

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
May 18, 2020**

MEMBERS PRESENT: Tim Sahr
Dave Mail
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. Mail called the meeting to order at 7:01 p.m.

II. PLEDGE

The pledge was recited.

III. ROLL CALL

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

MOTION: Mr. Sellman moved to excuse Jona Burton from the 5/18/2020 Board of Zoning Appeals meeting. Mr. Mail seconded the motion.

VOTE: The motion carried 4-0.

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. Fink 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 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

The attorney for the property owners scheduled to be heard tonight, has objected to the appeal hearing being held virtually and has requested the matter be reset to a more traditional face-to-face meeting. In order to accommodate this request, the following cases for May 18, 2020 will be continued. The new hearing date will be determined at a later date based upon guidance from the State of Ohio Director of Health and the City of Kent Health Commissioner.

- BZ20-05: A&H Investment Holding, LLC, 318 East Summit Street
- BZ20-06: A&H Investment Joint Venture, 506 East Summit Street
- BZ20-07: A&H Investment Joint Venture 545-547 South Lincoln Street
- BZ20-08: A&H Investment Joint Venture 535-537 South Lincoln Street
- BZ20-09: Hauch Housing, 532 South Lincoln Street

MOTION: Mr. Mail moved to continue cases BZ20-005, BZ20-006, BZ20-007, BZ20-008, and BZ20-009 until the first available face-to-face meeting. Mr. Sellman seconded the motion.

VOTE: The motion carried 4-0

VII. NEW BUSINESS

**A. BZ20-013 DEANNA & CHRISTOPHER COOLEY
1257 OVERBROOK DRIVE**

Section: 1131.04(b)

Request: The applicant is requesting a 17-foot variance from the 45-foot minimum rear yard setback requirement to allow an addition to be constructed 28 feet from the rear property.

DeAnna Cooley presented the variance request for the proposed addition. Ms. Cooley explained that they would like to construct an addition on the existing house and construct a new deck.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Sellman stated that because it is an open field owned by the City behind this property it will not negatively affect a neighboring property. Mr. Sellman stated that he doesn't feel that this is more esthetically intrusive than the existing deck is currently.

Mr. Mail asked if the new addition is going to be the same elevation as the current deck.

Ms. Cooley stated that it will be two levels.

Mr. Tipton questioned if the existing deck was part of the original construction of the house.

Ms. Cooley stated that the deck was there when they purchased the house until about a month ago when they removed it.

Mr. Tipton noted the staff report recommended that the multiple parcels should be consolidated.

Mr. Mail stated that he doesn't feel that the addition would be obtrusive to anyone because it is next to city owned property.

MOTION: In Case BZ20-013, DeAnna & Christopher Cooley, 1257 Overbrook Drive, Mr. Sellman moved that the Board of Zoning Appeals grant a 17 foot variance request from Section 1131.04(b) to allow an addition to be constructed 28 feet from the rear property line where a minimum of 45 feet is required with the condition that the parcels are consolidated.

Mr. Sahr seconded the motion.

VOTE: The motion carried 4-0 by roll call vote.

**B. BZ20-014 RICK McKEE
414 BOWMAN DRIVE**

Section: 1131.04(c)

Request: The applicant is requesting a 3.67-foot variance from the 10-foot minimum side yard setback requirement to allow an addition to be constructed 6.33 feet from the side property line.

Rick McKee stated that he would like to construct a small shed on the side of his garage to store his motorcycle. Mr. McKee stated that all of the neighborhood lots are narrow side yards and a variance is needed to construct his 5' x 12' shed.

Mr. Tipton questions what size door will be installed on the front of the shed.

Mr. McKee stated that he believes that it will be as wide as possible to allow for easy access.

Mr. Sellman stated that it is a minimal variance, which is required to meet a need. He stated that the lots in this neighborhood are narrow. He added that Mr. McKee has been considerate of the neighborhood with the esthetics of the construction.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Tipton stated that the structure is as small as possible and the applicant addressed other possible concerns. Mr. Tipton stated that he is supportive of the small variance request with respect to the narrow lots.

Mr. Mail stated that he agrees.

MOTION: In Case BZ20-014, Rick McKee, 414 Bowman Drive, Mr. Tipton moved that the Board of Zoning Appeals grant a 3.67 foot variance request from Section 1131.04(c) to allow an addition to be constructed 6.33 feet from the side property line where a minimum of 10 feet is required.

Mr. Sahr seconded the motion.

VOTE: The motion carried 4-0 by roll call vote.

VIII. MEETING MINUTES

A. March 16, 2020 meeting minutes

MOTION: Mr. Tipton moved to approve the Board of Zoning Appeals minutes of March 16, 2020, as submitted.

The motion was seconded by Mr. Sahr.

VOTE: The motion carried 3-0-1.

IX. OTHER BUSINESS

X. ADJOURNMENT

MOTION: Mr. Sellman moved to adjourn.

The motion was seconded by Mr. Sahr.

VOTE: The motion carried 4-0.

The meeting adjourned at 7:35 pm.