

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
March 18, 2019**

MEMBERS PRESENT: Benjamin Tipton
Dave Mail
Tim Sahr
Jona Burton

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 7:03 p.m.

II. PLEDGE

The pledge was recited.

III. ROLL CALL

Tim Sahr, Jona Burton, Dave Mail, and Benjamin Tipton were present.

VI. 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."

VII. 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".

VIII. NEW BUSINESS

A. BZ19-006 ACE OF KENT, LLC
176 CHERRY STREET

Section: 1165.05(c)(2)(C)

Request: The applicant is requesting a variance from Section 1165.05(c)(2)(C) to allow a total of 1767.70 square feet of signage, where a maximum of 100 square feet for the property is permitted.

Art Metzger, 8666 Easton St NE, Louisville, OH 44641, stated that they are opening an Ace Hardware Store in the University Plaza and they would like to have a large sign so that they are visible from the street. He explained that the drawing of the sign provided to the Board is the sign from their Akron store, which is the same as what they would like to install in Kent.

Mr. Mail asked about the size and location of the proposed sign.

Ms. Heckman explained that they are making changes to the existing façade so that it will resemble the drawing.

Mr. Tipton asked if there would still be a sign on the large plaza sign near the road.

Mr. Metzger stated that they will be taking the Overstock Oasis sign location.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Sahr asked if the façade renovations has been approved.

Ms. Heckman stated that it is being reviewed by the Building Department.

Mr. Tipton stated that the applicant's letter was well written and presents the hardships well.

Mr. Burton agreed that the information was very helpful especially the comparative size chart of all of the sign in the plaza.

Mr. Tipton added that he agrees with the hardship stated that it is in a back corner of a shopping facility that is quite a distance from the main traffic.

Mr. Mail stated that he agrees that they are a long way from the road. Ace Hardware would not be the only large sign in the plaza and they are surrounded by other businesses.

Mr. Sahr agreed.

Mr. Tipton stated that he doesn't feel that lighting isn't an issue here.

MOTION: In Case BZ19-006, Ace of Kent, LLC 176 Cherry St., Mr. Mail moved that the Board of Zoning Appeals grant the 149.66 square foot variance as presented to allow a total of 1767.70 square feet of signage, where a maximum of 100 square feet for the property is permitted, as defined in Section 1165.05(c)(2)(c) in the City of Kent Zoning.

Mr. Sahr seconded the motion.

VOTE: The motion carried 4-0.

Mr. Fink added that based on previous variances, 1,618.04 square feet of signage had already been approved by the Board of Zoning Appeals, which is only an increase of 149.66 square feet of signage for this property with this variance.

**B. BZ19-007 FAST SIGNS / CA VENTURES
1456 SUMMIT STREET**

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

Requests: The applicant is requesting the following:

- 1) A variance from Section 1165.05(b)(2)(a) to allow a total of three signs on the property where a maximum of two signs are permitted, and
- 2) A variance from Section 1165.05(b)(2)(c) to allow a total of 132.78 square feet of signage, where a maximum of 50 square feet for the property is permitted.

Robert Barton, 130 E Randolph, Chicago, IL is representing CA Ventures for the 133 square foot signage variance. He stated that this is a student housing development, which shares the property with the Presbyterian Church. The church sign uses most of the allowable 50 square feet and they would like their own sign.

Mr. Tipton stated that currently there isn't a church sign there so he is having a difficult time comparing the sizes.

Mr. Barton stated that they removed the sign during construction, but will reinstall it when the project is complete.

Mr. Sahr asked for explanation of the second variance.

Mr. Barton stated that they would also like a sign on the building.

Mr. Tipton asked what other sign sizes they are comparing to.

Mr. Barton did not know.

Mr. Burton stated that given the proposed location of the building sign, he doesn't feel that it will be visible and will not be helpful in catching the street traffic. He asked what the rationale is for wanting the building sign.

Mr. Barton responded that it will be able to be seen from farther away.

Mr. Mail stated that he agrees with Mr. Burton.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Sahr stated that there isn't any signage on the university buildings surrounding this project and feels that a building sign on this project may be out of character with the area. Mr. Sahr added that every other building has some sort of monument sign for that corridor.

Mr. Tipton stated that he observed the same. He feels that the building sign is more for marketing purposes and not directional. He also feels that it would add some detriment to the local area and does not have any consistency. He agrees with the monument signs.

Mr. Mail agreed that the monument sign is needed and stated that the building sign isn't terribly useful.

Mr. Tipton stated that the strict application would require the church and applicant to share the allowed square footage and he feels that this would be a hardship for both.

The Board discussed what the square footage variance would be if they only allowed the monument sign. The existing church sign is 46.6 square feet and the

proposed free standing sign is 27.5; a 24.1 square foot variance would be needed to allow a 74.1 square foot signage total.

Mr. Burton agreed that the free standing sign is necessary for marking what the building is. However, he doesn't feel that the building sign is necessary and only approving one variance holds them to a more strict application of the zoning code. He asked the applicant if he is agreeable with the Boards comments in only approving the monument sign.

Mr. Barton stated that yes, they would be open to that.

Mr. Mail asked what the sign above the door says.

Mr. Barton stated that that it says 'The Latitude' and the address.

Ms. Heckman and Ms. Susel explained that the sign above the door can have the address and 'parking' but if it says 'The Latitude' it will need to be counted into the sign square footage.

Mr. Barton confirmed that it will just say 'parking'.

