

BOARD OF ZONING APPEALS

MINUTES OF THE MEETING OF APRIL 6, 2009

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

MEMBERS ABSENT: Tim Bailey

OTHERS PRESENT: Tarek Mekkaoui, 619 Normal St., Pittsburg
Larry Williamson, 604 Thomas, Pittsburg
Ruth Lemon, 110 E. Carlton, Pittsburg
Todd Kennemer, Assistant Director of Public Works

The Pittsburg Board of Zoning Appeals met on Monday, April 6, 2009, 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 four (4) members present.

The first order of business was introduction of new member, Sara Henry. The members of the Board welcomed Sara to the Board.

The second order of business was the election of a Chairperson and Vice Chairperson to serve the 2009 term. Sara Henry moved that Don Judd, Vice Chairperson, assume the position of Chairperson; Hyun Joong Kim seconded the motion; unanimous vote of approval. Don Judd moved that Tim Bailey serve as the Vice Chairperson, Hyun Joong Kim seconded the motion; unanimous vote of approval.

The third order of business was the approval of the minutes of the meeting of September 8, 2008. In this regard, Jim Belew 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. 09-01 - A request submitted by Mike Kelly for a 1500 square foot variance in allowable square footage for an accessory structure to allow for the construction of a 2400 square foot structure located at 2904 S. Stilwell.

Chairperson Don Judd opened the **PUBLIC HEARING** by stating the request and then asked the applicant to comment on behalf of said request.

**BOARD OF ZONING APPEALS
MINUTES OF APRIL 6, 2009
PAGE TWO**

Tarek Mekkaoui, the applicant's son-in-law, was present at the meeting representing the applicant per Mr. Kelly's request. Mr. Mekkaoui stated the variance is for a horse stable and pool house and he wants the Board to know they [Mike Kelly] are addressing stormwater drainage concerns. Grading is being done to direct excess stormwater runoff to a swale between the stables and the house and into the pond located south of the house [all on the Kelly's property].

Jim Belew asked if the dirt work is being done, and Don Judd asked how high the dirt [pad] is. Mr. Mekkaoui stated it is being done for the stables, before knowing a variance was needed. The building pad is about two (2) feet in height at its south end.

Todd Kennemer stated that he has visited with Mr. Kelly regarding the stormwater. Mr. Kelly stated basically the same thing Mr. Mekkaoui says, also that gutters and a small swale are to be on the west side of the building to further prevent runoff from going onto the Williamson property.

Those persons wishing to speak in opposition to the request were then given the opportunity to comment as follows:

Mr. Larry Williamson, 604 Thomas, Pittsburg, adjoining property owner to the west, stated that all of his property lies downhill from Mr. Kelly's property. His concerns are water runoff and erosion; the stables that are located across the road [to the east of Kelly property]; he has not seen any sketches of how the structure will look; that the built up dirt around the swimming pool is on his property; about pool water running across his property when the pool is drained; and mowing and maintenance concerns for the 15 foot strip of land between the new structure and his property.

Mr. Mekkaoui stated that the drainage is specifically routed to the pond on the south side of the Kelly's house. He also stated that these stables are being built to replace the stables located across the road.

Todd Kennemer said the sketches of the building placement on the site were made from a sketch submitted by Mr. Kelly and from a site plan in Mr. Williamson's file from when he built his new home in 2000. The building is to be setback fifteen (15) feet from the side property line; minimum side yard setback is ten (10) feet. As far as how the building's appearance, the City does not control color or type of building materials that are selected. These would be covered in private covenants, if there are any in place. The City does not enforce private covenants.

**BOARD OF ZONING APPEALS
MINUTES OF APRIL 6, 2009
PAGE THREE**

Mr. Kennemer also stated the dirt around the swimming pool appears to stop about a foot short of the property line. He said the new stormwater regulations which are to take effect June 1, 2009, specifically address erosion and sediment control for properties where more than 10,000 square feet of earth is disturbed, and, specifically state that chlorinated pool water must be drained into a sanitary sewer. If it is de-chlorinated it may be drained into the stormsewer. The drain pipe at the swimming pool stops about six to eight inches short of the sanitary sewer; it can be hooked into the sanitary sewer.

Todd Kennemer said the fifteen (15) foot strip west of the new building must be maintained with the rest of the property, regardless of ease or difficulty of maintenance.

Mr. Williamson also asked if the stables are to be for Mr. Kelly's horses or will they be rented out for other people's horses. Mr. Mekkaoui said they are for the Kelly family only.

There being no further input from the public, the **PUBLIC HEARING** was closed and the Board members discussed the issues amongst themselves.

Jim Belew asked why the stables are being built so close to the house. Mr. Mekkaoui stated that there are future plans to further develop the area and the stables are intended to go with the house at 2904 S. Stilwell. Todd Kennemer told Mr. Mekkaoui to please see him regarding land development regulations before proceeding with any future development in this area. Mr. Belew stated he is concerned about the location of the stables; even though it is inside the allowable "building area" he feels there are more appropriate locations for the structure.

Sara Henry stated her concerns about drainage. Don Judd said he visited the site to see how the water would drain.

Todd Kennemer stated the 900 square foot limitation on accessory buildings applies to all lots regardless of size and is somewhat obsolete. Variances from this size limit have been granted so frequently that it is being removed from the updated zoning regulations and is being replaced with maximum lot coverage requirements to better fit the individual lots. He believes that a precedent has been set and since both the Kelly property and the Williamson property are both 3.6 acres in size, that a special exception to the 900 square foot rule should be granted. He also stated that when the new updated zoning regulations are in effect, this case would be allowed by right (because of lot size) and would not be brought before this Board.

**BOARD OF ZONING APPEALS
MINUTES OF APRIL 6, 2009
PAGE FOUR**

During their discussion, the Board of Zoning Appeals 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. These are large lots (3.6 acres in size) but the unusual grade does justify that provisions need to be made to make sure excess stormwater is not directed onto the neighboring property.
2. Such condition or circumstance has been created by action or actions of the property owner or the applicant as the owner wants to build larger than 900 square feet.
3. The granting of a permit for the variance requested would not adversely affect the rights of adjacent property owners or residents provided provisions are made to redirect the stormwater to the pond south of the Kelly residence. Other neighbors on similar lots in the surrounding area could also apply for the same variance.
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. The 900 square foot limitation is quickly becoming antiquated and impractical. Other property owners may apply for the same variance. Plans are for the maximum 900 square foot limitation to be replaced with maximum lot coverage formula in the revised zoning regulations.
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 the variance.

Based on these factors, Jim Belew moved, seconded by Sara Henry, that the variance be **granted with the condition** that no additional stormwater or erosion [sediment] shall be diverted to the neighboring property and that plans to control the stormwater runoff are submitted. Motion carried unanimously.

Under new business, the Board reviewed and accepted the meeting schedule for 2009 – 2010.

**BOARD OF ZONING APPEALS
MINUTES OF APRIL 6, 2009
PAGE FIVE**

There will be no meeting on May 4, 2009 as no applications have been filed. The next scheduled meeting is June 1, 2009.

There being no further business to be discussed, Jim Belew moved, seconded by Hyun Joong Kim, that the meeting adjourn. Motion carried unanimously and the meeting adjourned at 7:00 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Todd Kennemer". The signature is written in black ink and is positioned above the printed name and title.

Todd Kennemer
Assistant Director of Public Works