

**BOARD OF ZONING APPEALS MINUTES
APRIL 5, 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: Jack Jones

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 – MARCH 1, 2023

Mr. Moore asked if everyone had a chance to review the previous meeting minutes and asked for a motion. Mr. Kash made a motion to approve the February 1, 2023 meeting minutes. Mr. Wannemacher seconded the motion. The motion was approved through a roll call.

VARIANCE REQUEST #4-23: 1315 ELLIOT DRIVE

Mr. Moore presented Variance Case #4-23: A request by applicant Craig Abercrombie for approval of an Area and Dimensional Variance for the property located at 1315 Elliot Drive. The property is zoned B-2: Community Business District. The variance requested is for the removal of a stacking lane curb where the Middletown Development Code states when stacking lanes are separated from other stacking lanes, bypass lanes, or from other site areas, the separation shall be by means of a raised concrete median, concrete curb, or landscaping.

Mr. Metz was sworn in and presented the case using a PowerPoint presentation. Mr. Metz displayed photos of the subject. 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 Chapter 1218.05: Vehicle Stacking Space Requirements regarding the rules for stacking lanes within the City of Middletown.

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.

Jack Jones was sworn in by Mr. Moore. Mr. Jones explained the redevelopment process for Arby's and how that led him to shift and add a stacking lane.

Mr. Kash asked what is the objection to adding a concrete median. Mr. Jones stated that people will jump the curb and have done so often.

Mr. Jones stated the additional lane is added for safety otherwise the line of cars would impede traffic from Elliot Drive.

Mr. Heidenreich asked if adding the additional lane speeds up the process. Mr. Jones stated that it does.

Mr. Moore asked if there were any other questions for the board. Hearing none, Mr. Moore thanked Mr. Jones. 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. Kash asked Mr. Metz regarding a text amendment that was mentioned for this particular rule. Mr. Metz stated that at the last BZA meeting, there was a conversation among board members about the need for this rule and a possible text amendment. Mr. Metz explained how the Board of Zoning Appeals could either vote to make a recommendation of a text amendment to the Planning Commission, Chairman Moore could address it at the next Planning Commission meeting, or that Staff can suggest a text amendment as well.

Mr. Kash asked Mr. Metz if he is privy to why the text was added to the Development Code. Mr. Metz stated that he isn't.

Mr. Moore asked to review the hardship criteria. Mr. Moore stated it's not unreasonable to consider this a safety concern. Mr. Moore suggested the Board review criteria 4 and 5. Mr. Wannamacher suggested the Board review criteria 9 as well.

Mr. Wannamacher made a motion to approve the variance as submitted citing review criteria 9. Mr. Kash seconded the motion. The motion was approved through roll as a 6-0 vote.

Mr. Gross – Absent
Mr. Hall – Yes to Approve
Mr. Moore – Yes to Approve
Mr. Amburgey – Yes to Approve
Mr. Heidenreich – Yes to Approve
Mr. Kash – Yes to Approve
Mr. Wannemacher – Yes to Approve

NEW/OLD BUSINESS

Mr. Metz started new business discussing the text amendment that was previously discussed involving either removing or altering the stacking lane. Mr. Metz stated he had spoken to the Development Committee regarding this text amendment this morning. The Development Committee stated they would be supportive of the Board of Zoning Appeals decision regarding a text amendment.

Mr. Moore stated he would be in favor of a text amendment. Mr. Kash concurred. Mr. Kash also stated that he can see either keeping or modifying the text. Mr. Kash stated it seems like we are finding the review criteria are being met at the last two variance requests.

Mr. Wannamacher stated that it would be as simple as adding a few more words such as shall be by means of a raised concrete median, concrete curb, landscaping, or other clear demarcation.

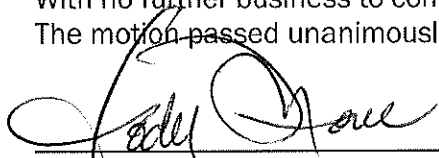
Mr. Kash agreed with Mr. Wannamacher and asked Mr. Metz about the process. Mr. Metz explained how the Board of Zoning Appeals could either vote to make a recommendation of a text amendment to the Planning Commission, Chairman Moore could address it at the next Planning Commission meeting, or that Staff can suggest a text amendment as well. Mr. Metz stated that he could bring it Planning Commission with other text amendments in the future.

Mr. Kash stated that most visible demarcation suffices for most drivers. Mr. Hall agreed.


Mr. Moore asked Mr. Metz if they need to vote. Mr. Metz stated not at this time. He will bring the text amendment back to new business at the next meeting.

ADJOURNMENT

With no further business to conduct, there was a motion to adjourn at 6:01 pm.
The motion passed unanimously.



Todd Moore
Chairman



James Metz
City Planner

*Full Meeting Recording Available in the Development Services Department.