

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
January 25, 2021**

MEMBERS PRESENT: Jona Burton
Dave Mail
Paul Sellman
Tim Sahr
Deborah Douglas

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 7:07 p.m.

II. OATH FOR NEW MEMBER

The Oath was administered to Deborah Douglas as the newest member. Ms. Douglas responded affirmatively.

III. ROLL CALL

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

IV. ELECTION OF OFFICERS

Election of Officers was moved to the end of the meeting.

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 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. BZ21-001 Benjamin Tipton
451 Park Ave.**

- Request:
- 1) A 9.5-foot variance from the 10-foot minimum side yard setback to allow a new detached accessory structure to be constructed 0.5 feet from the side property line (Section 1161.14(a)), 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 (Section 1161.14(a)).

Benjamin Tipton, 451 Park Ave., presented his application. He stated that the garage was razed prior to their purchase of the property. Mr. Tipton stated that the carport will be in the same location as the previous garage.

Mr. Sellman questioned the solid wall next to the neighboring property.

Mr. Burton questioned the timeframe when the garage was removed.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Sellman noted that the subject property is a substandard lot. He stated that garages on nearby property are already located on the property liens.

Mr. Burton stated that the side setback is the most troublesome but there is a shared driveway. He stated that the use of a small backyard also come into play.

Mr. Sahr questioned if the concrete pad is existing and also the distance to the garage next door.

Mr. Tipton stated that they are using the existing pad. He stated that the garage next door has been razed, but there was a 3 foot distance between the structures.

Ms. Douglas further questioned the garage next door.

MOTION: In Case BZ21-001, Benjamin Tipton, 451 Park Ave., Mr. Sellman moved that the Board of Zoning Appeals grant a 9.5 foot variance from Section 1161.14(a) to allow an accessory structure to be constructed 0.5 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 BZ21-001, Benjamin Tipton, 451 Park Ave., Mr. Sellman 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 rear property line where a minimum of 10 feet is required.

Ms. Douglas seconded the motion.

VOTE: The motion carried 5-0.

**B. BZ21-002 MAZDA OF KENT
1127 W. Main St.**

Section: 1167.11(b)(1)

Request: The applicant is requesting 10-foot variance from the required 20-foot minimum landscaping strip to allow a landscaping strip of 10 feet between the parking area and street right-of-way.

Dan Barney, Architect for Arkenetics Inc., 3723 Pearl Rd., Cleveland, presented the project. He stated that if they reduce the landscape strip, they can add onto the sidewalk next to the building. He stated that the plantings would remain and it would be the grassy area that would be reduced.

John Mastrantoni, KMPH Real Estate, 16979 Corpile Dr., Naples Florida, stated that the project would improve the safety for the traffic coming from the building.

Jeremy Eisenberg, Mazda of Kent, 1127 W. Main St., stated that a 10 foot landscape strip would be the largest landscaping strip on the street.

Ms. Douglas asked for clarification on the map regarding the green space.

Mr. Sahr questioned the direction of the traffic for the drive lane and aisle.

Mr. Barney stated that it is two lanes

Mr. Sahr questioned the other entrances on the sides of the building.

Mr. Barney stated that the other entrances are more for employees or for emergency only.

The Board discussed the entrances and parking.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Burton thanked Mr. Sahr and Ms. Douglas for their questions.

Mr. Sahr stated that he feels that the site plans are not clear. He stated that if the sidewalk was reduced, they could then reduce the variance and give more greenspace.

Mr. Sellman stated that he feels that a smaller variance would be better.

Ms. Douglas agreed with reducing the variance.

Mr. Mail stated that he understands the need for buffering.

Mr. Burton stated that he feels that a 10 foot sidewalk should be sufficient, which would reduce the variance. He questioned the applicant about a reduction to the variance request.

Mr. Barney questioned if they could add the reduced greenspace to another location on the property.

Mr. Sellman asked for clarification that the landscape strip is a buffer.

Ms. Susel stated that it is a buffer.

Mr. Barney stated that the building is being renovated and safety is a large issue for the site. He stated that they are trying to improve what they can.

Mr. Eisenberg stated that the traffic comes from the other sites. He explained that they are trying to avoid the shortcutting through their site.

Ms. Douglas questioned if the sidewalk is for people or cars or both.

Mr. Eisenberg explained the doors and stated that railings would not be approved by Mazda.

Mr. Sellman questioned the drive aisle.

Mr. Burton reviewed the variance change as discussed by the Board.

Mr. Barney explained the traffic in front of the building.

Mr. Mastrantoni stated that a 5 foot variance is better than no variance at all.

MOTION: In Case BZ21-002, Mazda of Kent, 1127 W. Main St., Mr. Sahr moved that the Board of Zoning Appeals grant a 5 foot variance from Section 1167.11(b)(1) to allow a 15 foot minimum landscape strip between the parking area and the street right of way where a minimum of 20 feet is required.

Mr. Sellman seconded the motion.

VOTE: The motion carried 5-0.

VIII. **ELECTION OF OFFICERS**

After the Board's discussion, the Election of Officers is as follows:

MOTION: Mr. Burton nominated Tim Sahr for Chairperson. Mr. Mail seconded the motion.

Mr. Sahr accepted the nomination. No other nominations were offered.

The vote carried 5-0.

MOTION: Mr. Sahr nominated Paul Sellman for Vice Chairperson. Mr. Mail

Mr. Sellman accepted the nomination. No other nominations were offered.

The vote carried 5-0.

MOTION: Mr. Sellman nominated Dave Mail for Secretary.

Mr. Mail declined the nomination.

Ms. Douglas nominated Jona Burton for Secretary. No other nominations were offered.

The vote carried 5-0.

IX. **OTHER BUSINESS**

None

X. **ADJOURNMENT**

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

The meeting adjourned at 8:17 pm.