

October 26, 2022

To: Middletown Board of Appeals Members

RE: **MIDDLETOWN BOARD OF APPEALS**
CASE MT-B-22-5

Dear Member:

Enclosed are copies of materials for your review that will be discussed at the Middletown Board of Appeals (BoA) meeting scheduled for November 9, 2022, at 7:00 PM, held in person and virtually at the Middletown Municipal Center, at 31 West Main Street:

1. Copy of staff report that addresses applicant's request
2. Copy of variance appeal submitted by the applicant
3. Copy of Notice to adjacent property owners
4. Copy of Notice of Public Hearing
5. Copy of all applicable Sections of the Code
6. Copy of all other pertinent Case materials
7. Copy of previous hearing minutes for approval

If you have any questions, please contact me at your earliest convenience via phone, 301-371-6171, and/or email me at: zoning@ci.middletown.md.us.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Wilkes", with a long horizontal flourish extending to the right.

Robert Wilkes
Zoning Administrator

Enclosures

BOARD OF APPEALS AGENDA

November 9, 2022 - 7pm

Call to order: Pledge of Allegiance

7:00 PM Acceptance of September 27, 2022, meeting minutes

Public Hearing:

7:10 PM Case MT-B-22-5 – St. Thomas Moore Academy

The applicant has requested a variance of approximately 2' from the required 4' freestanding sign height. Sign height requirements may be found in section 17.36.100 A.3. of the Town Code.

Staff Update

If you would like to attend the meeting virtually, please follow the link below:

Meeting link

<https://call.lifesizecloud.com/12429575>

Extension

12429575

Passcode

21769

MIDDLETOWN BOARD OF APPEALS

ZONING ADMINISTRATOR

STAFF REPORT

Case #: MT-B-22-5

Applicant: James Merkel
10241 Woodsboro Pike
Walkersville, MD 21793

Location: 103 Prospect Street
Middletown, MD 21769

Request: Variance of approximately 2' from the 4' maximum height of a freestanding sign in a residential district

Zoning: R-2 Residential

Section(s) of the Code that Apply:

17.36.100 – Design Standards for Permitted Sign Type

17.44.050 – Variances (see enclosure)

17.44.070 - Public Hearings (see enclosure)

Staff Findings and Recommendation:

The applicant is filing for a variance of approximately 2' from the 4' maximum height of a freestanding sign in a residential district. The applicant has an approved 4' freestanding sign but would like the sign portion raised 2' to prevent weather related damage to the sign. Staff recommends approval and believes the request is reasonable since the sign is for a school which happens to be zoned residential.

Variances are granted based on Section 17.44.050 of the Town Code:

17.44.050 - Variances.

- A. Filing of Variance. An application may be made to the board of appeals for a variance where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The application must be on a form provided for that purpose by the town. The applicant must provide all the information requested on the form, together with any other information and data that may be required to advise the board on the variance, whether such information is called for by the official form or not.

- B. Standards for Variances. Where there is unnecessary hardship, the board may grant a variance in the application of the provisions of this title provided that the following findings are made where relevant in a given case:
1. That there are unique physical circumstances or conditions including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located;
 2. That because of such physical circumstances or conditions, the property cannot be developed in strict conformity with the provisions of the zoning ordinance without unnecessary hardship and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 3. That such unnecessary hardship has not been created by the applicant;
 4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare;
 5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- C. No grant of a variance shall be authorized unless the board specifically finds that the condition or situation of the specific piece of property or intended use of such property, for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practicable the formulation of a general regulation for such conditions or situation.
- D. Conditions. In granting any variance, the board may attach such reasonable conditions and safeguards as it considers necessary to implement purposes of this zoning ordinance.

(Ord. No. 15-12-02, § I, 12-14-2015; Ord. 182 § 10.4, 1976)

Staff recommends that the application for variance be ***APPROVED based on Section 17.44.050 B3-5*** found in Town Code.

If the variance applied for and requested is granted, staff notes that it will not alter the essential character of the neighborhood or district in which the property is located, nor substantially impair the appropriate use or development of adjacent property and/or confronting properties, nor be detrimental to the public welfare.

