

MINUTES
BOARD OF ADJUSTMENT HEARING
JULY 30, 2021 – 6:00 P.M.
KENAI CITY COUNCIL CHAMBERS
210 FIDALGO AVE., KENAI, AK 99611
<http://www.kenai.city>

Appeal of Planning and Zoning Commission Action Approving a Conditional Use Permit to Applicant, TKC, LLC, for Eight Single Family Dwellings in a Suburban Residential Zone, Government Lot 26, Section 31, Township 6 North, Range 11 West and Located at 1714 Fourth Avenue.

A. CALL TO ORDER

The City of Kenai Board of Adjustment convened on July 30, 2021, in City Hall Council Chambers, Kenai, AK. Board Chair Brian Gabriel called the meeting to order at 6:00 p.m.

B. ROLL CALL

There were present:

Brian Gabriel, Chair	Jim Glendening
Victoria Askin	Henry Knackstedt
Glense Pettey	Teea Winger
Bob Molloy	

C. OPENING STATEMENT

Board Chair Gabriel provided an opening statement.

Council Member Knackstedt declared that he has done work for Byler Contracting but had not discussed this case with them; he noted he could make an unbiased decision. Chair Gabriel ruled that Member Pettey did not have a conflict.

D. SWEARING IN OF ALL PERSONS PROVIDING TESTIMONY

City Clerk Heinz administered the oath for all persons providing evidence and testimony.

E. PUBLIC COMMENT (5 minutes)

Violetta Strait explained that her neighborhood was small and new construction resulted in increased traffic and crime. She expressed concern that properties in the neighborhood would become unsafe and trashy. She noted there have already been problems on her street and if more people come in, there could be increased police presence and traffic. She expressed concern that the crowding of eight buildings on one lot will cause property values and safety to go downhill.

Jerry Strait noted his wife intended to express that eight homes on this lot was too many and believed that four homes on that space would be more sufficient. He noted that a development

may look good initially but could change over time. He expressed concern about decreasing property values, and noted he saw similarities between this development and construction camps or prison camps. He reiterated concerns that the number of houses in this area would be too many, and it was only a matter of time before it deteriorated.

Mark Shinn noted the neighborhood was a quiet dead-end street with no lights and this development would create unwanted extra traffic. He expressed concerns that eight houses would be too many on this land and would disrupt the view from his home; would result in more traffic, noise, and crime. He suggested alternative development plans, explained his reasons for wanting to live there, and suggested that the character should not be changed.

Star McCloud noted that everyone that spoke had said very wise words. She explained her concerns about congestion and decreased property values, noting that many neighborhood residents were retired and there to stay. She expressed the view that the Board should see the neighborhood for themselves.

Joe Doshen explained that there was a bus stop on that corner, the garbage truck had a hard time accessing the street, and kids play in the street and stand at the bus stop. He noted that this neighborhood was quiet, there was no room for more houses across the street and he did not want more people coming in.

Sherry Shinn expressed concern for her neighborhood, kids riding bikes in the street, and the crowding of parked cars on the street; explained her reasons for moving to the neighborhood, and the problems that could be presented by rental homes in the area such as visible bags of trash outside, strange kids in her yard, decreasing property values, and increased crime.

Fred Braun explained that he owned several lots in the area and that he had sold two lots to Byler Construction who built two very nice small homes on them. He noted his perspective is that of both a property owner in the neighborhood and also a realtor; that the development was nearly completed, that he was impressed with the project, and believed it has provided value to the community. He explained how the lease application was designed for professional people, did not allow animals or smokers, and that rental opportunities in the area were extremely limited. He noted that as currently written, seven homes can legally be built without a CUP, and that the construction of these units would increase sales tax and property tax for the City and Borough.

Judy Walker inquired whether the owner intended to live in the area and who would keep the units maintained and well-kept. She noted that across from the church, trees had been clear-cut to build small homes; expressed concerns regarding decreasing property values, increased crime, and noise. She stated opposition toward any rentals in this area.

