

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
June 19, 2017**

MEMBERS PRESENT:

**Elizabeth Howard
Paul Sellman
Jona Burton
Benjamin Tipton
Dave Mail**

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

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

A.	BZ17-006	Paul & Louise Ditchey 466 Harvey Street
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Sections:	1161.27(a), 1161.27(c), and 1161.2(e)
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Request: In accordance with Sections 1161.27(c) and 1161.27(e), the applicant is requesting a variance from Section 1161.27(a), to install a bump-out in the driveway.

Ms. Howard asked the applicant to present the request.

Louise Ditchey, 466 Harvey Street, Kent, Ohio, has lived in Kent for about one year and she and her husband have spent about six months renovating their 60 year old house. Part of the renovation has been the drainage system around the house. This is going to tie into the request for the variance. She said they hired a company to put in the bump-out and at that time were told they did not need a permit, so they proceeded and had the work done. After talking with the Community Department, it was determined that a variance would be required. She said they were told that the driveway had to go all the way down to the street. She said the driveway cannot be widened all the way down to the street because the storm water drainage system that was installed last year. She said she would be happy to answer any questions.

Mr. Sellman asked if the drainage system goes under the bump-out over the pipe or did it swing out around it.

Ms. Ditchey responded it is under the bump-out.

Mr. Sellman asked if this would damage the bump-out over it.

Paul Ditchey, 466 Harvey Street, Kent, Ohio, stated the problem with the pipe under the bump-out is that would have to extend the driveway to the sidewalk and then widen out the approach. That would go right over top of and block the pipe. He said when they bought the house, they did not realize there was such a major water problem and the whole back wall was about ready to cave so that is why the drainage system is there. Otherwise, they would have to block that pipe.

Tony Cantonesse, 3575 Susan Drive, stated what is in place now is what has existed for years so there was a drain that came down the right and left side of the house and exited at the curb. When they were going to replace the drain, they spoke to someone from the City who told him that they could continue to replace the drain right out to the curb because code says you have to go into the road and not on the curb any more. If it was existing, it could just be replaced so they replaced the drains around the entire house and ran it directly in the same position as what it was previously to the curb. They also tied into a French drain system because all the water in the backyard was flowing towards the foundation and leaking into the basement. What is there is what was existing, but they also added a French drain to the rear of the house and connected to the existing drain. He

said they put in a new drain right where the bump-out would be. He said he was not sure where else the pipe could be run because they are so close to their neighbor's property. He said they ran out of real estate as far as where they can run the pipe.

Ms. Howard asked the contractor if knew the situation before hand and proceeded according to the rules, if he would have recommended asking for a variance or would he have made adjustments.

Mr. Cantonese replied asking for the variance for sure. He said he would have talked to someone from the City to see what the options would be. He explained what type of pipe and concrete would be used. He said there were no other options for that drain.

Mr. Burton asked why a bump-out was needed.

Mrs. Ditchey replied they have three cars with a two car garage and there is no parking in the street.

Mr. Ditchey said there are other bump-outs the neighborhood and he did not see a problem with it.

Mrs. Ditchey submitted a letter of support from neighbors.

PUBLIC COMMENTS

Ms. Howard read an email from Jonathon Swoboda, 463 Harvey Street, Kent, Ohio, that stated he was in favor of the project. It fits well in the neighborhood and there are bump-outs in the neighborhood.

Gervais Baldwin, 462 Harvey, Street, Kent, Ohio, stated his property is next door to the applicants' bump-out. He said he had no objection to the bump-out and it is more than acceptable.

Victor Gontero, 455 Harvey Street, Kent, Ohio, stated he was in favor of the bump-out. They have improved the aesthetic value of the neighborhood; structurally and visually.

Elizabeth Zana, 467 Harvey Street, Kent, Ohio, stated she lived right across the street from the applicants' house. She saw no problem with it and was in favor of the bump-out.

Patricia Bingham, 489 Harvey Street, Kent, Ohio, stated she walked down the street to see the bump-out. She said they have really improved the house. She hoped the Board would grant the variance.

There were no other comments from the public, so Public Comment was closed.

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Mr. Mail stated the project was well done. He said there was no detracting from the neighborhood. He said there were no objections from the neighbors.

Mr. Sellman stated that it was a minor variance. It blends nicely into the neighborhood. Overall, it is aesthetically pleasing and the intrusion is minimal.

Mr. Burton agreed with the other comments made. He said the hardship is the drainage pipe. He said the neighbors have been in support of the bump-out.

Mr. Tipton agreed with Mr. Burton's comments. He said the drain tie-in is a hardship. He said this has been very tastefully done and the neighbors are in favor.

Ms. Howard confirmed that they would not need a variance if they widened the driveway all the way to the street.

Mr. Fink replied yes that was correct.

Ms. Howard stated that generally the Board likes to grant the smallest variance possible and the irony here is that to get the smallest footprint, a variance is not required while widening the drive all the way street. It is the smallest solution to the problem and to the applicants' benefit. The hardship is the problem with the drainage. The neighbors are in favor of it. It is aesthetically pleasing.

