

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
August 19, 2019**

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

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

I. CALL TO ORDER

Mr. Burton called the meeting to order at 7:02 p.m.

II. PLEDGE

The pledge was recited.

III. ROLL CALL

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

**A. BZ18-015 ANDRA FRESCURA
 126 S. PEARL ST.**

Section: 1133.04(a)

Request: The applicant is requesting an 11-foot variance from the 35-foot minimum front yard setback to allow a building addition to be 24 feet from the front property line along the alley.

Andra Frescura, 126 S. Pearl St., stated that her revised plan is to enlarge 3 rooms.

Mr. Tipton stated that he feels that this is a much more reasonable request.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Burton reviewed the original plan versus the present plan. Mr. Burton stated that the scale of the project is much more in line with the lot size.

Ms. Frescura stated that the new plan keeps the home a single family structure.

Mr. Sellman stated that he is pleased that it will be staying a single family home and the variances are minor. He added that the lot is unusual in that it has two front yards and if the alley was not present, they would not need a variance. He stated he feels that because it is an alley and not a standard street, the variance will have less of an impact.

Mr. Mail agreed it would be a negligible impact.

[Mr. Sahr arrived]

Mr. Sellman noted that they will also be removing the shed and feels that this is a very reasonable request.

MOTION: In Case BZ18-015, Andra Frescura, 126 S. Pearl St., Mr. Sellman moved that the Board of Zoning Appeals approve the request for an 11 foot variance to allow a building addition to be 24 feet from the front property line along the alley where a minimum of 35 feet is required, as defined in Section 1133.04(a) in the City of Kent Zoning.

Mr. Mail seconded the motion.

VOTE: The motion carried 5-0.

VII. NEW BUSINESS

**A. BZ19-016 MAC LTT, LLC
1400 FAIRCHILD AVE.**

Sections: 1161.21(a) and 1167.09(a)

Requests: The applicant is requesting the following:

- 1) A variance from Section 1161.21(a) to allow a 6-foot fence within the front yard area, where a maximum of 4 feet is permitted,
- 2) A variance from Section 1161.21(a) to allow an 8-foot fence along the residential property boundaries where 6-foot maximum is permitted, and
- 3) A variance from Section 1167.09(a) to allow a gravel surface for the parking area, where hard-surface is required.

Neil Luketic, Project Architect, 3119 Liberty Ledges Dr., Twinsburg, reviewed the project. He stated that there are three parcels that will be combined for this project; the former church parcel, a former residential parcel, which is zoned Industrial, and the MAC parcel. He explained that the two residential structures have already been razed and the vacant church will remain. Mr. Luketic stated that the proposed parking lot will have 100 spaces, 16 interior trees, both 6 and 8 foot perimeter fences, 3 foot earthen mound for screening/buffering of Fairchild and Silver Meadows.

Mr. Sahr asked if there would be concrete curbing between the gravel and the grass and also why they would like gravel.

Mr. Luketic stated that the gravel will go up to the grass without curbing. He explained that they want gravel because it is better for drainage and has less maintenance in the long term. He stated that they are also providing a landscaping strip with interior trees. He stated that the owner just had the entire building painted this week and has plans for new future siding and roofing on the

vacant church. He stated that the proposed parking is to consolidate the employee parking area; the work shifts will not change.

Mr. Sahr asked why a 6 foot fence is needed on the interior between the parking lot and the structure.

Mr. Luketic stated that it is for security.

Mr. Tipton asked for a justification for 6 foot fence as opposed to the allowed 4 foot.

Mr. Luketic stated that they want to match the existing and adjoining 6 foot fence. He stated that the arsenal area is in disrepair so they want to clean up the edge and the building. He explained that there is existing barbed wire that the owner would like to keep to maintain the same security.

Mr. Mail asked if they are proposing barbed wire on top of the 8 foot fence.

Mr. Luketic responded yes.

Mr. Fink clarified that they would need a variance for a 10 foot fence since it is the total height of the fence including any additions on the top.

Mr. Mail asked if there will be barbed wire at the top of the west side of the fence around the parking lot.

Mr. Luketic responded no; only in the current location.

Mr. Sahr asked about paving the apron to the gravel parking area.

Mr. Luketic said that they would be open to that.

Ms. Heckman stated that the apron has to be hard surfaced any way.

Mr. Burton asked the applicant to go over the three criteria for his project.

Mr. Luketic stated that the variance for the 6 foot fence along Fairchild is to match the existing chain link fence and for security as a 4 foot fence is not secure enough. He stated that the extraordinary circumstance and practical difficulty for the 8 foot fence variance is that it is an existing condition and will match the portion of the fence that is not being changed; it would match the current level of security. He stated that the practical difficulty of not having a gravel parking area would be the additional runoff that would be created. He explained that the extraordinary circumstance for relief from the hard surfacing because they have added the landscaping, trees, parking fencing, and cleaned up the vacant building.

