

**KENT PLANNING COMMISSION  
BUSINESS MEETING  
SEPTEMBER 15, 2020**

**MEMBERS PRESENT:** Amanda Edwards  
Chris Clevenger-Morris  
Peter Paino  
Michael Bruder

**STAFF PRESENT:** Eric Fink, Asst. Law Director  
Bridget Susel, Community Development Director  
Jennifer Barone, Development Planner

**I. Call to Order**

Ms. Edwards called the meeting to order at 7:00 p.m.

**II. Roll Call:**

Ms. Edwards, Mr. Morris, Mr. Paino, and Mr. Bruder were present. Mr. Clapper was absent.

**MOTION:** *Mr. Morris moved to excuse Jeff Clapper from the 9/15/2020 Planning Commission Meeting. The motion was seconded by Mr. Bruder. The motion carried 4-0.*

**III. Correspondence**

**PC20-012**

- Josh Oldham – email is in support of the business as long as the sign is tasteful and there is a designated parking area.
- Marc Gross – email opposed to rezoning
- Linda White – email opposing business in a residential area due to lack of parking and busy public alley
- Jim Doney – email opposed to a business in a neighborhood. He also presented a petition against the proposal signed by 8 property owners.

**IV. Old Business**

None

**V. New Business**

A. **PC20-012** Anna Mathews  
305 South Prospect Street  
Home Occupation for Physical Therapy

The applicant is seeking a Conditional Zoning Certificate for a home occupation to operate a physical therapy business. The subject property is zoned R-3: High Density Residential zoning district.

Ms. Barone reviewed the staff report. She reported that the applicant's proposed hours of operation are 8:00 am – 8:00 pm, Monday thru Friday with one patient per hour and no more than 8 patients in any one day; the applicant is the only person working at this home occupation. Ms. Barone stated that staff believes that all conditions for a conditional use certificate have been met.

Anna Mathews, applicant, stated that she is planning on visiting patients at their homes but also wanted to be able to offer her home business location as an option. She stated that there would only be one patient at a time and not a busy commercial practice. She added that once her business grows, she will need a commercial space rather than her home. She stated that her application listed the maximum hours but realistically she feels that it would be just a few patients a day. She added that although there is enough parking for three, the maximum would be two cars and only if there were overlapping appointments.

### **Public Comment**

None

### **Board Discussion**

Mr. Bruder stated that he does not have any comments or questions for the project.

Mr. Paino stated that he feels that all conditions from 1171.01 (19) have been met for a conditionally permitted use. He stated that there appears to be ample parking. He stated that he thinks that the side entrance could be made ADA accessible but not sure that is Planning Commission's purview.

Mr. Morris stated that his main concern is for making the entrance ADA compliant because most of the patients are attending due to some type of health care issues. Mr. Morris questioned the number of patients that would be seen in a typical day.

Ms. Edwards stated that she has similar thoughts with regards to the number of hours / patients and suggested a possible limited practice. She stated that the angled parking spaces could be an issue as well as the children she saw playing near the alley.

Mr. Fink stated that the alley parking is for loading and unloading and is limited to 30 minutes so patients would need to park on private parking.

Ms. Edwards reviewed the criteria with the board members:

1. Shall be harmonious with and in accordance with the general objectives or with any specific objective of the Land Use and Thoroughfare Plan (Comprehensive Development Plan) of current adoption;

No comments.

2. Shall be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use shall not change the essential character of the same area;

Ms. Edwards stated that the character of the neighborhood could change with a growing home occupation at this residence.

3. Shall not be hazardous or disturbing to existing or future neighboring uses;

Mr. Morris stated that he is concerned about the potential of blocked cars given the parking area and the alley. He stated that this may be hazardous to both traffic and the children playing in that area.

Mr. Bruder stated that staff would have noted that parking does not meet the requirement if there was an issue meeting the city's criteria; the staff report indicates that the parking requirement has been met.

Ms. Barone stated that they reviewed the parking a lot to ensure it is adequate. She stated that the patients could also park on the east side of South Prospect Street.

4. Shall not be detrimental to property in the immediate vicinity or to the community as a whole;

No comments.

5. Shall be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures; or that the persons or agencies responsible for the establishment of such use shall be able to provide adequately any such service including refuse disposal; and

No comments.

6. Shall have vehicular approaches to the property, which shall be so designed as not to create an interference with traffic on surrounding public streets or roads.

