

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
June 15, 2020**

MEMBERS PRESENT: Jona Burton
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. Burton called the meeting to order at 7:03 p.m.

II. PLEDGE

The pledge was suspended for tonight's remote meeting.

III. ROLL CALL

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

VI. NEW BUSINESS

**A. BZ20-015 BRYANT LAVIGNA
 620 CRAIN AVENUE**

Section: 1161.14(b)

Requests: The applicant is requesting the following:

- 1) A 3-foot variance from the 5-foot minimum rear yard setback requirement to allow an accessory building to be constructed 2 feet from the rear property line (Section 1161.14(b)), and
- 2) An 8-foot variance from the 10-foot minimum distance from the main structure to allow an accessory structure to be constructed 2 feet from the main structure (Section 1161.14(b)).

Bryant Lavigna, 620 Crain Avenue, explained that his lot is less than 6,000 s.f. and he is limited on both size of lot and locations for a storage shed. (Mr. Lavigna's signal was lost.)

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail stated that he visited the site and understands the applicant's request. He stated that the variances would provide a reasonable use of his space given the small size of the lot.

Mr. Sellman stated that he also feels that the variances are reasonable given the small size of the lot as long as none of the neighbor's object.

Mr. Mail questioned if the neighbors have voiced any concerns.

Ms. Heckman stated that she has not heard from any of the property owners. She stated that the two most direct neighboring properties are rentals.

(Mr. Lavigna rejoined the meeting.) Mr. Lavigna stated that he talked with the neighbors who are property owners and not tenants and neither neighbor had an issue with his 8' x 8' storage shed. He stated that the proposed location is the only place he can install the shed.

Mr. Mail questioned if the shed would have a foundation.

Mr. Lavigna stated that it would not.

Mr. Tipton questioned the use of the driveway without the garage and the parking configuration.

Mr. Lavigna stated that two cars can fit in the driveway without being on the sidewalk and the shed will not interfere with this.

Mr. Mail reiterated that he feels that the shed will not be able to meet the required setbacks because of the odd shape of the substandard lot. He stated that this request is reasonable.

Mr. Sellman stated that because of the small lot, the proposed location is probably the best location for the shed. He stated that the requests are reasonable given the lot size.

Mr. Tipton stated that the only setback variance requests that gives him pause is the distance to the house as it was probably put into place for safety reasons.

Mr. Sahr stated that after viewing the lot, it is obvious that the limitations are severe and he doesn't feel that the request is unreasonable.

Mr. Burton stated that he generally agrees with all of the comments that have been made.

MOTION: In Case BZ20-015, Bryant Lavigna, 620 Crain Avenue, Mr. Mail moved that the Board of Zoning Appeals grant a 3 foot variance request from Section 1161.14(b) to allow an accessory building to be constructed 2 feet from the rear property line where a minimum of 5 feet is required.

Mr. Sahr seconded the motion.

VOTE: The motion carried 5-0.

MOTION: In Case BZ20-015, Bryant Lavigna, 620 Crain Avenue, Mr. Sellman moved that the Board of Zoning Appeals grant an 8 foot variance request from Section 1161.14(b) to allow an accessory building to be constructed 2 feet from the main structure where a minimum of 10 feet is required.

Mr. Mail seconded the motion.

VOTE: The motion carried 5-0.

**B. BZ20-016 JEFF CLAPPER
473 MILLER AVENUE**

Section: 1161.14(b)

Requests: The applicant is requesting the following:

- 1) A 3-foot variance from the 5-foot minimum rear yard setback requirement to allow an accessory building to be constructed 2 feet from the rear property line (Section 1161.14(b)), and
- 2) A 3-foot variance from the 5-foot minimum side yard setback to allow an accessory building to be constructed 2 feet from the side property line (Section 1161.14(b)).

Jeff Clapper, 473 Miller Ave., stated that he is asking for the variances so that he can install a small shed and keep the structure as close to the property lines to maximize as much of the useable yard space as possible. He explained that he has a small substandard lot.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail stated that he visited the property and feels that it is a reasonable request. He stated that keeping the shed to one side of the property will open up the backyard for other uses. Mr. Mail stated that the proposed location of the shed is behind a large tree, which he feels would screen the structure from the street. Mr. Mail added that there are lots of sheds tucked back in corners in this area of Kent.

Mr. Sellman stated that he feels that it is a reasonable request and stated that the tree could hamper moving the shed away from the property line. Mr. Sellman questioned if the applicant had talked with any of the neighbors to see if they had any comments.

Mr. Clapper stated that he did talk to the neighbors and no one had any issues.

Mr. Sahr stated that he agrees with the other Members and feels that this is probably the most efficient use of the yard space.

Mr. Tipton stated that he feels that the requests are minimal given that the neighboring garage has a zero side yard setback; the requests fit with the neighborhood. Mr. Tipton noted that this property has more options than previous requests.

Mr. Burton stated that he agrees with Mr. Mail and Mr. Sellman. He feels that it makes sense to locate the shed as proposed given the existing structures and the planned future fencing. He stated that it will be less impactful to the neighbors as well as allow the most use of the property.

Mr. Clapper added that he will be adding fencing, which will block the view of the shed from the street.

MOTION: In Case BZ20-016, Jeff Clapper, 473 Miller Avenue, Mr. Mail moved that the Board of Zoning Appeals grant a 3 foot variance request from Section 1161.14(b) to allow an accessory building to be constructed 2 feet from the rear property line where a minimum of 5 feet is required.

Mr. Sahr seconded the motion.

VOTE: The motion carried 5-0.

MOTION: In Case BZ20-016, Jeff Clapper, 473 Miller Avenue, Mr. Mail moved that the Board of Zoning Appeals grant a 3 foot variance request from Section 1161.14(b) to allow an accessory building to be constructed 2 feet from the side property line where a minimum of 5 feet is required.

Mr. Sellman seconded the motion.

VOTE: The motion carried 5-0.

VIII. MEETING MINUTES

May 18, 2020 meeting minutes will be reviewed at the next meeting.

IX. OTHER BUSINESS

Mr. Tipton questioned the cases that have been suspended until in-person meetings resume. He stated that he will be uncomfortable with in-person meetings for quite some time.

Mr. Sellman agreed.

Ms. Susel stated that the City is following the Governor's orders and doesn't anticipate any changes for several months. She added that alternate locations are being considered.

Mr. Tipton suggested a mix of virtual and in-person attendance.

Mr. Fink stated that the current schedule is subject to change at any time.

Mr. Burton questioned if there was a limitation as to how long an applicant can be on hold for a meeting.

Mr. Fink stated that both parties must agree to have the meeting held remotely but it is unclear what the consequences are if they don't agree as there isn't any case law at this time.

X. ADJOURNMENT

MOTION: Mr. Mail moved to adjourn.

The motion was seconded by Mr. Burton.

VOTE: The motion carried 5-0.

The meeting adjourned at 7:41 pm.