues discussed at the joint meeting. The Board of Zoning Appeals should have received a Policy Letter via email. She said there was discussion about whether a case should come before the Planning Commission first or the Board of Zoning Appeals when

variances were needed. She said there was also a discussion about process. She referred to Section 1113.04 which states: “If the project requires zoning variances, those variances must be reviewed and approved prior to the completion of a Minor Site Plan Review and prior to going in front of the Planning Commission for a Major Site Plan Review.” The code makes it very clear what needs to be done. She and the staff, as well as Mr. Fink, are putting a lot of changes together in terms of how applications are processed and how information is collected. If a project needs a variance, it does not go before the Planning Commission. The application will be changed and things will be slowed down, so that nothing is missing from the packet. Variances will be processed before going before the Planning Commission. She said there are tools of the zoning code to make right sized developments. She said it will be made very clear what can be discussed and what cannot, as well as the order the information that is presented to the Board. She said staff needs to make sure everything is correct and the code needs to be followed.

It was decided to do a roll call vote.

VIII. ADJOURNMENT

Motion: **Mr. Mail moved to adjourn.**

Mr. Burton seconded the motion.

Vote: **The motion passed 5 – 0.**

Meeting adjourned at 9:05 p.m.