

COMMISSION ON THE CITY PLAN - PUBLIC HEARING - THURSDAY, JUNE 4, 1959

MAYOR'S CONFERENCE ROOM - CITY HALL - MIDDLETOWN

Present were Commissioners Traverse, Dillon, Higgins, Warshauer and Misenti.

Meeting was called to order at 7:45 P. M. by the Chairman. Sitting as the Zoning Commission the Board heard the following applications:

1. The Reichert Store Building - Change of Zone - To rezone from restricted Residence to Commercial, a certain piece or parcel of land, located at the intersection of the Northerly property line of Washington Street and the Westerly property line of Old Mill Road, in the City of Middletown, Connecticut.

This application was read by the Chairman. Attorney Raczka appeared for the applicant. Mr. Reichert of Cedarhurst, Long Island, owns a small piece of property bounded on the south by Washington Street (122 feet), on the east by Old Mill Road (124 feet), on the west by the Middlesex Associates of Portland, Connecticut. In close proximity are Anderson's Gas Station and two old homes which used to face Washington Street but now face Barbara Road.

Attorney Raczka submitted three pictures of the property in question. The first taken in 1958 showing the wooded area, the second picture was taken from Washington Street, and the third from Old Mill Road showing the property after clearing. He stated that this property is now still in a restricted residential zone but that the General Plan adopted on June 16, 1955 (page 4, Paragraph 21) recommended that Washington Street Extension from West Street be developed for light commercial zoning. Since 1955 this light commercial zone has not been created, but the area of the Middletown Estates has been rezoned as a special zone. Because of the proximity of the property in question to the Middletown Estates, it is almost necessary that it be used for commercial purposes. From Factory Street toward Meriden on Washington Street there are approximately nine commercial uses including a beauty shop, a grocery store, a nursery, Middlesex Associates, Incorporated, and a gas station (which also includes a repair license), and an old home which is unoccupied. Then there are seven houses none of which is less than 35 to 40 years old. There is no evidence, he stated, of new residential building on this side of the road. In the last house, Mr. Thrall runs an Antique and Gift Shoppe. After that is the Commercial Plaza which was rezoned by this Commission. Next is Franco's Tire and Recapping Station, Pal's Drive-In, The Middletown Motel, and Mr. Dawson's Truck Parking Area.

The property in question is considerably lower than Washington Street and there is a brook approximately three to four feet deep which runs the length of the street. This is the only vacant strip between West River and Camp Street. There used to be a ravine through here. In 1950 the Zoning Board of Appeals granted approval for a gas station at this site. The attorney stated that the only reasonable use for this property would be commercial. In answer to a question from the Board, he stated that access to the two houses previously mentioned is from Barbara Road in addition to which they have a right-of-way along the northern boundary of this property. The Chairman asked how the brook would be confined. The attorney said it would have to be confined

in a concrete casement which would have to meet State specifications. The State has the right to drain all water from Washington Street into this lot. All of this water would be picked up in a 48" concrete culvert. There is no access to this property from Old Mill Road and the State forbids free access to Washington Street. It must be from islands. Since this property cannot be used for residence, the owner should be allowed the only use possible which is commercial. We have never heard any objections from anyone. The neighbors are all for it. The proposed store would be one building with two distinct stores, maybe three. At present, they contemplate a drug store and a cleaning establishment. There is parking for 26 cars.

There were no questions from the Commission and none from the floor.

2. DeMerchant, H. C. - Change of Zone - To rezone from Restricted Residence to Commercial, a certain piece or parcel of land located at the intersection of the Northerly property line of Washington Street Extension and the Easterly property line of Camp Street, in the City of Middletown, Connecticut.

