

BOARD OF ZONING APPEALS

MINUTES OF THE MEETING OF SEPTEMBER 13, 2010

MEMBERS PRESENT: Don Judd, Vice Chairperson
Tim Bailey
Sara Henry
Hyun Joong Kim

MEMBERS ABSENT: James Belew, Chairperson

OTHERS PRESENT: Clay Brasher, Dillon's, 2600 N. Broadway, Pittsburg
Todd Mills, Kroger, address unknown
Rob Hartman, PEC, 902 S. Broadway, Pittsburg
Ruth Lemon, 110 East Carlton, Pittsburg
Todd Kennemer, Assistant Director of Public Works

The Pittsburg Board of Zoning Appeals met on Monday, September 13, 2010, at 5:15 p.m., in the Municipal Court Room of the Law Enforcement Center located at 201 N. Pine. In the absence of Chairperson James Belew, Vice Chairperson Don Judd called the meeting to order at 5:15 p.m. with four (4) members present.

The first order of business was the approval of the minutes of the meeting of April 5, 2010. In this regard, Sara Henry moved, seconded by Hyun Joong Kim, that the minutes be approved as submitted. Motion carried unanimously.

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

Case No. 10-02 - A request submitted by Dillon Real Estate Company for a variance in the number of required parking spaces from 320 required parking spaces to 230 parking spaces to allow for the construction of a 5-island fuel facility with canopy at Dillon's Grocery Store at 2600 N. Broadway.

Vice Chairperson Don Judd opened the **PUBLIC HEARING** by stating the request and then asked the applicant to comment on behalf of said request. In this regard, Rob Hartman of PEC represented Dillon Real Estate Company. He stated the request is for a variance in the number of required parking spaces from 320 spaces to 230 spaces to allow for the construction of a 5-island fueling station.

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Mr. Hartman stated that the Institute of Transportation Engineers recommends 2.6 to 3.6 parking spaces per 1,000 square feet of gross floor area for grocery stores and 1.9 parking spaces for hardware stores during the week and 3.2 spaces during the weekend (per 1,000 square feet of gross floor area). The City of Pittsburg regulations are almost double these requirements, which is why Dillon Real Estate Company is applying for a variance. Mr. Hartman stated with the fuel center going in, the grocery/hardware store would be at 230 spaces; based on the numbers given from the Institute of Transportation, 190 spaces is all that would be required.

Sara Henry inquired how the vehicles would be pulling in and out of the gas station. Mr. Hartman stated the islands would be placed east/west so the cars would also be east/west. He stated that space is provided so fuel trucks can easily maneuver in and out, and so 2 to 3 cars may be stacked at the islands waiting to fuel. Mr. Hartman stated there is to be a complete drive-aisle all the way around the facility, which is designed so that when it is busy it will not interfere with the flow of traffic on the parking lot or on the main street (Broadway).

Todd Kennemer then handed out aerial maps showing the store and parking in 2002, 2006 and 2009. He stated that when the store was built in 1981, parking requirements for the grocery store (and hardware store) was 1 space per 300 square feet. Dillon's/Ace Hardware exceeded that requirement by 94 spaces:

<i>Pre-1991 Required spaces:</i>	<i>180</i>
<i>Pre-1991 Actual spaces:</i>	<i>274</i>

In 1991, the current zoning regulations were adopted and the parking requirements for a grocery store doubled. A grocery store is now required 1 space per 150 square feet and requirements for a hardware store remain the same. Under the current regulations, Dillon's/Ace Hardware is 46 spaces short of the current requirement:

<i>Post-1991 Required spaces:</i>	<i>320</i>
<i>Post-1991 Actual spaces:</i>	<i>274</i>

Nothing has changed except the parking requirements. Mr. Kennemer also stated that the existing parking lot on the south side of the building is usually empty, as well as the portion of the parking lot being considered for the gas station. He then provided parking requirements for other cities, shown below.

