

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
October 15, 2018**

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

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

I. CALL TO ORDER

Mr. Sellman called the meeting to order at 7:01 p.m.

II. PLEDGE

The pledge was recited.

III. ROLL CALL

Tim Sahr, Jona Burton, Paul Sellman, Dave Mail, 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 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. BZ18-014 KIM WILLIAMS / JAMES UBER
520 SOUTH FRANCIS STREET**

SECTIONS: 1161.14(b)

REQUESTS: The applicant is requesting the following:

- 1) A 3-foot variance from the 5-foot minimum side yard setback requirement to allow a new detached accessory structure to be constructed 2 feet from the north side property line (Section 1161.14(b)), and**
- 2) A 5-foot variance from the 10-foot minimum setback from the main structure requirement to allow a new detached accessory structure to be constructed 5 feet from the main structure (Section 1161.14(b)).**

James Uber, 17960 Hillcrest Dr, Lake Milton, Ohio presented the request on behalf of the property owner. He stated that he removed the existing shed for his cousin and began to rebuild when the city received the complaint and stopped work. When he started reconstruction he moved the new structure farther away from the property line. He stated that regardless of the location of the shed on the property, they would not be able to meet the zoning requirements due to the small lot.

Mr. Tipton asked about the request for the side yard setback request.

Mr. Uber stated that they will be constructing the structure 3 feet from the north property line instead of the previously stated 2 feet; which is a 2 foot variance. He added that they decided on the 3 feet based on the north neighbor's shed, which is 2 feet from the property line. He moved it as far to the south as possible. The shed is also a metal structure. Mr. Uber went on to say that the property owner at the rear property line has submitted a letter of support.

Mr. Tipton asked about the second variance regarding the distance to the main structure.

Staff clarified that the proposed structure is 5 feet from the deck portion of the house and a 5 foot variance would be needed.

Mr. Uber stated that it is a 12' x 18' structure; 216 square feet.

Mr. Mail asked if the slab was existing.

Mr. Uber stated that most of the slab is existing but he did add a portion.

Mr. Sahr asked for the size of the original shed that was demolished.

Mr. Uber stated that it was 12' x 10' or 12' x 12'.

[The Board and applicant reviewed the presented documents and clarified measurements and locations.]

Mr. Mail asked if this is a rental property.

Mr. Uber stated that it is owner occupied.

Mr. Sellman asked if they have any support or opposition from the neighbor to the north.

Staff did not receive correspondence from this neighbor nor is the neighbor present at this meeting.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Burton asked for the Board's comments.

Mr. Burton stated that due to the property being narrow and shallow he feels that the structure would not fit at any other location on the property without variances. He

added that the many of the surrounding properties have built up to the property lines and he doesn't feel that the proposed variances would not be out of character for the neighborhood.

Mr. Mail stated that he agrees with Mr. Burton that this area is an older part of town with smaller lots and there aren't very many location options for this shed. He feels that they have done a good job of making the most out of what they have. He added that the hardship is the small lot size for a decent sized shed, and it is not out of character for the neighborhood. Mr. Mail asked if there would be a second story to this structure.

The applicant replied yes and the height should be 12 foot to the peak.

Mr. Sellman stated that he agrees with the previous Board comments even though the shed could be smaller to lessen the variances. He noted that this property does not have a garage. He feels the impact to the neighborhood will be minimal given the closeness of other neighboring structures and the lack of objection by the neighbors.

Mr. Sahr stated that although he has a small lot, he does not feel that there is a hardship as the owner could build a smaller shed and work within the confines of the code; it is self-created. He added that because this issue came to light as a result of a complaint, there is someone who is at odds with the situation.

Mr. Mail stated that Mr. Sahr's opinion is completely valid from a strict reading of the code but he feels that because there isn't a garage they need adequate storage. His main determining factor is whether or not it detracts from the general quality of the neighborhood, which he has concluded from visual inspection that it will not.

Mr. Sellman asked about the color and material of shed

Mr. Uber stated that they will use metal panel siding that will match the house in color.

Mr. Tipton noted that the letter from 579 S Francis is a confirmation of the timeframe of the old structure rather than a letter of support. Mr. Tipton stated that he agrees that a smaller shed would fit however he recognizes the path to the deck would be obstructed.

Mr. Sellman notes that the neighbor with the letter of support would be the least affected.

Mr. Tipton stated that the side yard setback is more of a concern due to the impact on the neighbors but he also notes that the most affected property already has a large structure 2 feet from the shared property line.

MOTION: Mr. Mail moved in Case BZ18-014, Kim Williams/James Uber, property located at 575 South Francis Street, that the Board of Zoning Appeals approve the variance to allow a 2-foot variance from the 5-foot minimum side yard setback requirement to allow a

new detached accessory structure to be constructed 3 feet from the north side property line as defined in Section 1161.14(b) in the City of Kent Zoning Code.

Mr. Burton seconded the motion.

VOTE: The motion passed 3-2.

MOTION: Mr. Sellman moved in Case BZ18-014, Kim Williams/James Uber, property located at 575 South Francis Street, that the Board of Zoning Appeals approve the variance to allow a 5-foot variance from the 10-foot minimum setback from the main structure requirement to allow a new detached accessory structure to be constructed 5 feet from the main structure as defined in Section 1161.14(b) in the City of Kent Zoning Code.

Mr. Mail seconded the motion.

VOTE: The motion passed 5 – 0.

VII. MEETING MINUTES

A. September 17, 2018 meeting minutes

MOTION: Mr. Sellman moved to approve the minutes of September 17, 2018, as submitted.

The motion was seconded by Mr. Mail.

VOTE: The motion carried 5 – 0.

VIII. OTHER BUSINESS

IX. ADJOURNMENT

Mr. Tipton moved to adjourn the meeting. Mr. Mail seconded the motion. The motion carried 5-0. The meeting adjourned at 7:55 p.m.