Attorney Bufithis appeared for the applicant. Attorney Bufithis stated that this area is at the northeast corner of Washington Street Extension and Camp Street. He said the Commission has a description and sketch of the property in question. Attorney Bufithis called attention to the fact that Washington Street Extension beginning at the railroad bridge and going west to the river is commercial and industrial on both sides, and going west from the river are the various commercial businesses mentioned in the Reichert application. He also mentioned the proposal made in 1955 that this entire area be zoned for light commercial and he quoted the Chairman of this Commission a statement made in 1956: "Ultimately in good planning, they are turning the highway into commercial areas." He stated that part of this area is only used commercially by reason of grants made by the Zoning Board of Appeals. Mr. DeMerchant's entire holdings are included in this application and comprise 900 feet from east to west and 625 feet along Camp Street. We feel very strongly that the entire area should be rezoned.

Behind this area is a low cost housing development to the east, and to a greater depth than this property by at least 200 feet is the Plaza area. To rezone only a portion of this would create an unjust situation for Mr. DeMerchant. The attorney stated that there is no immediate plan for this area. He said Mr. DeMerchant has contemplated making this request for 2 or 3 years. A while ago he enlarged his Motel quarters and may want to do so again. An insurance company has asked about the property for an office building and another company for a store, but he has no immediate plans but would like to have it rezoned as commercial. The attorney said that this Commission has wide powers to make changes for the good of the city and the pattern has already been set for this area. He said that they had not, and very deliberately, petitioned this neighborhood. They felt that people who do not oppose an application must be in favor of it. At this point the Chairman introduced a letter from Mr. John Camp as follows:

Dear Colonel Traverse:

As I find it necessary to be out of town the evening of June 4, when a hearing is scheduled before your Commission, acting as the Zoning Commission of the City of Middletown, on the petition for a change of zone to commercial for the property of Herman DeMerchant on the northeast corner of Washington and Camp Streets, I am writing you this letter, and respectfully request that it be read aloud at the hearing, and incorporated into the official records.

I am writing on behalf of my Mother, Mrs. Bessie R. Camp, the owner of property west of Camp Street and north of Washington Street, on behalf of myself as her heir, and as a citizen of Middletown interested in the general welfare of the community, and the preservation of its attractive residential areas.

In these capacities, I wish to protest against the proposed change of zone. The property west of Camp Street, on both sides of Washington Street, is classified as restricted residential, which classification is in line with the Master Plan of the City, as was brought out in the ruling of your Commission on the petition of Mr. Fontanella for a change of zone to commercial for the property on the south side of Washington Street. The Middletown Motel, and the proposed nursing home on the south side of Washington Street, though they have commercial aspects, would serve, as long as they are confined to the area east of Camp Street, as a very suitable buffer zone between the retail area (proposed new shopping center, Franco's Tire Recapping, and Pal's Diner) and the above-mentioned restricted residential area. Other types of commercial land-use of the DeMerchant property would definitely tend to produce a deterioration in the character not only of the residential zone west of Camp Street, but would inevitably also have an unfavorable effect on the development as a purely residential area of the land along and east of Camp Street.

In order that there may be no misunderstanding, I wish to emphasize that in protesting against this proposed change of zone, my Mother and I have nothing against Mr. DeMerchant personally. We have long had a high regard for him, and look on him as an excellent neighbor and his Motel an addition to the neighborhood.

I hope, Colonel Traverse, that your Commission will, in reaching your decision in this matter, give careful thought to the considerations discussed in this letter, and record the objections of my Mother and myself, along with those who, I feel sure, will present their objections in person at the hearing.

Respectfully yours,

John R. Camp

Attorney Bufithis stated that reference in that letter to the Master Plan is in error since the proposal heretofore mentioned to rezone this area would extend the commercial zone to the boundary of Camp Street.

Mr. M. J. Leonard of George Street stated that while it was understandable that Washington Street might even surely be zoned commercial, this application also asks for 625 feet of commercial zoning fronting on Camp Street. This street has no commercial activities at the moment except that Mr. Dawson has a variance for housing his plumbing equipment. This does not permit him the permanent use or

construction privileges at this site. Therefore, Camp Street has no commercial application at this time. He said he could understand Mr. DeMerchant's problem and did not know what else he could do but ask for commercial use, but he felt that commercializing the area on Camp Street would be a hardship to the residents there. He also stated that Mr. DeMerchant's property fronts on the old section of Washington Street and draws traffic from the traveled highway. In view of this, the people on Camp Street should have some protection. As far as the City Plan is concerned, he said he saw no figures as to what depth was considered commercial. Mr. Leonard asked to be registered as opposed to the Camp Street section of this application. In answer to a question from the Chairman, Mr. DeMerchant stated that the Motel is already there and in operation and that his property line on Camp Street is approximately 625 feet. There is presently a driveway into the Motel on Camp Street.

