



April 13, 2018

46 of 2018

Dave Breingan
118 52nd #2026
Pittsburgh, PA 15201

Dear Appellant and/or Hearing Participant:

Enclosed is your copy of the decision by the Zoning Board of Adjustment. **Note: This decision is not a zoning voucher or a permit.** Both a zoning voucher and a permit from the Department of Permits, Licenses and Inspections must be obtained prior to the start of work or occupancy.

If the decision has been approved, the applicant must complete the following steps before a zoning voucher can be issued:

1. If the decision has been **approved with conditions**, the appropriate documentation to satisfy those conditions must be submitted to Zoning staff for review.
2. **All other applicable Zoning Code requirements must be completed** (such as Site Plan Review, Planning Commission or environmental reviews).

Once the above are satisfied, **contact Svetlana Ipatova**, Zoning Case Review Specialist, at 412-255-2214 or email the Zoning staff assigned to the project review to schedule an appointment for the final staff review process.

This decision expires one year after the decision date as shown on the enclosed copy. A permit should be obtained and substantial construction or occupancy should begin within one year of approval. If additional time is needed, the applicant 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 this hearing will be required and can be obtained by calling our reporting agency, Network Deposition Services, at (412) 281-7908. Please have the zone case number and the date of the hearing available. We encourage you to consult an attorney if you choose to appeal.



ZONING BOARD OF ADJUSTMENT

Date of Hearing: March 8, 2018

Date of Decision: April 12, 2018

Zone Case: 46 of 2018

Address: Mintwood Street (Parcels 49-N-294 and 49-N-271)

Zoning Districts: R1A-H

Ward: 6

Neighborhood: Lower Lawrenceville

Owner: Lawrenceville Properties LLC

Applicant: Jared Korchok

Request: Convert existing warehouse structure to 17 condo dwellings with integral parking and 8 car exterior parking lot, proposed street vacation of Woolslayer Way.

Special Exception	921.02.A.4	Change for a one nonconforming use another is a Special Exception
Variance	914.09.F	Garage doors shall be designed at least 20ft from the sidewalk and street right-of way; proposed is less than 18ft
Variance	914.10.A	Minimum 1 off-street loading space required and 0 is proposed
Special Exception	916.02.A.1(c)	For rooftop additions minimum 15ft front setback required and 5ft requested Minimum 15ft interior side setback required and 0ft requested
Variance	918.03	Parking areas must be screened on all sides ay a minimum height of 42" and 80% opacity; none proposed <u>WITHDRAWN</u>
Variance	915.02.A.1.e	Maximum height of retaining wall 10ft permitted and 12'6" proposed
Variance	903.03.D.2	Minimum 15ft exterior side setback required and 0ft requested (parking area)

Appearances:

Applicant: Jared Korchok
Observing: Dave Breingan, Ed Jacob

Findings of Fact:

1. The Subject Property is located on Mintwood Street (Parcels 49-N-294 and 49-N-271) and , at the corner with Denny Street, in an R1A-H (Residential Single-Unit Attached, High-Density) District in the Lower Lawrenceville neighborhood.
2. A two-story warehouse, constructed between the 1920s and 1930s, is located on the Subject Property. The building is constructed to the front and side property lines.
3. A February 22, 1983 Certificate of Occupancy permits "Warehouse/storage facility; first floor storage of store furniture, fixtures, equipment and related items. Second floor storage of business records and related items."
4. The warehouse has been vacant for approximately 10 years.
5. The Subject Property slopes down from the rear property line to the corner of Denny Street and Mintwood Street.
6. The Subject Property is located one block from the Penn Avenue commercial corridor.
7. The Applicant proposes to convert the building for use as 17 dwelling units, with a rooftop deck and amenity space.
8. Parking for the units would be provided in an integral parking area with access from both Denny Street and Mintwood Street, and an 8 car outdoor parking area at the rear of the Subject Property, 0' from Woolslayer Way.
9. The garage doors for the proposed integral parking areas are located 18' from the right-of-way.
10. The Applicant also proposes to construct a 12'6" retaining wall at the rear of the Subject Property. The Applicant indicated that the additional height is necessary to stabilize the site.
11. The rooftop additions would be located within the footprint of the existing building.
12. The Applicant asserted that the existing building cannot be used for a permitted use.
13. With the proposed 17 units, the Subject Property would have a lot size per unit of 1,854 sf.
14. Several other multi-unit buildings are located in the immediate vicinity of the Subject Property.
15. The Applicant stated that although a Code compliant loading space would not be located on the Subject Property, loading activities could be accommodated on-site without impacting adjacent properties.

16. Lawrenceville United submitted a letter to the Board which details the community process concerning the proposed development. The organization did not specifically support or oppose the Applicant's request.

17. Ed Jacobs, representing 3600 Penn Associates, appeared at the hearing to express concerns related to a proposed street vacation associated with the proposed development, but did not generally oppose the Applicant's requests.

Conclusions of Law:

Change of Use

1. The Applicant seeks a special exception pursuant to Code Section 921.02.A.4 to permit the change of one nonconforming use to another.

2. Pursuant to Code Section 921.02.A.4, the Board may grant a special exception to change one nonconforming use to another. The Board is to consider several factors, including hours of operation; the number of parking spaces provided; the number of employees; the physical size of the building relative to surrounding buildings; design characteristics of building relative to design features of surrounding buildings; and traffic generation. The Board is also to consider whether the proposed use is more or less intensive than the previous nonconforming use and the general criteria for special exceptions set forth in Code Section 922.07.D.

3. The minimum lot size in the R1A-H District is 1,800 sf.

4. Here, the Applicant proposes to convert the existing warehouse for use as 17 dwelling units, with a lot size per unit of 1,854 sf. The Board therefore concludes that the proposed residential use is more consistent with the surrounding neighborhood and the requirements of the Code, and is therefore appropriate.

Dimensional Requests

5. The Applicant further seeks relief from the Code's setback, parking lot location, and maximum retaining wall height requirements.

6. Section 922.09.E sets forth the general conditions the Board is to consider with respect to variances. The Pennsylvania Supreme Court has summarized the criteria for determining whether to grant a variance as: 1) unique circumstances or conditions of a property would result in an unnecessary hardship; 2) no adverse effect on the public welfare; and that 3) variance proposed is the minimum variance that would afford relief with the least modification possible. *Marshall v. City of Philadelphia and Zoning Bd. of Adj.*, 97 A.3d 323, 329 (Pa. 2014); see also *Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh*, 721 A.2d 43 (Pa. 1998), citing *Allegheny West Civic Council v. Zoning Bd. of Adj. of the City of Pittsburgh*, 689 A.2d 225 (Pa. 1997).

7. In *Hertzberg*, the Court recognized that a less restrictive standard is appropriate for dimensional variances, which require only for a reasonable adjustment of the zoning regulations to accommodate a use of property that is permitted. *Hertzberg*, 721 A.2d at 47-48.

8. The Board concludes that the existing warehouse located on the Subject Property is a unique condition which prevents strict adherence to the dimensional requirements of the Code. Because the requested relief will allow the conversion of the site for a use more consistent with the requirements of the Code, the Board concludes that approval of the requested variances and special exceptions is appropriate.

Decision: The Applicant's request for special exceptions pursuant to Code Sections 921.02.A.4 and 916.09, and variances from Code Sections 903.03.D.2, 914.09.F, 914.10.A, NS 915.02.A.1.e is hereby APPROVED.

RECUSED

Alice B. Mitinger, *Chair*



LaShawn Burton-Faulk



John J. Richardson