

**BOARD OF ZONING APPEALS MINUTES
MARCH 1, 2023**



MEETING
LOCATION: City Council Chambers, City Building

MEMBERS: Christopher Amburgey Todd Moore
PRESENT: Stefan Wannemacher David Kash
 Jim Hall Jerry Heidenreich

STAFF
PRESENT: James Metz, City Planner

OTHERS PRESENT: Larry Risner

Chairman Moore called the meeting to order at 5:30 P.M. The roll was called by James Metz. A voting quorum was present for the meeting. Mr. Moore led the pledge of allegiance.

APPROVAL OF PREVIOUS MEETING MINUTES – FEBRUARY 1, 2023

Mr. Moore asked if everyone had a chance to review the previous meeting minutes and asked for a motion. Mr. Heidenreich made a motion to approve the February 1, 2023 meeting minutes. Mr. Amburgey seconded the motion. Mr. Hall abstained from voting. The motion was approved through a roll call.

APPOINTMENT OF CHAIRMAN AND VICE-CHAIRMAN

Mr. Moore asked if anyone had any nominations for a Chairman and Vice Chairman. Mr. Amburgey nominated Todd Moore as Chairman and Mr. Heidenreich seconded the motion. Mr. Moore was unanimously approved as Chairman. Mr. Moore asked if anyone had any nominations for Vice Chairman. Mr. Moore nominated Jerry Heidenreich and Mr. Hall seconded the motion. Mr. Heidenreich was approved as Vice Chairman unanimously.

VARIANCE REQUEST #3-23: 1502 WOODLAWN AVENUE

Mr. Moore presented Variance Case #3-23: A request by applicant Larry D. Risner for approval of an Area and Dimensional Variance for the property located at 1502 Woodlawn Avenue. The property is zoned R-4: Attached Residential District. The variance requested is to allow a fence greater than 48 inches in height where the Middletown Development Code states that all fences, walls, and hedges shall not exceed 48 inches in the front yard or along any lot line that is adjacent to a street, including corner lots, in any residential district or in the O-1 or O-2 Districts.

Mr. Metz was sworn in and presented the case using a PowerPoint presentation. Mr. Metz displayed photos of the subject property throughout the last several years to indicate the changes made by the applicant.

Mr. Metz displayed a zoning map and stated that the property is zoned R-4: Attached Residential District. Mr. Metz read the City of Middletown's Development Code Chapter 1208.06: Fences, Walls, and Hedges regarding the rules for fences within the R-4 Zoning District.

Mr. Metz stated that per the Middletown Development Code, the requirement for legal notice for variance requests, and meeting notice letters for the proposed appeal were sent to all property owners contiguous and directly across the street or public right-of-way and noted that no comments were received.

Mr. Metz displayed and read Chapter 1226.10: Variances and the Area and Dimensional Variance Review Criteria.

Mr. Metz displayed the following Appeals information: any person or entity claiming to be injured or aggrieved by any final action of the Board of Zoning Appeals has the right to appeal the decision to the court of common pleas as provided in the Ohio Revised Code Chapters 2505 and 2506.

Mr. Metz stated the applicant was present and concluded his staff report.

Mr. Moore stated he would like to open the public forum. Mr. Moore asked if there is anyone who would like to speak in favor of the project.

Larry Risner was sworn in by Mr. Moore. Mr. Risner explained the process that led him to create a non-conforming fence and his intentions for its development. Mr. Risner made an argument that his fence made the neighborhood more appealing and safer for the vehicles in his backyard.

Mr. Moore asked how many vehicles does he have in his backyard. Mr. Risner stated between 10-15 vehicles at any given time. Mr. Moore asked Mr. Risner if he has ever faced a code or zoning violation for the vehicles in his backyard. Mr. Risner confirmed that he has and would not have if he still lived in the country. Mr. Moore asked Mr. Metz what, if any, issues would Mr. Risner face with 10-15 vehicles in his backyard. Mr. Metz stated as the vehicles are not his own and he's storing them for other people it would be similar to Outdoor Storage which is not permitted in a residential neighborhood.

Mr. Risner made another argument that it would be acceptable if he lived in the country.

Mr. Amburgey and Mr. Heidenreich asked where would the fence be acceptable to be 6ft tall. Mr. Metz showed them on a previous image. Mr. Risner stated he would be amenable to moving the fence back to the side yard.

Mr. Moore asked if there was anyone else who would like to speak in favor or in opposition to the application. Hearing none, Mr. Moore closed the public hearing.

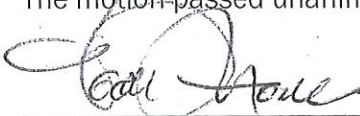
Mr. Heidenreich made a motion to deny the variance as submitted. Mr. Kash seconded the motion. The motion was denied through roll as a 6-0 vote.

Mr. Gross - Absent
Mr. Hall - Yes to Deny
Mr. Moore - Yes to Deny
Mr. Amburgey - Yes to Deny
Mr. Heidenreich - Yes to Deny
Mr. Kash - Yes to Deny
Mr. Wannemacher - Yes to Deny

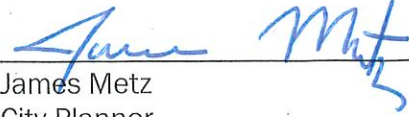
NEW/OLD BUSINESS

ADJOURNMENT

With no further business to conduct, there was a motion to adjourn at 6:16 pm.
The motion passed unanimously.



Todd Moore
Chairman



James Metz
City Planner

*Full Meeting Recording Available in the Development Services Department.