Mr. Al Salafia of 56 Camp Street stated that he has just moved into his new home directly north of the DeMerchant property. He said he will be paying for this for the next 25 years and does not want it depreciated by commercial zoning next to it. He wished to be recorded as opposed to this petition.

3. Simpson, Charles D. et als - Amendment to the Zoning Ordinance. A petition that the Zoning Ordinance now in force be amended to include therein "Ambulance Services".

The Chairman read the application and the legal definition of Ambulance Service. Attorney John Pickett represented Mr. Simpson. He started by explaining the legal significance of this application stating that the request is for an exception rather than a variance. He said the law pertaining to this is in the 1958 revision of the statutes. He said one of the powers of the Zoning Board is as follows: to hear and decide on matters including special exceptions upon which it is required to pass by the specific forms of the Zoning Board laws or regulations as pertain to special exceptions within the zoning ordinances. He also quoted a paragraph from the statutes 140 Conn. 527 explaining the difference between a variance and an exception. He also cited 141 and 142 Conn. 632 and 659. He said that a zoning variance is something which is forbidden by the zoning ordinance. An exception is something which is built in or written into the zoning ordinance and a particular petitioner in order to use his property must meet the requirements of the special exception. We are petitioning to have included in the zoning ordinances of Middletown the matter which has been read by the Chairman. We think that an ambulance service should be incorporated into our zoning ordinances as a permitted exception when the requirements are met as set forth. He called attention to the requirements of advertising signs, the outward appearance of the buildings, the fact that the Zoning Board must take into account the nature of the property, etc. He stated that the Zoning Board of Appeals would decide as requirements have been met. We are aware that Mr. Simpson carries on an ambulance service and we feel that it is an asset to the community. He stated that he had several people present who are quite interested in this and would like to ask them to voice their views briefly.

Dr. Alfred N. Sweet, an orthopedic surgeon, stated that he has had a chance to observe various ambulance services over a period of 35 years and has never known one as effectual as Mr. Simpson's. He said the attendants are well trained and efficient and he felt it would be a tragedy to have this service discontinued.

Dr. Charles Chace stated that he had been practicing in Middletown about 4 years during which time he has been associated with Mr. Simpson as his physician and also through his ambulance service. He felt that this is an indispensable service to the community. He said he could not visualize a hospital functioning properly without such a service and this one provides maximum efficiency. He said that he understands that Mr. Simpson is financially involved so that if he had to change his location, he would probably have to discontinue his service. Dr. Chace was one of the signers of the petition submitted.

Dr. Richard Sweet, orthopedic surgeon, stated that there was not much he could add to what had been said about this service. He said it is an absolute essential for the community. He said that he has been connected with 10 different hospitals and he has found this ambulance service the finest he has ever known. He said the patients are handled exactly right and benefit tremendously from the type of care given them before arrival at the hospital. He said loss of this service would be a loss to the community and a personal loss to his patients. He said about 90% of the work of his office is injury work which requires ambulance service. He also signed the petition.

Attorney Pickett stated that Dr. Joseph Manzi and Dr. Herbert Levine could not be at the hearing because of rush emergency calls. He said they are signers of the petition and asked to have their names read into the record. Attorney Pickett delivered to the Commission petitions signed by 365 people. Attorney Pickett then formally requested the Zoning Commission to approve the petition of Charles Simpson and others for an amendment to the zoning laws to include an exception for ambulance service. He then stated that he was informed by Mr. Simpson that there is another page of signatures to be delivered to the Commission. Attorney Pickett said further that the nature of this service makes it essential to our community. He said in requesting that this exception be incorporated into the zoning ordinances of Middletown they felt that adequate safeguards are included so that the present petitioner or any future petitioner would not cause harm, friction, or undue running down of the neighborhood in which the service is located.

