

BOARD OF ZONING APPEALS MINUTES
MAY 7, 2025



MEETING LOCATION: City Council Chambers, City Building

MEMBERS PRESENT: David Kash Stefan Wannemacher
Thomas Evans Jerry Heidenreich
Gary Gross AJ Mentel

STAFF PRESENT: Claire Fettters Binegar, City Planner
John Roach, Staff Counsel
Bobby Mumma, Staff Counsel

OTHERS PRESENT:

CALL MEETING TO ORDER

Chairman David Kash called the meeting to order at 5:30 p.m. The roll was called by Claire Fettters Binegar. A voting quorum was present. Mr. Kash led the pledge of allegiance.

APPROVAL OF PREVIOUS MEETING MINUTES – MARCH 5, 2025

Mr. Kash then moved to the next item on the meeting agenda: the meeting minutes from the March 5, 2025 meeting. Mr. Kash asked if there was a motion to approve the March meeting minutes. Mr. Wannemacher motioned that the meeting minutes be accepted as presented; Mr. Gross seconded the motion.

David Kash – Yes to Approve
Stefan Wannemacher – Yes to Approve
Gary Gross – Yes to Approve
Jerry Heidenreich – Yes to Approve
Thomas Evans – Yes to Approve
AJ Mentel – Abstain

APPROVAL OF PREVIOUS MEETING MINUTES – APRIL 2, 2025

Mr. Kash then moved to the next item on the meeting agenda: the meeting minutes from the April 2, 2025 meeting. Mr. Kash asked if there was a motion to approve the April meeting minutes. Mr. Mentel motioned that the meeting minutes be accepted as presented; Mr. Wannemacher seconded the motion.

David Kash – Yes to Approve
Stefan Wannemacher – Yes to Approve
Gary Gross – Yes to Approve
Jerry Heidenreich – Yes to Approve
Thomas Evans – Yes to Approve
AJ Mentel – Yes to Approve

USE VARIANCE CASE #10-25: 4214 GRAND AVENUE

Mr. Kash then presented the first variance case of the evening, variance case #10-25: A request by applicant Rajubhai Thobhani for a use variance for the property at 4214 Grand Avenue to allow for a wholesale establishment. The property is zoned B-1: Neighborhood Business District. The variance requested is to allow for the wholesale establishment use type in the B-1 district, a prohibited use according to Table 1204-3 of the Middletown Development Code.

Mr. Kash sworn in Ms. Fettters Binegar. Ms. Fettters Binegar presented the staff analysis for the variance case using a PowerPoint presentation. Ms. Fettters Binegar stated the applicant is seeking a use variance to operate a wholesale establishment; a prohibited use per the Middletown Development Code in the B-1 district. Ms. Fettters explained the purpose of the B-1 zoning district. Ms. Fettters Binegar stated the applicant does not believe if granted the use variance would affect the surrounding properties and the delivery of governmental services. Ms. Fettters Binegar then cited Chapter 1230.02, the definition of a wholesale establishment.

Ms. Fettters Binegar stated that per the Middletown Development Code, 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. No public comments were received.

Ms. Fettters Binegar then displayed pictures of the variance application, property and areas surrounding the property, the zoning map, the Use Variance Review Criteria, the time limit associated with an approved variance, and the appeal process. Ms. Fettters Binegar then concluded her staff report.

Mr. Wannemacher asked Ms. Fettters Binegar if the B-1 zoning district allowed for Medical Offices or if that was a variance granted to the previous owner. Ms. Fettters Binegar did not know and said she would look it up. Ms. Fettters Binegar then stated that Medical Offices are permitted at that location.

Mr. Mentel noted he is unsure how the application meets items A, C, and L in the use variance review criteria.

Mr. Heidenreich asked Ms. Fettters Binegar to put up the map showing the zoning districts.

Mr. Wannemacher asked if the applicant needed to first go through the Board of Zoning Appeals before they could initiate a map amendment. Ms. Fettters Binegar stated no, the map amendment route was just an alternative option for the applicant.

