

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
October 16, 2017**

MEMBERS PRESENT: **Jona Burton
Paul Sellman
Benjamin Tipton**

MEMBER ABSENT: **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

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

II. PLEDGE

The pledge was recited.

III. ROLL CALL

Jona Burton, Paul Sellman, and Benjamin Tipton 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.”

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.	BZ17-017	Wesley Pellon 522 Lake Street
	Section:	1161.21(a)
	Request:	The applicant is requesting a variance from Section 116.21(a) to allow a 6-foot tall fence within the front yard setback along Woodside Drive.

Mr. Tipton asked the applicant to present the request.

Wesley Pellon, 522 Lake Street, Kent, Ohio, stated he was the owner of the property. He said the fence that was installed replaces a fence that was about 3 feet tall and not solid. He said he did not know that there were two front yards, nor that a permit was needed to install the new fence. He said they wanted a fence that would provide more privacy. He gave pictures to the Board that showed the interior of the yard. He said the fence could not be moved back off the street because of the shrubbery, existing koi pond, and a concrete pad for the hot tub. He said the new fence keeps their daughter and dogs safely in the yard. He said the front view of their house would not be obstructed, nor is the view of the stop sign at the end of the road.

Mr. Tipton asked the applicant to address the criteria that the Board has to consider when granting a variance, such as the practical difficulties or unnecessary hardships and whether or not granting the variance would be a substantial detriment to the adjacent properties or public interest.

Mr. Pellon replied that this is a corner lot so there are two front yards. He said the house faces Lake Street and the driveway and backyard are behind the house. He said the fence is not covering any entrance to the property. He said there are electric boxes outside of the fence. He said the new fence affects only one neighbor and that neighbor was okay with it. It would not be a detriment to the adjacent properties or surrounding neighborhood.

Mr. Sellman stated it does have two front yards. He asked the applicant if the fence would be painted or stained.

Mr. Pellon replied it will be stained in the spring.

PUBLIC COMMENTS

Wayne Butala, 502 Lake Street, Kent, Ohio, said he was in favor of granting the variance. The fence is aesthetically pleasing.

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Mr. Sellman felt the neighbors across the street would be the most affected by the fence.

Mr. Burton stated the extraordinary circumstance is that there are two front yards. The fence was not obstructing anything and it is not a distraction. He said he could appreciate the need for privacy.

Mr. Sellman stated that side yard restrictions would be followed if the fence was not on a corner.

Mr. Tipton stated he would like the fence to be shorter, but a reduction in height would take away from the aesthetics. He confirmed that that there were no setback issues involved; just the 6-foot height.

Ms. Phile replied yes.

Mr. Sellman stated there would be a low impact on the neighbors.

Mr. Pellon stated he could see over the fence from within the house because of the topography, but could not see over the fence from the sidewalk.

Mr. Tipton reviewed the criteria that the Board has to consider when granting a variance. He said the two front yards is a hardship. There is a long front yard along Woodside. He could understand the need for privacy. There is no detriment to the adjacent properties or the neighborhood. It will be aesthetically pleasing with the stain. He said the neighbor supported the granting of the variance.

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

Motion: **Mr. Burton moved in Case BZ17-017, Wesley Pellon property located at 522 Lake Street, that the Board of Zoning Appeals approves a variance to allow a 6-foot tall fence within the front yard setback along Woodside Drive, as defined in Section 1161.21(a) in the City of Kent Zoning Code.**

Mr. Sellman seconded the motion.

Vote: **The motion carried 3 – 0.**

<i>Mr. Burton</i>	<i>Aye</i>
<i>Mr. Sellman</i>	<i>Aye</i>
<i>Mr. Tipton</i>	<i>Aye</i>

VII. OTHER BUSINESS

Motion: **Mr. Sellman moved to excuse Dave Mail from the October 16, 2017 Board of Zoning Appeals meeting.**

Mr. Burton seconded the motion.

Vote: **The motion carried 3 – 0.**

Mr. Burton ***Aye***

Mr. Sellman ***Aye***

Mr. Tipton ***Aye***

A Joint Meeting will be held in November and court cases will be discussed at that meeting.

IX. ADJOURNMENT

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

Mr. Sellman seconded the motion.

Vote: **The motion passed 3 – 0.**

Mr. Burton ***Aye***

Mr. Sellman ***Aye***

Mr. Tipton ***Aye***

Meeting adjourned at 7:29 p.m.