

**CITY OF KENT
BOARD OF ZONING APPEALS
PUBLIC HEARING & BUSINESS MEETING
December 21, 2009**

MEMBERS PRESENT: Diane Werner
Steve Balazs
Rich Fender
Elizabeth Howard

MEMBER ABSENT: Peter Paino

STAFF PRESENT: Heather Phile, Development Planner
Eric Fink, Assistant Law Director

I. CALL TO ORDER

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

II. PLEDGE

The pledge was recited.

III. ROLL CALL

Rich Fender, Diane Werner, Elizabeth Howard, and Steve Balazs 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 Chairman of the Board and direct the question to the Chairman. The Chairman 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 Chairman'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 1115.09(b)(3) 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.”

Ms. Werner 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 the Oath

Mr. Fink instructed members of the audience wishing to be heard on any of the cases presented at this meeting to rise and 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, “I do”.

VI. NEW BUSINESS

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| A. | BZ09-018 | Klaben Ford Lincoln Mercury, Inc.
1085 West Main Street |
| | Sections: | 1165.05(b)(1), 1165.05(b)(3), and 1165.05(c)(3) |
| | Requests: | The applicants are requesting the following: |

- 1) A variance from Section 1165.05(c)(3) to allow a new free-standing sign to be 89.4 square feet in size,**
- 2) A variance from Section 1165.05(b)(1) to allow a total of 3 building signs, and**
- 3) A variance from Section 1165.05(b)(3) to allow a total of 139.4 square feet of building signage.**

Ms. Werner asked the applicant to present the requests for variances.

Tom Wysocki, 4431 Conestoga Trail, Copley, Ohio stated he was the treasurer for the Klaben Auto Group on West Main Street in Kent. He stated that Klaben Ford, Inc. acquired the Lincoln and Mercury franchises from Kent Automotive, Inc. in October of 2009. Klaben agreed to upgrade the Klaben Ford facilities to the new Ford Trustmark design. Klaben is required to change the front faces of the sales and service facilities with new metal cladding and paint the balance of the facilities a corresponding grey. He said a picture of the signage proposed for the front wall of the Klaben service facility was included in the application. The existing Ford brand sign located in front of the facility will be replaced by a Lincoln Mercury brand sign. He said it would be a practical difficulty or unnecessary hardship if they were unable to add the proper signs that identify the brands sold and serviced at the facility. He said Klaben Ford must convert the appearance of the property to the Ford Trustmark design to satisfy the terms of the conditional agreement.

PUBLIC COMMENTS

None

BOARD OF ZONING APPEALS DISCUSSION

Ms. Howard stated that the signs are more attractive and more aesthetically pleasing.

Mr. Balazs agreed with Ms. Howard.

Mr. Fender stated this would keep in context with the area and he could see the hardship.

There were no other comments, so Ms. Werner asked for a motion.

Motion: Mr. Balazs moved that in case BZ09-018, Klaben Ford Lincoln Mercury, Inc. located at 1085 West Main Street, that the Board of

Mercury logo sign similar to the one proposed for 1085 West Main Street on the Service Building. The other Klaben sign will be updated. The new Ford, Lincoln, Mercury sign will be placed on a new “Entry Tower and Brand Wall” that will be constructed on the East side of the existing building.

PUBLIC COMMENTS

None

BOARD OF ZONING APPEALS DISCUSSION

Ms. Howard stated this would be an improvement and would not be a detriment to the surrounding area. She could see the hardship to direct customers to the Main entrance and the garage.

Mr. Balazs agreed with Ms. Howard’s comments.

Mr. Fender did not think it would be a detriment to the neighborhood and that it would be compatible with the rest of the area.

Ms. Werner agreed with the comments made. There were no other comments, so she asked for a motion.

Motion: Mr. Balazs moved that in case BZ09-019, Klaben Ford Lincoln Mercury, Inc. located at 1089 West Main Street, that the Board of Zoning Appeals approves a variance to allow a total of 3 building signs, as defined in Section 1165.05(b)(1) in the City of Kent Zoning Code.

Ms. Howard seconded the motion.

Vote: The motion passed 4 – 0.

Motion: Mr. Balazs moved that in case BZ09-019, Klaben Ford Lincoln Mercury, Inc. located at 1089 West Main Street, that the Board of Zoning Appeals approves a variance to allow a total of 240 square feet of building signage, as defined in Section 1165.05(b)(3) in the City of Kent Zoning Code.

Ms. Howard seconded the motion.

Vote: The motion passed 4 – 0.

C.	BZ09-020	Kent Parks and Recreation 811 Fairchild Avenue
	Section:	1171.01(1)
	Request:	The applicant is requesting a 51.5 foot variance from the 100-foot minimum setback requirement to allow a new storage facility to be 48.5 feet from the rear property line (Section 1171.01(1)).

Ms. Werner asked the applicant to present the request.

John Idone of 497 Middlebury, Kent, Ohio, stated that they wanted to remove the existing storage garage and construct a new 130-foot by 60-foot building in the same location. He said the building will be used to store the Park Department's equipment. This location is the most desirable because it has already been graded for the current building and there are already utilities available. He said the existing building is 40 years old and in need of maintenance. The existing trees will remain and those parking spaces that will be lost will be relocated to another area of the park. He passed out photographs of the existing as well as the proposed location in relation to the existing homes and other properties. He said the building is primarily used during the week from 8:00 a.m. to 5:00 p.m.

PUBLIC COMMENTS

Steven Robbins of 336 Michaels Drive, Kent, Ohio, stated he was concerned about the location of the new building and the drainage. He did not think it would be a problem as long as the building was not closer to the residential area.

Mr. Idone replied it would not be any closer to Verona.

Inge Sandoval of 382 Michaels Drive, expressed the same concerns as Mr. Robbins.

Joe Betkoski of 6859 Hudson Road, Kent, Ohio, stated he owned the property to the north and east of the park. He felt the new building would be an improvement to the area and the City of Kent.

There were no other public comments.

BOARD OF ZONING APPEALS DISCUSSION

Mr. Fender asked about the location of the new building.

Mr. Idone replied the utilities were already there and the ground was graded.

Mr. Balazs asked if there would be outdoor storage.

Mr. Idone replied this would enable all storage to be inside for the first time.

Ms. Howard saw the benefits of the centralized location.

There were no other comments, so Ms. Werner asked for a motion.

Motion: Mr. Balazs moved that in case BZ09-020, Kent Parks and Recreation, located at 811 Fairchild Avenue, that the Board of Zoning Appeals approves the 51.5-foot variance from the 100-foot minimum setback requirement to allow a new storage facility to be 48.5 feet from the rear property line, as defined in Section 1171.01(1) in the City of Kent Zoning Code.

Ms. Howard seconded the motion

Vote: The motion passed 4 – 0.

VIII. MEETING MINUTES

A. Minutes from the November 16, 2009 meeting

Motion: Ms. Howard moved to approve the October 19, 2009 minutes.
Mr. Fender seconded the motion.

Vote: The motion passed 3 – 0. 1 Abstention

IX. ADJOURNMENT

Motion: Ms. Howard moved to excuse the absence of Peter Paino.
Mr. Balazs seconded the motion.

Vote: The motion passed 4 – 0.

**Motion: Ms. Howard moved to adjourn.
Mr. Fender seconded the motion.**

Vote: The motion passed 4 – 0.

The meeting adjourned at 8:57 p.m.