Robert Wilkes
Zoning Administrator
zoning@ci.middleton.md.us

Enclosures

17.36.100 - Design standards for permitted sign types.

All new signs and all existing signs which are replaced, reconstructed, extended or changed structurally shall comply with the following development standards.

A. Freestanding Sign—Design Standards.

1. Road Frontage Requirements. Monument signs shall be permitted only on lots with one hundred (100) feet or more of road frontage, with one sign per road frontage for corner lots.
2. Minimum Separation Distance. No monument sign shall be permitted to be erected within seventy-five (75) feet of an existing monument sign.
3. Maximum Height. Eight (8) feet, Except that in residential districts freestanding signs shall not exceed a maximum of four (4) feet in height.
4. Maximum Size. One (1) square foot per five (5) linear feet of street frontage, up to a maximum size of fifty (50) square feet, except that in residential districts freestanding signs shall not exceed a maximum of 32 square feet.
5. Freestanding signs in the town commercial (TC), general commercial (GC), mixed business (MB), and service commercial/light manufacturing (SC/LM) districts shall have a minimum setback of ten (10) feet from any public right-of-way, service drive or entrance and shall be so located as to allow clear and ample visual sight lines for driveways leading into a street and at intersecting streets and alleys.

B. Projecting Sign—Design Standards.

1. A projecting sign may project no more than four feet (4') from the building from which it projects.
2. A projecting sign shall be located at least seven and one-half feet (7'6") above the surface of the ground, may not exceed a height of fourteen feet (14'), and may not extend above the highest point of the roof.
3. Maximum Size. One (1) square foot per linear foot of building frontage on which the sign is to be attached, up to twelve (12) square feet.
4. For a lot located on the corner of two roads or rights-of-way, one projecting sign shall be permitted for each road or right-of-way frontage.

C. Wall Sign—Design Standards.

1. A wall sign may not exceed a height of twenty-five (25) feet, may not extend above the highest point of the roof, and may not project beyond twelve (12) inches from the wall on which it is installed.
2. The maximum size of a wall sign shall be based upon the length by linear foot of the front

of the building on which it is installed. A wall sign may not exceed one (1) square foot for each linear foot of building frontage on which the sign is installed, and no sign shall exceed one hundred (100) square feet regardless of the length of the building frontage.

3. One wall sign shall be permitted on each side of a building which fronts upon a road, street or other public right-of-way.

D. Awning and Canopy Signs—Design Standards.

1. Location. The lettering, graphics or other sign content on an awning or canopy shall be placed parallel to and shall not project above or below the face of the awning or canopy.
2. Limit on Projection. An awning or canopy with a sign shall not extend beyond the vertical line measured one (1) foot in from the edge of the sidewalk or right-of-way curb and shall not be situated in a location which interferes with or obstructs pedestrian or vehicular traffic.
3. Maximum Size. One square foot per linear foot of the awning or canopy, up to a maximum twelve (12) square feet. Sign area shall be counted as part of the total allowable area for signs.

- E. Permanent Window Sign—Design Standards. The maximum area for a window sign, as determined by measuring the width and height of the outermost edges of the sign lettering or graphics shall not exceed twenty-five percent (25%) of the entire window area or sixteen (16) square feet, whichever is less.

(Ord. No. 15-12-03, § II, 12-14-2015; Ord. No. 10-11-01, § I, 11-8-2010)

17.44.070 - Public hearings.

All appeals and applications for variance and special exceptions shall be heard and considered in a public hearing. The board shall schedule the hearing at a reasonable time and shall give not less than ten (10) days' public notice thereof by the posting in a conspicuous place on or near the property of at least one sign of at least three square feet in area stating the date, time, location and purpose of the hearing. The zoning administrator or agents may require additional posting in a place of common use or entrance to the community if in the judgment of the zoning administrator such posting is needed to adequately notify interested parties. All public hearings to be held by the board of appeals shall be advertised in a weekly or daily newspaper of general circulation in the town. Due notice shall also be given to the parties in interest including all adjoining and adjacent property owners. The board shall render its decision within thirty (30) days of the public hearing. It shall be the responsibility of the applicant to provide the names and addresses of all adjacent and adjoining property owners.

