

BOARD OF ZONING APPEALS MINUTES

FEBRUARY 5, 2025



MEETING LOCATION: City Council Chambers, City Building

MEMBERS PRESENT: Gary Gross Stefan Wannemacher
Thomas Evans David Kash
Alton "AJ" Mentel

STAFF PRESENT: Claire Fettters, City Planner
Carly Sherman, Staff Attorney

OTHERS PRESENT: Susan Royal, Mark Royal, David McDaniel, Will Stephenson, Alexandra Ruiz, Kim Seng Lim

CALL MEETING TO ORDER

Staff Attorney Carly Sherman called the meeting to order at 5:30 p.m. The roll was called by Claire Fettters. A voting quorum was present. Ms. Sherman led the pledge of allegiance.

BOARD OF ZONING APPEALS ELECTIONS

Ms. Sherman noted it was the first meeting of the year, so the first item on the night's agenda was to elect a chair and vice chair of the Board of Zoning Appeals and asked if anyone had any nominations. Mr. Wannemacher nominated Mr. Kash for Chair; the motion passed through a roll call vote 4-0 with Mr. Kash abstaining. Mr. Kash nominated Mr. Wannemacher for Vice Chair; the motion passed through a roll call vote with a 4-0 vote with Mr. Wannemacher abstaining.

APPROVAL OF PREVIOUS MEETING MINUTES – DECEMBER 4, 2024

Mr. Kash moved to the next item on the meeting agenda: the meeting minutes from the December 4, 2024 meeting and asked if anyone had any changes or revisions to the meeting minutes. Mr. Wannemacher motioned that the meeting minutes be accepted as presented; Mr. Gross seconded the motion.

David Kash – Yes to Approve

Gary Gross – Yes to Approve

AJ Mentel – Yes to Approve

Thomas Evans – Yes to Approve

Stefan Wannemacher – Yes to Approve

AREA AND DIMENSIONAL VARIANCE CASE #1-25: 4680 CAPRICE DRIVE

Mr. Kash then presented the first variance case of the evening, variance case #1-25: A request by applicant Ben Ransick on behalf of Shenming Yu for an area and dimensional variance for the property at 4680 Caprice Drive to determine the screening requirements needed per Middletown Development Code 1216.10(a) and (b). The property is zoned B-3: General Business District. The variance requested is to allow for a reduction in screening requirements for off-street loading areas due to the location of the lot lines of the parcel.

Mr. Kash sworn in Ms. Fettters. Ms. Fettters presented the staff report for the variance case

using a PowerPoint presentation. Ms. Fetter stated that public notice was published as well as sent to all property owners contiguous and directly across the street or public right-of-way from the property in question, and no comments had been received. Ms. Fetter then concluded her staff report.

Mr. Wannemacher asked if the proposed loading docks that were originally before the Board had been approved administratively; Ms. Fetter stated she had not received a zoning permit application for the addition of the loading docks. Mr. Wannemacher asked where screening would be required on the property; Ms. Fetter stated screening is required around the entire property, and the applicant wishes to reduce that due to the location of the lot lines.

Mr. Kash asked for clarification on where the docks would go and where the proposed screening would be located. Ms. Fetter confirmed the shape of the subject parcel and that the code does require screening for docks regardless of adjacent property uses.

Mr. Mentel stated it would look weird for a fence to be in the middle of the parking lot, but noted variances are not meant to be used to remove inconveniences or financial burdens. Ms. Fetter stated she did not believe the applicant or property owner were present to answer any questions.

Mr. Gross asked where the proposed screening would be; Ms. Fetter displayed the aerial view of the property and stated the squiggly line is the proposed screening. Mr. Wannemacher noted the private easement that exists on the property, so the squiggly line is really the only option of a place to put screening. Mr. Kash asked if the applicant explained the type of screening proposed, such as materials or height of the screening. Ms. Fetter stated she was not certain on the maximum height permitted for walls or fences in the zoning district. Mr. Kash then asked if the applicant had been in contact with staff; Ms. Fetter responded they hadn't, but she had sent a meeting notice letter to the applicant and property owner.

Mr. Mentel proposed the Board grant a variance that allows for no screening requirements due to invasive species taking over old fencing that may happen to such a fence at this property. Mr. Wannemacher stated he was envisioning a vegetative barrier as a wall or fence would look out of place. Mr. Kash recommended the case be continued to the next meeting to give the applicant time to provide additional detail to the proposed screening.