<i>Pittsburg, KS</i>	<i>1 space per 150 sq.ft.</i>
<i>Joplin, MO</i>	<i>1 space per 200 sq.ft.</i>
<i>Dodge City, KS</i>	<i>1 space per 250 sq.ft.</i>

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*Las Vegas, NV 1 space per 250 sq.ft.
Oklahoma City, OK 1 space per 300 sq.ft.*

Mr. Kennemer stated that customer parking should be based on store area open to the customer and not total square footage of the store. Total square footage of the grocery store and hardware store is 53,783 sq. ft.; however, only 36,584 sq. ft. (68%) is open to the public for shopping purposes. The remainder of the area is stock room, which is not open for public congregation. He also stated that parking is based on the highest number of customers in the store at one time. This usually occurs once a year between Thanksgiving and Christmas. People are always grocery shopping so it is not greatly affected by this once a year surge.

Tim Bailey inquired if there was any concern about the width of the southern entrance on Broadway. Todd Kennemer stated that it is 30' in width and that an additional turning lane in the entrance was not mentioned. Sara Henry stated that there are the two entrances/exits on Broadway, one on 27th Street and two on 25th Street. This setup is similar to Walgreen's.

There being no one present to speak in opposition to the request, Chairperson Don Judd closed the **PUBLIC HEARING** for the request. The Board then considered the following factors:

1. Are there conditions which exist in respect to the property or structure being considered which are different from other properties or building in the neighborhood.

No. This property is located in a CP-2 Planned General Commercial Business District with businesses clustered at the north end of Broadway.

2. Has such conditions or circumstances been created by the action or actions of the owner or applicant.

Yes. Owner wants to build the fuel facility with canopy inside their existing parking lot.

3. Are there special conditions or circumstances such that the strict literal interpretation of the provisions of the Zoning Ordinance will constitute unnecessary hardship upon the property owner.

Yes.

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- a. The Dillon's Store was built in 1981. At that time, parking requirements for a grocery store (and Ace Hardware store) was 1 space per 300 sq. ft. Dillon's/Ace exceeded those requirements by 94 parking spaces:

Required spaces: 180
Actual spaces: 274

In 1991, when the current regulations were adopted, the parking requirements for a grocery store doubled. They are now required 1 space per 150 sq. ft. (requirements for Ace Hardware remain the same)

Dillon's: 280
Ace: 40
Required spaces: 320
Actual spaces: 274

Under the previous regulations, there was a surplus of 96 parking spaces. Under the current regulations, there is a deficit of 46 parking spaces. Nothing has changed except the zoning requirements. Parking is not a problem. In fact, the portion of the existing parking lot on the south side of the building is usually vacant, as is this portion of the parking area that is being considered for a fuel service area.

While Pittsburg requires 1 parking space per 150 sq. ft of floor area, shown below are some grocery store parking requirements of other cities:

Joplin, MO 1 space per 200 sq. ft.
Dodge City, KS 1 space per 250 sq. ft.
Las Vegas, NV 1 space per 250 sq. ft.
Oklahoma City, OK 1 space per 300 sq. ft.

- b. Customer parking should be based on store area open to the customer, not total square footage of the store. Total square footage of the grocery store and hardware store is 53,783 sq. ft.; however, only 36,584 sq. ft. (68%) is open to the public for shopping purposes. The remainder of the area is stock room which is not open for public congregation.
- c. A flaw in calculating parking requirements for businesses is that the requirements are based on the highest number of customers in the store at one time. This usually occurs once a year between Thanksgiving and Christmas. People are always grocery shopping so it is not greatly affected by this once a year surge.

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4. Will the granting of a permit for the variance requested adversely affect the rights of adjacent property owners or residents.

No.

5. Will the granting of the variance requested confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures, or buildings in the same district.

No. Other property owners may apply for the same variance.

6. Will the granting of the variance requested adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

No.

7. Will the granting of the variance requested be opposed to the general spirit and intent of the Zoning Ordinance.

No.

8. Is the variance being requested the minimum variance that would accomplish this purpose.

Yes.

The Board of Zoning Appeals considered all eight (8) factors involved, but expounded on the above. Based on the above factors, Sara Henry moved, seconded by Tim Bailey, that the variance be **granted**. Motion carried unanimously.

There being no further business to discuss, Sara Henry moved, seconded by Tim Bailey, that the meeting adjourn. Motion carried unanimously and the meeting adjourned at 5:45 p.m.

Respectfully submitted,



Todd Kennemer
Assistant Director of Public Works