Mr. Bruder stated that one or two cars per hour is negligible on either the alley or South Prospect as this property is adjacent to Haymaker Parkway, which has much more traffic.

**MOTION: Mr. Paino moved that in Case PC20-012, Anna Matthews, 305 South Prospect Street, the Planning Commission approve the Conditional Zoning Certificate to allow a home occupation to operate a physical therapy business subject to the following:**

- 1. Technical Plan Review**
- 2. Pass inspections conducted by both the fire prevention officer and the chief building official**
- 3. Compliance with ADA requirements**

**The motion was seconded by Mr. Morris.**

Mr. Bruder stated that he is concerned about requiring the applicant to meet all ADA requirements. He added that he felt the intent was for an ADA ramp.

Mr. Paino stated that he would like to amend condition #3 to be for an ADA ramp only for accessibility in and out of the structure.

Mr. Morris questioned if this was the only concern of the Health Commissioner.

Ms. Barone confirmed that it is.

**AMENDED MOTION: Mr. Paino moved that in Case PC20-012, Anna Matthews, 305 South Prospect Street, the Planning Commission approve the Conditional Zoning Certificate to allow a home occupation to operate a physical therapy business subject to the following:**

- 1. Technical Plan Review**
- 2. Pass inspections conducted by both the fire prevention officer and the chief building official**
- 3. Provide an ADA ramp only for accessibility to/from the structure**

***The amended motion was accepted by Mr. Morris.***

***The motion carried 4-0.***

**B. Zoning Code Update: Work Session Nine**

**The proposed Zoning Code Text Amendment is being forwarded to the Commission for review and comment**

- 1112 – Administrative Organization**
- 1113 – Administrative Procedures**
- 1114 – Violations, Penalties, and Enforcement**

Mr. Fink reviewed the changes that will set up a parallel structure for all boards and consolidates the information in one location.

**Section 1112.01 Conflict of Interest**

Ms. Edwards questioned the rules if the board member was the applicant or a representative.

Mr. Fink stated that if the board member is representing his/her private project only, then the member is allowed to participate, but if he/she is representing someone else then the board member may not present to any board, per Ohio Attorney General Standards; City code must be the same as or stricter than the Ohio Attorney General Standards.

Ms. Susel clarified that the member can represent his/her own private project when Mr. Fink refers to participate, but the board member cannot be a voting member on the board hearing the case.

Mr. Fink stated that it is an Ohio Attorney General decision, which has the effect of law, but it was never voted on by the Ohio General Assembly; if the City acts outside of this it can be sued.

Ms. Edwards questioned whether it was a choice to either join the audience and/or remove yourself.

Mr. Fink stated that as the attorney, he would make that determination based the circumstance and the level of conflict.

There was more discussion on scenarios of conflict of interest.

Mr. Morris questioned whether or not an architect would want to be a member of a board as it would prohibit him/her from representing clients in the City of Kent.

Mr. Fink confirmed that this is the case and cited prio members who left their post on a board because of that requirement.

Mr. Paino stated that he disagrees that presenting a project on behalf of a client is a conflict of interest with the understanding that the board member is not voting on the case.

Mr. Morris suggested that it is because the other board members may be swayed due to their relationship to the presenter.

Mr. Paino stated that because the Planning Commission has many rules and regulations he doesn't feel that this is possible. He stated that he doesn't see other communities following these standards.

Ms. Susel stated that these standards apply to all boards including city council.

Mr. Fink stated he agrees that it seems counterintuitive and this is why he has spent so much time reviewing Attorney General Opinions and looking for a different way.

Mr. Paino stated that the City of Kent does have a law that prohibits board members from presenting for 1 year after they leave a board as well.

Mr. Fink confirmed this is the case.

#### Section 1112.01(A)(2)(d) Maintenance of Records

Mr. Morris asked for more information in this section as to how the revision or amendment should be retained.

Mr. Morris suggested moving (d) & (e) under Section 1112(A)(3) Amendments.

Mr. Fink disagreed stating that (d) & (e) talk about maintaining records and (3) is the actual process to recommend changes to the zoning code.

#### Section 1112.01(A)(4) Conflict of Interest

Mr. Morris suggested using gender neutral language in place of "himself/herself".

Mr. Fink stated that staff will look at making adjustments in the code.

Ms. Susel suggested using “the member.” She stated that staff will do a final edit and can then adjust some of the wording.

Section 1112.01(B)(1)(a) Public Hearings

Ms. Susel stated that this is a state and federal law requirement.