Mr. Kash opened the public hearing for anyone wishing to speak in support of the variance. Seeing none, Mr. Kash then asked if anyone would wish to speak in opposition to the variance. Seeing none, Mr. Kash closed the public hearing.

Mr. Wannemacher motioned to continue the application to the March meeting and asked Ms. Fetter to reach out to the applicant; Mr. Mentel seconded the motion. The motion was approved through roll call, passing unanimously with a 5-0 vote.

David Kash – Yes to Continue

Gary Gross – Yes to Continue

AJ Mentel – Yes to Continue

Thomas Evans – Yes to Continue

Stefan Wannemacher – Yes to Continue

AREA AND DIMENSIONAL VARIANCE CASE #2-25: 6642 ROYCROFT DRIVE

Mr. Kash presented variance case #2-25: A request by applicant Will Stephenson on behalf of property owners Mark and Sue Royal for an area and dimensional variance for the property at 6642 Roycroft Drive to construct a deck in the rear yard of the house that will exceed the aggregate square footage permitted for accessory buildings and structures. The property is zoned R-4P: Planned Development District. The variance requested is to allow the applicant to exceed the 25% aggregate square footage by approximately 22%.

Ms. Fetters presented the staff report for the variance case using a PowerPoint presentation. Ms. Fetters stated that public notice was published as well as sent to all property owners contiguous and directly across the street or public right-of-way from the property in question, and no comments had been received. Ms. Fetters then concluded her staff report.

Mr. Wannemacher asked if Ms. Fetters could display the image of the back of the house and asked if there was existing screening. Ms. Fetters confirmed there were existing evergreen trees. Mr. Wannemacher then asked if the majority of the square footage of the deck would be on the lower level; Ms. Fetters confirmed.

Mr. Kash asked if the red coloring on the plot was the proposed deck addition; Ms. Fetters confirmed. Mr. Kash then asked if the upper deck addition still applies to the aggregate square footage because it is not on the ground; Ms. Fetters confirmed and explained that even if the applicant was only adding on to the existing upper deck, then the same process of reviewing their application for compliance to the zoning regulations would apply.

Mr. Evans asked if there were any environmental concerns with the deck addition as it could be blocking waterflow. Ms. Fetters noted the only easement on the property is located very close to the property line, further away from the deck.

Mr. Kash asked if there was anyone wishing to speak in support of the variance. David McDaniel was sworn in. Mr. McDaniel spoke in support of the deck and noted he had a similar deck at his own house two doors down.

Mark Royal was sworn in. Mr. Royal spoke about how he and his wife had moved to the area and built a house in the same subdivision as his daughter. Mr. Royal discussed the proposed deck, general improvements that have been made to the property since they bought it, and noted his wife, Susan Royal, and contractor, Will Stephenson, would be able to answer any questions the Board might have about landscaping or the construction of the deck.

Mr. Evans asked if Mr. Royal mows the property; Mr. Royal stated the homeowner's association takes care of the mowing and maintenance of the grass. Mr. Evans asked how growth of grass or vegetation in general would be controlled; Mr. Royal stated he believed a tarp would be placed to block any growth, but his contractor could answer the question better. Mr. Mentel asked if there was any intent to add further screening. Mr. Royal noted his wife could speak to the intentions of the landscaping. Mr. Wannemacher asked if the coloring of the deck would match the existing deck; Mr. Royal confirmed.

Susan Royal was sworn in. Ms. Royal spoke about the proposed deck, the proposed

landscaping addition to the property, and treatment of vegetation underneath the deck.

Will Stephenson was sworn in. Mr. Stephenson spoke about the deck and reiterated what Ms. Royal stated regarding the treatment under the deck. Mr. Wannemacher asked if there would be a lattice along the bottom of the deck; Mr. Stephenson responded the deck would remain open underneath.

Mr. Kash asked if anyone else wished to speak in favor of the variance. Seeing none, Mr. Kash asked if anyone wished to speak in opposition to the variance. Seeing none, Mr. Kash closed the public hearing.

