

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
July 17, 2017**

MEMBERS PRESENT: Elizabeth Howard
Jona Burton
Benjamin Tipton
Dave Mail

MEMBER ABSENT: Paul Sellman

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

I. CALL TO ORDER

Ms. Howard called the meeting to order at 7:02 p.m.

II. PLEDGE

The pledge was recited.

III. ROLL CALL

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

Board of Zoning Appeals

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. OLD BUSINESS

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

Section:	1161.14(b)
-----------------	-------------------

Request: **The applicant is requesting 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, 247 North Elm Avenue, Tallmadge, Ohio, stated he was granted a 3-foot side yard variance at the June 19, 2017 Board of Zoning Appeals meeting based on the neighbor's garage, which is also 2 feet from their property line. After the meeting in June, he measured the neighbor's garage from their property line, which lines up with his, and found that it lines up to 2.4 feet from the rear property line. He would like to line up his garage with the front of his neighbor's garage so that everything is in alignment. He does not want to make his garage much shorter because the distance from the garage to the house is about 13 feet with the drive-thru. It is a tight swing to the right side of the garage so he wants the depth of the garage to be at the 21-foot mark because that leaves about 16 feet with the overhangs and the walls and a couple of feet to walk around the vehicle. He wants to match what the neighbor has. He did not feel that he would diminish anyone's views or that it would cause any harm to the neighborhood.

Mr. Burton asked if he was asking for up to 2.4 feet to match up with the neighbor.

Mr. Blatt replied he had originally applied for 2 feet before he measured the neighbor's garage but when he did it was 2.4 feet. He said he would be fine with 2.4 feet. He said the neighbor's garage is about 21 feet in depth. The distance between the house and the garage needs to be larger to get into the garage and he would like to match the garage next door.

The applicant was asked if he was asking for a variance from the code or if he was talking about how much distance he wants between the property line and his building.

Mr. Blatt replied the code states 5 feet from the rear yard setback and he wants the building to be about 2 feet from the rear property line.

Mr. Burton asked how the three criteria applied to the applicant's property that the Board of Zoning Appeals had to consider when approving a variance.

Mr. Blatt replied that if he did not get the variance he would be 3 feet closer that would make that swing even more challenging. He said if the garage had less depth, it would be a short garage. He said if the garage was shorter but with a large vehicle, the door would not be able to be closed. He wants to match the front of the neighbor's garage.

Ms. Howard asked if he was speaking about two separate neighbors or just one.

Mr. Blatt replied he is referring to the neighbor on the left.

Ms. Howard confirmed that he wanted the front to match and the depth with his side neighbor.

There was a continued discussion on the location of the garage in relation to the setback and the neighbor's garage.

There were no other comments.

PUBLIC COMMENTS

Carmen Rowe, 201 Linden Avenue, Kent, Ohio, stated she lived directly behind the property. She said she had submitted a letter to the Board of Zoning Appeals at the June 19, 2017 meeting. She said this project would change the values of her property considerably. She would like the garage to farther back from her backyard and garden. She said this would have a large impact on her property. She showed the Board members where her house and garden are located.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Burton stated he had looked through the neighborhood to find other two car garages and did not find many. He questioned whether there was a need for such a large structure.

Ms. Howard stated the depth probably would not change if it was a one or two car garage. The turn radius would be affected.

Mr. Burton felt that this was connected to the criteria but did not see the extraordinary circumstances.

Mr. Tipton asked if the neighboring garage is large too.

Mr. Mail replied it was at least a 1½, if not a two car garage.

Ms. Howard reviewed the map and tried to determine the size of the existing garages. She said there is no standard size garage in this neighborhood.

Mr. Mail said the neighboring garage is similar to the one proposed by the applicant. He said it is a reasonable variance.

Mr. Tipton stated the house would line up with neighboring houses and so would the garage. He said a two car garage is more standard.

Ms. Howard stated that the location of the garage would still leave some backyard/green space. She would feel more strongly about the size of the garage if there was a more consistent size of the garages and the egress/ingress to the garages.

Mr. Mail stated that this would not look out of place or unusual.

