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Division of Development Administration and Review
City of Pittsburgh, Department of City Planning
200 Ross Street, Third Floor
Pittsburgh, Pennsylvania 15219

January 31, 2013

10 of 2013

Lauren Byrne
4825 Butler St
Pittsburgh, PA 15201

Dear Appellant and/or Hearing Participant:

Enclosed is your copy of the decision by the Zoning Board of Adjustment. This is not a permit. If your decision has been approved, you must return to the Zoning office and pick up your paper work so that your permit may be processed. Please note: if your decision has been approved **with conditions which require an amendment to your site plan**, you must also provide us with a new and updated site plan or survey with those conditions notated on the plan. Please contact Svetlana Ipatova, Zoning Case Review Specialist, at (412) 255-2214 if you have any questions regarding your Zoning Board decision or the final staff review process and to schedule an appointment.

This decision expires one year after the decision date as shown on the enclosed copy. A permit should be obtained forthwith, and substantial construction or occupancy should begin within one year of approval. If additional time is needed, you may request a one-year extension by writing the Board within the one-year time period. Include the zone case number and the address of the subject property with a brief explanation, and send it to: Zoning Board of Adjustment, Department of City Planning, 200 Ross Street 3rd Floor, Pittsburgh, PA 15219.

If you or any affected person are dissatisfied with the Board's decision, an appeal may be made to the Court of Common Pleas of Allegheny County within thirty (30) calendar days of the above mailing date. The appeal process is conducted at the Prothonotary's Office located on the main floor of the City County Building.

A transcript of your hearing will be required and can be obtained by calling our reporting agency, Network Deposition Services, at (412) 281-7908. Please have your zone case number and the date of your hearing available. We encourage you to consult an attorney if you choose to appeal.



ZONING BOARD OF ADJUSTMENT

Date of Hearing: January 3, 2013
Date of Decision: January 31, 2013

Zone Case: 10 of 2013
Address: 3440/3462 Butler St.
Zoning District: LNC
Ward: 6
Neighborhood: Lawrenceville

Owner/Applicant: Desmone and Associates

Request: Use of 26 stall parking lot accessory to uses across the Butler St (parcels include 49-N-10, 49-N-11, and 48-S-258, address may be 3440 Butler St).

Variance	912.01.D	Accessory uses should be located on the same zoning lot as the primary structure and parking lot across the street proposed.
Variance	914.09.A.1	Off street parking area shall not be located within 10ft of the street right-of-way and one parking space located within 10ft proposed.
Variance	916.04.C	Parking area shall not be located within 15ft of residential zoned property and 0ft requested
Variance	904.02.C.2	Minimum 29ft rear setback required and 0ft requested

Appearances:

Applicant: Chip Desmone

Observing:

In favor: Matthew Galluzzo
Lauren Byrne
Ned Mulcahy

Opposed:

Findings of Fact:

1. The Subject Property is located at 3440/3462 Butler St. in a LNC (Local Neighborhood Commercial) zoning district.

2. The Applicant is building an apartment building across from the Subject Property. The Applicant is requesting to develop a 26 stall parking lot on the Subject Property to serve as an accessory use for the apartment building.
3. The Applicant testified that in order to build the apartment building he needs to shift the existing parking spaces. The lot for the proposed apartment building is uniquely shaped and cannot accommodate parking. The Board accepts this testimony.
4. The Applicant testified the Subject Property also has a unique shape and is within 1,000ft. of the proposed apartment building. The Board accepts this testimony.
5. The Applicant testified that at only one point is a 0ft setback requested due to the unique shape of the Subject Property. The Applicant testified that an agreement has been reached with the residents who are affected by the setback to landscape part of their property. The Board accepts this testimony.
6. Lauren Byrne testified that the community groups of Lawrenceville are in support of the requested variances. The Board accepts this testimony.

Conclusions of Law:

I. Variance 912.01.D and 914.09.A.1

1. The Board is specifically empowered by law, Chapter 922 of the Pittsburgh Zoning Code, to decide whether a grant of a variance is appropriate. Pursuant to Section 922.09.E of the Code, the Board is to determine the reasonableness and propriety in each case, prior to the granting of a variance. However, no variance in the strict application of any provisions of this Zoning Code shall be granted by the Zoning Board of Adjustment unless it finds that all of the following conditions exist:
 - a. 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 the 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;
 - b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 - c. That such unnecessary hardship has not been created by the appellant;
 - d. 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; and

- e. 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.

2. The Board finds the following:

- a. The Subject Property has unique size and shape creating an unnecessary hardship for the Applicant. The use of the Subject Property as an accessory parking lot for the proposed apartment buildings allows for the most efficient development at this time.
- b. Due to these unique physical circumstances the Subject Property cannot be developed in strict conformity with the code.
- c. The unnecessary hardship has not been created by the appellant.
- d. The variance requested will not alter the essential character of the Lawrenceville neighborhood. Community groups in the neighborhood support the Applicants developments for this area. The resident's most affected by the proposed use of the Subject Property have formed an agreement with the Applicant to provide landscaping for their property.
- e. The variance requested represents the minimum variance that will afford relief.

II. Variance 916.04.C and 904.02.C.2

3. The Board is specifically empowered by law, Chapter 922 of the Pittsburgh Zoning Code, to decide whether a grant of a variance is appropriate. Pursuant to Section 922.09.E of the Code, the Board is to determine the reasonableness and propriety in each case, prior to the granting of a variance. However, no variance in the strict application of any provisions of this Zoning Code shall be granted by the Zoning Board of Adjustment unless it finds that all of the following conditions exist:

- a. 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 the 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;
- b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
- c. That such unnecessary hardship has not been created by the appellant;
- d. 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; and

- e. 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.
4. The Pennsylvania Supreme Court has held that a less strict standard will be applied where a dimensional, rather than a use variance is sought, particularly where an existing structure or building is involved. Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh, 554 Pa. 249, 721 A.2d 43 (Pa. 1998).
5. The Board finds the following:
- a. The Subject Property has unique size and shape creating an unnecessary hardship for the Applicant.
 - b. Due to these unique physical circumstances the Subject Property cannot be developed in strict conformity with the code.
 - c. The unnecessary hardship has not been created by the appellant.
 - d. The variance requested will not alter the essential character of the Lawrenceville neighborhood. Community groups in the neighborhood support the Applicants developments for this area. The resident's most affected by the proposed use of the Subject Property have formed an agreement with the Applicant to provide landscaping for their property.
 - e. The variance requested represents the minimum variance that will afford relief.

Decision: The Applicant's Request for variances under Code Sections 912.01.D, 914.09.A.1, 916.04.C and 904.02.C.2 are hereby APPROVED with conditions:

1. Approved subject to site plan review.



Wrenna L. Watson, Chair



Kirk B. Burkley



S. Manoj Jegasothy