At the hearing, any party may appear in person, by agent or by attorney. The concurring vote of two members of the board shall be necessary to render any decision on the issues raised in the appeal or application.

(Ord. No. 15-12-02, § I, 12-14-2015; Ord. 182 § 10.6, 1976)

Board of Appeals
Town of Middletown, Maryland

Date Filed: 9-30-2022
Map/Grid/Parcel/Lot: _____
Zoned: R2

APPEAL FOR VARIANCE UNDER ZONING ORDINANCE

Appeal is hereby made for a variance from a requirement of the Zoning Ordinance, as follows:

Subdivision: _____ Lot: _____ Block: 103 Prospect St.
Location: front of school yard
N S E W side of road; distance N S E W from nearest intersecting road

Appellant's present legal interest in above property: (Check one)

Owner/Joint Owner _____ Lessee _____ Contract to lease or rent
 Contract to purchase _____ Other: (Please Describe) _____

Ordinance section, and subsection if any, containing a requirement(s) from which variance is desired:

Specify the particular requirement(s) from which a variant is desired, in that section or subsection:

Our sign is 4'-0" High. If placed on the ground, it would cause rain & snow damage
Request it be positioned to be 2.0 feet above ground level
Describe the nature and extent of the desired variance from such Ordinance requirement(s):

Check reason(s) why the Ordinance requirement(s) in question would result in peculiar & unusual practical difficulties to/or exceptional or undue hardship upon the owner of the property due to exceptional:

Narrowness
 Shallowness of the property, existing now and on the date of enactment
 Shape of the requirement(s) in question
 Extraordinary situation of the property. Describe briefly (or attach documentation):
Placing on ground would cause snow & rain damage and actually reduce the aesthetic value of sign

If exceptional narrowness, shallowness or shape of the property is claimed, give the date of recording of plot of present subdivision if any: _____; or if property is unsubdivided, give the date on which a deed conveying the identically-bounded tract was first recorded: _____.

Briefly describe the difficulty or hardship upon the owner by reason of the above narrowness, shallowness, shape, condition or situation of the property, if the requested variance is not granted (or attach documentation):

Has any previous petition or appeal involving this property been made to the Board: If so, give Case Number(s):

I hereby affirm that all of the statements and information contained in or filed with this appeal are true and correct.

James A Merkel, Pres. 10241 Woodsboro Pike, Walkersville, MD 21793
Signature of Appellant(s) Address of Appellants

Sworn to and subscribed before me this 30 Day of September, 20 22

My Commission expires 4/22/2024 [Signature]
Notary Public

KAREN NELSON
Notary Public-Maryland
Frederick County
My Commission Expires
April 22, 2024

October 26, 2022

NOTICE TO ADJACENT PROPERTY OWNERS

Board of Appeals Case Number

MT-B-22-5

An appeal has been received from an applicant located at 103 Prospect Street, Middletown, MD. The applicant has requested a variance of approximately 2' from the required 4' freestanding sign height. Sign height requirements may be found in section 17.36.100 A.3. of the Town Code.

The applicant was referred to the Middletown Board of Appeals (BoA) because only the BoA may grant variances to the Middletown Municipal Code. The public meeting to hear this variance request will be held on **November 9, 2022**, at **7:00p.m.** The meeting will be held in person and virtually, directions can be found here.

Please follow the attached link to join virtually.

Meeting link

<https://call.lifesizecloud.com/12429575>

Extension

12429575

Passcode

21769

Citizens are welcome to attend the public meeting at which time those wishing to be heard will be recognized by the BoA chairperson to present their comments. The public meeting is not limited to only those citizens receiving copies of this notice. If you are aware of property owners who, for any reason failed to receive a copy of this notice, and who you believe have an interest in this public meeting, it is requested that you inform them of this public meeting.

For further information, contact the Middletown Town Office at your earliest convenience. Individuals requiring special accommodations are requested to contact Andrew Bowen, Town Administrator at (301) 371-6171, so that proper accommodations can be made.

Robert Wilkes
Zoning Administrator

Town of
MIDDLETOWN, MARYLAND

LIST OF ADJOINING AND CONFRONTING PROPERTY OWNERS

Case Number MT. B-22-5

Appellant ST. Thomas More

Proceedings under the Zoning Ordinance require that notice of public hearing be given.