Mario J. Salemi, East Ridge Road, stated that he and the majority of the neighbors in that community are against this petition. He said that they agreed with the doctors about the necessity of such a service, but it should be in a commercial zone downtown where it belongs.

Attorney Pickett said he understood Mr. Salemi's point but also pointed out that this petition would apply to all portions of the city. Mr. Salemi asked what chance anybody would have of putting such a service in any other part of the city in a residential area. He was told that if the amendment was on the books that it would be up to the Zoning Board of Appeals. Mr. Salemi said that was his point. The Zoning Board of Appeals, he felt, would not grant such a request for any other residential section.

Mr. Edward Schilke, 210 Ridge Road, stated that he has lived there ever since Mr. Simpson took over the service and that he has had the opportunity of using this service after midnight. He said Mr. Simpson's service was called and the service was rendered quietly and the neighbors never knew he had been there until days afterward. He felt that they should be thankful that there is a service located in the area where the growth of the city seems to be greater

than in any other part. He said that it is an ideal location being close to Randolph Road connecting Saybrook Road and the Durham Road. He said he had heard no adverse comments regarding noise of the ambulances and the service has been highly recommended. He wished to go on record in favor of any change whatever which would be necessary to keep the service at our disposal.

Attorney Harry Edelberg represented a group of people living in the East Ridge Road section of town and he presented to the Commission a list of signatures in opposition to the application. He said that his clients are opposed to this petition on two bases: first, its effect on the community at large and second, its effect on the residents in the East Ridge Road area. He said there is no one who objects to an ambulance service in town or who feels we do not need it, but if we permit this particular amendment, it will open every residential zone in town to an ambulance use. He said it was not known how long Mr. Simpson will remain in business or how long he will be on East Ridge Road. He said this service could be in any residential section of town. He stated that other communities having this same problem have handled it in various ways other than through zoning. In some cases the city or the hospital provides space for the service. In some cases funds are provided by the city, by an agency like the United Fund, or by the hospital. He stated that Mr. Simpson's efforts to have an ambulance service operating from East Ridge Road has a long history. In 1954, he applied to the Zoning Board of Appeals for a variance of the ordinance in order to use this site.

At this point, Attorney Pickett stated that we are discussing an amendment to the zoning laws which would apply to the entire zoning law and it would be out of order to delve into the background of the petitioner.

Attorney Edelberg said that he understood Attorney Pickett's objections, but if it had not been for Mr. Simpson's desire to remain on East Ridge Road, there would have been no petition at this time and it was necessary to go into the background as to why the petition was brought. He said that the variance requested in 1954 was refused by the Zoning Board of Appeals and in January of 1955, Mr. Simpson made application to the Middletown Public Works Department to erect a dwelling with garage in the cellar for 3 private cars. He said the permit was granted and Mr. Simpson immediately proceeded to garage his ambulances on East Ridge Road. He stated that Mr. Simpson's in-laws own property on East Ridge Road and that is why he wants to stay there. He said that residents in the area complained to the Public Works Department and Mr. Simpson received threats of prosecution from Mr. Cannon from January, 1955 through to December of 1956, asking him not to use his premises on that road for his ambulances as it was violating zoning ordinances.

