

**APPROVED MINUTES OF THE REGULAR MEETING  
OF THE KENTWOOD ZONING BOARD OF APPEALS  
CITY COMMISSION CHAMBERS  
JANAURY 15, 2018, 7:00 P.M.**

1. Vice-Chair Lenger called the meeting to order.
2. Pledge of Allegiance
3. Roll Call  
MEMBERS PRESENT: Darla Bishop, Richard Lenger, Alan Lipner, Darius Quinn (arrived late), Joe Royston, Chad VanSoelen, Mary VanNoord  
MEMBERS ABSENT: Les Derusha, Robert Houtman (with notification)  
OTHERS PRESENT: Planner Joe Pung, Planning Assistant Monique Collier, the applicants, and

**Motion by Lipner, supported by VanNoord to excuse Quinn, Derusha and Houtman from the meeting.**

- Motion Carried (6-0) –
- Quinn, Derusha and Houtman absent -

4. Approval of the Minutes and Findings of Fact

Motion by Lipner, supported by VanNoord, to approve the minutes of December 2017

- Motion Carried (6-0) –
- Quinn, Derusha and Houtman absent -

5. Acknowledge visitors and those wishing to speak to non-agenda items.
6. Public Hearing

Appeal #V-18-01

Applicant: Mark Brighton  
Location: 5080 Rum Creek

Request: The applicant wishes to retain an existing detached accessory building for a total of three accessory structures (an attached garage and two detached accessory buildings) on the property. Section 3.15.D.1 limits the number of attached or detached garages or accessory buildings in combination to no more than two. The requested variance is to permit a third accessory building on the property.

Mark Brighton, 5080 Rum Creek Ct. was present representing the request. He stated he appeared in front of the Board a few years ago. He stated he lives in a cul-de-sac and he has a very large deck and takes a lot of pride in his yard. He stated he has accumulated a lot of things over the years. Tables for his deck, chairs and lounges, pressure washer, lawn mowers, fertilizers a lot of equipment. He stated he has an 8x12 shed. He stated he applied for a permit to put another 12x20 shed and his plan was to take the 8x12 shed down. He stated that upon getting everything finished and filling his shed up, he realized he needed the 8x12 shed for storage otherwise he has nowhere to put his stuff. He stated he would have to put everything under a tarp and this would be an eyesore and not good for his chairs out in the winter. He stated he built the 8x12 building back in 1987. He stated it is a nice shed and none of his neighbors complain about it. He stated he is begging and just needs some more room to put his stuff. He stated you cannot see his shed from anywhere unless you peak over the fence. He stated he doesn't understand why it is so important for him to take the shed down he isn't cluttering his yard. He stated both sheds are aesthetics to his yard he has landscaping around them. He stated it is not feasible for him to take the shed out. He stated he would like the Board to bend the rules for him because he isn't causing any issues. He stated there was poor grading when his yard was first developed. He stated they have a water problem in their backyard.

VanSoelen stated he doesn't know how he meets the criteria, but wants the Board to bend the rules. VanSoelen stated if the Board bends the rules for him they would have to bend the rules for everyone in the community and then everyone would be allowed two sheds. VanSoelen stated his lot is no different from his neighbor's lot or any other lot within the City. VanSoelen stated there are a lot of self-storages within the City for people that need additional storage. VanSoelen stated the request was denied before and he doesn't see why we would change our minds now.

Lenger stated there are 6 standards that have to be met and if they are not met then we can't grant the variance.

The commissioners agreed that it was his action that is causing the need for the variance and are not in favor of the request.

Lenger opened the public hearing.

Dave Gombert, 5074 Rum Creek Ct. was present. He stated he lives next to Mark and they share the fence and the shed is not a problem for him. He stated if there is a need for a variance Mark's yard fits the definition. Living on the cul-de-sac the backyard is very large. It isn't cluttered, it is not an eye sore.

**Motion by Lipner, supported by VanNoord to close the public hearing.**

- Motion Carried (6-0) –
- Quinn, Derusha and Houtman absent -

Lipner stated point 1 is met there are no neighbors behind him it is an open area. Lipner stated point 2 is not met the property is not unique. Lipner stated point 3 has not been met.

Royston stated point 1 has been met. Royston stated point 2 has not been met. Royston stated point 3 has been met because it is a well kept yard.

