

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
September 21, 2020**

MEMBERS PRESENT: Jona Burton
Dave Mail
Paul Sellman
Benjamin Tipton
Tim Sahr

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 7:02 p.m.

II. PLEDGE

The pledge was suspended for tonight's remote meeting.

III. ROLL CALL

Jona Burton, Dave Mail, Paul Sellman, Tim Sahr, 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."

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail stated that he is okay with the 6 foot request. He feels that it is unobtrusive as it would be located behind vegetation. He also stated that the fence would not impede sight lines.

Mr. Burton agreed.

Mr. Sellman stated that if it wasn't a corner lot, then a 6 foot fence would be allowed. He stated that he appreciates the need for 6 foot privacy rather than 4 foot.

Mr. Burton agreed with Mr. Sellman and the restrictions of a corner lot.

Mr. Sellman stated that the corner lot is the hardship. He stated that it will not substantially impact the neighborhood in a negative way. He added that having two neighbors show their support speaks well of the project.

Mr. Burton stated that he feels that dropping the fence down to 4 feet wouldn't be as visually pleasing.

Mr. Sahr stated that his only concern is how a future property owner may utilize this variance. He stated that the way the project is presented is tasteful and looks good but feels that they need to qualify the variance.

There was further discussion regarding how to qualify the variance. Submitted site plan will be attached to variance approval documentation so fence location cannot be altered in the future.

MOTION: In Case BZ20-022, Jacob & Kimberly Whitmore, 1634 South Lincoln Street, Mr. Mail moved that the Board of Zoning Appeals grant a request from Section 1161.21(a) to allow a 6 foot tall fence in the front yard along Beryl Drive as presented on the site plan.

Mr. Sahr seconded the motion.

VOTE: The motion carried 5-0.

**B. BZ20-023 DAVID & REBECCA BLACKWOOD
1034 Middlebury Road**

Section: 1161.21(a)

Request: The applicants are requesting a variance from Section 1161.21(a) to allow a 6-foot tall fence in the front yard along Munroe Falls – Kent Road.

David Blackwood, 1034 Middlebury Rd., stated that they have an unusual triangular corner lot. He stated that the proposed fence is 12 feet from the edge of the road and extends beyond the western side of the house and follows the property line. He

explained that they would like to provide a safe place for their son and dog to play. He added that they would like to construct a 6 foot wooden fence.

PUBLIC COMMENTS

Meghan Brown, 1038 Middlebury Rd., stated that she is in support of the request. She stated that she is directly next door.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail stated that it is an unusual lot and has a very large front yard. He stated that it will not be an obstruction.

Mr. Sellman stated that there will still be a great deal of yard that is not fenced. He stated that they have an odd shaped corner lot.

Mr. Sahr stated that he would like to see it approved based on the site plan submitted similar to the previous case. He feels that their request is perfectly reasonable.

There was further discussion regarding how to qualify the variance. Submitted site plan will be attached to variance approval documentation so fence location cannot be altered in the future.

Mr. Tipton stated that the hardship is obvious with the front yard situation and appreciates that the proposal sits back 12 feet from the road. He stated that he agrees with Mr. Sahr.

Mr. Burton agreed with all of the previous comments.

MOTION: In Case BZ20-023, David & Rebecca Blackwood, 1034 Middlebury Road, Mr. Sellman moved that the Board of Zoning Appeals grant a request from Section 1161.21(a) to allow a 6 foot tall fence in the front yard along Munroe Falls – Kent Road as presented on the site plan.

Mr. Mail seconded the motion.

VOTE: The motion carried 5-0.

**C. BZ20-024 JEREMY BAYNES / SUMMIT PROPERTY RESTORATIONS
731 Cuyahoga Street**

Section: 1161.14(a)

Request: The applicant is requesting the following:

- 1) A 5-foot variance from the 10-foot minimum side yard setback to allow a new detached accessory structure to be constructed 5 feet from the side property line, and
- 2) A 5-foot variance from the 10-foot minimum rear yard setback to allow a new detached accessory structure to be constructed 5 feet from the rear property line.