Ms. Howard said the practical difficulty is that it is a small, substandard lot. The exceptional or extraordinary circumstance is it is a small lot. It would not be a detriment to the adjacent properties or surrounding neighborhood.

Ms. Howard told the applicant there were only four members of the Board at the meeting so he could table his request if he wanted because a majority vote would be needed to approve the variance request. There were no other comments, so Ms. Howard asked for a motion.

Motion: **Mr. Mail moved in Case BZ17-007, Joshua Blatt, owner of the vacant lot between 132 and 206 Wilson, that the Board of Zoning Appeals approves 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, as defined in Section 1161.14(b) in the City of Kent Zoning Code.**

Mr. Tipton seconded the motion.

Vote: **The motion carried 4 – 0.**

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

VII. NEW BUSINESS

A.	BZ17-009	Jennifer Kolb
		745 Fairchild Avenue

Board of Zoning Appeals
July 17, 2017
Page 6

Section: **1133.04(b)**

Request: **The applicant is requesting a 12.2-foot variance from the 30-foot minimum rear yard setback to allow an addition to be 17.8 feet from the rear property line (Section 1133.04(b)).**

Ms. Howard asked the applicant to present the request.

Jennifer Kolb, 745 Fairchild Avenue, Kent, Ohio, stated she wanted to build an addition onto her existing property. She said her mother was going to move in with her. She said she has a medical condition and sometimes needs help around the house. The addition will have handicapped features that would benefit both her and her mother.

Ms. Howard asked if the proposed addition is just living space.

Ms. Kolb replied yes. There will be a handicapped accessible bathroom, a bedroom and a small living room. Currently there are three small bedrooms in the current house and two are used for storage. She discussed the floor plan with the Board members. She said they have looked at other options for the addition.

Mr. Mail stated the addition is being put on the deepest part of the applicant's house. He said if the addition was put on the short end of the house, not much of a variance would be needed, if any at all.

Ms. Kolb replied there is a deck and a large tree that she would like to keep on that side.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail stated he had looked at the neighboring parcels in relation to the addition. He said this addition would not be intrusive.

Mr. Burton stated there are no neighbors objecting and he was okay with the location.

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

Board of Zoning Appeals
July 17, 2017
Page 7

Ms. Howard stated the applicant has gone back to her architect that resulted in a variance that was a little bit smaller. She stated it is an odd shaped lot and the house is located on it in an odd way. The configuration of the land and the existing trees

add up to the practical difficulties and exceptional circumstances. It would not be a detriment to the adjacent properties.

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

Motion: Mr. Burton moved in Case BZ17-009, Jennifer Kolb, owner of the property located at 745 Fairchild Avenue, that the Board of Zoning Appeals approves a 12.2-foot variance from the 30-foot minimum rear yard setback to allow an addition to be 17.8 feet from the rear property line, as defined in Section 1133.04(b) in the City of Kent Zoning Code.

Mr. Mail seconded the motion.

Vote: The motion carried 4 – 0.

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

**B. BZ17-010 Terrance Messersmith
1209 and 1209 ½ South Willow Street Extension**

Section: 1109.09(a)

Request: The applicant is appealing the zoning inspector's decision to deny the applicant's request to grant the property at 1209 & 1209½ South Willow Street Extension a certificate of pre-existing, non-conforming use as a duplex.

Ms. Howard asked the applicant to present the request.

Terry Messersmith, 7657 St. Rt. 43, Kent, Ohio, stated he and his wife purchased 1209 and 1209 ½ South Willow Street in 2003.

Ms. Howard asked what the Board should be considering when considering this request.

Mr. Fink stated that the Board is looking for evidence that this property has been used in this manner continuously without a two year interruption from some point where it was legal prior to September 1971 when the zoning code went into effect. He said

such things as property records, leases, and paperwork along those lines are things that should be considered.