Shannon Fitt explained how her properties were adjacent to the CUP applicant's property, noted she had realtor experience, expressed concern over eight houses being built on this property, and how it would decrease property values. She explained that there has been issues with increased crime in the area and expressed strong opposition to having the houses built adjacent to her property as they may attract low income families.

Kerry Malone noted where she lived in relation to the property in question and how she had observed drug users in the area. She expressed concern for wildlife that used the property, the number of houses to be built on the lot, and the driveway exiting onto a street where children play.

Ron Dukowitz noted there were too many rentals in the neighborhood already; that renters pile junk outside, and he was not in favor of any more rentals in the area.

F. STAFF REPORT (15 Minutes)

Planning Director Foster reviewed his staff report provided in the certified record explaining that the application was for a Conditional Use Permit for the purpose of constructing eight single-family dwelling units. The criteria for conditional use permits was reviewed and it was explained how the application had met the criteria.

Clarification was provided that staff's analysis was that the existing public services and facilities would be able to accommodate the proposed development, and that the landscape site plan showing utility lines had been approved by the Public Works Director and Fire Marshal. An explanation of typical use for Suburban Residential zoning was given. Director Foster noted that a landscape site plan would need to be approved by Planning & Zoning as a condition of the permit, and that screening and snow storage would be addressed in that plan. He explained that the Fire Marshal would review and provide comments to ensure emergency vehicle access and fire hydrants were sufficient to serve the area. He clarified that if the lot were to be subdivided no CUP would be required, and four units on each parcel was permitted by code. He noted that the Kenai Peninsula Borough Platting Commission preliminarily approved the subdivision into two lots.

G. APPELLANTS (30 minutes each)

1. Wayne Jones

Appellant Wayne Jones noted that the responsibility of the Planning & Zoning Commission and Board of Adjustment should be to protect the rights of residents to the use and enjoyment of their neighborhood and value of their property. Noted the opposition from the neighborhood suggesting that it would run counter to those goals and would not support the character, quality, or integrity of the neighborhood. He expressed concerns over increased traffic presenting a danger to children and pets, and the potential negative impact on property values. He asked that the Board overturn the Planning & Zoning decision to grant the permit and not be swayed by commercial developers. He suggested that instead of sending notifications to neighbors via postcard, the City should put in a greater effort to gather input from neighbors. Mr. Jones stated that residents were taxpayers and the City should be working for them.

In response to questions from the Board, Mr. Jones clarified that he would be negatively impacted by the development because it would be out of character for the neighborhood. He noted that people who were looking to buy a home would not want to do so near these rental homes and in the long term would diminish the seller's market. He stated that the area has reached a saturation point of rentals and that renters in general often have no investment in the property they inhabit, are more transient, may leave the property in poor condition, and may participate in unethical activities. Mr. Jones reiterated his concerns about density, traffic, and the potential danger to the school bus stop and children.

H. APPELLEE (30 minutes)

1. TKC, LLC

The Appellee was not present to comment.

I. **APPELLANT REBUTTAL** (10 minutes each)

1. Wayne Jones

J. **APPELLEE REBUTTAL** (10 minutes)

1. TKC, LLC

K. **APPELLANT CLOSING ARGUMENT** (5 minutes)

1. Wayne Jones

In closing, Mr. Jones noted that he appreciated the opportunity for the neighborhood to come and express concerns. He noted that there was trepidation among the neighbors that they won't be heard and expressed hope that the Board would not be swayed by commercial interests and would take seriously the concerns of residents.

L. **APPELLEE CLOSING ARGUMENT** (5 minutes)

1. TKC, LLC

M. **DELIBERATIONS** (Deliberations may be held in public or adjudicative sessions)

MOTION:

Vice Board Member Molloy **MOVED** to adjourn into adjudicatory session. Board Member Winger **SECONDED** the motion.

VOTE:

YEA: Gabriel, Knackstedt, Glendening, Molloy, Winger, Askin

NAY:

MOTION PASSED UNANIMOUSLY.

Board Chair Gabriel advised that the Board had 30 days to provide a decision.

With no further business before the Board, it adjourned into adjudicatory session for deliberation.