

Franklin Township, Portage County  
Board of Zoning Appeals  
December 09, 2019

Present: Chair David Hansford, Glenn Russell, Marilyn Sessions, Shawn Martin, Board Members; Sam Abell, Zoning Inspector, Joe Ciccozzi, Assistant Zoning Inspector, and Jenny August, Administrative Assistant.

Mr. Hansford called the Board of Zoning Appeals meeting to order at 7:00 p.m. He introduced the Board Members and explained the procedures for the meeting.

**7:00 Hearing:**

At 7:00 p.m. an application by Drew Gatliff, 1062 Ridge St., Columbus OH 43215 representing Kent Real Estate Holdings LLC, 1062 Ridge St., Columbus OH 43215 for the property located at 1821 E. Main St. Kent (parcel number 12-021-00-00-023-003) was heard for a variance to Section 800.05.B.2 which requires driveway aisles for two-way traffic to have a minimum width of twenty-five (25) feet. The applicant wanted to construct a two-way driveway aisle of twenty-four (24) feet on the west side of the restaurant. The applicant also explained that the shared parking agreement is consistent with Section 800.07.D of the Zoning Resolution. This hearing was a continuation from November 11, 2019.

Mr. Hansford asked who is here to speak to this tonight. Mr. Drew Gatliff of 1062 Ridge St. Columbus was sworn in representing Kent Real Estate Holdings LLC of the same address. This request is for the property located at 1821 E. Main St. Kent. Mr. Gatliff explained that at the previous hearing, he neglected to request the 1 foot variance for the 25 foot drive aisle. The size of the property is small, and they can't push things to the east. There is also shared parking with Raising Cane's. They are providing 66 spaces for the two restaurants. They feel that is a sufficient amount for employees and customers. Once the northern portion goes in (phase 3), there will be additional parking. There are curbs to help the drive aisle with separation.

Mr. Hansford opened the meeting to public comment. There was none.

Mrs. Sessions moved to grant a 1 foot variance for driveway aisle on west side of building, allowing aisle width of 24 feet. Mr. Hansford seconded the motion. All Board members voted yes. The variance was approved.

Mr. Russell moved to approve shared parking plan as presented by the applicant. Mr. Martin seconded the motion. All Board members voted yes.

Mr. Hansford noted that there was a 30-day appeal period that would begin after the minutes of this meeting were journalized. The journalizing will occur at the next meeting of the Board of Zoning Appeals

**7:15 Hearing:**

At 7:15 p.m. an application by Christine McMullen, 1804 Merrill Rd. Kent OH for the property located at 1804 Merrill Rd. Kent OH (parcel number 12-034-00-019-000) was heard for variances to section 301.04.C.1 which requires the principal building to have a minimum side yard setback of twenty-five (25) feet, section 405.06.A.2.a which limits the aggregate gross floor area of accessory buildings to 768 square feet and section 405.06.A.8 which requires an accessory building to have a minimum side yard setback of ten (10) feet. The applicant has an existing principal building with a side yard setback of 3", existing accessory buildings with an aggregate gross floor area of 971 square feet including an existing accessory building that has a side yard setback of 6' 4". This hearing is a continuation from March 11, 2019.

Mr. Hansford asked who is here to speak to this tonight. Attorney Scott Flynn of 250 South Water St. Kent representing Christine McMullen of 1804 Merrill Rd Kent was sworn in. He is looking in depth into previous documents for this home. There is no doubt that in 1984 the attorney that prepared the certificate of transfer made errors. The 1966 deed specifically excluded the 17 ft parcel because Christine's buildings were encumbering this other property. In 1984 there were two certificates of transfer out of the Portage County Probate Court. The 17 feet parcel went on certificate #4 which was Wyatt's property. Certificate #3 is what went to Christine McMullen's mother in the 1998 Sheriff's sale. Her buildings that have been there since 1895 are now encroaching on Mr. Wyatt's property. The 1998 legal description was the same as the 1966 deed. The bank should never have even done a mortgage back in 1993 without a correct survey. The bank that foreclosed the property even has an encumbrance on Wyatt's property. Before the end of this year, he intends to file a private action for an "Adverse Possession" which takes 21 years to achieve. July 23, 2019 was 21 years. Meanwhile, he would like the Board to consider the variance request and/or a further continuance while the court cleans this matter up.

Mr. Hansford says that until we know who owns what, we cannot grant a variance. He then asked if anyone in the audience would like to speak to this.

Mr. John Wyatt of 3476 Marcel Ave Stow was sworn in. He said there is confusion in the prior minutes about two separate surveys and two separate property lines. He has the legal documents to clear everything up. The 1963 survey and the 1966 survey show 17 feet. In 1973 Garnet Smith bought the property, she bought the 17 feet and put it back to the property. It is shown correctly twice in 1984. The 1993 survey goes back to 1963. In 2015 Christine McMullen's mom had a survey done when she sold the house to Christine that does not show that the garage encroaches. He thinks she should be granted the variance. No court will deny any of this when Jerry Goodwin sent a certified letter in 2007 stating this fact, which makes the 21 years null and void. Mr. Flynn wanted to clarify that he is not disputing Mr. Wyatt's documents. He agrees with Mr. Wyatt, but still intends to pursue equitable ownership.

