



## BOARD OF ZONING APPEALS MINUTES March 6, 2019

MEETING  
LOCATION: City Council Chambers, City Building

MEMBERS  
PRESENT: Fred Gibson Christopher Amburgey Roger Daniel  
Todd Moore

STAFF  
PRESENT: Ashley Combs, City Planner

OTHERS: Daniel Colson (Applicant)

Chairman Todd Moore called the meeting to order at 5:30 P.M. The roll was called by City Planner, Ashley Combs. A quorum was present. Mr. Gibson led in the Pledge of Allegiance.

### ELECTION OF CHAIRMAN & VICE CHAIRMAN

A motion was made by Mr. Gibson and seconded by Mr. Daniel to table voting on the Chairman and Vice Chairman until full membership was present at the meeting. The motion carried unanimously through roll call.

### ACCEPTANCE OF PREVIOUS MEETING MINUTES

Mr. Moore asked for questions or discussion on the minutes of the November 7, 2018 regular meeting and none were heard. A motion and second was made to accept the minutes. The motion by Mr. Gibson and seconded by Mr. Daniel to accept the minutes as presented. The motion was approved unanimously through roll call.

### VARIANCE CASE #1-19 USE VARIANCE – 3800 TYTUS AVENUE

Mr. Moore introduced the case as a request by applicant Daniel Colson for use variance approval to allow for the property located at 1515 Manchester Avenue, Middletown, OH 45042 to be used as a car detailing and services business. The property is zoned R-4 Attached Residential where commercial uses are not permitted. The property has a commercial building located on the property since 1952 and was previously known as an auto service garage and car wash.

Ashley Combs, Planning Director, was sworn in to present the case. She used a PowerPoint presentation. Ms. Combs explained the background of the project and displayed a zoning map. Ms. Combs displayed pictures of the existing building on the property.

She noted that the surrounding properties have the following uses and zoning designations:

- North: R-4 Attached Residential District (Residential Home)
- West: R-4 Attached Residential District (Apartments)
- East: R-4 Attached Residential District (Residential Homes)
- South: UCC Urban Central Core District (Vacant Commercial/Residential Land)

Ms. Combs explained that the property is zoned R-4 Attached Residential where commercial uses are not permitted. This property in previous years has been used for commercial uses and has always had a commercial building on the property. However, the previous commercial business stopped being a business for over 12 months and that caused the property to be reverted to being only permitted to have residential uses. She displayed an aerial map of the property.

Ms. Combs pointed out that per the Middletown Development Code the requirement for legal notice for variance requests, meeting notice letters were sent to all property owners within 200 feet of the property regarding the variance request and the following comments were received:

Per the Middletown Development Code the requirement for legal notice for variance requests, meeting notice letters were sent to all property owners within 200 feet of the property regarding the variance request and the following comments were received:

- Barb Barker: Has no issues with the request, happy for the new business.
  - Pam Parramore: Thank you for the letter concerning the zoning appeals at 1515 Manchester Ave. on March 6th. I have no objections to this zoning change.
- Per the applicant, the only reason that the previous business closed was due to an illness in the family. Staff feels that the proposal meets all of the variance review criteria outlined below. Ms. Combs went over the Use Variance review criteria with the board.

Ms. Combs noted that per the Middletown Development Code requires in order to approve a requested use variance the Board of Zoning Appeals is required to determine that strict compliance of the Middletown Development Code will result in unnecessary hardship to the applicant.

