

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
March 19, 2018**

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

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

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, Dave Mail, Tim Sahr, Jona Burton, 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 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

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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."

VI. 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".

VII. NEW BUSINESS

A. BZ18-003

**Kent Elastomer
1500 St. Clair Avenue**

Sections: 1155.04.04(a), 1167.11(b)(1), and 1167.04(d)

Requests: The applicant is requesting the following:

- 1) A 12-foot variance from the 50-foot minimum front yard setback to allow an addition to be constructed 38 feet from the front property line (Section 1155.04(a)),
- 2) A 14-foot variance from the 20-foot minimum landscaping strip in the front yard to allow a parking lot expansion to have a 6-foot landscaping strip between the parking area and right-of-way line (Section 1167.11(b)(1)), and
- 3) A variance to allow three accessways abutting St. Clair Avenue, where two accessways maximum are permitted (Section 1167.04(d)).

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

Jonathan Morschl, 2850 South Arlington Road, Akron, Ohio, stated he was from Four Points Architectural Services and was representing the applicant, Kent Elastomers Products, on St. Clair Avenue in Kent. He said they want to add an administrative space to the existing building that will give more functional space, as well as, adding space for future employees. They have purchased a portion of the property next to them where they will expand the parking area. The first variance request is in regards to the building addition. He said the current building and warehouse sit in front of the required setback. He said they are going to extend out 2 feet past the building, which will help with the layout of the plan and more importantly they are looking for more street presence. They are relocating the entrance. The second variance request is a 12-foot relief from the 20-foot front yard landscaped strip between the parking lot and the street right-of-way. The parking area will be setback further from where the current parking lot is mainly because that is a retention area for the new parking area. He said they did not push it all the way back because they would abut upon an apartment complex there, so they would get the retention they needed and still leave a buffer for the residential area. They will add landscaping between the parking lot and the residential area. He said the third variance they were requesting was a proposal for a new curb cut in the new parking area. There are currently two curb cuts on the property. One is on the south side, which is a loading dock area that is seldom used. The main curb cut is adjacent to the parking area. He said when the new parking area is added, they will end up with 460 lineal feet of frontage. This new curb cut would help with circulation of the new parking and trucks can continue to use the existing curb cut. He said there will be landscaping in the front and back.

Mr. Sahr asked about the parking spaces.

Mr. Morschl responded the existing spaces are used by employees and most of these spaces will be eliminated with the proposed building expansion. The proposed lot will

have 28 spaces with a net increase of 16 spaces. The existing handicap space will be relocated to the front of the new building addition.

In response to a question about what kind of landscaping will be in the back, Mr. Morschl responded, there will be pear trees and burning bush.

Currently the other property is under another name, but the applicants have purchased property north of the current parcel.

Mr. Mail asked if there would be a fence there.

Mr. Morschl replied one would be added on the north side.

Mr. Mail stated that there is also a wooden fence between the applicants' property and the residential property. He confirmed that the lighting fixtures would not bother the private residents.

Ms. Susel stated that this project will be reviewed by the Planning Commission and it will address some of the concerns raised at this meeting.

Bob Osborne, 1500 St. Clair Avenue, Kent, Ohio, stated he was president of Kent Elastomer. He said the parking lot in the front will be used by the office. The parking in the back will be used by the factory and all other employees so the lights that are there are on timers.

Mr. Sahr asked about the trees on the property.

Mr. Fink stated that this issue was not part of process.

Mr. Tipton asked if there were in questions on the first variance, which was requesting a 12-foot variance from the 50-foot minimum front yard setback.

There were no questions.

Mr. Tipton asked if there were any questions on the second variance, which was requesting a 14-foot variance from the 20-foot minimum landscaping strip in the front yard.

There were no questions.

Mr. Tipton asked if there were any questions on the third variance, which was requesting a variance to allow three accessways abutting St. Clair Avenue. He asked if this was referring to curb cuts.

Ms. Phile replied yes.

Mr. Mail stated they purchased some property that did not seem to have an access and it would be better circulation. He asked about the previous variance.

Mr. Osborne replied that changes have been made since the last time. He said the initial idea was good but the current plan is better.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Tipton stated that each variance request will be addressed separately.

Mr. Mail stated the current plan makes sense and it would not be intrusive.

Mr. Sellman stated it would be an improvement as far as aesthetics. It would not be a detriment.

Mr. Tipton stated no neighbors were at the meeting to protest. He said the Board has to consider three findings when approving a variance: (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. He felt the criteria had been met.

Mr. Burton stated it would help define the entrance to the building.

Mr. Sahr stated that two feet is not a large impact and it would not be a detriment.

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

Motion: Mr. Sellman moved in Case BZ18-003, Kent Elastomer, property located at 1500 St. Clair Avenue that the Board of Zoning Appeals approves a 12-foot variance from the 50-foot minimum front yard setback to allow an addition to be constructed 38 feet from the front property lined, as defined in Section 1155.04(a) in the City of Kent Zoning Code.

Mr. Mail seconded the motion.

Vote: The motion passed 5 – 0.

In regards to the second variance the following comments were made:

Mr. Mail stated the landscaping will be done well. It will be a buffer from the apartments and it is butted up against the playground.

Mr. Sellman stated it will look better and he liked the buffer.

Mr. Tipton stated he liked the buffer. He felt it met the criteria the Board has to consider when approving a variance.