Jeremy Baynes, property owner, presented the application. He stated that an existing single car garage had to be removed due to poor condition and they would now like to construct a 2 car garage, which will be 25 feet wide and 35 feet deep. He explained that the lot is 60 feet wide and accommodating the 10 foot rear and side setbacks would put the garage in the middle of the back yard. The variance would allow for a much better looking arrangement while providing more garage space for the occupants as well as improve property values. He feels that this location is the best option for this property.

Mr. Tipton questioned the depth of the garage.

Mr. Baynes stated that this is to provide for storage room.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail stated that he doesn't feel that the depth of the garage is excessive. He stated that the neighborhood has many odd shaped lots with accessory structures at the back of those properties. He doesn't feel that this will present any problems and noted that they did not receive any concerns from the neighbors.

Mr. Sellman stated that the garage depth is an asset and may eliminate the future need of a shed; aesthetically better.

Mr. Tipton stated that he doesn't have an issue with the 5 foot side yard setback especially since this was the location of the previous structure but he does have some concerns regarding the rear setback. He stated that the rear variance would be a 50% variance and feels that there is a lot of yard and the proposed garage is a long way from the house.

Mr. Burton stated that his thoughts are in line with Mr. Tipton; okay with the side yard variance but feels that the rear setback could be met. He stated he appreciates moving it back a little to gain more usability of the back yard.

Mr. Sahr stated that he is onboard with the side yard variance given the prior structure and a fairly narrow lot. He stated that he can go either way on the rear yard setback but doesn't feel that granting a variance would have that much of a negative impact to abutting properties; not sold that it is the only solution.

Mr. Mail stated that granting a rear yard variance also provides more space for entering/exiting the proposed garage.

Mr. Sellman stated that he agrees that in some situations a 50% variance is a lot but feels that having that extra space would be beneficial.

Mr. Baynes explained that the sewer line exits the rear of the house and travels 18 feet to the north and turns left. He added that he didn't want to have the flare for the garage over the sewer line.

Mr. Burton stated that there are good points on both sides.

Mr. Tipton stated that he is concerned with the neighboring lots behind as they are small lots. He is looking for a more strict application of the code.

Mr. Sellman suggested a compromise of a 3 foot variance, which would allow the garage to be 7 feet from the rear property line. He noted that because the structure isn't parallel with the property line, part of the garage is already 8-10 feet from the property line.

Mr. Mail questioned the height of the garage.

Mr. Baynes stated that it is a standard single story garage.

Mr. Mail stated that having a 7 foot setback would be workable.

Mr. Baynes stated that he probably could make the 7 foot setback work and still stay away from the sewer line.

The Board members were in agreement that 7 feet is a good compromise.

MOTION: In Case BZ20-024, Jeremy Baynes / Summit Property Restorations, 731 Cuyahoga Street, Mr. Mail moved that the Board of Zoning Appeals grant a 5 foot variance from Section 1161.14(a) to allow an accessory structure to be constructed 5 feet from the side property line where a minimum of 10 feet is required.

Mr. Sahr seconded the motion.

VOTE: The motion carried 5-0.

MOTION: In Case BZ20-024, Jeremy Baynes / Summit Property Restorations, 731 Cuyahoga Street, Mr. Mail moved that the Board of Zoning Appeals grant a 3 foot variance from Section 1161.14(a) to allow an accessory structure 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 5-0.

VIII. **MEETING MINUTES**

A. August 17, 2020 meeting minutes

MOTION: Mr. Mail moved to approve the Board of Zoning Appeals minutes of August 17, 2020 as submitted.

The motion was seconded by Mr. Burton.

VOTE: The motion carried 5-0

IX. **OTHER BUSINESS**

None

X. **ADJOURNMENT**

MOTION: Mr. Burton moved to adjourn. The motion was seconded by Mr. Sellman.
The motion carried 5-0.

The meeting adjourned at 8:05 pm.