

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
June 18, 2018**

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

BOARD ABSENT: **Jona Burton**

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

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

Dave Mail, Tim Sahr, 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 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

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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. BZ18-006

Kent Law & Commerce LLC/ John Flynn
214 South Water Street

Sections: **1165.05(d)(1)(D)**

Request: **The applicant is requesting a variance from section 1165.05(d)(1)(D) to allow a permanent free-standing sign.**

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

John Flynn, 1491 River Edge Drive, Kent, Ohio, stated he has had an office two doors down from the old courthouse/post office at 214 South Water Street for about forty years. He purchased the courthouse/post office from the City of Kent. He said he is in the process of restoring it and will eventually move his law practice there and will have one rental space. They will need a sign. He said he will do nothing to alter the historical character of the building. He said the Kent Historical Society building, as well as other businesses on East Main Street have a free-standing sign. Other historical buildings in various areas have a free-standing sign. He has to have a sign out front to advertise his business so he will not go out of business. He requested that the variance be granted.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Fink restated that the agreement with the City of Kent does have a restriction to not have any building sign. It would be a further restriction regarding the free-standing sign.

Mr. Tipton asked if the Architectural Review Board would review this request.

Mr. Fink replied the Board will review the sign if the Board of Zoning Appeals approves the request.

Mr. Tipton looked at the location of the sign and said sight lines are not an issue.

Mr. Sellman said the sign would be balanced with the flag pole. It is an historical building with the deed restriction of no building signs. He said the free-standing sign would have minimal impact to the area and the building sits back off the street.

Mr. Tipton said it would not be a detriment. He asked what the height would be. He thought there should be a height restriction.

Mr. Fink said a height restriction could be put in.

Mr. Flynn said there is a free-standing sign on the Davey Tree building and the Panini's sign, as well as the free-standing sign for the City of Kent at the entrance to downtown.

Mr. Sahr stated he did not want to limit the height.

Mr. Mail said it would match the others and it would not be obtrusive. It would not be lit up.

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

Motion: Mr. Sellman moved in Case BZ18-006, Kent Law & Commerce LLC/John Flynn, property located at 214 South Water Street, that the Board of Zoning Appeals approves the variance to allow a permanent free-sanding sign, as defined in Section 1165.05(d)(1)(D) in the City of Kent Zoning Code.

Mr. Mail seconded the motion.

Vote: The motion passed 4 – 0.

B. BZ18-007 **Roberta Ciccone/Rochelle Klein**
403 Cherry Street/1344 Pine Street

Sections: **1133.03(a)(1), 1133.04(b), 1133.04(c)**

Requests: **The applicants are requesting the following variances for a lot split:**

1344 Pine Street (Parcel A)

- 1) A 1797.06 square foot variance from the 8000 square foot minimum lot size with a single-family dwelling to allow the new lot to be 6202.94 square feet (Section 1133.03(a)(1)),**
- 2) A 23-foot variance from the 30-foot minimum rear yard setback requirement to allow the existing house to be 7 feet from the rear (South) property line (Section 1133.04(b)), and**
- 3) A 5-foot variance from the 10-foot minimum side yard setback requirement to allow the existing house to be 5 feet from the side (West) property line (Section 1133.04(c)).**

- 1) A 2324.13 square foot variance from the 8000 square foot minimum lot size with a single-family dwelling to allow the new lot be 5675.87 square feet (Section 1133.04(a)(1)),
- 2) A 21-foot variance from the 30-foot minimum rear yard setback requirement to allow the existing house to be 9 feet from the rear (West) property line (Section 1133.04(b)), and
- 3) A 4-foot variance from the 10-foot minimum side yard setback requirement to allow the existing house to be 6 feet from the (North) property line (Section 1133.04(c)).

The applicants supplied a written statement in which they asked to postpone their request until further notice.

Mr. Tipton read a portion of the letter: “We will proceed with the split when we have taken care of” other issues.

Ms. Phile said she told the applicants to let her know when they were ready to be put back on the agenda.

VII. MEETING MINUTES

A. May 21, 2018 meeting minutes

Motion: Mr. Tipton moved to approve the minutes of May 21, 2018, as submitted.

The motion was seconded by Mr. Sahr

The motion carried 3 – 0. 1 Abstention

VIII. OTHER BUSINESS

Motion: Mr. Tipton moved to excuse the absence of Mr. Burton from the June 18, 2018 Board of Zoning Appeals meeting.

The motion was seconded by Mr. Sellman.

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Vote: The motion passed 4 – 0.

Mr. Tipton stated he would not be at the July Board of Zoning Appeals meeting.

Ms. Phile stated there would not be a meeting in July.

IX. ADJOURNMENT

Motion: Mr. Sellman moved to adjourn.

Mr. Tipton seconded the motion.

Vote: The motion passed 4 – 0.

Meeting adjourned at 7:28 p.m.