MOTION: In Case BZ19-007, Fast Signs/CA Ventures, 1456 Summit Street, Mr. Mail moved that the Board of Zoning Appeals remove the variance request from Section 1165.05(b)(2)(a) to allow a total of three signs on the property where a maximum of two signs are permitted.

Mr. Fink explained that the Board of Zoning Appeals can only grant or deny a request, or create its own motion, but you can't request them to do something. He stated that you can let it die for lack of a motion or deny the motion.

Mr. Mail withdrew his motion.

Mr. Burton stated that the first motion for a variance from Section 1165.05(b)(2)(a) to allow a total of three signs on the property where a maximum of two signs are permitted has died due to a lack of a motion.

MOTION: In Case BZ19-007, Fast Signs/CA Ventures, 1456 Summit Street, Mr. Tipton moved that the Board of Zoning Appeals approve a 24.1 square foot variance to allow a total of 74.1 square feet of signage, where a maximum of 50 square feet for the property is permitted as defined in Section 1165.05(b)(2)(c) in the City of Kent Zoning Code.

Mr. Mail seconded the motion.

VOTE: The motion carried 4-0.

C. BZ19-008 ALPHA XI DELTA / JONATHAN FLEMING ARCHITECT
571 SOUTH LINCOLN STREET

Section: 1125.04

Request: The applicant is requesting a variance from Section 1125.04 to allow 30 beds in a Congregate Living Quarter where a maximum of four beds are permitted.

Charles Frederick, landscape architect for the project, 532 Pioneer Ave, Kent, Ohio presented the case overview. Mr. Frederick stated their plan is to add two wings off the existing structure, which will have single bedrooms with private bathrooms, as well as communal spaces for meetings, eating, etc. He explained that the variance is necessary due to the nature of the client and also for safety. The wings share a common hallway to limit the number of egress points to control safety. The current structure currently has 14 beds and the addition will add 16 more beds, one of which will be for a house manager and another will be ADA compliant. The house manager room has a private egress and is located directly above the ADA bedroom, which is of course located on the first floor.

Mr. Mail asked if they will be adding a second floor to the existing structure.

Mr. Frederick stated that some of the bedrooms in the existing house will be reorganized, but they will not be adding another story to the existing structure.

Mr. Burton asked staff for clarification of the variance.

Mr. Fink stated that normally this would be considered a rooming house and not be permitted, but it is located in a Residential Redevelopment Overlay District and allows them to have congregate living quarters. Section 1125 does limit them to 4 apartments per dwelling unit and because they are trying to have a communal atmosphere, they are seeking the variance for 30 bedrooms within 1 dwelling unit.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Tipton stated that he was surprised at the small size of the existing property and feels that the variance is well justified in the letter. He stated that the congregate living is different because it is a different purpose and use for the sorority and it is located in the Residential Redevelopment Overlay District.

Mr. Sahr asked if there is any chance of this becoming a hotel down the road. He is wondering about other possible future uses.

Ms. Susel stated that the underlying zoning district is an R-3: High Density Residential and a hotel is not a permitted use. Any new use would need to meet the conditions or it would revert back to the R-3 District.

Mr. Tipton asked if it could be used as a 'super rooming house'.

Mr. Fink stated that it would be allowed to because it is in the RROD.

Ms. Susel added that the use would have to stay the same and due to the configuration of the house it would have to be a communal living model.

Mr. Mail asked about signage.

Ms. Heckman stated that they will reinstall the existing Greek letters on the new building. No other signs are allowed.

MOTION: In Case BZ19-008, Alpha Xi Delta / Jonathan Fleming Architect, 571 South Lincoln Street, Mr. Mail moved that the Board of Zoning Appeals grant the variance to allow 30 beds in a congregate living quarter, where a maximum of 4 beds are permitted, as defined in Section 1125.04 in the City of Kent Zoning.

Mr. Burton seconded the motion.

VOTE: The motion carried 4-0.

VII. **MEETING MINUTES**

A. February 18, 2019 meeting minutes

MOTION: Mr. Mail moved to approve the minutes of February 18, 2019, as submitted.

The motion was seconded by Mr. Burton.

VOTE: The motion carried 4-0.

VIII. **OTHER BUSINESS**

Mr. Fink updated the Board on the Dunkin Donuts/Bishara lawsuit. He stated that the lawsuit is progressing and that there will be a meeting with the magistrate in a couple weeks. The issue will be on the agenda at this point in time to discuss. He said that they have had some questions about how we properly interpret some of the language that is in the zoning code. The applicant has some possibilities to resolve this matter as they have a new potential business for the property that is less intense. Mr. Fink asked the Board what their feelings are for a hypothetically less intense business such as a bank, investment company, dentist office, etc. next to residential properties.

Mr. Mail stated that there were two issues: the congestion in the area, and the ingress/egress configuration for the houses behind the property. Mr. Mail added that a business without a drive thru, such as a law office, totally changes the scenario.

Mr. Sahr stated that the majority of neighbors that spoke against the project were concerned about the possible increased traffic. If the new proposed business has lower traffic impact, he may look at it differently. The other concerns of trash and the drive access would also need to be considered.

Mr. Tipton stated that he heard the neighbor's concerns for noise, lights, and traffic. He feels that he would possibly reconsider if these items were not issues.

Mr. Burton stated that more of a professional business would have a lower traffic volume as well as less trash, sound, light and critical access of the homeowners. Traffic is a concern.

IX. ADJOURNMENT

Mr. Mail made a motion to adjourn the meeting. Mr. Tipton seconded the motion. The motion carried 4-0. The meeting adjourned at 8:12 p.m.