The applicant must demonstrate such hardship by clear and convincing evidence that all of the following criteria are satisfied:

- The property cannot be put to any economically viable use under any of the permitted uses in the zoning district in which the property is located; Always a commercial use & building.
- The variance requested stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district; Always commercial.
- The variance requested cannot otherwise be resolved by a zoning map amendment or a zoning map amendment is not the most beneficial approach; use variance best approach.
- The essential character of the neighborhood will not be substantially altered as a result of the variance; No, always been a commercial building within the neighborhood.
- There is an existing structure that cannot be reasonably used for a permitted use or a conditionally permitted use in the applicable zoning district; Correct, always commercial.
- The hardship condition is not created by actions of the applicant; not created by applicant.
- The granting of the variance will not adversely affect the rights of adjacent property owners or residents; will not negatively affect surrounding neighborhood.
- The granting of the variance will not adversely affect the public health, safety or general welfare; the proposed use will not.
- i. The variance will be consistent with the general spirit and intent of this code; Yes.
- j. The requested use is permitted in another district in this code; and Yes.

k. The variance sought is the minimum that will afford relief to the applicant. Yes.

Ms. Combs concluded her staff report and noted that the applicant, Daniel Colson, was present at the meeting to answer any questions. Mr. Moore asked the board if they had any questions for staff. As no questions were asked of staff Mr. Moore opened the hearing to the public.

Applicant, Daniel Colson, came forward to speak for the project. Mr. Moore swore in Mr. Colson to speak on behalf of the project.

Mr. Colson explained that he was excited at the opportunity to be able to open a business in Downtown Middletown. He said that the project is for detailing car washes, selling a few vehicles, and doing light repair work on vehicles.

The board discussed that the success of the business will surround on relationships with the public. Mr. Colson said that he plans on detailing the cars of executive level clients. The board also discussed an appropriate time for the business to be open. Ms. Combs pointed out that the City's General Ordinance will address hours of operation. Ms. Combs said that she believed the hours of operation are from 8am to 10pm/11pm in the evening.

The board discussed the appropriate number of vehicles to be permitted for sale on the property. They asked Mr. Colson how many he would like to have for sale so that they weren't putting a condition on the property that would hinder his success.

The board noted that the property would need to be kept neat and tidy without any spare tires or junk motor vehicles anywhere on the outside of the building. The board said that they would like to see some level of landscaping. Ms. Combs said that the Middletown Development Code standard is 5% for parking lots. The board further discussed the project and looked the existing property aerials.

The board discussed the proper conditions to place on the project and made sure that they were appropriate and agreeable for the Mr. Colson.

Mr. Moore closed the public hearing and asked for staff recommendation.

Ms. Combs said that based on the staff report provided and compliance with the requirements outlined in the Middletown Development Code for a use variance, staff recommends APPROVAL of Use Variance Case #1-19 to allow for the car detailing and services business located at 1515 Manchester Avenue with the condition the applicant installs a 6 feet in height fence (wood/masonry) for the neighboring residential property.

The board discussed staff's recommendation and made the following motion for the project: Approval of Variance #1-19 for the use variance application to allow for car detailing, services, and car sales at the property located at 1515 Manchester Avenue, Middletown, OH 45042 based on the following conditions:

- 1) The sales of automobiles will be passive on the property.
- 2) There will be no storing of auto parts, tires, or junk cars on the property.

- 3) All storage of auto parts and supplies will be on the inside of the building.
- 4) Landscaping will be provided on the property for 5% of the paved area.
- 5) 8 ft. tall wood fence be installed to block the view from neighboring residences (North and the West of the property, not to be installed along Iglehart).

A motion was made by Mr. Amburgey and seconded by Mr. Daniel to approve Use Variance request #1-19 with the noted conditions. The motion was approved unanimously.

#### **NEW & OLD BUSINESS**

New Zoning Inspector – Ms. Combs said that the department has selected and hired a new Zoning Inspector, Austin Eidemiller, who will begin in Mid-March. She said the department is very excited for him to start and he was the best candidate that interviewed for the position.

#### **ADJOURNMENT**

With no further business to conduct, there was a motion to adjourn at 6:30 pm. The motion passed unanimously.

**MINUTES HAVE BEEN APPROVED BY BOARD OF ZONING APPEALS.**

---

Todd Moore  
Chairman

---

Ashley Combs  
Planning Director