Mr. Messersmith reviewed the architect's notes as well as the electrician notes. He said the architect concluded after his inspection that there is a strong indication that this structure has always been an up/down, two family structure. He said when they purchased the property they had no question that the property was a two family home. He said they received a statement from Portage County Taxes listing the property as a two family (duplex) for the entire time it has been in existence. He said perhaps a zoning certificate was issued as a one family residence because at that time only one of the two furnaces was replaced. He said they would not have purchased the property as a single family dwelling or if there were outstanding zoning issues. He said they have owned the property for 14 years and there have been no issues during their ownership or for the past 60 years. He said he has had discussions with the previous owners and has submitted multiple statements from neighbors stating that the property has always been a two family dwelling.

Mr. Mail stated that the house looks like it was built as a single family home. He asked if there was a front door to the house.

Mr. Messersmith replied there are two front doors.

Mr. Burton asked if there are two furnaces.

Mr. Messersmith replied there are two.

Mr. Burton asked how he knew it was a two family dwelling when he lived next door.

Mr. Messersmith replied there were two different groups of people.

Mr. Tipton asked if he had two separate leases at the time of purchase.

Mr. Messersmith replied yes.

Mr. Tipton stated the Board had to consider whether there were two separate units. He said they have to verify there is continuous use from 1971. He said there is no

Board of Zoning
July 17, 2017
Page 9

documentation as far as leases or utility information verifying that it was a two unit dwelling. He said it is difficult when the Board did not have this information.

Mr. Messersmith stated there are separate utilities.

Ms. Howard stated there is no evidence of this. She asked if it was possible for the electricity to be shut off downstairs but still remain turned on upstairs.

Mr. Messersmith replied yes.

Ms. Howard stated that the information from the architect shows that the units seem to be separate, but she asked if the house had been run that way. She said it looks like at some point in time it has been converted into two different residences. The question is if this has been operated as two different residences since 1971.

Mr. Messersmith stated they have separate leases for each unit.

Mr. Burton asked how this came up and if this was a discrepancy between the County and the City records. He asked how the County gets their information.

Mr. Fink replied this came as a result the City of Kent Rental Licensing Program that council has mandated that all rental properties are registered. According to the process, this property came up as a single family dwelling.

Mr. Burton asked where the County gets its information. He asked how the post office designates a ½ address for a property.

Mr. Messersmith replied the post office would not give any information. He said the gas and electric companies would only give information in relation to his ownership.

The applicant and the Board members discussed the layout of the two units.

Mr. Mail confirmed that there is a second furnace in the attic. He said the installer is probably identified by a sticker on the furnace.

Ms. Susel stated that as part as the Rental Licensing Process, the City is going through all properties to determine which ones are deemed rental and the Community Development Department will be inspecting those that are not covered by the Health Department. These will be the smaller rentals. The City is going through the properties that have an owner's address different than the property's address because that is usually an indicator that it is being used as a rental property. This property was

Board of Zoning

July 17, 2017

Page 10

identified as a rental. According to the City's record, which is used to make a determination on the zoning, there are two zoning certificates in the file. One is from 1996 and one from 2003 when the applicant acquired the property. Both certificates list the property as a single family residence. At that point, if it was warranted it would be one unit with no more than two unrelated people based on the zoning certificates the City has. A determination was made on this based entirely on the

information the City has on file. The burden of proof falls on anyone who is seeking a different determination and the evidence presented as proof to make that determination. She said the Building Department verifies that an address has been issued by the post office. She said there were no records available to determine when the address was assigned. She said the City does not use County records because they can differ, so the City just goes by what the City issued. She said there is no clear information that indicates that work has been done on two separate units. She said the evidence in the City's files identifies this property as a single family dwelling. She said a zoning use certificate is usually required when the ownership is transferred, so that the new owner is aware of what the zoning requirement is as to whether it is single family. The property is listed in an R-2 District as a single family unit with the address of 1209 South Willow. There is no half indicated. Two zoning certificates have been issued; one in 1993 and in 2003. Both designate this property as a single family home.

The Board members continued to discuss the history of the property and the two zoning certificates that had been issued in 1996 and 2003 as a single family home.

Mr. Messersmith stated they bought in 2003 and bought it without a realtor. He said they would not have bought the property if they thought there would be a problem.

Mr. Fink reminded the Board of Zoning Appeals they had to heed the preponderance of the evidence presented.