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

Motion: **Mr. Sellman moved in Case BZ17-006, Paul & Louise Ditchey, owners of the property located at 466 Harvey Street, that the Board of Zoning Appeals approves a variance to install a bump-out in the driveway, as defined in Section 1161.27(a) in the City of Kent Zoning Code.**

Mr. Mail seconded the motion.

Vote: **The motion carried 5 – 0.**

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Mr. Burton

Aye

<i>Mr. Mail</i>	<i>Aye</i>
<i>Mr. Tipton</i>	<i>Aye</i>
<i>Mr. Sellman</i>	<i>Aye</i>
<i>Ms. Howard</i>	<i>Aye</i>

B. BZ17-007 Joshua Blatt
Vacant Lot on Wilson Avenue
(Between 132 and 206)

Section: 1161.14(b)

Request: The applicant is requesting the following:

- 1) A 3-foot variance from the 5-foot minimum side yard setback for a substandard lot to allow a detached garage to be constructed 2 feet from the side property line (Section 11141.14(b), and**
- 2) A 3-foot variance from the 5-foot minimum rear yard setback for a substandard lot to allow a detached garage to be constructed 2 feet from the rear property line (Section 1161.14(b).**

Ms. Howard asked the applicant to present the request.

Joshua Blatt, vacant lot on Wilson Avenue, Kent, Ohio, stated he will be building a small house on this lot. There will be a carport attached to the home that will go straight back and he would like to build a 22-foot by 22-foot detached garage on the southwest corner of the property, 2 feet from the side property line and 2 feet from the rear property line. He said he's asking for the variance because it would be a straighter shot into the garage and line up better with the driveway, so it would be easier to get in and out of the garage. He said he wanted to place the garage in that location so there would be more space for a backyard.

Mr. Burton asked if the architects had any other alternatives to the design submitted; perhaps a smaller garage or removal of the carport or other options.

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Mr. Blatt replied he wanted the carport because it would give coverage from the weather and would prefer a two car garage. He said he was kind of set on the design at this time.

Mr. Tipton stated it was a tight fit and it would be a straight shot into the garage.

Mr. Blatt replied that it will be alright and that there would be a turning radius. He said there is 12 feet between the front of the garage and the rear of the house.

Ms. Howard asked if part of the problem was because the garage could not be pulled any closer to the carport. She said if the garage was pulled a distance of 3 feet forward, there would be a distance of 9 feet between the edge of the garage and the edge of the carport and he would not have to worry about the rear setback. She said there are a number of detached garages in the neighborhood. The side of the garage seemed to fit into the neighborhood.

Mr. Burton stated most of the houses in the neighborhood have similar car garages. He would like to see the garage moved forward to minimize the setback.

Ms. Howard asked if that would reduce the usability of the garage.

Mr. Mail explained how a vehicle would get from the carport to the garage.

Mr. Burton stated it would be more difficult for maneuverability if there were two doors instead of one double door.

Ms. Howard stated the Board has to also consider what kind of problems would exist if it was too close to the rear property line as well as how the Board's decision will affect possible future owners. It is a vacant lot so there is more "wiggle" room to do it right.

There were no more questions or comments.

PUBLIC COMMENTS

Ms. Howard read an email from Carmen Rowe, 201 Linden, Kent, Ohio: I currently own and reside at 201 Linden Road in Kent, Ohio. This note is in response to the Zoning Appeal requested by a neighbor adjacent to my home at Wilson Avenue. The applicant is requesting a change to existing rear yard clearance which would significantly impact my home and property. I am unable to attend a Board meeting scheduled for June 19th. I will be out of state until mid-July. I object to this change in property setback to the rear and list the following reasons: 1) The setback change would destroy plants/green space which is vital to my property and the City of Kent. 2) I would have a more difficult job in

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mowing or weeding in this limited space. 3) The garage/building would be even closer to my garden/viewing, open space yard. 4) The proposed change could impact the value of my home and property. Sincerely, Carmen Rowe.

William Bintz, 555 Overlook Drive Kent, Ohio, stated he owns the house at 132 Wilson Avenue. He stated he was opposed the variance. He said the lots are small and he was concerned about privacy. He was also concerned about the drainage.

Ms. Howard pointed out to Mr. Bintz that the carport was not in question. It was the garage and showed him the location of the garage.

There were no other comments.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Tipton stated that the hardship is self-imposed. He was not really concerned with the side yard. He felt the rear yard was more intrusive.

Ms. Howard stated she was not concerned with the side yard. She would like to see the garage moved up.

The Board members discussed the options for the garage with the applicant such as making the garage a little bit shorter with the size being 21 feet by 22 feet, rather than 22 feet by 22 feet or moving the garage forward closer to the house. After listening to the Board members recommendations, the applicant decided to table the second variance request.

Ms. Howard asked Mr. Fink if the applicant tabled the rear yard variance request if he would have to come back with something different.

Mr. Fink replied no, because it was not actually turned down at this point in time.

Ms. Howard told the applicant that is the advantage of tabling the rear yard variance request because it would give him the opportunity to talk to his architect about the most feasible options for the issues in the back. She told him he could return with something different or a new configuration that might not require any variance. She said he has about two weeks to decide what he wants to do if he returns in July.