Mr. Kash opened the public hearing to anyone wishing to speak in favor of the request. Dennis Beatty was sworn in.

Mr. Beatty stated the building has been vacant and was previously used as a medical facility. Mr. Beatty stated it has been difficult to fill these types of buildings since the hospital has been built. Mr. Beatty stated his client has been attempting to lease the building to a medical facility, but has had no luck. Mr. Beatty stated this new business would cater to gas stations

and offer to deliver the wholesale goods to gas stations.

Mr. Kash asked if semi-trucks were able to navigate around this building. Mr. Beatty stated yes, but the owner indicated they do not have semi-truck deliveries often.

Mr. Kash asked if any renovations would be done. Mr. Beatty stated they plan to leave the exterior just as it is, but they would renovate the interior.

Mr. Kash asked if there were any additional questions. Hearing none, Mr. Kash asked if anyone else would like to speak in favor of the request.

Mr. Kash asked if anyone else wished to speak in favor of the variance. Hearing none, Mr. Kash asked if anyone wished to speak in opposition. With no additional public wishing to speak, Mr. Kash closed the public hearing.

Mr. Mentel stated the case has been made for his previous concerns regarding use variance review criteria items A and L. Mr. Mentel stated he still had concerns regarding review criteria item C wondering if a map amendment may be more appropriate.

Ms. Fetter Binegar explained the two routes an applicant can take – the map amendment process or the variance request.

Mr. Wannemacher stated he believes the application meets all of the use review criteria.

Mr. Evans stated he was struggling to find how item A in the use review criteria was satisfied. Mr. Evans and Mr. Wannemacher discussed the vacant history of the property.

Mr. Mentel motioned to approve the variance; Mr. Wannemacher seconded the motion.

The motion was approved through a roll call vote, with a 6-0 vote.

David Kash – Yes to Approve

Stefan Wannemacher – Yes to Approve

Gary Gross – Yes to Approve

Jerry Heidenreich – Yes to Approve

Thomas Evans – Yes to Approve

AJ Mentel – Yes to Approve

AREA AND DIMENSIONAL VARIANCE CASE #11-25: 3415 GLENCOE AVENUE

Mr. Kash then presented the next variance case of the evening, variance case #11-25: A request by applicant Mark Mattingly for an area and dimensional variance for the property at 3415 Glencoe Avenue to construct a new single-family dwelling under two stories tall that does not meet the minimum livable floor area on a parcel that does not meet the minimum lot area site development standards for the subject zoning district. The property is zoned R-4: Attached Residential District. The lot size is approximately 7,405 square feet; Middletown

Development Code requires single family homes in the R-4 zoning district to be constructed on lots that are at least 9,000 square feet. The livable floor area for the proposed new single-family dwelling under two stories tall is 1,377 square feet; Middletown Development Code Chapter 1204.10(b) requires new single-family dwellings under two stories tall in the R-4 zoning district to have a minimum of 1,500 square feet of livable floor area.

Ms. Fetters Binegar stated that upon review of the application the Zoning Administrator, Ms. Savage noticed the lot width does not meet the required lot width as stated in the Code and that variance would be added to the application. Ms. Fetters Binegar then presented the staff analysis for the variance case using a PowerPoint presentation. Ms. Fetters Binegar stated the applicant does not believe if granted the use variance would affect the surrounding properties and the delivery of governmental services.

Ms. Fetters Binegar stated that per the Middletown Development Code, 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. Ms. Fetters Binegar stated the Zoning Administrator has been out of office and not all voicemails, calls, or emails would have been received. Ms. Fetters Binegar stated she received one phone call where the individual was neutral.

Ms. Fetters Binegar then displayed pictures of the variance application, property and areas surrounding the property, the zoning map, the Area and Dimensional Variance Review Criteria, the time limit associated with an approved variance, and the appeal process. Ms. Fetters Binegar then concluded her staff report.