Mr. Mail felt it was built as a single family unit and then was converted. The question is when it converted. He confirmed with the applicant that he was told by Mr. Klein that the structure was multi-family.

Ms. Howard stated the Board had to consider the preponderance of evidence without a shadow of doubt. She said the City can only base the determination on the information they have.

Board of Zoning
July 17, 2017
Page 11

PUBLIC COMMENTS

Paula Messersmith, 7656 St. Rt. 43, Kent, Ohio, stated they have lived next door to the property and it would not have been purchased if there was a problem. She said they have two or three leases from renters.

Mary Junk, 341 North Mantua Street, Kent, Ohio, asked if there were two water bills.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Burton stated that there is anecdotal evidence as far as the walls and construction in the stairwell and the separate units. On the other hand the architect and the electrician have given good information. He said Mr. Klein may have made a good deal.

Ms. Howard agreed with Mr. Burton's comments. She said Mr. Feeley's comments, the architect, is convincing. She said she cannot imagine it being used as anything else except as rental property or as two separate residences.

Mr. Tipton stated there was no common door which was discussed when the locations of the doors were identified.

Ms. Howard stated that the evidence is convincing that it was a two family dwelling. She said even if one unit was not rented, the property has to be maintained as a rental property.

Mr. Mail stated that there was no objection from the neighbors. He said the front door of the house is obviously the front door of the house and at some time it was converted. The question is when the conversion was done.

Mr. Burton stated he would like to have had more information, such as leases.

Mr. Tipton asked if the zoning use certificate was presented at the closing and if it would be on record.

Ms. Susel replied that it is not presented as part of the closing title transaction and that it was actually done by the real estate agent to give to the seller or buyer they are representing. The title agency would not have any involvement in this so they would be basing it on information that was presented to them by the real estate agent. This was a transaction where there was no real estate representation. It was basically a sale by the property owner to the buyer.

Board of Zoning
July 17, 2017
Page 12

Ms. Howard stated the Board members had to consider the preponderance of evidence. There were no other comments or questions, so Ms. Howard asked for a motion.

Motion: Mr. Mail moved in Case BZ17-0010, Terrance Messersmith, owner of the property located at 1209 and 1209½ South Willow Street Extension, that the Board of Zoning Appeals grants the applicant's appeal of the Zoning Inspector's decision granting the applicant's request for a Certificate of Nonconforming Use in accordance of KCO

1169.13. Each unit is limited to a single family and no more than two (2) unrelated individuals, as defined in Section 1109.09(a) in the City of Kent Zoning Code.

Mr. Burton seconded the motion.

Vote: The motion carried 4 – 0.

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

**C. BZ17-011 City of Kent
Vacant Lots on Gougler Avenue and North Mantua Street**

Section: 1171.01(a)(8)

Request: The applicant is requesting a variance from Section 1171.01(a)(8) to allow a governmentally owned public facility (parking area) to be located adjacent to residential uses. The parking area will be located on the following parcels: 17-025-10-00-080-000, 17-025-10-00-059-000, 17-025-10-00-079-000, 17-025-10-00-061-000 and 17-025-10-00-059-002.

Ms. Howard asked the applicant to present the request.

Ms. Susel gave some history on the parcels and said that the City of Kent has been land banking the parcels that are shown in this application, which was first purchased in 1995 and extended on to the next decade. The intent, as part of the West River development, was to provide parking for this development as well as access to the public amenities in the areas. The LN Gross Building owned by Dale Adams has been acquired by a development group that is doing renovation that will be putting commercial uses in the

