

BOARD OF ZONING APPEALS MINUTES
July 6, 2022



MEETING
LOCATION: City Council Chambers, City Building

MEMBERS: Christopher Amburgey David Kash
PRESENT: Jim Hall Jerry Heidenreich
 Todd Moore Dan Ward

STAFF
PRESENT: James Metz, City Planner

OTHERS PRESENT: Peter Brandt, Paul Brandt, Steve Winters, John Price, and John Sander,

Chairman Mr. 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 – APRIL 6, 2022

Mr. Moore asked if everyone had a chance to review the previous meeting minutes and asked for a minor edit on page one and then asked for a motion regarding the April 6, 2022 meeting minutes. Mr. Heidenreich made a motion to approve the minutes as submitted. Mr. Kash seconded the motion. The motion was approved through roll call.

VARIANCE REQUEST #6-22: AREA AND DIMENSIONAL VARIANCE – 4563 ROOSEVELT BLVD

Mr. Moore presented Use Variance Case #6-22: A request by applicant Peter Brandt for approval of an Area and Dimensional Variance for the property located at 4563 Roosevelt Boulevard. The property is zoned B-2: Community Business District. The variance requested is for the reduction of open space to 19% of total square footage whereas the development code requires at least 51%.

Mr. Metz was sworn in by Mr. Kash and presented the case using a PowerPoint presentation.

Mr. Metz displayed photos of the subject property.

Mr. Metz displayed a zoning map and stated that the property is zoned B-2: Community Business District. Mr. Metz read the City of Middletown's Development Code regarding the requirement for floor space within micro-breweries and micro-distilleries.

Mr. Metz stated that per the Middletown Development Code, the requirement for legal notice for variance requests, and meeting notice letters for the proposed variance 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 asked if the Board of Zoning Appeals would like him to read the Area and Dimensional review criteria out loud. Mr. Kash asked Mr. Metz to read the criteria once for the area and dimensional variance and once for the use variance on the applicable applications. 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 the court of common pleas as provided in the Ohio Revised Code Chapters 2505 and 2506.

Mr. Metz concluded his staff report. Mr. Moore asked if there is anyone who would like to speak in favor of the project.

Mr. Kash swore in Peter and Paul Brandt. Peter Brandt explained the need for reduced floor space is based off of the State's safety requirements and that the business would still have plenty of room to operate.

Mr. Moore asked if there is anyone who would like to speak in opposition to the project. Hearing none, Mr. Moore closed the public hearing.

Mr. Moore asked Mr. Metz if staff gives a recommendation for the Board of Zoning Applications. Mr. Metz stated that is only for Planning Commission. Mr. Moore mentioned that during a training session several months prior that it was determined staff can identify what portions of the review criteria a project may or may not apply. Mr. Metz stated he would review the minutes for that particular meeting and have a clear answer for the Board at the next meeting.

Mr. Heidenreich made a motion to approve the application as submitted. Mr. Kash seconded the motion. The motion was approved through roll.

VARIANCE REQUEST #7-22: AREA AND DIMENSIONAL VARIANCE - 2004 PEARL STREET

Mr. Moore presented Use Variance Case #7-22: A request by applicant Jessica Propps for approval of an Area and Dimensional Variance for the property located at 2004 Pearl Street. The property is zoned R-4: Attached Residential District. The variance requested is for the installation of a pool in the front yard whereas the development code requires all pools to be located in the side or rear yard.

Mr. Metz presented the case using a PowerPoint presentation. Mr. Metz displayed photos of the subject property.

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 regarding the requirement for pools to be located in the back or side yards.

Mr. Metz stated that per the Middletown Development Code, the requirement for legal notice for variance requests, and meeting notice letters for the proposed variance 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 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 of the court of common pleas as provided in the Ohio Revised Code Chapters 2505 and 2506.

Mr. Metz concluded his staff report.

Mr. Moore asked if there is anyone who would like to speak in favor of the project. Mr. Moore asked if there is anyone who would like to speak in opposition to the project. Hearing none, Mr. Moore closed the public hearing.

Mr. Kash made a motion to deny the application as submitted. Mr. Hall seconded the motion. The motion was approved through roll.

VARIANCE REQUEST #8-22: AREA AND DIMENSIONAL VARIANCE – 6475 CULBERTSON RD

Mr. Moore presented Use Variance Case #8-22: A request by applicant John Sander for approval of an Area and Dimensional Variance for the property located at 6475 Culbertson. The property is zoned B-2: Community Business District. The variance requested is for the construction of a 35ft tall pole sign where the development code does not allow signs over 20ft tall.