Mr. Mentel asked if the properties adjacent to the applicant's lot were all 50' lots was the R-4 zoning district established after their creation. Ms. Fetters Binegar stated yes, this lot and similar lots in the area are non-conforming. Mr. Mentel asked if staff knew the square footage of other homes in the area. Ms. Fetters Binegar stated she did not know.

Mr. Wannemacher asked if site setbacks were still met. Ms. Fetters Binegar confirmed setbacks were met.

Mr. Kash opened the public hearing to anyone wishing to speak in favor of the request. Mark Mattingly was sworn in.

Mr. Mattingly stated he wants to go through the proper avenues to get the home on the property. Mr. Mattingly stated it's a nice property.

Mr. Kash asked if anyone else wished to speak in favor of the request. Dennis Beatty confirmed he was sworn in.

Mr. Beatty stated last month he brought two similar lots to the Board for variance requests and he has another one tonight. Mr. Beatty stated he wants to put houses back in these lots and is in favor of the applicant's request.

Mr. Kash asked if anyone else wished to speak in favor of the variance. Hearing none, Mr.

Kash asked if anyone wished to speak in opposition. With no additional public wishing to speak, Mr. Kash closed the public hearing.

Mr. Wannemacher stated he is in support of the variance. Mr. Wannemacher motioned to approve the three variance requests citing review criteria items 1 &4; Mr. Heidenreich seconded the motion.

The motion was approved through a roll call vote, with a 6-0 vote.

David Kash – Yes to Approve

Stefan Wannemacher – Yes to Approve

Gary Gross – Yes to Approve

Jerry Heidenreich – Yes to Approve

Thomas Evans – Yes to Approve

AJ Mentel – Yes to Approve

AREA AND DIMENSIONAL VARIANCE CASE #12-25: 2227 WINTON STREET

Mr. Kash then presented the next variance case of the evening, variance case #12-25: A request by applicant Dennis Beatty on behalf of property owner Dickie Brandon for an area and dimensional variance for the property at 2227 Winton Street to construct a new single-family dwelling under two stories tall on a parcel that does not meet the minimum lot area or minimum lot width site development standards for the subject zoning district. The property is zoned R-4: Attached Residential District. The lot size is approximately 7,405 square feet; Middletown Development Code requires single family homes in the R-4 zoning district to be constructed on lots that are at least 9,000 square feet. The lot width is approximately 50 feet wide; Middletown Development Code Chapter 1204.10(b) requires single family dwellings in the R-4 zoning district to be constructed on lots that are a minimum of 70 feet wide.

Ms. Fetters Binegar then presented the staff analysis for the variance case using a PowerPoint presentation. Ms. Fetters Binegar stated the applicant does not believe if granted the use variance would affect the surrounding properties and the delivery of governmental services.

Ms. Fetters Binegar stated that per the Middletown Development Code, 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.

Ms. Fetters Binegar then displayed pictures of the variance application, property and areas surrounding the property, the zoning map, the Area and Dimensional Variance Review Criteria, the time limit associated with an approved variance, and the appeal process. Ms. Fetters Binegar then concluded her staff report.

Mr. Kash opened the public hearing to anyone wishing to speak in favor of the request. Dennis Beatty was sworn in.

Mr. Beatty stated this infill lot is similar to the previous case that was heard before in April. Mr. Beatty stated the home will be 4 bedrooms and have no garage.

Mr. Heidenreich asked Mr. Beatty if the existing curb cutting would be used. Mr. Beatty confirmed it would be.

Mr. Kash asked if anyone else wished to speak in favor of the variance. Hearing none, Mr. Kash asked if anyone wished to speak in opposition. With no additional public wishing to speak, Mr. Kash closed the public hearing.

The board concluded there were no further questions or considerations. Mr. Mentel motioned to approve the variance request citing review criteria items 1 &4; Mr. Gross seconded the motion.

The motion was approved through a roll call vote, with a 6-0 vote.