VanSolen stated point 1 and 2 have not been met. VanSoelen stated point 3 has been met as it is beneficial for homes to have the shed.

VanNoord stated points 1, 2 have not been met. Van Noord stated point 3 has been met.

Bishop stated point 1 is met. Bishop stated point 2 has not been met. Bishop stated point 3 has not been met.

Lenger stated point 1 and 2 have not been met. Lenger stated point 3 has been met.

Lipner stated point 4 has been met the neighbors have spoken. Lipner stated point 5 has not been met. Lipner stated point 6 has not been met. He stated he has a lot of tools and he wants to keep them.

Royston, VanSoelen, VanNoord, concurred points 4, 5 and 6 have not been met

Bishop stated point 4 has been met. Bishop stated point 5 has been met. Bishop stated point 6 has not been met.

Lenger stated point 4 has been met and points 5 and 6 have not been met.

**Motion by Lipner, supported by to VanSoelen deny V-18-01**

- 1. That there are no exceptional and extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district.**
- 2. The circumstances applying to the property, are so general or recurrent a nature as to make reasonable practical the formulation of a general regulation for such conditions or situations.**
- 3. The variance is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity. Others in similar circumstances are not permitted 3<sup>rd</sup> accessory building.**
- 4. The property, the variance will impair the intent and purpose of this Ordinance.**
- 5. That the immediate practical difficulty causing the need for the variance request was created by the applicant.**

- Motion Carried (6-0) –
- Derusha Quinn and Houtman absent -

Appeal#V-18-02

Applicant: Midway RV Center  
Location: 5590 Division Avenue, SE

Request: The applicant wishes to expand the existing building by 10,400 square feet (an increase of 49 percent). Based on the size of the building expansion, Section 23.02.01 of the Division Avenue Form Based Code requires that the project comply with the Division Avenue Form Based Code sign requirements which permits only a freestanding monument sign at this location and prohibits a sign from being located within the utility easement along Division Avenue. The applicant wishes to retain the existing freestanding pylon sign which is located within a utility easement along Division Avenue. The requested variance is waive the requirement to comply with Section 23.02.01 and permit the existing sign to be retained.

Mike Naber, 4598 84<sup>th</sup> Street, Owner of Midway RV Center located at 5590 Division was present. He stated he has been waiting for the Form Based Code to take effect and it has now. He stated he has been short on space and is trying to put an addition on without doing any expense to the sign or the front of the building. He stated he asked staff to keep the percentage from going below 50% to do all the modifications in an attempt to not hinder any improvements along Division Avenue. He stated when the Form Based Code was complete they put it at 25% and when they discussed that he was over 25% and staff knew and they recommended he come before the Board for a variance on some of the requirements to the existing building.

Lenger stated there is discussion of changing the ordinance but it will not happen for a few months. Naber stated he met with staff and they stated they are going to make a recommendation to raise it to 50% and to grandfather in some of the businesses and keep the progress moving forward. But, in an attempt to move his project forward without waiting for the process he had to seek the variance so he can get the building ordered.

Lenger questioned that he has equipment right up to the sidewalk and the sidewalk is between the fence and the sidewalk however the sign would need be to moved back beyond the fence. Pung stated it would have to go to a monument sign and also be setback 21 feet from the sidewalk.

VanSoelen questioned the process to amending the ordinance Pung stated it has to go back to the Planning and City Commissions. City Commission then makes the modification to the ordinance pending recommendation from the Planning Commission. Pung stated we are looking to go from 0 to 50%; if it were amended they wouldn't be in front of the ZBA for the variances they are asking for with the proposed changes.

Baber stated Form Based Code is to give Division Avenue a downtown feel. He stated but when it is all said and done it may be another 20-30 years down the road. He stated right now the look of the building and the sign fit in with the neighbors and the building is hidden by the RV's you don't even see his building going down the road.

Lipner stated looking up and down Division there are similar pylons signs, how are they going to be impacted. Pung stated as part of the ordinance change existing legal non-conforming freestanding signs will be able to remain as part of any type of addition.

Lenger opened the public hearing.

There was no public comment.