Board of Zoning

July 17, 2017

Page 13

facility; professional office and water bottling. The original proposal was to sell the properties to the owner of the LN Gross building who was going to redevelop the parcels into parking areas, which is what was wanted by the City of Kent allowing the parcels to serve the businesses during the daytime hours and being available to the public in the evenings and on the weekends. The Planning Commission approved the site plan to construct a parking facility and went all the way to City Council and received approval for the purchase agreement. An environmental assessment was done on the City's parcels and it was found that the one directly on a portion of Gougler north of the LN Gross Building, as well as the parcels on the west, indicated that there was some legacy

environmental conditions. The site previously had other uses including a dry cleaner, as well as an auto shop, just east of a condominium development and also a gas station. The environmental assessment showed some contamination that created a condition that needed to be remediated where the soil had to be removed, however the way it works with the environmental conditions, whoever has title has all the responsibilities associated with any potential issues that may develop. The owners were reluctant to acquire the properties from the City of Kent and take on those legacies. The City of Kent realized they would have to maintain these and it is actually adding on three more monitoring wells. Currently there are four monitoring wells on the western portion. There is an additional three wells on the east and three more will be added. The contamination has not migrated off the City's sites at all and it is at levels that are low in those areas. Contaminates such solvents have leached from the automotive services as well as solvents from the dry cleaner and are in the ground. It can migrate into openings in the bedrock so the topography is not in the City's favor. The actual contamination is where the land slants down towards the river, as well as other properties. The City of Kent is going to hold ownership of the property in perpetuity in order for the project to go forward. The monitoring wells will be monitored continually. At this point, there does not seem to be any issues but they need to be checked. The contamination might never migrate off the parcels but with the river being there, as well as the adjacent properties, it is important that the City of Kent continues ownership. The City has arranged a lease arrangement where the owner of 315 Gougler will be doing the surface improvements on the land and maintaining them. The City will own the land and lease it for a \$1.00 a year for 74 years with a continuation of 24 years after that expires. As part of this process, the parcels have been consolidated. The parcels to the west have been replatted and will be filed as a single parcel so right now there will be two, but they will be joined into one and the City of Kent will hold title. There are requirements that have to be met for a governmentally owned public facility. The City will not be able to meet one of those conditions.

Mr. Fink stated this is a public facility and the parking lot is a conditionally permitted use in the N-C and R-4 zoning districts. It is subject KCO 1171.01(a)(3), (7), (8) and (11). This property has R-4 and N-C parcels.

Board of Zoning

July 17, 2017

Page 14

Ms. Howard asked what district the 305 address was located in.

Mr. Fink replied that is in the R-4 District.

Ms. Howard asked if it will become part of the parking lot.

Mr. Fink replied that it is part of the parcel. There will not be any parking on that part of the parcel. He said when the City of Kent took over the parcels parking was dropped from them. He said one of the conditions is that all points of vehicular entrance or exit

shall be located no closer than 200 feet from the intersection of two major thoroughfares or no closer than 100 feet from the intersection of a major thoroughfare and a local or collector thoroughfare. To comply with this condition, the ingress/egress onto North Mantua Street is not being proposed with the site plans so there will be no parking on the R-4 parcel and will be confined to the commercial district. Currently, there is an existing curb cut because there used to be a building on that location. He said Condition No. 7 is being met by this proposal. He said the lot will be located in the N-C district and adjacent to the residential properties. The applicants are requesting a variance from the Board of Zoning Appeals to allow a governmentally owned public facility to be located adjacent to residential uses. He said substantial landscaping and screening is being provided between the properties and the proposed parking lot. He said there are other properties in the City of Kent that have similar environmental concerns. He said Kent City Council has been purchasing properties with the express intent of making this a parking area for the West River neighborhood.

Mr. Mail asked if the owners of the building will pay for the lease and maintain the lot.

Ms. Susel replied yes. She said the City of Kent would not be able to afford to pave these parcels and make it available to the public evenings and weekends so a private industry will pave the lots and will bring in employment opportunities, as well as serve the need of the public by making it available in the evenings and weekends.

Ms. Howard confirmed that no developers would be interested in purchasing the properties from the City of Kent based on the legacy environmental conditions that exist, so the responsibility will stay with the City.

Mr. Mail asked about the monitoring wells.

Mr. Susel replied stated there are currently monitoring wells that the City is taking samples from. She said three additional wells will be put in within the next year to the

Board of Zoning
July 17, 2017
Page 15

bedrock level; about 110 feet. It is highly unlikely that the contaminants will migrate but the City wants to make sure.

Mr. Mail said that the additional wells are not shown on the plan.