Section 1112.01(B)(1) Public Hearings

Mr. Morris suggested flipping subsections (c) and (d) for continuity.

Section 1112.01(C)(4) Zoning Permit Expiration

Mr. Morris suggested defining construction.

Mr. Fink stated that currently the City uses the state standard similar to other communities.

Ms. Susel stated that keeping the definition a bit vague helps to allow leniency when unforeseen circumstances arise; most construction projects want to proceed as quickly as possible.

Section 1112.01(C)(3)(e)

Mr. Paino questioned “Health Commissioner Approval”

Ms. Susel stated that this should have been changed/stricken.

Ms. Barone stated that this is from when there were more septic systems.

Section 1112.02(A)(2)(i) Composition

Mr. Morris suggested assigning a timeline to refilling positions.

Ms. Susel stated that they are now allowed to use other types of media to advertise for open positions, which should improve the ability to fill vacancies.

Section 1112.02(A)(3) Organization

Mr. Morris suggested adding “current edition after “Robert’s Rules of Order.”

Section 1112.02(A)(4) Quorum

Mr. Morris suggested updating the language to include that the Planning Commission must notify the applicant of his/her option to postpone whenever there are only 3 members present.

Ms. Susel added that postponement should be changed to continuance to be consistent with language used in Robert’s Rules.

Section 1112.02(B)(2) Chart

Ms. Edwards noted that item 4 and item 8 in the chart are duplicates and item 9 does not have a “dot” indicating the category.

Mr. Morris questioned if item 11 should use “and” or “or”.

Mr. Paino stated that the language of item 4 and item 8 should be simplified for clarity: 15,000 feet or less. Mr. Paino stated that it should also be stated before the graph that major subdivision changes go before the Board and minor subdivision changes do not.

Ms. Susel suggested relocating this graph to Section 1112.02(C).

Mr. Morris stated that even if the graph is relocated, it would still be helpful to add a statement as Mr. Paino suggested for clarity.

Ms. Edwards suggesting adding this statement to the chart headings in the major/minor columns.

Mr. Paino questioned item 15.

Ms. Susel stated that the intent is that it is just a landscaping project without a building and is therefore exempt.

The Board asked to clarify this statement to that affect.

Mr. Morris questioned item 16 and what a renovation or alteration includes.

#### Section 1112.02(C)(2)(c) Chart

Mr. Paino questioned item 21 and that it requires a registered landscape architect to stamp the drawings. He stated that he is unsure if this is needed if the landscaping plan is met.

Mr. Bruder suggested adding “or other landscaping designer/professional”

Ms. Barone agreed that it would limit the options.

Ms. Susel stated that changing it to “registered architect or landscape professional” gives the applicant more options.

#### Section 1112.02(C)(2)(e) Notifications

Ms. Edwards noted a discrepancy in the distance requirement; 200 feet vs. 300 feet listed in 1112.01(B)(1)(b)(i).

Ms. Susel stated that they should both be 200 although a map amendment should be 500 feet.

#### Section 1112.03

Mr. Morris suggested the same changes to (3) & (4) as were suggested in Section 1112.02 of the same.

#### Section 1112.04(A)(8)

Mr. Paino stated that he has an issue with the criteria that the Architectural Review Board has been given to render its decisions. He stated that the design guidelines are not sufficient to do true architectural review for projects as the wording is too slanted towards historic preservation. He explained that he doesn't feel that it should be the guiding factor for all architecture review and decisions; only for certain parts of the city and certain buildings and projects but not all. Mr. Paino stated that the composition of the ARB is also questionable as the members who are not design professionals are making decisions based on guidelines that are geared almost exclusively to historic preservation; decisions are not based on architectural merit. He stated that he feels that everything ARB needs to be looked at.

Ms. Susel stated that they will be looking at updating the ARB design guidelines in phase 2 of the zoning code update.

Mr. Paino stated that he feels that redoing the ARB and design guidelines should take precedence over a revised Bicentennial/Comp Plan which "doesn't have any teeth" or meaning.

[Mr. Bruder adjourned the meeting during the zoning code discussion.]

**VI. Minutes**

**MOTION: Mr. Morris moved to approve the August 18, 2020 Planning Commission minutes as revised. Mr. Paino seconded the motion. The motion carried 3-0**

**VII. Adjournment**

**MOTION: Mr. Morris moved to adjourn. The motion was seconded by Mr. Paino. The motion carried 3 – 0. The meeting adjourned at 9:00 p.m.**