

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
April 19, 2021**

MEMBERS PRESENT: Jona Burton Paul Sellman
Dave Mail Deborah Douglas

STAFF PRESENT: Heather Heckman, Development Planner
Bridget Susel, Community Development Director
Eric Fink, Assistant Law Director

I. CALL TO ORDER

Mr. Sellman called the meeting to order at 7:00 p.m.

II. ROLL CALL

Jona Burton, Dave Mail, Paul Sellman, and Deborah Douglas were present.

III. 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. Sellman 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."

IV. 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.

V. NEW BUSINESS

**A. BZ21-006 JON BARBER
647 SOUTH DEPEYSTER STREET**

Requests: The applicant is requesting the following:

- 1) A 46-foot variance from the 60-foot minimum front yard setback for an accessory structure addition to be constructed 14 feet from the front property line (E. Hall St.) (Section 1161.14(a)); and
- 2) A variance from Section 1161.27(a) to allow a driveway to be 46 feet wide, where 24 feet is the maximum width permitted.

Jon Barber, owner, stated that the parcel is located on a sloped corner lot where his existing house and garage do not meet the 60 foot front yard requirement on either frontage. He would like to construct a 16' x 28' addition to his existing garage and needs a variance to be able to construct it where he needs it to be. He also stated that he is requesting a driveway width variance, which will allow him to get the antique fire truck that he will restore into the garage.

Mr. Sellman questioned the location of the proposed addition.

Mr. Barber clarified the location will be attached to the existing garage facing E. Hall St.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail stated that the proposed addition makes sense given its purpose and the current property layout. He stated that the addition will not present a huge problem. He stated that having two front yards is his hardship. He stated that the front yard that faces E. Hall St. is not very obvious and doesn't feel that this will be an onerous addition to the neighborhood. He noted that there were not any comments from the neighbors.

Mr. Burton stated that he agrees with Mr. Mail. He stated that he feels that it makes sense given that this is not for a commercial use and with the lot constraints. He stated that the neighbor's garage to the east would be between the proposed addition and the neighbor's house and the other neighbor is across the street.

Ms. Douglas questioned the number of garage bays.

Mr. Barber stated that it will be a 3 1/2 bay garage after the addition; it is currently 2 1/2 bays.

Ms. Douglas stated that she agrees with the others and feels that this is the best he can do given the lot and is the least intrusive to the neighbors.

Mr. Sellman stated that the exceptional circumstance is the small lot and two front yards. He questioned if the applicant will use the existing garage doors.

Mr. Barber stated that the addition will have its own 10' x 10' garage door to accommodate the width of the fire truck and will face Hall Street.

Mr. Sellman agrees with the Board Members that this is an acceptable exception based on the situation, the applicant's need, and it is not terribly obtrusive. He also feels that it is a good sign that the neighbors haven't objected.

MOTION: In Case BZ21-006, Jon Barber, 647 S. Depeyster St., Mr. Mail moved that the Board of Zoning Appeals grant a 46 foot front yard variance from Section 1161.14(a) to allow an accessory structure addition to be constructed 14 feet from the property line, where 60 feet is required.

Mr. Burton seconded the motion.

VOTE: The motion carried 4-0.

MOTION: In Case BZ21-006, Jon Barber, 647 S. Depeyster St., Mr. Mail moved that the Board of Zoning Appeals grant a variance from Section 1161.27(a) to allow a driveway to be 46 feet wide, where a maximum width of 24 feet is permitted.

Mr. Burton seconded the motion.

VOTE: The motion carried 4-0.

**B. BZ21-007 JACKLYN & BRANDON MORRIS
446 SUNRISE BOULEVARD**

Request: The applicants are requesting a variance from Section 1161.14 to allow an accessory structure to be constructed on a lot without a principal structure.

Jacklyn Morris stated that they have an existing 16' x 20' shed located on a parcel that is separate from their home. She stated that because it is expensive to combine the lots, they are asking for a variance. She stated that they constructed the shed in this location because of water issues. She stated that the shed that they constructed would not have met the setbacks on the lot with the house. She stated that they would have also had to change the grade of their backyard to alleviate the water issue.

Brandon Morris stated that there isn't drivable access to the shed.

Ms. Morris stated that they could never sell the back parcel separately due to its location.

Staff confirmed that the applicants own both parcels.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail stated that he visited the site and found that the lot is very deep and the shed, which sits far back on the lot, is not obtrusive to the neighborhood. He did not confirm that the property was wet. He stated that they could go through the expense to get where they are now. He stated that he agrees with their stated hardships and doesn't have a problem with it.

