

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
March 20, 2017**

MEMBERS PRESENT: Dave Mail
 Paul Sellman
 Jona Burton
 Benjamin Tipton

BOARD ABSENT: Elizabeth Howard

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

I. CALL TO ORDER

Mr. Tipton called the meeting to order at 7:02 p.m.

II. PLEDGE

The pledge was recited.

III. ROLL CALL

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

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 name and address 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

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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. Tipton 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

A. BZ17-001

**David Hansford
1349 West Main Street**

Section: 1161.14

Requests: **The applicant is requesting the following:**

- 1) A 3-foot variance from the 10-foot minimum side yard setback for an accessory building to be 7 feet from the side property line (Section 1161.14), and**
- 2) A 7-foot variance from the 15-foot minimum setback from the main structure to allow an accessory building to be 8 feet from the main structure (Section 1161.14).**

Mr. Tipton asked the applicant to present the variance requests.

David Hansford, 1349 West Main Street, Kent, Ohio, stated that Greer Heating and Air Conditioning is located at this address. There were two garages on site originally. He said that an issue came up that the garages' back walls were not parallel or perpendicular with the existing property lines, so each time a garage was put in, it got closer and closer to the property lines. He said they have bought some of the adjacent property so the building they want to erect will be closer than is permitted to the side yard and the main structure, so he is requesting a variance. The new construction will be done in phases. The first part of the existing garage will be torn down and the remaining portion will be removed once the new garage is erected. He said the existing garage does not allow access for the trucks so his two trucks are sitting outside. He showed the Board where the land is located that he purchased from the neighbor. He said the garage will be not connected to the office, the larger building.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Tipton said they would begin with the 3-foot variance requested for the side yard.

Mr. Mail felt that it will be an improvement. He agreed with the variance. It would not be a detriment to the surrounding area. He has purchased land and will be improving the existing structure. There is no great aesthetic infringement. It does not crowd anything that he does on his site.

Mr. Sellman stated it would not be as functional if he met the code.

Mr. Burton saw the hardship.

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Mr. Mail saw no reason to deny the variance request. It would not be a detriment to the surrounding areas.

Mr. Tipton stated that the strict applications of the zoning ordinances would result in practical difficulties or unnecessary hardships.

Mr. Mail stated there was hardship. The current garage is not functional.

Mr. Burton stated any improvements will be an improvement. The existing buildings are at such an angle, they are not usable and cannot remain for him to build the structure.

Mr. Mail stated that the extraordinary circumstance is that he will be removing the unfunctional buildings and replacing them with a new one. He said many properties have odd shaped lots. He said granting the variance does not substantially change the character of the neighborhood.

Mr. Burton stated that it was not a detriment to the surrounding area.

There were no other comments or questions, so Mr. Tipton asked for a motion.

Motion: **Mr. Mail moved in Case BZ17-001, David Hansford, property located at 1349 West Main Street, that the Board of Zoning Appeals grants the applicant's request for a 3-foot variance from the 10-foot minimum side yard setback for an accessory building to be 7 feet from the side property line, as defined in Section 1161.14 in the City of Kent Zoning Code.**

Mr. Burton seconded the motion.

Vote: **The motion passed 4 – 0.**

Mr. Burton Aye
Mr. Sellman Aye

Mr. Mail Aye
Mr. Tipton Aye

Mr. Tipton stated that the second variance request was for a 7-foot variance from the 15-foot minimum setback from the main structure to allow an accessory building to be 8 feet from the main structure.

Mr. Mail stated that the variance does not infringe on anything.

Mr. Burton felt the same comments made for the first variance request applied to this request also.

Mr. Sellman agreed.

There were no other comments or questions so Mr. Tipton asked for a motion.

Motion: Mr. Mail moved in Case BZ17-001, David Hansford, property located at 1349 West Main Street, that the Board of Zoning Appeals grants the applicant's request for a 7-foot variance from the 15-foot minimum setback to allow an accessory building to be 8 feet from the main structure, as defined in Section 1161.14 in the City of Kent Zoning Code.

Mr. Burton seconded the motion.

Vote: The motion passed 4 – 0.

Mr. Burton	Aye	Mr. Mail	Aye
Mr. Sellman	Aye	Mr. Tipton	Aye

VII. MEETING MINUTES – February 20, 21017

Motion: Mr. Sellman moved to approve the minutes of February 20, 2017 as submitted.

Mr. Mail seconded the motion.

Vote: The motion passed 4 – 0.

Mr. Burton	Aye	Mr. Mail	Aye
Mr. Sellman	Aye	Mr. Tipton	Aye

VIII. OTHER BUSINESS

Motion: Mr. Sellman moved to excuse the absence of Elizabeth Howard from the March 20, 2017 Board of Zoning Appeals meeting.

Mr. Burton seconded the motion.

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Vote: The motion passed 4 – 0.

Mr. Burton Aye
Mr. Sellman Aye

Mr. Mail Aye
Mr. Tipton Aye

No other business.

IX. ADJOURNMENT

Motion: Mr. Mail moved to adjourn.

Mr. Sellman seconded the motion.

Vote: The motion passed 4 – 0.

Mr. Burton Aye
Mr. Sellman Aye

Mr. Mail Aye
Mr. Tipton Aye

Meeting adjourned at 7:31 p.m.