Mr. Blatt asked to table the second variance request for the rear setback until the July 2017 Board of Zoning Appeals meeting.

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

Motion: **Mr. Mail moved in Case BZ17-007, Joshua Blatt, owner of Vacant Lot on Wilson Avenue (Between 132 and 206), that the Board of Zoning Appeals approves a 3-foot variance from the 5-foot minimum side yard setback for a substandard lot to allow a detached garage 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. Sellman seconded the motion.

Vote: The motion carried 5 – 0.

<i>Mr. Burton</i>	<i>Aye</i>
<i>Mr. Mail</i>	<i>Aye</i>
<i>Mr. Tipton</i>	<i>Aye</i>
<i>Mr. Sellman</i>	<i>Aye</i>
<i>Ms. Howard</i>	<i>Aye</i>

C. BZ17-008 Joel Rhoads
 211 Cherry Street

Section: 1165.05(c)(2)(A)

Request: The applicant is requesting a variance from Section 1165.05(c)(2)(A) to allow a total of 3 signs on the property where two signs are the maximum allowed.

Ms. Howard asked the applicant to present the request.

Joel Rhoads, 436 Carthage, Kent, Ohio, stated he was the owner of Aha Wireless located at 211 Cherry Street. He said he would like to have a sign to delineate the two different businesses in the building. This sign will direct customers to the correct business. He said they are willing to take down the existing pole sign. He said the new building sign for his business will be 31.5 square feet, so along with two other signs, there will be a total of 91.5 square feet, which falls within the 100 square foot maximum.

Mr. Tipton asked what the total square footage of the current signs were.

Mr. Rhoads replied there was 60 square footage of current signage

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Mr. Tipton asked if this included the pole sign.

Mr. Rhoads replied that both faces of the pole sign are painted black and not in use.

PUBLIC COMMENTS

Adam Sims, 1881 Brady Lake Road, Brady Lake, Ohio, stated he was the owner of the building. He stated he was in favor of the variance.

There were no more questions or comments.

BOARD OF ZONING OF APPEALS DISCUSSION

Ms. Howard stated that the blackened out pole sign was not being counted in terms of the number or the square footage. She said when the pole sign is removed, the square footage of the three signs would be under the 100 square footage allowed by code. She said the neighbor across the street is okay with the signs.

Mr. Mail stated there are two businesses in the building so another sign is needed to delineate the different businesses.

Mr. Sellman stated that the three signs would fall within the maximum 100 square footage.

Mr. Tipton agreed with the comments made by the other Board members.

Mr. Burton stated that the third sign is 31.5 feet and along with the other, the total square footage is less than 100 square feet. Two signs are needed for the different businesses, however the three signs are permitted as long as there are two tenants in the building.

Ms. Howard stated she would like to add a condition to the motion to remove the pole sign. She said the practical difficulty is that there is now a second business in the building and this fact is also an exceptional circumstance because the building is being broken up into two businesses. It will not be a detriment to the surrounding neighborhood.

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

Motion: **Mr. Mail moved in Case BZ17-008, Joel Rhoads, property located at 211 Cherry Street, that the Board of Zoning Appeals approves a variance to allow a total of 3 signs on the property where the two signs**

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are the maximum allowed, as defined in Section 1165.05(c)(2)(A) in the City of Kent Zoning Code, subject to the following conditions:

- 1) Three signs are permitted as long as there are two tenants in the building.**
- 2) The pole sign is to be removed by 9/30/17.**

Mr. Burton seconded the motion.

Vote: The motion carried 5 – 0.

<i>Mr. Burton</i>	<i>Aye</i>
<i>Mr. Mail</i>	<i>Aye</i>
<i>Mr. Tipton</i>	<i>Aye</i>
<i>Mr. Sellman</i>	<i>Aye</i>
<i>Ms. Howard</i>	<i>Aye</i>

VII. MEETING MINUTES

A. May 15, 2017 Meeting Minutes

Motion: Mr. Sellman moved to approve the May 15, 2017 meeting minutes as submitted

Mr. Burton seconded the motion.

Vote: The motion carried 4 – 0.

<i>Mr. Burton</i>	<i>Aye</i>	<i>Mr. Mail</i>	<i>Abstain</i>
<i>Mr. Tipton</i>	<i>Aye</i>		
<i>Mr. Sellman</i>	<i>Aye</i>		
<i>Ms. Howard</i>	<i>Aye</i>		

VIII. OTHER BUSINESS

Ms. Susel stated there will be a joint meeting in August or September.

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IX. ADJOURNMENT

Motion: Mr. Mail moved to adjourn.

Mr. Sellman seconded the motion.

Vote: The motion passed 5 – 0.

<i>Mr. Burton</i>	<i>Aye</i>
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<i>Mr. Mail</i>	<i>Aye</i>
<i>Mr. Tipton</i>	<i>Aye</i>
<i>Mr. Sellman</i>	<i>Aye</i>
<i>Ms. Howard</i>	<i>Aye</i>

Meeting adjourned at 8:15 p.m.