**Motion by Lipner, supported by VanNoord, to close the public hearing.**

- Motion Carried (7-0) –
- Derusha and Houtman absent -

VanSoelen stated point 1 is met he is the first one to try to redevelop under the new Form Based Code and they are looking at revisions and he wouldn't need these variances. VanSoelen stated point 2 has been met. Vansoelen stated point 3 has been met. It is a grandfathered use within the Form Based Code and they are not changing the sign.

VanNoord. Bishop, Royston, Lipner, Lenger concurred that points 1,2 and 3 have been met.

VanSoelen stated point 4 has been met the business has been there for several years. VanSoelen stated point 5 is met because the intent and the purpose of the ordinance is flawed and the City has seen that and they are looking to making corrections. VanSoelen stated point 6 has been met it is caused by the Form Based Code

Quinn, VanNoord. Bishop, Royston, Lipner, Lenger concurred that points 4,5 and 6 have been met.

**Motion by VanSoelen, supported by VanNoord, to approve V-18-02.**

- 1. That there are exceptional and extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district.**
- 2. Due to the exceptional and extraordinary circumstances applying to the property, the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonable practical the formulation of a general regulation for such conditions or situations.**
- 3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity.**

4. **The variance will not be detrimental to adjacent property and the surrounding neighborhood.**
5. **Due to the exceptional and extraordinary circumstances applying to the property, the variance will not impair the intent and purpose of this Ordinance.**
6. **That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.**

- Motion Carried (7-0) –

Appeal#V-18-03

Applicant: Midway RV Center  
Location: 5590 Division Avenue, SE

Request: The applicant wishes to expand the existing building by 10,400 square feet (an increase of 49 percent). Based on the size of the building expansion, Section 23.02.01 of the Division Avenue Form Based Code requires that the project comply with the Division Avenue Form Based Code building façade and façade landscape requirements. The existing building does not comply with the requirements for a sloped roof and parapet, a cornice expression line, a recessed entry door, a 18” to 24” high storefront base, a 16” to 32” pilaster or wall surface every 20 to 40 feet, a metal canopy without column supports, and a 5-foot wide sidewalk from the public sidewalk to the building entrance. The requested variance is waive the requirement to comply with Section 23.02.01 and retain the existing building façade and not install a connection to the public sidewalk.

Mike Naber stated this is the same thing because of the Form Based Code.

VanSoelen questioned what landscape elements are being requested for a variance. Pung stated the one now would require from the public sidewalk to the building entrance would be a 5 foot sidewalk connection.

Lenger opened the public hearing.

There was no public comment.

**Motion by Quinn, supported by VanNoord to close the public hearing.**

- Motion Carried (7-0) –  
- Derusha and Houtman absent -

Lipner stated point 1 is met it is exceptional in its size and location. Lipner stated point 2 is met. Lipner stated point 3 has been met.

Quinn, Royston, Bishop, VanNoord, VanSoelen and Lenger concurred that point 1,2 and 3 have been met.

Lipner stated point 4 has been met there was a letter from a neighbor supporting the request. Lipner stated point 5 is met in light of the fact that it is being reviewed be staff. Lipner stated point 6 is met the restrictions have made it necessary.

Quinn, Royston, Bishop, VanNoord, VanSoelen and Lenger concurred that point 4,5 and 6 have been met.

**Motion by Lipner, supported by Quinn to grant approval of V-18-03**

- 1. That there are exceptional and extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district.**
- 2. Due to the exceptional and extraordinary circumstances applying to the property, the condition or situation of the specific piece of property for which the variance is sought is not of so general or recurrent a nature as to make reasonable practical the formulation of a general regulation for such conditions or situations.**
- 3. That such variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district and in the vicinity.**
- 4. The variance will not be detrimental to adjacent property and the surrounding neighborhood.**
- 5. Due to the exceptional and extraordinary circumstances applying to the property, the variance will not impair the intent and purpose of this Ordinance.**
- 6. That the immediate practical difficulty causing the need for the variance request was not created by any action of the applicant.**

- Motion Carried (7-0) –
- Derusha and Houtman absent -

Quinn recognized that it was a national holiday Dr. Martin Luther King Day.

**Motion by supported by to adjourn the meeting.**

- Motion Carried ( 7-0) –
- Derusha and Houtman absent -

Meeting adjourned at 7:55p.m.

Respectfully submitted,  
Alan Lipner, Secretary