

Franklin Township, Portage County  
Board of Zoning Appeals  
February 12, 2018

Present: Chair David Hansford, Marilyn Sessions, and alternate James Henry, Board Members; Sam Abell, Zoning Inspector; 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 of ADA Architects, Inc., 1062 Ridge St., Columbus OH 43215 representing Kent Real Estate, 1062 Ridge St., Columbus OH for the property located on the north side of State Route 59 between Alpha Drive and Ashton Lane (parcel number 12-021-00-00-023-001) was heard for several sign variances. For the Raising Cane's building the applicant was requesting three variances to section 700.04.A.2 which limits wall signs to 2' in height and one variance to section 700.04.B.1.C which permits one ground sign per street frontage. The applicant wishes to erect one wall sign that is 4' tall, one wall sign that is 8' tall, one wall sign that is 9' 6" tall and desires 2 ground signs. For the multi-tenant building the applicant was requesting five variances to section 700.04.A.2 which limits wall signs to 2' in height. The applicant wishes to erect 3 wall signs that are 4' tall and 2 wall signs that are 3'6" tall. For the overall site, the applicant is requesting a variance to section 700.04.B.1.B which requires that ground signs be set back twenty (20) feet from the right-of-way and section 700.04.B.2 which limits ground signs to thirty-two (32) square feet in area and no higher than twenty (20) feet. The applicant wishes to erect a ground sign that is 3' from the right-of-way, has a sign area of 112 square feet and is 28' high.

Mr. Hansford asked who is here to speak to this tonight. Mr. Drew Gatliff of 1062 Ridge St., Columbus was sworn in. He reminded the Board that the parking variances for Raising Cane's were approved last November. They are now working on signs. The development is named "Main & Ashton". Out building #1 is a limited service restaurant. Outbuilding #2 is 10,000 square feet with five 25X80 ft. bays. It could be 2, 3, or 4 tenants. That is the reason that they are asking for more than 32 square feet of signs. The other variance is for height due to the down slope of the property between the road and the building. The setback variance is for visibility from a distance so customers have time to change lanes if necessary. Points of access is off Ashton Lane or Alpha Drive.

For the Raising Cane's building, they would like taller signs, but do not need to use a space as wide as permitted. Mr. Hansford suggested that they deal with each variance as it was discussed, rather than all at once.

Mr. Hansford asked if anyone in the audience would like to comment. Nobody spoke.

Mrs. Sessions moved to allow 112 square feet in area for a ground sign (variance of 890 square feet) and to allow the ground sign to be 28' in height (variance of 8 feet) with a second from Mr. Henry.

On roll call, all Board members voted yes. This variance was approved.

Mr. Gatliff described the signs that they would like to have on the west Raising Cane's building. There will be three signs, one banner and a mural. On the west oval Raising Cane's sign includes a mural that pays homage to the very first location that opened. Each mural includes the name of the community. On the front façade is assign and on the east side is a sign.

Mr. Hansford suggested reviewing the Standards for an Area Variance once which would be applicable to all of the requested variance. The Board concluded; A-yes, B-yes, C-No, D-No, E-yes, F-yes, G-yes.

Mr. Hanford said the signs proportionally fit the building and do not exceed the roof top.

Mrs. Sessions moved that for the Raising Cane's building on the west side of the parcel, to allow one wall sign to be 4' in height (2' variance), one wall sign to be 8' in height (6' variance), and one wall sign to be 9'6" in height (7'6" variance) with a second from Mr. Hansford. All Board members voted yes. This variance is also approved.

Mr. Gatliff said this next variance is actually for their menu board which would fall under a ground sign. There is a preview board, then an order board. The preview board displays the meals, which are all combos. Then there is a three panel menu board with a speaker pedestal.

Mr. Henry moved for the Raising Cane's building on the west side of the parcel, allow two ground signs (variance of 1 ground sign) with a second from Mr. Hansford. All Board members voted yes. This variance is approved.

Mr. Gatliff said the next request is for the multi tenant building. They would propose one sign per tenant. They would like to establish the size of signage before tenants are contracted and then the tenants would know the criteria from the beginning. They are trying to ensure consistency and make sure it doesn't get a cluttered look. They are actually asking for significantly less allowed space but are asking that they have some additional height.

Mr. Hansford said there are a total of eight signs on five units. He thinks it is a lot of signs. There will be minimal traffic around the back side. Businesses will be identified in the sign by the street. Mrs. Sessions asked if a tenant has a logo that would not fit in their designated space, what could they do? Mr. Gatliff said they would be required to stay within those limits. Most places have flexibility in making their signs.

Mr. Henry asked Mr. Gatliff if they could compromise. Mr. Gatliff said yes, but it would not be the look they desire. They could consider modifications such as a projection sign.

Mr. Henry asked if they build the multi tenant building all at once or as they get tenants. Mr. Gatliff said they do not start building until they have signed tenants for all spots.

Mr. Hansford asked if anyone in the audience would care to comment on this variance request.

Mr. Keith Benjamin of 6206 Sixth Avenue Kent was sworn in. He has three questions. First, he asked how far back this building is from S.R. 59. Mr. Gatliff said it is 250 feet. Mr. Benjamin asked who see's the east and west side signs from 250 feet away when they are going by at 35 mph. He thinks that the side signs are not as relevant. Third, Mr. Benjamin said there might be two or three larger businesses instead of five, does that impact the size of the signs that they are allowed. In order to identify these businesses, he agrees with a sign out front.

Mr. Henry said they won't see the side signs until they drive back in. Mr. Gatliff said there could be a side egress, depending on the tenants. Mr. Henry said his biggest concern is empty buildings and store fronts. Mr. Gatliff said with two successful tenants they should not have any problem with other interest. The interest that they have so far has been strong.

