



**MIDDLETOWN BOARD OF APPEALS**  
**Middletown, Maryland 21769**

**Meeting Minutes for January 26, 2021**

**Case #MT-B-21-1**

The Middletown Board of Appeals (BoA) met on Tuesday, January 26, 2021 at 7:00 p.m. via Zoom meeting. Present were BoA members Daphne Gabb (Chairwoman), Alex Kundrick, Sean Mahar, and Jonathan Minchoff (alternate), Mark Hinkle (Zoning Administrator) and Patty Guyton (recording secretary).

Others present: Elkana Bar-Eitan (121-123 West Main Street Developer), Joana Tsinonis (Aleko's owner), Chris Johnson (34 Boileau Court), Dixie Eichelberger (206 West Main Street), Jim Hoover (Zion Lutheran Church), and Bob Rockwell (Zion Lutheran Church).

**Minutes** – Chairwoman Gabb asked if there were any corrections to the December 9, 2020 BoA meeting minutes as submitted. Hearing no comments, the minutes were approved.

**Case MT-B-21-1** - The applicant is filing for five requests for variances from Section 17.32.170 of the Middletown Municipal Code, to build a 28x30 detached two story commercial structure with drive through window. The requests are as follows, 9.5' from the 16' requirement for height, 1' from the 6' requirement for rear yard setback, 2.5' from 6' requirement for side yard(east) setback, 5' from 6' requirement for side yard(west) set back and 240 square feet from the 600 square foot requirement for all accessory structures in a commercial zone.

The lot does currently have a structure or dwelling on it, it is a split use building with commercial space on first level and residential units on floors two and three. Staff notes that the remaining lot at 121 W. Main Street is rectangular in shape, it is approximately thirty-five (35) feet wide by eight five (85) feet deep and currently used for parking. The lot was created before the current zoning ordinances were implemented in 1969. The conditions for this property include limited remaining buildable space due to parking requirements as imposed by the Planning Commission when the current building was approved. Because of these limitations it is not possible to construct a new 28x30 two story building, as designed, in strict conformity with the provisions of the zoning ordinance. "Although we tried, it wasn't possible to have Aleko's in the existing building, so we have to build a separate unit for the kitchen in the back."

While the applicant has not created the physical limitations of space that remain on the lot, the limited remaining space is due to the approved Planning Commission parking requirements for the first-floor commercial spaces along with the remaining residential units.

If the variances applied for and requested are granted, staff believes that it will alter the essential character of the neighborhood and district in which the property is located on the 100 block of West Main

St. While the property is zoned Town Commercial, the proposed increase in intensity for this property would be detrimental to neighboring residential units and traffic. If approved, a traffic study should be administered to evaluate whether it would also be detrimental to the safety of pedestrians and vehicular traffic for both Main Street and Elm Street. It would not substantially impair the appropriate use or development of adjacent property and/or confronting properties as they are also zoned Town Commercial.

**Discussions:** Board member Kundrick stated that he does not see a hardship with the proposed new structure, needing variances for all sides of structure is a lot, and that zoning regulations were put in place for a reason and should not be changed for every case.

Board member Mahar has concerns about submitting it as an Accessory Structure and if they are able get an Occupancy Permit through Frederick County with that submission.

Board Chairwoman Gabb also stated that 5 variances are a lot for one building and has concerns about the new structure taking parking spaces away from what the Planning Commission approved for the existing building. Board members are concerned with the safety of pedestrians and motorist if the direction of Elm street is reversed.

Chris Johnson (34 Boileau Ct) stated that reversing the flow of traffic on Elm Street will cause a safety issue because the line of sight from Elm Street to Main Street is bad on the north side of the street. The new structure will change the intensity of the neighborhood, cause less parking for the apartments next door. He stated that the Town has issues with parking, and this would create even less parking in that area.

Dixie Eichelberger (206 West Main Street) has concerns about reversing the direction of the one-way street on Elm Street and that it will cause confusion and be very dangerous. She stated that parking is an issue and does not think this location is the proper place for Aleko's.

Bob Rockwell (Zion Lutheran Church) has concerns about the lower parking lot of the church being used and abused, losing parking for church members, and construction equipment messing up the new Main street that was just completed.

Jon Minchoff (Zion Lutheran Church member) stated that with traffic, parking, and special exceptions needed for this structure, that it is a set up for failure.

Elkana Bar-Eitan (121-123 West Main Street Developer) and Joana Tsinonis (Aleko's owner) stated that they have the architect try many different ways to make the restaurant work in the current building, but it is impossible due to the type of kitchen hood they will need. They stated that they are willing to work with the Town and residents with any concerns and safety issues they have.

**Action:** Motion by Board member Kundrick to not approve the variances presented. Seconded by Board member Mahar. Motion carried (3-0).

The meeting adjourned at 7:30p.m.

Respectfully submitted,

Patty Guyton  
Town Receptionist