Ms. Susel stated the City's contractor is a certified professional who is a scientist and hydrologist that specializes in this and will let the City know where they need to be located and how often they need to be monitored and they will actually check them for the City.

PUBLIC COMMENTS

Mary Junk, 341 North Mantua Street, asked how full the parking lot would be. She asked about the operation of the water bottling plant. She wanted to know who was going to park in the lots and how many spaces there would be. She did not want to see the condominium lot being used for construction trucks. She saw the development as a hazard and had concerns about it.

Ms. Howard verified the location parking lot for the condominiums was located. She asked Ms. Junk if she parked there.

Ms. Junk replied no.

Ms. Howard confirmed that there is no open parking behind the condominiums.

Mr. Tipton told Ms. Junk that the plan has 64 parking places and people from the expanded F&CS facility will use this area also. He said there are people from several facilities in the area who will use the parking.

Ms. Susel stated that there are currently not enough parking spaces to serve the needs of the commercial and professional facilities.

Mr. Tipton stated there is no entrance from the parking lot into the condominiums back parking area.

Ms. Howard recommended that Ms. Junk call the police when she sees people cutting through to that area.

Ms. Susel told Ms. Junk that the site plan review will be at the Planning Commission's meeting tomorrow, July 28, 2017. This meeting tonight is to address the variance. She assured her that there is landscaping that is going in per the zoning code requirement of

Board of Zoning
July 17, 2017
Page 16

the conditions for governmentally owned property. She said a Generalized Land Use Guide was published in 1998 and specifically identified a key factor for the West River area which was that there needed to be an increase in public and private parking. This was the reason the City started to land bank those properties. It was also to support the economic development that they were trying locate and fill in some of those vacant or underutilized buildings. She said the environmental conditions associated with the legacy are chlorinated solvents that are diluted and are being monitored by wells. She said the wells will be monitored just as a precautionary measure and the contaminants have not migrated. It would not be prudent to know about these legacy conditions and not put monitoring in place to assure they stay where the City wants them to stay.

Tim Rasinski, 1189 Temple Trail, Stow, Ohio, stated he owned 331 North Mantua Street. He said he was worried about the aesthetics of the condominiums. He was concerned about the extra noise and the pollution.

Ms. Susel stated that there is extensive landscaping that extends well beyond the Chapter 1168 landscaping and buffering requirements.

Ms. Howard stated that the Board members are considering a variance to allow a parking area to be adjacent to residential uses. She felt the landscaping issue was an important one. She wanted more information about the landscaping plan.

Eric Pros, 136 North Water Street, Kent, Ohio, stated he was the architect for the project. Sheet No. C-06 of the submitted site plan is the landscaping plan that shows all the buffers that will be installed. He said they are exceeding the City of Kent's landscaping requirements. There are a variety of trees and low shrubs that are going to be mixed into the site. He felt they would be much more attractive with them. They will not be using vinyl or chain link fences, but will use all natural vegetation.

Ms. Susel stated that the City is not prepared to show pictures of the renderings, but there is a cover page and pages that go into more specifics of the landscaping.

Mr. Pros stated that all the plans meet the recommendations of the City Arborist.

A continued discussion was held regarding the landscaping plan.

Mr. Tipton stated that there is a line of trees and bushes between the larger lot that is being proposed and the asphalt that is behind the condominiums, so there is large break and then a sizable bio-retention area in that corner of the lot. He stated he had just discussed that with Eric.

Board of Zoning
July 17, 2017
Page 17

Ms. Howard stated there is actually a barrier between the proposed lot and the driveway area behind the condominiums. She said it looks like it is more heavily planted in that specific area and around the front. She said there was only one driveway going in and out of the proposed lot and it is not connecting to the condominiums driving and parking areas at all.

Mr. Rasinski suggested reducing the number of parking spaces and minimizing the asphalt and take advantage of the green space as much as possible for as long as possible.

Mr. Pros replied his understanding was that the one parcel that connects to Mantua Street is a separate zoning district, R-4, which further complicates the City of Kent asking to put parking in that area.