Mr. Benjamin said we have something similar to this out by Wal-Mart. When one tenant moved out, there was no problem getting another one in. Expansion is good for the township and fills a space that has been empty for quite some time.

Mr. Hansford moved for the multi-tenant building located on the north side of the parcel, allow three wall signs to be 4' in height (2' variance) and two wall signs to be 3'6" in height (1'6" variance) with a second from Mr. Henry. All Board members voted yes. This variance is approved.

Mr. Henry moved to allow a variance of 17 feet for a ground sign to be located 3 feet from the right-of-way, with a second from Mr. Hansford. All Board members voted yes. This variance is 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.

**7:15 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".

Mr. Hansford asked who was here to speak to this tonight. Mrs. Christine McMullen of 1804 Merrill Rd Kent was sworn in. They bought this property at a Sheriff Sale in 1998 and had no knowledge of the property line issues. There are other houses nearby with the same issues. The house has always been where it currently sits, and was built in 1895. She doesn't know what to do and would like to settle this with reasonable terms. She does not understand how this happens with zoning in place.

Mr. Hansford said there had to have been a survey at some point. Mr. Henry said there was no zoning in 1895. Zoning Inspector Abell said it has been this way for quite some time, even before he became Zoning Inspector. At some point, someone was able to drop a lot line in this spot. Someone dropped the ball. A portion of the lot line goes through the garage. He was hoping Mrs. McMullin could tell us how this happened.

Mrs. McMullin said she has done some research. She submitted a 1965 survey showing a 17 foot swath that was purchased from her property to Wyatt's property. She also had a legal description for the 17 foot portion done in 1966. Mr. Abell said he thinks the Board has to use the survey showing the lot line being 3" from the property line, which was done in 1976. When a previous owner, Mrs. Garrett transferred the property in 1976, the 17 foot section was excluded. One neighbor passed away and Mrs. Garrett inherited the entire parcel (both properties). After she passed away, the 1976 survey was done splitting the parcel.

Mr. Henry said our variance request is concerning the 3" setback. We cannot get involved in the lot line problem. Mr. Abell said that according to our legal advisor it is a trespass issue that must be handled in court.

Mr. Henry asked if there are other buildings in question. Mrs. McMullin said there is a pavilion and a greenhouse as well.

Mr. Hansford asked if anyone in the audience would like to speak to this. Mr. John Wyatt of 3768 Marsella Ave. Stow was sworn in. He is the owner of the property next to the McMullins. His concern is how they will be able to maintain the house with only three inches to work with. It is an old house with wood siding to paint. The township has a property maintenance code. Mr. Henry said he doesn't think the Board can weigh in on that. Mr. Henry asked if he would give them permission to stand on his property to paint or repair their house. Mr. Wyatt said no, not at this time. It is private property.

Mrs. Sessions asked how long he has owned this property. Mr. Wyatt said he bought it from his mother one year ago. He said his dad bought the property in 1993. Mrs. Sessions asked if the garage was there when he bought it. Yes, it is old and has been there a long time. Mr. Abell said on the advice of legal counsel the garage is not part of the legal notice and is a private matter that the Board does not need to deal with tonight.

Mr. Henry asked if they can grant a variance on the three inch lot line that applies to the house. Mr. Abell said yes. It is quite a mess.

Mr. Wyatt also showed the Board pictures of the property where their buildings are located which are really close to the lot line and are in the flood plain. He had concerns about the construction of the buildings. Mr. Hansford said they do not rule on the construction, just the zoning.

Mrs. Sessions asked if he lives on this property. Mr. Wyatt said no. It is 6.5 acres of vacant property. Mr. Wyatt has other concerns about the other buildings and questioned the lot line descriptions in the legal notice. These other buildings could be moved. The value of these buildings is zero. The pavilion is just on telephone poles, no foundation. The McMullins are requesting a setback variance for the pavilion and state that they use that building in the summer.

Mr. James Wyatt Jr. of 1830 Merrill Road Kent was sworn in. He lives across the street. He remembers speaking with his father about the potential issues with the property lines and it was never a problem to him. They used the property to graze cattle. This is a problem at 1900 Merrill Road which now has a vacant house and garage which can't be used until it is worked out. There are situations all up and down that side of Merrill Road. If there is evidence at the Portage County tax department that the extra 17 feet was added, that should be sought out and see if it is the true valid property line.

Mr. Henry said if we turn down the variance, the McMullins would have to tear down the buildings. Mrs. McMullin said she is paying the property taxes on the garage.

Mr. Hanford said until this is squared away legally, he doesn't think they can do anything but turn it down. Mr. Abell hopes that the two neighbors can resolve this. Both surveys were done by very capable surveyors.

Mr. John Wyatt said he called the Administration Building to see why this wasn't fixed at the Sheriff Sale, and he was told the property was sold as is. Mr. Hansford said the Board could act on this tonight or table it and see if it can be ironed out in court.

Mr. Jim Wyatt said there were surveyors there about a year ago that were looking to survey all the way over to S.R. 59.

Mr. Henry moved to continue this hearing for a period of one year from Feb. 12, 2018 as listed in the legal notice of Feb. 12, 2018 with a second from Mr. Hansford. All Board members voted yes. The three variances requested were continued for one year.

**Approval of Minutes:** Mrs. Sessions moved to approve the minutes as presented from the December 4, 2017 meeting. Mr. Hansford seconded the motion. All Board members voted yes except Mr. Henry who abstained. The meeting minutes were approved.

**Next Meeting:** The next meeting is scheduled for March 9, 2018 at 7:00 p.m.

The meeting was adjourned at 8:56 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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