

# BOARD OF ZONING APPEALS

## MINUTES OF THE MEETING OF JULY 7, 2008

**MEMBERS PRESENT:** James Belew, Chairperson  
Don Judd, Vice Chairperson  
Hyun Joong Kim

**MEMBERS ABSENT:** Tim Bailey

**OTHERS PRESENT:** Ruth Lemon, 110 East Carlton, Pittsburg

The Pittsburg Board of Zoning Appeals met on Monday, July 7, 2008, at 5:15 p.m., in the City Hall Commission Room. Chairperson James Belew called the meeting to order at 5:15 p.m. with three (3) members present.

**The first order of business was the approval of the minutes of the meeting of May 5, 2008.** In this regard, Don Judd moved, seconded by Hyun Kim, that the minutes be approved as submitted. Motion carried unanimously.

A **PUBLIC HEARING** was held, as advertised, to consider the following:

Case No. 08-05 - A request submitted by Rick White for a variance to allow accessory apartments in a CP-2 Planned General Commercial zoning district located at 605 West 4<sup>th</sup> Street.

Chairperson James Belew opened the **PUBLIC HEARING** by stating the request and then asked the applicant to comment on behalf of said request. Todd Kennemer stated that Mr. White contacted his office just before 5:00 p.m. and indicated he would not be able to attend the meeting as he was called out of town and asked if he would present the request on his behalf.

The subject property is the previous location of the Four Seasons Carpet store that recently relocated to a new building constructed on North Parkview Drive as they outgrew the current building. There are two buildings located at this site. One is a structure that is currently utilized as residential apartments. The second is the old carpet store building that has an apartment in the back of it. The variance being requested is to allow accessory apartments in a commercially zoned area. There are two other residential structures in the area. The one at the corner to the east of the subject property is currently being used as a residential structure. The second one located next to the subject property is currently being utilized as a business. Both structures are located in a commercial zoning district. Granting the variance would allow mixed use to make it more marketable and to expand the use of the property.

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Mr. White was concerned that should the structure be destroyed by more than 50% of its value only commercial use would be allowed to locate on the site and would be restricted by the small size of the lot. The Board granted a similar variance on East 4<sup>th</sup> Street to allow accessory apartments in an existing building. Notices were sent to the property owners within 200 feet of the property, but no objections were received.

There being no one present to speak either in favor of or in opposition to the request, Chairperson James Belew closed the **PUBLIC HEARING** for the request. The Board of Zoning Appeals then considered the following findings of fact:

1. There are no conditions which exist in respect to the property or structure being considered which are different from other properties or buildings in the neighborhood, i.e. small lot size, unusual grade, easements, right-of-ways, etc. There is currently a mixture of residential and commercial uses and has been for a long time.
2. Such condition or circumstance has not been created by action or actions of the property owner or the applicant as the conditions already existed.
3. The granting of a permit for the variance requested would not adversely affect the rights of adjacent property owners or residents as no adverse comments were received.
4. The granting of the variance requested would not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures, or buildings in the same district as other people in the area could apply for the same type variance.
5. The granting of the variance requested would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, therefore, staff would recommend granting of the variance.

The Board considered all eight (8) factors, but expounded on the above. Based on these factors, Hyun Kim moved, seconded by Don Judd, that the variance be **granted**. Motion carried unanimously.

Under Old Business, Mr. Kennemer stated there was still one vacancy on the Board that needed to be filled, so if the members knew of anyone that would be interested in serving to have them contact either him or the City Clerk.

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Also, under Old Business, as a follow up to a previous request presented to the Board, Mr. Kennemer stated that Mr. Schupbach has decided to request the rezoning of the property at 601 West Martin to try to clean up a mess that was done over 30 years ago when the original lot was split into three pieces instead of pursuing a variance. Mr. Schupbach is in the process of purchasing the 10' strip that was originally a part of that lot that would be merged back into the lot to give him just the right amount for R-1C Single Family Residential zoning. If he is successful in getting this 10' strip before rezoning the property a variance would not be required.

The next scheduled meeting is August 4, 2008.

There being no further business to discuss, Don Judd moved, seconded by Hyun Kim, that the meeting adjourn. Motion carried unanimously and the meeting adjourned at 5:27 p.m.

Respectfully submitted,



Todd Kennemer  
Assistant Director of Public Works