David Kash – Yes to Approve

Stefan Wannemacher – Yes to Approve

Gary Gross – Yes to Approve

Jerry Heidenreich – Yes to Approve

Thomas Evans – Yes to Approve

AJ Mentel – Yes to Approve

AREA AND DIMENSIONAL VARIANCE CASE #13-25: 623 CLEVELAND STREET

Mr. Kash then presented the final variance case of the evening, variance case #13-25: A request by applicant Carl Lewis on behalf of property owner Linda Angel for an area and dimensional variance for the property at 623 Cleveland Street to allow for the construction of a detached garage in the front yard of the corner lot property. Per the Middletown Development Code Section 1206.01: Accessory Uses and Structures, detached garages are only permitted in the home's rear yard.

Ms. Fetters Binegar then presented the staff analysis for the variance case using a PowerPoint presentation. Ms. Fetter Binegar stated the applicant asserts the exceptional narrowness, shallowness, or shape of the lot justifies their request. Ms. Fetters Binegar stated the applicant does not believe if granted the use variance would affect the surrounding properties and the delivery of governmental services.

Ms. Fetters Binegar stated that per the Middletown Development Code, 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.

Mr. Kash asked the Board if there were any questions for Ms. Fetters Binegar. Mr. Kash asked Ms. Fetters Binegar to elaborate on the issue of building over lot lines and the purpose of the lot consolidation. Ms. Fetters Binegar stated that when the property owner consolidated their lot their side yard became their technical front yard since the property became a corner lot which makes the construction the proposed detached garage an

accessory structure in the front yard of the home.

Mr. Mentel abstained from the case given his involvement with the community garden located in close proximity to the property in question.

Mr. Heidenreich asked if they driveway was existing or proposed. City staff indicated it is existing.

Mr. Kash opened the public hearing to anyone wishing to speak in favor of the request. Carl Lewis was sworn in.

Mr. Lewis explained that the existing garage is dilapidated and difficult to park in. Mr. Lewis stated the intention is to tear down the existing garage to build the new two-car garage in its place and potentially remove portions of the existing driveway.

Mr. Heidenreich asked if portions of the driveway were removed what would be put down on the lot. Mr. Lewis stated if portions of the driveway were removed grass would be put down.

Mr. Kash asked if Mr. Lewis was in process with the County and the City for the lot consolidation. Mr. Lewis stated he needs a survey of the lot, but was waiting on the approval from the board first.

Mr. Kash asked if anyone else wished to speak in favor of the variance. Hearing none, Mr. Kash asked if anyone wished to speak in opposition. With no additional public wishing to speak, Mr. Kash closed the public hearing.

Mr. Evans stated given the uniqueness of the lot the application fits criteria 1 & 5 of the area and dimensional review criteria. Mr. Evans motioned to approve the variance request; Mr. Wannemacher seconded the motion.

The motion was approved through a roll call vote, with a 5-0 vote.

David Kash – Yes to Approve

Stefan Wannemacher – Yes to Approve

Gary Gross – Yes to Approve

Jerry Heidenreich – Yes to Approve

Thomas Evans – Yes to Approve

AJ Mentel – Abstain

OLD/NEW BUSINESS

Ms. Fetters Binegar discussed training with the City's new legal counsel, Frost Brown Todd. Ms. Fetters Binegar scheduled the training session for May 22, 2025 at 5:30pm after discussion amongst the board.

Mr. Gross inquired about the possibility of Council passing legislation surrounding infill lots. Ms. Fetters Binegar discussed the reasoning behind the infill lot cases and indicated that

Planning Commission has the ability to initiate a text amendment to change the verbiage in the code. Ms. Fetter Binegar also stated that the City is under going reviews for proposals for an upcoming Zoning Code update.

ADJOURNMENT

With no further business to conduct, Mr. Kash motion to adjourn the meeting. The meeting was adjourned at 6:30 p.m. The motion passed unanimously.



David Kash
Board of Zoning Appeals Chairman



Claire Fetter Binegar
City Planner

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