It is the responsibility of the appellants and petitioners to supply ACCURATE names and CORRECT addresses (must have house numbers or P.O. Box numbers) of all adjacent and confronting property owners on this form, as shown in current County Land Records.

Court decisions indicate that compliance with notice requirements is essential to jurisdiction of the approving body and therefore to the validity of its decision.

<u>NAME</u>	<u>ADDRESS</u>
Christopher Coda	100 Prospect St.
Middletown Library	101 Prospect St.
Brian Lizzi	102 Prospect St.
Terrelyn Greszler	104 Prospect St.
Jennifer Foreman	106 Prospect St.

NOTICE OF PUBLIC HEARING

TOWN OF MIDDLETOWN

Notice is hereby given that the Board of Appeals of Middletown will hold a Public Hearing on November 9, 2022, beginning at the hour of 7:00 PM.

An application for variance appeal has been received from an applicant for a property located at 103 Prospect Street, Middletown, MD. The request for variance is to allow a freestanding sign to be 6' high instead of required 4' height as found in section 17.36.100 A. 3. of the Town Code. This section states, "Maximum Height. Eight (8) feet. Except that in residential districts freestanding signs shall not exceed a maximum of four (4) feet in height."

Please follow the attached link to join virtually.

Meeting link

<https://call.lifesizecloud.com/12429575>

Extension

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Copies of the proposed Appeal for Variance are available at the Middletown Municipal Center for any citizens wishing to receive a copy of the proposed appeal materials for review.

All citizens wishing to be heard will be recognized at this hearing. Any person desiring a stenographic transcript shall be responsible for supplying a competent stenographer.

Individuals requiring special accommodations are requested to contact Andrew Bowen, Town Administrator at (301)371-6171 at least 48 hours prior to the Public Hearing.



Town Approval: Yes No

31 West Main Street
Middletown, MD 21769

Middletown Planning Department

Phone 301-371-6171 (fax: 6474)

Zoning Certificate

Owner: St. Thomas More Academy
Address: 10200 Mount St
Middletown, MD 21769
Phone: _____
Zoning District: _____ Lot #: _____
Subdivision: _____
Setbacks: Left _____ Right _____
Front _____ Rear _____

Applicant: James Mackey
Address: 19241 Wilson Rd
Walkersville, MD 21793
Phone: 301-286-6136
Email: jamack@500.org
Permit # _____
Outside Agency Review: _____ EH _____ SHA _____

Proposed Improvements/changes to property/new use of property: Improve existing sign with illuminated sign
with a 4 ft high sign. Please review sign and location details.

<u>Zoning Application Fee</u>		<u>Please Check</u>
Residential Building Permits		
• Internal/External Improvements	\$25.00	_____
• New Single Family Construction	\$200.00	_____
• New Multi Unit	\$200.00 + \$100.00 each unit	_____
• Demolition	\$50.00	_____
• Home Occupation	\$50.00 + all other applicable fees	_____
Commercial Building Permits		
• Internal/External Improvements	\$100.00	<u>100.00</u>
• Structure Conversion	\$100.00	_____
• Demolition	\$100.00	_____
• Change of Use/Owner/Tenant	\$50.00 + all other applicable fees	_____
• New Commercial	\$500.00	_____
Water & Sewer Connection Fee		
Water Tap	\$9,000.00	_____
Sewer Tap	\$9,000.00	_____
Improvement	\$7,000.00	_____
1" Outside Meters (New Homes w/vault installed)	\$500.00	_____
1" Outside Meters (New homes w/out vault installed)	\$2,000.00	_____

Total Fees * Cash or Check ONLY

Submitted by: James A. Mackey, P.Eng. Date: 9/13/2022

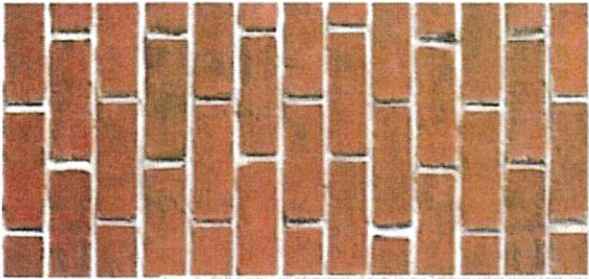
pd 100.00 OK# 2681

After completing this form, and providing a plot plan, all applicants must apply for a building permit through the Frederick County Permits Department at 30 North Market Street, Frederick, MD 21702 (excluding fences and sheds under 150 sq. ft.). This information may be mailed to the address above or submitted to the Town of Middletown between the hours of 8:00 AM and 4:00 PM, Monday through Friday at the Middletown Municipal Center.