Mr. Mentel noted he was in favor; Mr. Gross noted he has seen a number of homes in the area with giant decks. Mr. Kash stated Mr. McDaniel, who had spoke in support of the variance, also has one that might be even bigger than the proposal before the Board. Mr. Gross motioned to approve the variance as presented, citing Review Criteria 1; Mr. Mentel seconded the motion. The motion was approved through roll call, passing unanimously with a 5-0 vote.

David Kash – Yes to Approve

Gary Gross – Yes to Approve

AJ Mentel – Yes to Approve

Thomas Evans – Yes to Approve

Stefan Wannemacher – Yes to Approve

AREA AND DIMENSIONAL VARIANCE CASE #3-25: 4455 ROOSEVELT DRIVE

Mr. Kash presented variance case #3-25: A request by applicant RDA Group Architects for an area and dimensional variance for the property at 4455 Elliott Drive to allow for drive-through equipment within 250 feet of a residential dwelling unit and decrease the number of required stacking spaces between the pick-up window and order box to three cars. The parcel is zoned B-2 Community Business District.

Ms. Fetter presented the staff report for the variance case using a PowerPoint presentation. Ms. Fetter stated that public notice was published as well as sent to all property owners contiguous and directly across the street or public right-of-way from the property in question, and no comments had been received. Ms. Fetter then concluded her staff report.

Mr. Wannemacher asked if there was any curbing requirements for the stacking lanes. Ms. Fetter stated she would need to check to confirm, and Ms. Sherman noted that topic is outside the scope of the variance request but would be vetted by staff during the permitting process.

Mr. Kash asked if the image showing the stacking spaces could be displayed and asked if the image is the City's image; Ms. Fetter noted the displayed graphic is from the Development Code. Mr. Kash explained he was having a hard time seeing how the image would fit the subject property. Mr. Evans asked if there was any precedent; Ms. Fetter stated the Board does not rule on precedent.

Mr. Kash opened the public hearing, asking if anyone wished to speak in support of the variance. Alexandra Ruiz was sworn in. Ms. Ruiz spoke about the proposed use of the property

and the renovations that would be taking place. Ms. Ruiz spoke about the reasoning behind the relocation of the order box due to the amount of time people can take to order donuts and allowing for an increase stacking of cars between the order box and entrance to the property. Mr. Mentel noted the existing uses in close proximity and the proposed use would not be an increase in noise.

Mr. Kash and Mr. Wannemacher asked about traffic flow in and out of the property. Ms. Ruiz explained how traffic could circulate the lot, but the entrance to the drive-through would be on the north side of the building, exiting the drive through on the west side of the building.

Mr. Kash asked if anyone else wished to speak in favor of the variance. Seeing none, Mr. Kash asked if anyone wished to speak in opposition to the variance. Seeing none, Mr. Kash closed the public hearing.

Mr. Mentel stated he did not see any issue with the requested variance; Mr. Wannemacher noted he thought it would bring less congestion issues than the bank had with the ATM. Mr. Gross explained what resonated with him was the reasoning behind the relocation of the speaker box, for a longer queue to accumulate as people choose their order than between the speaker box and the pick-up window.

Mr. Kash asked where the closest residence was to the subject property. Ms. Fetter displayed the aerial view of the property and highlighted the residence two properties to the west.

Mr. Wannemacher stated based on what he had heard, he would move to grant the variance for both the stacking spaces required and the proximity of the order box to residential structures, citing Review Criteria 9; Mr. Evans seconded the motion. The motion was approved through roll call, passing unanimously with a 5-0 vote.

David Kash – Yes to Approve

Gary Gross – Yes to Approve

AJ Mentel – Yes to Approve

Thomas Evans – Yes to Approve

Stefan Wannemacher – Yes to Approve

OLD/NEW BUSINESS

Ms. Fetter asked if the Board wished to do any training for the upcoming year, such as understanding the various review criteria that the Board would be using for cases, or training on best practices and protocol. Mr. Mentel stated he would appreciate training. Ms. Fetter stated the training would probably be around the April meeting due to the length of the March agenda. Mr. Kash explained training would be beneficial as the mindset is different from various Boards and Commissions and explained what he had learned in the previous training session offered.

ADJOURNMENT

With no further business to conduct, the meeting was adjourned at 6:00 p.m. The motion passed unanimously.

David Kash
Board of Zoning Appeals Chairman

Claire Fetter
City Planner

*Full Meeting Recording Available on the City's YouTube Channel.