CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
October 21, 2019

MEMBERS PRESENT: Tim Sahr
Dave Mail
Jona Burton
Paul Sellman

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 7:01 p.m.

II. PLEDGE

The pledge was recited.

III. ROLL CALL

Jona Burton, Dave Mail, Tim Sahr, and Paul Sellman were present. Benjamin Tipton was absent.

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. NEW BUSINESS

A. BZ19-018 AMERICAN QUALITY RENOVATIONS 703 WEST MAIN STREET

Section: 1161.14(a)

Request: The applicant is requesting a 3-foot variance from the 10 foot rear yard setback requirement to allow a detached garage addition to be constructed 7 feet from the rear property line (Section 1161.14(a)).

Greg Miller, 451 Liberty St, Ravenna, American Quality Renovations, presented the variance request. Mr. Miller stated that Mr. Boyle, property owner, would like to create a space where he can store his vintage car indoors and still have room to park two other vehicles in the existing garage. Mr. Miller added that there is a privacy fence located between the neighbor's house and the garage and the garage addition would be 7 feet from that fence.

Mr. Sellman confirmed with the applicant that it would be enclosed, like the garage.

Mr. Miller stated that the owner wants the addition to look like the existing garage.

Mr. Mail asked about the roof.

Mr. Miller stated that the addition will have a lean-to roof tied into the existing hip roof.

Mr. Sellman asked how high the north wall will be.

Mr. Miller stated that it will be about 8 feet high.

Mr. Mail asked about the asphalt parking pad.

Mr. Miller stated that they are going to remove the tree and add a driveway where the parking pad is.

Mr. Sahr asked if the lean-to will extend the entire length of the garage.

Mr. Miller responded yes.

Mr. Burton asked if they could use part of the existing 2 ½ car garage as part of the lean-to and reduce the variance request.

Mr. Miller stated that that area is used for storage and a work area.

Mr. Burton reviewed the 3 criteria that are considered when granting variances with the applicant.

Mr. Miller stated that the practical difficulty/unnecessary hardship is that they just don't have room to park 2 cars in the existing garage and it would be cost prohibitive to construct the addition another way. Mr. Miller stated that they have tried other options to construct the addition but all would require a variance. Mr. Miller added that the owner wants the addition to look like it belongs.

Mr. Sahr asked if they could construct the addition on the south side of the building.

Mr. Miller stated that there underground utilities as well as a patio.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail stated that there isn't a real detriment to neighborhood as the addition will blend in with the existing building and there will still be room between the structure and the property line. He feels that it would look out of place it the addition were in the front yard.

Mr. Sellman stated that it is a narrow, deep lot, which makes it difficult.

Mr. Burton stated that on one hand the request is not substantial however, he feels that the existing garage footprint is pretty big and wondered that if the garage was complete reconstructed, would they be able to reconfigure it and not need a variance.

Mr. Mail stated that he feels that the variance seems reasonable to him.

Mr. Burton stated that he appreciates that it is a house with two frontages and the challenges that brings and he doesn't have any significant oppositions to the variance.

Mr. Sellman noted that none of the neighbors have expressed opposition.

MOTION: **In Case BZ19-018, American Quality Renovations, 703 W. Main St., Mr. Mail moved that the Board of Zoning Appeals grant the 3 foot variance request from Section 1161.14(a) to allow a detached garage addition to be constructed 7 feet from the rear property line where a minimum of 10 feet is required.**

Mr. Sellman seconded the motion.

VOTE: **The motion carried 4-0.**

VII. MEETING MINUTES

A. September 16, 2019 meeting minutes

***MOTION*:** **Mr. Mail moved to approve the minutes of September 16, 2019, as submitted.**

The motion was seconded by Mr. Sahr.

***VOTE*:** **The motion carried 4-0.**

VIII. OTHER BUSINESS

Mr. Fink stated that the Courts have overruled the decision of the Board of Zoning Appeals and are allowing the property owner to proceed to the Planning Commission with the Dunkin Donuts project for review. The Courts interpretation of 'adjacent' differs from that of the City of Kent's.

Mr. Burton asked if a traffic study would be required.

Ms. Susel stated that this is a conditionally permitted use, therefore they have to meet certain conditions; the Commission can request further information if they deem it necessary. Ms. Susel added that they will be adding further clarification to definitions and how they are applied as they make changes to the zoning code.

IX. ADJOURNMENT

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

The motion was seconded by Mr. Mail.

***VOTE*:** **The motion carried 4-0.**

The meeting adjourned at 7:30.