Mr. Sahr stated most other parking lots sit closer. It is not out of character with the others.

Motion: Mr. Mail moved in Case BZ18-003, Kent Elastomer, property located at 1500 St. Clair Avenue that the Board of Zoning Appeals approves a 14-foot variance from the 20-foot minimum landscaping strip in the front yard to allow a parking lot expansion to have a 6-foot landscaping strip between the parking area and right of way line, as defined in Section 1167.11(b))(1) in the City of Kent Zoning Code.

Mr. Sahr seconded the motion.

Vote: The motion passed 5 – 0.

In regards to the third variance the following comments were made.

Mr. Tipton stated if this variance was denied, the applicants would have to make a turn around.

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Mr. Mail stated it was logical and safer.

Mr. Sellman stated an unusual circumstance is the shape of the lot. The flow of the traffic would be better and safer. There are no neighbors at the meeting to protest.

Mr. Sahr stated it would be better for traffic.

Mr. Burton stated it would negate the parking lot expansion if the variance was not approved.

Motion: Mr. Burton moved in Case BZ18-003, Kent Elastomer, property located at 1500 St. Clair Avenue that the Board of Zoning Appeals approve a variance to allow three accessways abutting St. Clair Avenue, where two accessways maximum are permitted, as defined in Section 1167.07.04(d) in the City of Kent Zoning Code.

Mr. Tipton seconded the motion.

Vote: The motion passed 5 – 0.

B. BZ18-004

**Bryan & Gretchen Rinnert
477 West Main Street**

Section: 1131.04(b)

Request: The applicant is requesting an 8.3-foot variance from the 45-foot minimum rear yard setback requirement to allow a house and garage addition to be 36.7 feet from the rear property line (Section 1131.4(b)).

Mr. Tipton asked the applicants to present their request.

Bryan Rinnert, 477 West Main Street, Kent, Ohio, stated they want to replace the current garage that is in very poor shape and is very small with a slope that causes drainage problems. They want to replace it with a three garage that is 30 feet by 30 feet. The current slope of the driveway and the floor of the garage causes water to drain towards the house foundation. He said they will put in a trench drain to correct the drainage problems. He said they may not put on the bedroom addition yet.

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Mr. Sahr asked the applicant if he owned two parcels.

Mr. Rinnert replied yes. He said if it was a two story with a basement, it would be higher. They plan to close the stoop and have a different entrance.

Mr. Tipton reviewed the variance request. He said the applicant is requesting an 8.3 variance from the 45-foot rear setback to allow a house and garage addition to be 36.7 feet from the rear property line.

Mr. Mail stated one of the mitigating circumstances in this neighborhood is that it is a small, narrow, deep lot. The houses sit far back from the street so it does push everything back towards the rear line.

Mr. Burton stated that most of the houses in the neighborhood have attached garages and sit on the property line.

Mr. Tipton said the Board has to consider three findings when approving a variance: 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. He felt the criteria had been met.

Mr. Sellman stated that the strict application of the zoning code would reduce the size of the garage. He said it is a small, older lot in an older neighborhood.

Mr. Rinnert stated that the garage floor is already 4 inches below grade and the doors are not functional or practical.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Sellman said the exceptional and extraordinary circumstance is the lot size and the location of the house on the lot. It is a corner lot.

Mr. Tipton stated the setback would be 36.7 feet and other houses have as much of a setback or worse.

Mr. Sahr asked if there would windows on the wall of the garage facing Pearl Street.

Mrs. Rinnert, who was sworn in to make a statement, said windows and doors were planned.

Mr. Tipton stated the applicants' neighbors at 458 West Main told him verbally that they were in support of the project. It would not be a detriment to the adjacent neighborhood.

Mr. Mail stated it would be aesthetically pleasing and it would not be a detriment.

Mr. Burton discussed other options for the garage. He felt the planned location is viable.

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

Motion: Mr. Burton moved in Case BZ18-004, Bryan and Gretchen Rinnert, property located at 477 West Main, that the Board of Zoning Appeals approves an 8.3-foot variance from the 45-foot minimum rear yard setback requirement to allow a house and garage addition to be 36.7 feet from the rear property line, as defined in Section 1131.04(b) in the City of Kent Zoning Code.

Mr. Mail seconded the motion.

Vote: The motion passed 5 – 0.

VII. MEETING MINUTES

A. Minutes from the January 22, 2018 meeting

Motion: Mr. Sellman moved to approve the minutes of January 22, 2018, as submitted.

The motion was seconded by Mr. Mail.

The motion carried 4 – 0.

1 Abstention

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VIII. OTHER BUSINESS

Ms. Susel stated that a consultant has been hired for zoning code update. They are from Michigan and seem to be prepared and understood what was needed. She said they will be looking at more of the zoning code. She thinks they can get the zoning code updated containing charts and maps. She said staff has received feedback from them already. The consultant will meet soon with the Board of Zoning Appeals and Planning Commission, but the consultant's first task will be diagnostic. The consultant will take about two months to go through the code and some of it might be handled in Phase II, which is the Comprehensive Plan. The contract includes ten meetings; one with Council and nine others. The City can pay for additional meetings if needed. She said they are allowing about 15 months for the process.

No other business.

IX. ADJOURNMENT

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

Mr. Tipton seconded the motion.

Vote: **The motion passed 5– 0.**

Meeting adjourned at 7:57 p.m.