

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

MEMBERS PRESENT: Paul Sellman
Jona Burton
Dave Mail
Deborah Douglas [arrived late]

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 7:03 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. BZ21-017 RALPH MEGARGEL
1511 RIVER EDGE DR.**

Request: The applicant is requesting a 21-foot variance from the 45-foot minimum front yard setback requirement to allow a garage addition to be 24 feet from the front property line.

Ralph Megargel, 1511 River Edge Dr. presented his request. He stated that the lot is a triangular shaped lot at the dead end of the street. He stated that the garage will be angled and attached to the house. He explained that the exterior of the garage addition will match the rest of the house. He stated that he will use the space as a hobby garage for restoring motorcycles and cars.

Mr. Burton questioned the additional concrete and whether or not he needs approval from a Home Owner’s Association.

Mr. Megargel stated that there is no HOA in this portion of the subdivision

Mr. Sellman complimented the completeness of the drawings.

PUBLIC COMMENTS

Dave Basista, 1500 River Edge, stated that he was concerned about the concrete. He stated that the architecture is fine. He stated that he is concerned about the visual impact on the front setback but not opposed; just concerned.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Burton questions if the rotation of the garage would lessen the variance.

Ms. Douglas stated that the amount of concrete would increase if the garage was rotated.

Mr. Sellman questioned the side yard.

Mr. Mail stated that it is not obtrusive as it would focus on the existing driveway.

Mr. Sellman reviewed the approval criteria with the Board.

Mr. Fink reviewed the Duncan vs. Middlefield factors.

Mr. Mail questioned if there is a door at the breezeway. The applicant responded yes.

The Board further discussed the angle of the addition.

Mr. Sellman stated that there is less of an impact on the neighborhood with the plan as drawn.

MOTION: In Case BZ21-017, Ralph Megargel, 1511 River Edge Dr., Mr. Mail moved that the Board of Zoning Appeals approve the 21 foot variance from the 45-foot minimum front yard setback requirement to allow a garage addition to be 24 feet from the front property line as presented.

Ms. Douglas seconded the motion.

VOTE: The motion carried 4-0.

**B. BZ21-018 MAXWELL SLATER
1207 VINE STREET**

Request: The applicant is requesting a variance from Section 1161.21(a) to allow a 6-foot tall fence in the front yard along East School Street, where 4 feet is the maximum height permitted.

Maxwell Slater, 1207 Vine St., presented the information for his case. He stated that he is requesting a variance because he has a corner lot, which is two front yards, and is limited to a 4' tall fence without a variance. Mr. Slater explained that he needs a taller fence because he has a large dog to contain. He stated that it would be a wood fence that they will install 6 feet from the property line so as not to create a sight obstruction.

PUBLIC COMMENTS

None

BOARD OF ZONING OF APPEALS DISCUSSION

Ms. Douglas stated that she understands the situation and is in favor of granting the variance.

Mr. Mail stated that the taller fence would not obstruct the sight distance since it is setback 6 feet. He stated that it would give the residents more privacy and he is also in favor of granting the variance.

Mr. Burton stated that he appreciates the safety and consideration to the neighbors and he is in favor as well.

Mr. Sellman agreed with the other Board members.

MOTION: In Case BZ21-018, Maxwell Slater, 1207 Vine St., Mr. Burton moved that the Board of Zoning Appeals approve a variance from Section 1161.21(a) to allow a 6-foot tall fence in the front yard along East School Street, where 4 feet is the maximum height permitted as presented.

Mr. Mail seconded the motion.

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

**C. BZ21-019 ALEX GALAZYUK
 1252 SHADY LAKES DRIVE**

Request: The applicant is requesting the following:
 1) A 7-foot variance from the 10-foot minimum side yard setback requirement to allow an accessory building to be 3 feet from the side property line, and

 2) A 21-foot variance from the 60-foot minimum front yard setback requirement to allow an accessory building to be 39 feet from the front property line (Fairchild Avenue).

Alex Galazyuk, 1252 Shady Lakes Dr., shared the information for his request. He stated that he has two front yards; one in front of the house (Shady Lakes Dr.) and one behind the house (Fairchild Ave.). He stated that there is a landscaping hill along the Fairchild side that has been replanted with trees. He stated that he is trying to hide the accessory building from the neighbors and traffic on both streets, which is why he needs the variances. He stated that he would like to build it with Red Cedar.

PUBLIC COMMENTS

Ronald Duff, 1246 Shady Lakes Dr., stated that he is the neighbor to the east and does not have any objections with the proposal.

BOARD OF ZONING OF APPEALS DISCUSSION

Mr. Mail stated that having two front yards in this configuration is strange. He stated the he feels that the request is reasonable and not obtrusive.

Ms. Douglas stated that the neighbor address her concerns.

Mr. Galazyuk stated that the Home Owner’s Association is okay with his plan.

MOTION: **In Case BZ21-019, Alex Galazyuk, 1252 Shady Lakes Dr., Mr. Burton moved that the Board of Zoning Appeals approve a 7-foot variance from the 10-foot minimum side yard setback requirement to allow an accessory building to be 3 feet from the side property line.**

Mr. Mail seconded the motion.

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

MOTION: **In Case BZ21-019, Alex Galazyuk, 1252 Shady Lakes Dr., Mr. Burton moved that the Board of Zoning Appeals approve a 21-foot variance from the 60-foot minimum front yard setback requirement to allow an accessory building to be 39 feet from the front property line (Fairchild Avenue).**

Mr. Mail seconded the motion.

VOTE: The motion carried 4-0.

VI. MEETING MINUTES

June 21, 2021

MOTION: Mr. Mail moved to approve the June 21, 2021 meeting minutes as written.
Ms. Douglas seconded. The motion carried 4-0.

VII. OTHER BUSINESS

Ms. Susel summarized the new code with the Board and gave them the new Zoning Code books.

VIII. ADJOURNMENT

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

The meeting adjourned at 7:55 pm.