

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

MEMBERS PRESENT: **Benjamin Tipton
Dave Mail
Paul Sellman
Jona Burton
Tim Sahr**

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

Paul Sellman, Jona Burton, Dave Mail, Tim Sahr, and Benjamin Tipton 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 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

Board of Zoning Appeals

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. BZ17-018

**Carl Sartoris
1002 South Water Street**

Section: 1171.01(a)(8)

Request: The applicant is requesting a variance from Section 1171.01(a)(8) to allow a retail business to be located adjacent to residential uses.

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

Brian Bottger, 2252 Carrie Way, Stow, Ohio, stated he was the owner of the property and Mr. Sartoris could not be here at the meeting. He said the property was used as a gun shop in the 1980's, but was abandoned prior to this variance request. The property is the converted garage for the property. Mr. Sartoris would like to open a furniture store.

Mr. Tipton asked if the City of Kent would consider the grandfather laws.

Ms. Susel stated the property has been vacant for two years or more.

Mr. Bottger stated if approved, the property will have a new address assigned to it (1010 South Water). The property sits between two residential properties. This plan will appear before the Planning Commission on December 5, 2017. He said customers would be seen by appointment only. He said there would be an occasional open house. He said Mr. Sartoris has a shop in Stow where he fabricates and builds custom pieces such as furniture, lighting, and home décor.

Mr. Tipton asked Mr. Bottger to address the three criteria that the Board of Zoning Appeals has to consider to approve a variance; detriment to adjacent properties, the hardship and practical difficulty.

Mr. Bottger replied he was letting Mr. Sartoris use the property rent free. He said the property will look better than it has in years. There are shelves and accessories in the building. There would be no detriment to the area. He said there are tenants in the houses next to the shop. There is a fence between the house and the shop. There is a warehouse in Stow where he makes the furniture.

Mr. Mail asked how many employees would be at this location.

Mr. Bottger replied there would be employees at the warehouse only.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Sellman stated that there are other retail businesses in the area.

Mr. Tipton stated that there is existing parking, but it is a small area.

The Board members were told that this was a concern for the Planning Commission.

Mr. Sellman asked about the parking and the anticipated number of customers.

Mr. Bottger replied he does not anticipate a large number of cars. He said the business will be appointment based, similar to an artist gallery. If the customer base becomes larger, he would most likely move to another location.

Mr. Sahr asked if there would be large trucks.

Mr. Bottger replied they were not anticipated.

Mr. Fink clarified that any commercial use would need a variance.

Mr. Burton said he did not see any other use that would fit in this space. He said this was an appropriate use for the space and there are no neighbors at the meeting to protest the use.

Mr. Mail stated the signage will be limited in size and type. He agreed with Mr. Burton's comments that it is an appropriate use and liked the idea that customers will come in by appointment only.

Mr. Sellman agreed with the comments made, and said it was a good use of the building.

Mr. Tipton agreed with the comments made but was worried about foot traffic and cars pulling out. He said it was an appropriate use of the building. It was a commercial use in the past.

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

Motion: Mr. Burton moved in Case BZ17-018, Carl Sartoris, property located at 1002 South Water Street, that the Board of Zoning Appeals grants a variance to allow a retail business to be located adjacent to residential uses contingent on its use outlined in the letter dated 10/15/17 from Mr.

Sartoris as defined in Section 1171.01(a)(8) in the City of Kent Zoning Code.

Mr. Sellman seconded the motion.

Vote: The motion passed 5 – 0.

Mr. Burton Aye
Mr. Sellman Aye
Mr. Sahr Aye

Mr. Mail Aye
Mr. Tipton Aye

VII. MEETING MINUTES

Motion: Mr. Sellman moved to approve the minutes of September 18, 2017, as submitted.

Mr. Mail seconded the motion.

Vote: The motion passed 4 – 0.

Mr. Burton Aye
Mr. Sellman Aye

Mr. Mail Aye
Mr. Tipton Aye

One Abstention

Motion: Mr. Sellman moved to approve the minutes of October 16, 2017, as submitted.

Mr. Burton seconded the motion.

Vote: The motion passed 3 – 0.

Mr. Burton Aye
Mr. Tipton Aye

Mr. Sellman Aye

Two Abstentions

VIII. OTHER BUSINESS

Elections will be held in January.

Mr. Fink thanked everyone for attending the Joint Meeting.

No other business.

IX. ADJOURNMENT

Motion: Mr. Mail moved to adjourn.

Mr. Burton seconded the motion.

Vote: The motion passed 5 – 0.

Mr. Burton	Aye
Mr. Sellman	Aye
Mr. Sahr	Aye

Mr. Mail	Aye
Mr. Tipton	Aye

Meeting adjourned at 7:42 p.m.