In 1956, Mr. Simpson again brought a petition to the Zoning Board of Appeals for a variance and after 9 or 10 months of deliberation, they granted it. On behalf of the residents there, Attorney Edelberg stated that he took appeal to the Court of Common Pleas which came up for trial 2 weeks ago. He said apparently Mr. Simpson feels that his legal position is a tenuous one and so he is appealing to this Commission before Judge Parmelee has made his decision. He said that this seems to be an attempt to circumvent what has happened before and get in by the back door. Attorney Pickett said that this

is not the issue and no personalities should be involved. Attorney Edelberg said that this is merely an attempt to keep these ambulances on East Ridge Road and the people there have been sufficiently imposed upon by Mr. Simpson's service. He said the street is narrow and that while this has been pending, Mr. Simpson has applied for and received permission for a livery service out of this property. He has four ambulances, and there is sometimes a red paneled truck on the property. There are usually cars parked in front of his house. He now rents hospital equipment from his house. This is a business which he is running from there, and the residents feel that it does not fit in with residential use. The feeling seems to be that Mr. Simpson will go out quietly on his calls and not disturb the neighbors, but there are other uses here that do annoy the neighbors.

Mr. Mario Salemi stated that he lives directly across the street. He said that they hear the ambulance leaving at all times. He said there is a hill there and the ambulance comes up in low gear. At least two of them are outside all day long. It has made his wife very nervous. Every time the ambulance goes out they wonder who it is this time and asked why they should be subjected to this. He said the front of the property looks alright, but the rear is not so nice.

Mr. Wayne Reed of East Ridge Road stated that he, too, lives across the street. He said the back of the Simpson property is more like a parking lot than anything else. He said all day and all night there are cars coming and going. The lights shine into his bedroom window and he went on record as strongly opposed.

Commissioner Higgins stated that this exception in the zoning law would not permit a commercial use of the dwelling. It would merely permit a spot to house the ambulances. Attorney Edelberg stated that he agreed that he would not legally be able to rent beds, bed-pans, etc., but stated that he does not have that right now; yet he does it. Apparently, Mr. Simpson acts at will.

Mr. Herbert Stielau, East Ridge Road, stated that he has owned his home there for 23 years and there has been a gradual influx of good neighbors. He said that recently on the next street, there was an application for permission to repair electrical appliances, and when the neighbors objected, the applicant stated that he did not realize how it would affect the neighbors. He said this ambulance service started very innocently, first with one ambulance on part time. There was no particular objection, but when they asked to change the zoning, the neighbors put up a howl. He said when the thing came up again, people felt that they had been let down by the Commission and they would not bother with further objection. He said the majority of the people in favor of this do not live nearby. He stated that Mr. Simpson is doing a swell job, but he does not feel there should be a change in the zoning. On that basis, he opposes the application.

Attorney Pickett stated that he strenuously objected to the evidence of Attorney Edelberg. However, he said he wished to refresh the memory of the Commission that this is not a variance, but an exception to be written into the zoning. He said it is true that in some towns ambulance services as defined in the petition are connected with hospitals, but it is equally true that in many Connecticut communities there are such services that exist in the same type of neighborhood as East Ridge Road.

Mr. Stielau stated that the road is narrow and children use it to walk to school, and this is not a good condition.

The Chairman asked if the siren is used immediately and the answer was no. The siren is started at the last house on Ridge Road. The hour of the day and the traffic are taken into consideration. Mr. Simpson stated that the city has asked that the siren be blown at the Farm Hill School during school hours. He stated that he does not blow the siren, but he sounds a low signal for the policeman at the school. He said the siren is not used except for emergency runs and 80% of their work is not emergency. When transporting convalescents, we do not use the siren or red lights. He said also that there is a 75° angle in the driveway, and that the ambulances are hydromatic.

Mr. Salemi quoted a Mr. Wetherby as saying that the siren starts farther up Ridge Road. However, he stated that it is not the siren that bothers him so much as the change in zoning. He said there is an empty firehouse on Hubbard Street and that there are other properties in town that Mr. Simpson could use for his ambulances which would not interfere with a restricted residential zone.

Mr. Arthur Jones of Willow Street stated that he came to this meeting with an open mind. He does not know Mr. Simpson and he does not live near him, but he felt that this whole meeting could and should be on a much higher level. He said the exception to the zoning ordinance seems to state pretty clearly the limitations to the use of the house and grounds and all these personal issues should not enter into the matter at all. He went on record as being in favor keeping the service where it is.

Respectfully submitted,

*Claire Hedges*  
Claire E. Hedges,  
Secretary