Mr. Metz presented the case using a PowerPoint presentation. Mr. Metz displayed photos of the subject property.

Mr. Metz displayed a zoning map and stated that the property is zoned B-2: Community Business District. Mr. Metz read the City of Middletown's Development Code regarding the maximum height for free-standing signs within the B-2 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 variance 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 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 the court of common pleas as provided in the Ohio Revised Code Chapters 2505 and 2506.

Mr. Metz concluded his staff report. Mr. Moore asked if there is anyone who would like to speak in favor of the project. Mr. Kash swore in Mr. Sander.

Mr. Sander explained that he is with a national development firm outside of Chicago and his client is pushing for a taller sign at the location to be visible to possible customers due the property being significantly lower than the surrounding properties. Mr. Sander clarifies that the sign will be on his client's property and will not cause any issues with the power lines that run on the opposite side of the road.

Mr. Moore asked if there is anyone who would like to speak in opposition to the project. Hearing none, Mr. Moore closed the public hearing.

Mr. Moore stated that he drove by the site and believed the request submitted is reasonable and that there is a slope downwards from 122 to Culbertson.

Mr. Kash made a motion to approve the application as submitted. Mr. Ward seconded the motion. The motion was approved through roll.

VARIANCE REQUEST #9-22: USE VARIANCE – 409 CRAWFORD STREET

Mr. Moore presented Use Variance Case #9-22: A request by applicant John Price for approval of a Use Variance for the property located at 409 Crawford Street. The property is zoned B-2: Community Business District. The variance requested is to allow 409 Crawford Street to be utilized as transitional housing while transitional housing is not permitted within the B-2 zoning district.

Mr. Metz presented the case using a PowerPoint presentation. Mr. Metz displayed photos of the subject property.

Mr. Metz displayed a zoning map and stated that the property is zoned B-2: Community Business District. Mr. Metz read the City of Middletown's Development Code that stated transitional housing is not permitted within the B-2 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 variance 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 Use 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 the court of common pleas as provided in the Ohio Revised Code Chapters 2505 and 2506.

Mr. Metz concluded his staff report. Mr. Moore asked if there is anyone who would like to speak in favor of the project. Mr. Kash swore in Mr. Price.

Mr. Price provides a timeline from the purchase of the property until the current meeting regarding his ownership of the property and the variety of uses it had in between. Mr. Price detailed the upgrades he had conducted to the building and his plan for the site to be used as transitional housing. Mr. Price explains that his business One Way Farm has operated as transitional housing for minors and intends to operate the same way at this new property.

Mr. Heidenreich asked how does One Way Farm decide which minors get placed in this particular property. Mr. Price said it would only be the older minor who have shown success in their program.

Mr. Moore stated his experience with re-entry programs and transitional housing and that there is not a worse location than on Crawford. Mr. Moore stated that he admires what Mr. Price does but it is a dangerous area to ask for a use variance to house minors in. Mr. Price retorted that the minors that he will house there are accustomed to this kind of environment and it will not be detrimental to them.

Mr. Price stated that he has put in a lot of work into this building and that he has spent up to \$200,000 for this building including remodeling. Mr. Price also stated that the building department confirmed that he would be able to operate his business out of this property as it was previously used for adults.

Mr. Kash and Mr. Moore both stated that there is a difference between operating this business for adults versus minors.

Mr. Price ended his time at the dais restating the benefits of what he does and why it's necessary to have the request approved.

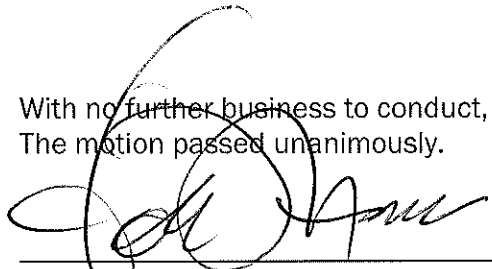
Mr. Moore asked if there is anyone who would like to speak in opposition to the project. Hearing none, Mr. Moore closed the public hearing.

Mr. Amburgey made a motion to deny the application as submitted. Mr. Ward seconded the motion. The request was denied unanimously through roll.

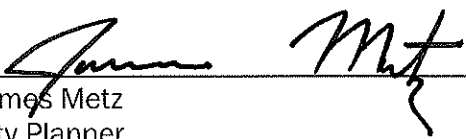
NEW/OLD BUSINESS

ADJOURNMENT

With no further business to conduct, there was a motion to adjourn at 7:37 pm.
The motion passed unanimously.



Todd Moore
Chairman



James Metz
City Planner

*Full Meeting Recording Available in the Development Services Department.