Zoning Inspector Sam Abell said the current setback for an accessory building is 5 feet in the Zoning Code to accommodate Brady Lake village substandard lots. As things currently stand, the McMullen's do not need the variance for the accessory building. Soon the Trustee's might be reversing it back to 10 feet.

Motion to continue this hearing and review annually by Mrs. Sessions, seconded by David Hansford. All Board members voted aye.

**7:30 Hearing:**

At 7:30 pm an application by William and Rebecca Head, 2237 Lake Rockwell Rd. Ravenna OH 44266 for the property located at 2237 Lake Rockwell Rd. Ravenna OH (parcel number 12-055-00-00-004-000 was heard for variances to Section 301.03.A which requires a minimum lot area of five (5) gross acres. The applicant wanted to increase an existing parcel from 1.58 acres to 2.58 acres and decrease an existing parcel from 5.049 acres to 4.049 acres.

Mr. Hansford asked who is here to speak to this tonight. Mr. William Head and Mrs. Rebecca Head of 2237 Lake Rockwell Rd. were sworn in. Mrs. Head explained that they own 3 parcels. Their house is on the 1.58 parcel. The barn is back by the woods and they want it to be parceled with the house. They are planning to sell 3 acres from their 5 acre parcel to the neighbor, but want the barn to be on their own parcel. The second lot is east of the pole barn, and they want to add one acre to that lot.

Mr. Abell said there is currently a zoning violation with the barn on the other property, and this will clear that violation up. After the neighbor buys this piece of property, there is no chance of it being a substandard lot. After that, he can sign the Mylar.

Mr. Hansford opened the meeting to public comment. Mr. Pat Ailes of 2333 Lake Rockwell in Kent was sworn in. He has 7 acres. With this purchase he will have 3 more acres giving him 2 five acre lots.

Mr. Hansford opened the meeting to public comment. There was none.

Mr. Hansford reviewed the standards for an area variance. The results were A- yes, B-yes, C-no, D-no, E-yes, F-yes, G-yes.

Mr. Martin moved to allow the applicant to reduce a parcel of land by 1 acre, making the parcel 4.049 acres, which would increase the adjoining, parcel by 1 acre making that parcel 2.58 acres. The Mylar is to be signed after the transaction has been completed. Mr. Hansford seconded the motion. All Board members voted yes. The variances were approved.

Mr. Hansford noted that there was a 30-day appeal period that would begin after the minutes of this meeting were journalized. The journalizing will occur at the next meeting of the Board of Zoning Appeals

**7:45 Hearing:**

At 7:45 p.m. an application by Elizabeth Parsons, 6572 Crescent Lane Kent, representing Paul H. Swigart, Jr., 2031 Merrill Rd. Kent for the property located at 1641 Brady Lake Rd. Kent (parcel number 12-040-00-00-007-000) was heard for a non-confirming use. The applicant wishes to operate a used household appliance business in an R-2 (Medium

Density Residential) district. The application is required by Section 520.06 of the Franklin Township Zoning Resolution.

Mr. Hansford asked who is here to speak to this tonight. Mr. Paul Swigart Jr. of 2031 Merrill Rd Kent was sworn in. Mr. Swigart owns the property at 1641 Brady Lake Road in Kent. Ms. Elizabeth Parsons would like to rent out the store front of this property and operate a used household appliance store where used appliances would be sold and also repaired. Mr. Abell said there would be no outside displays. Mr. Swigart said it has been empty now for 14 months. He will make sure the lease states that nothing will be outside. Mr. Hansford opened the meeting to public comment.

Ms. Alice Gourmer of 1705 Brady Lake Rd Kent was sworn in. She was concerned about 2 other non-conforming use businesses there and now another. This is a lot of nonconforming businesses in a residential district. She has concerns about trucks coming and going.

Mr. Keith Misner of 1705 Brady Lake Road was sworn in. He commented that this property does look much better than it did. He said having a used appliance business next door will not help him get renters. Ms. Gourmer said not having outside appliances is helpful.

Mr. James Wyatt of 1813 Merrill Road, Kent was sworn in. He has lived there for 63 years and there has always been a business there. Mr. Swigart has done a fantastic job of cleaning it up.

Mr. Hansford reviewed the standards for a use variance. The results were: A- no, B-no, C-no, D-yes, E-no, F-yes, G-not a prohibited use. Mr. Abell said the current signs that are there can be changed. He recommends continuing until Ms. Parsons can attend.

Mrs. Sessions moved to continue this hearing until the applicant can attend. Mr. Russell seconded the motion. All Board members voted yes.

**Approval of Minutes:** Mrs. Sessions moved to approve the minutes as presented from the November 11, 2019 meeting. Mr. Hansford seconded the motion. All Board members voted yes except Mr. Martin who abstained. The meeting minutes were approved.

**Next Meeting:** The next meeting is scheduled for January 13, 2020 at 7:00 p.m.

**Adjournment:** The meeting was adjourned at 8:14 pm

Respectfully submitted,

Jenny August  
Administrative Assistant  
Board of Zoning Appeals

Approved as submitted:

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Chairperson, David Hansford

Approved as amended:

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