Mr. Burton stated that they would not have been able to construct this shed on the primary parcel and adhered to the setbacks. He stated that the location that they chose is presumably dryer and near the wood line where it blends in nicely. He stated that it makes sense in the future to consolidate the lots so that it alleviates any potential issues for future owners.

Ms. Douglas agreed that it is a good idea at some point to consolidate the parcels. She stated that she feels that what they have done is probably the best that they can do with the current situation.

Mr. Sellman stated that the shed sits very unobtrusively along the back tree line and agreed that it would not have fit on the parcel with the house. He stated that the rear lot is landlocked and can't be sold separately. He stated that he agrees that they should consider consolidating the two lots into one parcel.

Ms. Susel clarified that any parcel can be sold; landlocked parcels cannot be developed.

Mr. Fink stated that on behalf of the City, the Board should discuss whether or not the lots should be consolidated at this point in time for all the reasons that have been laid out. He stated that consolidation is a method to alleviating the need for the variance. He stated that financial reasons are not a hardship.

Mr. Sellman stated that he agrees with the Board that the shed is not intrusive and based on the situation of the properties, the current placement is the best. He feels that it is a hardship to deny it.

MOTION: In Case BZ21-007, Jacklyn & Brandon Morris, 446 Sunrise Blvd., Mr. Burton moved that the Board of Zoning Appeals grant a variance from Section 1161.14 to allow an accessory structure to be constructed on a lot without a principal structure.

Mr. Mail seconded the motion.

VOTE: The motion carried 4-0.

**C. BZ21-008 HOLLY BLOOM
551 HARRIS STREET**

Request: The applicant is requesting a variance from Section 1161.14 to allow an accessory structure to be constructed on a lot without a principal structure.

Holly Bloom, owner, stated that she talked to the county before purchasing the property due to the multiple lots and was told not to consolidate the lot the shed is on because it is a buildable lot with a drive apron. She apologized for constructing the building without permits, as she didn't know she needed one for a structure without a foundation. She

stated that she does not want to consolidate the two lots because it is buildable and it's expensive. She stated that she has some ideas about a non-profit organization with a community garden and educational workshops in the garage.

Mr. Burton stated that while the non-profit idea sounds like a good reason not to consolidate, he questions the timing of the possibility.

Ms. Bloom stated that she has been helping out neighbors in an informal way since she purchased the property. She stated that she has the paperwork completed to start the non-profit but will not file anything until the variance process is completed.

Mr. Fink stated that in this case, consolidating the parcels alleviates the need for any variances; same as the previous request.

Ms. Bloom stated that she doesn't have any other location on her primary parcel for the structure. She stated that she purchased the house in 2017 with one deed for two parcels.

Mr. Sellman stated that her primary lot would not allow for an accessory structure due to the required setbacks.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail stated that this secondary parcel is not landlocked. He stated that the existing structure is not obtrusive to the neighborhood.

Mr. Burton stated that he concurs with Mr. Mail; it isn't an impairment to other development in the area. He stated that he is also a little more understanding of not consolidating the lots as the structure is a relatively removable structure. He feels that it is a reasonable request.

Ms. Douglas stated that she likes that the parcel has a drive apron and she is okay with the request.

Mr. Sellman stated that it makes the secondary parcel more sellable having frontage on Harris Street. He stated that the shed could be removed and a house constructed. He stated that the primary parcel is a small city lot.

MOTION: In Case BZ21-008, Holly Bloom, 551 Harris St., Mr. Mail moved that the Board of Zoning Appeals grant a variance from Section 1161.14 to allow an accessory structure to be constructed on a lot without a principal structure.

Ms. Douglas seconded the motion.

VOTE: The motion carried 4-0.

D. BZ21-009 **ITEM HAS BEEN WITHDRAWN BY APPLICANT**
CRYSCILLA & MICHAEL HERBKERSMAN
562 VALLEYVIEW STREET

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

VI. **MEETING MINUTES**

December 21, 2020 meeting minutes

MOTION: Mr. Burton moved to approve the December 21, 2020 meeting minutes as presented. Mr. Mail seconded. The motion carried 3-0.

MOTION: Mr. Mail moved to approve the March 15, 2021 meeting minutes as presented. Ms. Douglas seconded. The motion carried 4-0.

VII. **OTHER BUSINESS**

Ms. Susel gave an update of the proposed zoning code. She is hoping to have a new zoning code forwarded to the Board by July 2021.

No one applied for the vacant Board position; still vacant.

VIII. **ADJOURNMENT**

MOTION: Mr. Mail moved to adjourn the meeting. The motion was seconded by Mr. Burton. The motion carried 4-0.

The meeting adjourned at 8:53 pm.