Ms. Howard stated that was the original idea. But, now there will be no parking in that area and no ingress or egress. Currently there are 64 parking spaces proposed. She said once a place becomes a parking lot, it is always a parking lot.

Ms. Susel stated that the parking meets the needs of the businesses and fits the parcel. They are requesting 64 spaces because they are expecting a number of employees. She said because of the expense in installing a parking lot, it makes more sense for someone who is going to invest, to develop the site within the confines of the zoning and building code requirements.

Mr. Rasinski said that if the parking lot was not used to capacity and left empty spaces, it could be designed more aesthetically.

Ms. Susel stated that this parking lot is also going to be available to the public in evenings, weekends and holidays. This will make access to the hike and bike trail easier because there is no good parking at the Crain Avenue entrance. The owners of 315 Gougler will be doing the development.

Mr. Rasinski felt the parking should be minimized as much as possible.

Ms. Junk stated she would like the public to be able to see the plans on an overhead projection.

Ms. Susel stated that the City does not have the capability of putting all the information in an overhead, but she would make sure that Ms. Junk had a set of plans and the public would be told what page was being discussed at the Planning Commission. She said the Planning Commission requires a full set of plans.

Board of Zoning

July 17, 2017

Page 18

Kirk MacLean, 307 North Mantua, Kent, Ohio, passed out sketches he drew. He said one of the problems he has is the easement on the shared driveway with the property that was there before they tore it down and put the condominiums in. On page one of his sketches, it shows where he could drive in and turn around. He wants to have a full usable driveway with this new project, so he can back out of his garage and go forward out onto North Mantua Street. Currently, the way this project is proposed, it would be impossible to back out and go forward. He asked originally for the relocation of some of the landscaping and as well as the removal of the first parking space. He said someone had mentioned about putting a barrier there that is not a shrub row so they can maintain that parking space if that space is vital to them. He wants that to be aligned to the existing shrub row at the edge there.

Ms. Susel stated that this would be a matter that will be discussed at the Planning Commission meeting. The retaining wall could be suggested at the Planning Commission and this matter is more associated with the site plan.

Ms. Howard confirmed that the barrier whether it is a shrub row or retaining wall is more relevant to the site plan approval by the Planning Commission.

Mr. MacLean was concerned that more than one variance will be requested; one now and another later as a separate issue.

Ms. Howard stated that a second variance was not being considered. She said the parcel located at 305 North Mantua is not on the table now. She read the variance requested as shown on the agenda and in the Staff Report. That is the only thing the Board of Zoning Appeals is considering at this meeting.

Mr. Maclean was concerned about the impact this development would have on the residential areas.

Ms. Howard replied that parcel, 305 North Mantua, is not being considered for parking or ingress and a variance is not being requested.

Mr. MacLean asked who would maintain that parcel.

Ms. Susel replied the City would.

Ms. Howard recommended that Mr. MacLean talk to someone in the Community Development Department about 305.

Board of Zoning

July 17, 2017

Page 19

Mr. MacLean stated he had a 120 year old tree that would be impacted by this development. He said even if the development is 10 feet away, it will die in about a year because the project will disturb the root system of the tree. He asked who would pay for the removal of that tree. He said if the parking went in where it was originally planned, two other trees would also be lost.

Mr. Tipton confirmed that Mr. MacLean did not oppose the parking lot but he just wanted to end the easement in terms of the garage use and who would take care of the tree should it die.

Mark Messerly, 234 North Mantua Street, Kent, Ohio, stated he lived directly across from 305. He asked if the parcel 305 North Mantua was included because its parcel number is included in the request.

Mr. Fink stated that the City of Kent is combining all six parcels in one large parcel. This parcel will stretch across the street and will include the R-4 and N-C zoning districts. He said they have to abide by the terms in all the different zoning districts when doing this parcel. In order not to seek a second variance, the City decided not to have an ingress/egress point off North Mantua Street. He said the City of Kent decided it would be better if there was no parking on that parcel at all. All of the parking will be in the N-C zoning district.

Ms. Susel stated that the reason the parcel were listed separately was at the time this application was submitted the replat had not been filed with the County. The replat should be recorded and the City should be getting a new parcel number soon. The numbers are separate because legally there were no other parcel numbers to report. The one parcel in a different area will not become a parking lot and will not be developed.

