

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
December 18, 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 7:01 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

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. BZ17-019

**Larsen Architects / McDonald's
1280 South Water Street**

Sections:

1165.05(b)(2)(A) and 1165.05(b)(2)(C)

- Requests:**
- 1) A variance from Section 1165.05(b)(2)(A) to allow a total of 4 signs (three building signs and one ground sign), and**
 - 2) A variance to allow a total of 101.49 square feet for all four signs where 50 square feet is the maximum permitted (Section 1165.05(b)(2)(C)).**

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

Jim “JP” Ptacek, 1256 Edgewater Drive, Suite 10, Lakewood, Ohio, stated he was from Larsen Architects. He said that the corporation is pushing to rebrand existing McDonald’s. There are other stores doing this so that they will be more in tune with the marketplace. As part of the rebranding, McDonald’s has determined the signage wanted. He showed pictures of the existing McDonald’s and the signage they are proposing. He pointed out the location and the size of the signs they are requesting. They want three building signs (one that states McDonald’s and two that are M’s) and a ground sign. He said McDonald’s is also rebranding the customer entrance. He said the monument sign will remain as it is but may be repainted. He said they are requesting a variance to allow a total of 101.49 square feet in signage. He said signage is very important from a business perspective.

Ms. Susel asked if there were three or four signs on the building.

Ms. Phile stated there are three signs; two M’s and one McDonald’s sign.

Mr. Ptacek stated McDonald’s felt it was important to have signage facing towards the school. He said this is an aesthetics change and McDonald’s is rebranding to make things visually different.

Mr. Mail said there was almost no rebranding along Water Street except the little sign that says McDonald’s at the entrance

Mr. Sahr stated the Board understood what the request was, but asked what the hardship was.

Mr. Ptacek replied that from the business perspective, a sizeable amount of money is being invested by the owner to rebrand the store and is voluntarily giving up 60 percent of the existing signage. Otherwise, the existing signage would have to be taken down and then put back up. The hardship is that they do not want to lose business because of the reduction in the signage. McDonald’s is trying to establish rebranding going forward.

PUBLIC COMMENTS

Will Galloway, 1280 South Water Street, Kent, Ohio, stated he was in favor of granting the variances.

No other comments from the public.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Burton stated he was initially struck that the applicant is asking for almost double the amount of square footage allowed for signage and the number of signs allowed in the zoning code. The corporate branding already exists in red and yellow colors. He said he was willing to compromise, but the current request is excessive.

Mr. Sahr agreed with Mr. Burton's comments. He said it was true that square footage would actually be reduced, but felt that only one McDonald's sign was enough.

Mr. Mail stated that the signs were attractive. He did not think the criteria the Board has to consider when approving a variance request had been met. There is no hardship because it is a self-imposed hardship. He said the plan looks good, but does not meet the zoning requirements.

Mr. Fink stated that the applicant already has a variance for 123.16 square feet for the signage, so in some respect they didn't have to go for the second variance because it is less than that.

Mr. Mail confirmed that the applicant has an existing variance and it could still be used.

Mr. Fink replied yes, they could still use it. He said the Board's concern was the number of signs so he encouraged the Board that if it grants the variance request, that would prevent them from going back up to 123.16 without going back in front of the board. As for the applicant's concern if they do not find a hardship, the applicant has the right to go to the Planning Commission. He said the applicant has the right to have 123.16 square footage under the previous variance approved. If this variance is denied, the applicants still have the right to have 123.16 square feet of signage.

Ms. Susel stated that the first variance request is for a total of four signs, three building signs and one ground sign.

Mr. Sahr asked if the first variance request was approved, would the Board grant the second one also.

Ms. Susel replied if the first variance was granted, four (4) signs would be allowed. The second variance is for a total of 101.49 square feet, which is less than the 123.16 square feet approved in the previous variance.

Mr. Ptacek said the applicant is reducing the square footage of the existing signage. McDonald's wants to rebrand and make the site aesthetically pleasing. He said they might have to go back to corporate to revisit the signage request as well as the square footage.

Ms. Susel reminded the Board that if the variances were denied, the applicant has the option to submit a Comprehensive Sign Plan to the Planning Commission circumventing any need for a variance, which could potentially make the original variance not applicable.

A discussion of the placement of the signs and the size of the signs was held. There was a concern that the lit McDonald's sign facing the school might be a detriment.

Mr. Burton was against the increased number of signs.

Mr. Sellman asked if the applicant would still go before the Planning Commission if the Board of Zoning Appeals approved the variances.

Ms. Susel replied no.

Mr. Tipton stated that the signage has been reduced by 60 percent and the applicant is asking for a variance to allow four signs. He said the applicant is also asking for a variance for a total of 101.49 square feet for all of the signs.

Ms. Susel said the number of signs is not limited in a sign package.

Mr. Sellman asked if staff prefers that an applicant goes before the Planning Commission with a Comprehensive Sign Plan.

Ms. Susel replied that she could not say that the City has a preference either way. If a plan goes way above and beyond the code, this would be a mechanism that could be used.

Mr. Fink stated the City does not have any preference.

Mr. Sahr asked if the current variance would be vacated if the applicant went before the Planning Commission.

Mr. Fink replied the variance would not be vacated, however the variance could be abandoned depending what signage they put in place. Once it is abandoned for a certain amount of time, it could be abandoned in that regard.

Ms. Susel said if a Comprehensive Sign Plan is approved the square footage and number of signs is taken care of in the plan. She said an applicant would have to go through the application process.

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

Motion: Mr. Burton moved in Case BZ17-019, Larsen Architects/McDonald's, Property located 1280 South Water Street, that the Board of Zoning Appeals denies the applicants' request to allow a total of four building signs (3 building signs and one ground sign), as defined in Section 1165.05(b)(2)(A) and to deny the applicants' variance request to allow of 101.49 square feet for all four signs, where 50 square feet is the maximum permitted, as defined in Section 1165.05(b)(2)(C) in the City of Kent Zoning Code.

Mr. Sahr seconded the motion.

Vote: The motion passed 3 – 2.

Mr. Burton - Aye
Mr. Sellman - No
Mr. Sahr - Aye

Mr. Mail - No
Mr. Tipton - Aye

Ms. Susel told the applicant that two of the signs can be installed and then they could come back with a Comprehensive Sign Plan and present it to the Planning Commission. She told them to come to the office tomorrow and see Ms. Phile and they could try to expedite the procedure.

VII. MEETING MINUTES

None

VIII. OTHER BUSINESS

The staff was wished a Merry Christmas by the members of the Board.

Mr. Tipton felt that monument signs should be considered a double-faced sign area and include the square footage on both sides. He suggested bringing this up with the consultant.

No other business.

IX. ADJOURNMENT

Motion: Mr. Mail moved to adjourn.

Mr. Tipton 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 8 p.m.