OFFICE USE ONLY

Plot Plan Drawing ✓ Received by: [Signature] Date: 9.13.22
Zoning Application Fee ✓ Finance Planner: [Signature] Date: 9.13.22
Zoning Adm. [Signature] Date: 9-27-2022

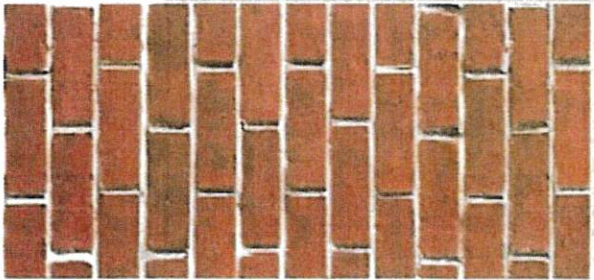
Notes: * Approval is for a 4 ft high sign



Saint Thomas More Academy

PreK3 through 8th grade

6'-0"



4'-0"

2'-0"



MIDDLETOWN BOARD OF APPEALS
Middletown, Maryland 21769
Meeting Minutes for September 27, 2022
Case # MT-B-22-4

The Middletown Board of Appeals (BOA) met on Tuesday, September 27, 2022, at 7:00 p.m. Present were BoA members Daphne Gabb (Chairwoman), Alex Kundrick, Rodney O'Neal, Robert Wilkes (Zoning Administrator) and Jen Rhinaman (recording secretary).

Others present: Dale Guyton (neighbor of applicant) 1 Linden Blvd and Gene Souder (applicant's spouse)

Minutes – Chairwoman Gabb asked if there were any corrections to the August 30, 2022, BOA meeting minutes as submitted. Chairwoman Gabb asked to add Robert Wilkes to “others present” to the August 30th minutes. Board member Kundrick motioned to accept the minutes with the addition and Board member O'Neal seconded the motion. Motion carried (3-0).

Case MT-B-22-4 - The applicant is filing for a variance of approximately 5.5' from the 18' right rear yard setback for the placement of an inground pool to the rear of the existing principal dwelling located at 212 E. Main Street. The property in question is .5142 acres and the proposed pool is 18'X36'.

Based on the application, the applicant states that the lot is long and narrow (approx. 80' wide) and they're permanent structures (a carriage house and a driveway) that create a very narrow space (approximately 38 feet) for a pool and deck. A variance would allow for an average size rectangular pool to fit in the space if the variance was approved. Staff believes a variance of approximately 5.5' from the 18' rear yard setback is acceptable based on the space between the carriage house and the westside property line. Additionally, the request is in line with recent variance appeals.

Staff recommends that the application for the variance be APPROVED based on Section 17.44.050 B1-4 found in Town Code.

If the variance applied for and requested is granted, staff notes that it will not alter the essential character of the neighborhood or district in which the property is located, nor substantially impair the appropriate use or development of adjacent property and/or confronting properties, nor be detrimental to the public welfare. Mr. Souder also provided a letter from his neighbors, Jason, and Jessica Elder 216 E Main St) stating that they have no objections to the building of the pool.

Discussion - Dale Guyton was concerned about the draining of the pool onto his property to the rear of the applicant. Zoning Administrator, Robert Wilkes stated that the pool is further than the required 30 feet to a neighboring resident, with an alley in between the homes and that the contractor would deal with drainage within yard. Member Kundrick was concerned that the Carriage House was to remain on the property. The Carriage House is going to remain on the property as noted in the variance.

Action: Motion by Board member Kundrick to approve the variance of approximately 5.5' from the 18' right yard setback. Seconded by Board member O'Neal. Motion carried (3-0).