

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
November 18, 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 7:00 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. NEW BUSINESS

**A. BZ19-019 DS ARCHITECTS / COMMUNITY BUILDING STRATEGIES
 425 CHERRY STREET**

Section: 1161.14(a)

Request: The applicant is requesting the following:

1. A 21 square foot variance to allow a 25 square foot sign on the east building wall, where 4 square feet in the maximum allowed (Section 1165.05(a)(1)).
2. A variance to allow the sign to be externally illuminated, where no illumination is permitted (Section 1165.05(a)(1)).

Amanda Carter, DS Architecture, 315 Gougler Ave., Suite 102, presented the variance request. Ms. Carter stated that a 4 square feet sign is too small for this property. She explained that the business is unique in that it is a non-conforming use in a residential district; schools in this district are allowed a larger sign. She stated that because of its unique status, they also feel that lighting the sign to make it more visible is necessary. She stated that by putting the sign and light on the side of the building they can avoid any light trespass onto neighboring properties.

Mr. Sahr asked what the seated occupancy number is for the restaurant.

Kirk Noden, 425 Cherry St., stated that it is approximately 65-70.

Mr. Mail asked what kind of lighting they intend to use.

Ms. Carter stated that they would use a couple of building mounted lights, which would be pointed at the sign and mural on the building.

Mr. Sahr asked if the lights would be on all night.

Mr. Noden stated that there are existing security lights in the parking lot as well as the front and side doors that are always on but they will probably turn the sign light off when the business is closed.

Mr. Fink explained that the sign will be on a board so that it is distinct from the mural.

Mr. Burton asked what the business hours will be.

Mr. Noden stated that their current plan is that they will be open from 4p.m. to midnight.

Mr. Mail asked if they plan to have a sign on the front building.

Mr. Noden responded that currently they do not; only on the side.

Mr. Sellman feels that this sign is less intrusive and more conducive to the neighborhood.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Tipton stated that the application has addressed all of the criteria needed and feels that it is very tasteful. He stated that he is in favor.

Mr. Sellman stated that he agrees with Mr. Tipton and feels that it is reasonable.

Mr. Mail stated that he is comfortable with it as long as the lighting shines directly on the building. Mr. Mail added that he likes the mural. He stated that he feels that they clearly presented their case.

Mr. Burton stated that he likes the mural as well and feels that the size of the mural offsets the type of signage variance requested.

MOTION: In Case BZ19-019, DS Architects/Community Building Strategies, 425 Cherry St., Mr. Mail moved that the Board of Zoning Appeals grant the 21 square foot variance request from Section 1165.05(a)(1) to allow a 25 square foot sign on the east building wall where a maximum of 4 square feet is required.

Mr. Sellman seconded the motion.

VOTE: The motion carried 5-0.

MOTION: In Case BZ19-019, DS Architects/Community Building Strategies, 425 Cherry St., Mr. Mail moved that the Board of Zoning Appeals grant the request from Section 1165.05(a)(1) to allow the sign to be externally illuminated where no illumination is permitted.

Mr. Sellman seconded the motion.

VOTE: The motion carried 5-0.

VII. MEETING MINUTES

A. October 21, 2019 meeting minutes

MOTION: Mr. Mail moved to approve the minutes of October 21, 2019, as submitted.

The motion was seconded by Mr. Sahr.

VOTE: The motion carried 4-0-1. Mr. Tipton abstained.

VIII. OTHER BUSINESS

None

IX. ADJOURNMENT

MOTION: Mr. Mail moved to adjourn.

The motion was seconded by Mr. Burton.

VOTE: The motion carried 5-0.

The meeting adjourned at 7:25.