Mr. Sahr asked if the runoff from this lot would go to a private retention basin.

Mr. Luketic stated that it does but their engineer will need to verify if the on-site retention pond is sized properly.

PUBLIC COMMENTS

Pat Oster, 1259 Windward, HOA President, reviewed the landscaping for their subdivision and stated that they would like MAC LTT site to match theirs. She stated that they would like privacy fencing instead of chain link. She stated that they are concerned with the dust of the gravel as well as gravel onto sidewalks and the street. She asked if it was possible that the parking area would become an unsightly storage area. She also was is the upkeep plan for the fencing and property as a whole.

There was discussion about the pros and cons of privacy fence versus chain link fence among the Board; privacy fence will help aesthetically, but could cause line of site issues or security issues.

Mr. Fink stated that the map calls for the fence to be about 41 feet from the road so the traffic engineer should not have a problem with site lines. However, unless the fence materials will be detrimental to the community or satisfies one of the other criteria for granting a variance, the Planning Commission will review with site plan.

Scott Orlando, 1300 Sunset Way Blvd, which is directly across the street. He stated that he is concerned with safety issues. He stated that he would prefer to see open chain link fencing. He is also concerned about gravel coming onto the street and sidewalk and the dust that would be generated from the gravel. He added that he has concerns about light and noise pollution and would like to see more landscaping/buffering outside of the fence.

Jim Oster, 1259 Windward, asked if the lot will be used for anything other than a parking lot for cars.

Mr. Fink stated that if they wanted to change the use of the parking lot to a storage area, they would need to back to the Planning Commission for a new site plan approval.

Jim Alekna, 1264 Windward, stated that they would like more landscaping outside of the fence. He is also concerned with an increase in noise.

Diane Bennett, 1235 Shady Lake, stated that she has the same concerns as the residents before her. She stated that her main concern is the dust from the gravel. She stated that she feels that trees planted on the outside of the fence would help in minimizing the dust and would also be more aesthetically pleasing.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Tipton asked staff for clarification on where the front yard setback begins.

Mr. Sahr stated that the front yard variance is for two very small sections of fence. He explained that the majority of the fence is allowed to be 6 foot and it doesn't make sense to leave these small sections at 4 foot. He stated that he is more concerned with the taller fence with the razor wire and the gravel variances.

Mr. Mail stated that the taller fence is in the back and the razor wire is probably needed to secure the area.

Mr. Sahr stated that he understands their need for a taller fence and his concern was about size. He asked for clarification of the size of fence being requested for the back storage area.

Mr. Luketic stated that they would like a 10' fence from the ground to the top of the razor wire.

Mr. Sahr stated that he doesn't see how changing the height of one portion of the storage fencing to 10 feet and leaving the rest at 8 feet will make a difference

The rest of the Board agreed and didn't feel that there is a hardship for a 10' fence.

Mr. Sahr stated that from an engineering standpoint is still not considered a fully permeable surface and after it is compacted it doesn't drain very well. Mr. Sahr added that you can't control the water flow in a gravel lot as well as a paved lot.

Mr. Burton stated that a hard surface lot is easier to remove snow from. He also has concerns about not being able to put parking lines on a gravel lot as well as employee safety.

Mr. Tipton appreciates the statements from the applicant regarding their request for a gravel lot, however he feels that a strict application of the code would be best.

MOTION: In Case BZ19-016, MAC LTT, LLC, 1400 Fairchild Ave., Mr. Burton moved that the Board of Zoning Appeals grant the variance request from Section 1161.21(a) to allow a 6 foot fence within the front yard area where a maximum of 4 feet is permitted.

Mr. Mail seconded the motion.

VOTE: The motion carried 5-0.

MOTION: In Case BZ19-016, MAC LTT, LLC, 1400 Fairchild Ave., Mr. Mail moved that the Board of Zoning Appeals grant the variance request from Section 1161.21(a) to allow a fence along the residential property boundaries not to exceed a total height of 8 feet where a maximum of 6 feet is permitted.

Mr. Sellman seconded the motion.

VOTE: The motion carried 5-0.

MOTION: In Case BZ19-016, MAC LTT, LLC, 1400 Fairchild Ave., Mr. Sahr moved that the Board of Zoning Appeals deny the variance request from Section 1167.09(a) to allow to allow a gravel surface for the parking area, where hard-surface is required.

Mr. Tipton seconded the motion.

VOTE: The motion carried 5-0.

VIII. MEETING MINUTES

A. June 17, 2019 meeting minutes

MOTION: Mr. Sellman moved to approve the minutes of June 17, 2019, as submitted.

The motion was seconded by Mr. Burton.

VOTE: The motion carried 4-0. Mr. Tipton abstained.

IX. OTHER BUSINESS

None

X. ADJOURNMENT

MOTION: Mr. Burton moved to adjourn.

The motion was seconded by Mr. Sahr.

VOTE: The motion carried 5-0.