Mr. Fink stated that if it was to be developed in the future, the developer would have to come back to the Planning Commission.

Ms. Howard stated this parcel is currently a lot and the City of Kent mows it.

Mr. Messerly asked if the City of Kent needs to amend its request to exclude that parcel from this requested action because it says the parking area will be located on the following parcels and it names the 305 parcel.

The answer is no to Mr. Messerly's question.

Ms. Howard asked if that parcel number should be excluded.

Board of Zoning

July 17, 2017

Page 20

Ms. Susel replied no. There is no new parcel number yet. None of the numbers are invalid. The 305 address will be a part of the whole parcel and there will be no parking there.

Mr. Messerly asked if the request was legal or not.

Mr. Burton stated that the verbiage should not be changed.

Ms. Howard asked if the lot numbers should be included in the motion.

Mr. Burton stated they should not specify the numbers.

Ms. Howard stated that the site plan which is part of the Board of Zoning Appeals record which is dated July 11, 2017 as depicted on page C-01 should be mentioned.

Mr. Mail asked if they could add a phrase except for any properties within the R-4 zoning district.

Ms. Howard stated they could say no parking in the R-4 zoning district.

In reply to a question from Mr. Messerly, Ms. Phile stated that the staff report was typed July 7, 2017 and the re-plat filed after that. The re-plat does not have to be filed before any action. It needs to be in process.

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

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Burton stated the City of Kent has been planning and working towards this goal for 20 years or more. The intent has been for a parking area. He said the number of spaces does not bother him. He felt this also promotes public safety and feels it would be safer for the bike and hike trail.

Mr. Mail agreed that this development has been a long time coming. He encouraged the Planning Commission to consider the neighborhood concerns.

Mr. Tipton also agreed with the comments made. He stated there is quite a bit of landscaping between the break between the parking lot and the R-4 behind the condominiums. He would like to see some traffic calming in the area. He was concerned with speed on Gougler and with the safety at the crosswalk. He agreed with the general

Board of Zoning

July 17, 2017

Page 20

purpose of the project but raised concerns of what the use is going to be, which is parking on one side of a dangerous street.

Ms. Howard agreed with comments made. She was also concerned with the safety and the speed in the area. She would like the Planning Commission to address all the concerns raised. She suggested giving a conditional approval.

Ms. Susel stated that a conditional approval could not be done. She said the variance has to be in place before the Planning Commission approves the site plan. She said the safety issues about crossing the street is also something that the Planning Commission will discuss.

Mr. Fink referred to Kent Codified Ordinance 1113.04 that states that if variances are required, they must be reviewed and approved prior to a site plan review and approval by the Planning Commission.

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

Motion: Mr. Mail moved in Case BZ17-011, City of Kent, owner of the vacant lots on Gougler Avenue and North Mantua, to allow a governmentally owned public facility (parking area) to be located adjacent to residential uses, as set out in C-01 General Site Layout Plan, received July 11, 2017, as defined in Section 1171.01(a)(8) in the City of Kent Zoning Code.

Mr. Burton seconded the motion.

Vote: The motion carried 4 – 0.

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

Motion: Mr. Mail moved to extend the Board of Zoning Appeals meeting past 10:00 p.m.

Mr. Burton seconded the motion.

Vote: The motion carried 4 – 0.

Board of Zoning
July 17, 2017
Page 22

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

VII. MEETING MINUTES

A. June 19, 2017 Meeting Minutes

Motion: Mr. Burton moved to approve the June 19, 2017 meeting minutes, as submitted.

Mr. Mail seconded the motion.

Vote: The motion carried 4 – 0.

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

IX. OTHER BUSINESS

Ms. Howard stated she was not going to reapply for her position on the Board of Zoning Appeals Board at the end of her term in October.

IX. ADJOURNMENT

Motion: Mr. Mail moved to adjourn.

Mr. Tipton seconded the motion.

Vote: The motion passed 4 – 0.

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

Meeting adjourned at 10:12 p.m.