

# BOARD OF ZONING APPEALS

## MINUTES OF THE MEETING OF NOVEMBER 5, 2012

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

**OTHERS PRESENT:** Karla Abeyta, 505 W. 2<sup>nd</sup> Street, Pittsburg  
Rex Linville, 3302 E. 20<sup>th</sup> Street, Pittsburg  
James Pontious, 508 W. 2<sup>nd</sup> Street, Pittsburg  
Patricia Mason, 507 W. 2<sup>nd</sup> Street, Pittsburg  
David and Melinda Lawson, 601 W. 2<sup>nd</sup> Street, Pittsburg  
William A. Beasley, Director of Public Works  
Andrea Holtzman, Administrative Assistant, Public Works

The Pittsburg Board of Zoning Appeals met on Monday, November 5, 2012, at 5:15 p.m., in the Municipal Court Room of the Law Enforcement Center located at 201 N. Pine. Chairperson Tim Bailey called the meeting to order at 5:35 p.m. with all five (5) members present. The meeting began late to give the applicant, Rex Linville, an opportunity to arrive as he was running late.

**The first order of business was approval of the minutes of the meeting of September 10, 2012.** 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 formerly tabled request:

Case No. 12-07 - A request submitted by Rex Linville for a 20 foot variance in the front yard setback from Miles Street to allow a duplex to be placed 10 feet from the right of way of Miles Street.

Chairperson Tim Bailey opened the **PUBLIC HEARING** by stating the request and then asked the applicant to comment on behalf of said request. In this regard, Rex Linville was present to speak on behalf of the request.

Bill Beasley stated it was necessary to table the request at the September meeting due to the lack of information. He stated that since that time, alterations have been made with regard to the request – the variance from 2<sup>nd</sup> Street is no longer required and the proposed structure will be a duplex instead of a triplex. Mr. Beasley stated that the property owners within 200 feet of the property were notified of the changes.

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Mr. Linville stated the building has been changed from a triplex to a duplex to allow it to fit better on the lot.

Tim Bailey stated he noticed that parking now appeared to be adequate and that parking in the alley would no longer be required. Mr. Linville stated the units would be 3-bedroom, 2bath units with a 2-car garage; therefore, no additional parking would be required.

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

Karla Abeyta, 505 W. 2<sup>nd</sup> Street, inquired if the developer would be required to pave the alley. Mr. Bailey stated there was no need for the alley to be paved since there would be no parking spaces off the alley. Ms. Abeyta expressed concern that the new duplex would cause her taxes to increase. Mr. Bailey stated he didn't know why this new structure would cause her taxes to increase as Mr. Linville would be responsible for taxes since he was building the structure. Mr. Beasley added that the City doesn't have anything to do with property taxes; they are all computed through the County. Ms. Abeyta then inquired if this housing would be low income housing. Mr. Bailey stated that due to the size of the units Mr. Linville probably would not be able to make this duplex low income housing.

Patricia Mason, 507 W. 2<sup>nd</sup> Street, expressed concern about guest parking on Miles Street. Mr. Beasley stated there would be adequate parking for guests to park on Miles Street.

James Pontious, 508 W. 2<sup>nd</sup> Street, stated the intersection at 2<sup>nd</sup> and Miles is very dangerous and would be concerned about visibility at this intersection. Mr. Beasley stated this intersection has a 70 foot right-of-way, which is large compared to the 50 foot right-of-way in most residential areas. Mr. Pontious then expressed concern with the speed of traffic in the area. Mr. Bailey suggested that Mr. Pontious contact the City to inquire about stop signs at this intersection.

David Lawson, 601 W. 2<sup>nd</sup> Street, inquired about the number of parking spaces available for each 3-bedroom unit. Mr. Linville stated the garages offered 2 parking spaces and the driveway would also allow for 2 parking spaces. Mr. Lawson stated he felt the units would more than likely be occupied by college students and would be concerned about the number of vehicles that would actually be at each unit. Mr. Bailey stated that Mr. Linville would be able to screen applicants for the property, but the Board could not dictate who could occupy the residence.

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There being no one else to speak in opposition to the request, Chairperson Tim Bailey 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, i.e. small lot size, unusual grade, easements, right of ways, etc.?**

The request does not appear to be unique to this property or this project. All the lots are basically the same size, 50' x 53' x 142'. The right-of-way of Miles Street however is unique as it is a 70 foot right-of-way as opposed to the traditional 50-60 foot right-of-way.

2. **Has such conditions or circumstances being created by the action or actions of the owner or applicant?**

The lots in this subdivision were platted as 50-53 feet in width and 142 feet in depth. The platting of the property was not done by the applicant.

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 represented in the application?**

The lot is located in a multi-family residential district. If the variance is not granted the developer may have to reduce the number of units he is proposing to build on the property. A variance may also be necessary to construct a single family dwelling.

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

It appears there will be no adverse effect if the variance is granted.

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?**

If a variance is granted, it will not be opposed to the general spirit and intent of the Zoning Regulations.

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

This property is in an older neighborhood and many of the structures are currently closer than the Zoning Ordinance allows.

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

The Zoning Ordinance allows for non-conforming construction in older neighborhoods. It recognizes many of the traditional new homes cannot meet the established setbacks.

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

The building width is the same as most single family dwellings. The width could be reduced to reduce the amount of the variance, but this would make the rooms in each dwelling very small.

The Board of Zoning Appeals considered all eight (8) factors involved. Based on these factors, Sara Henry moved, seconded by Joseph Caskey, to **approve** this request as submitted. Motion carried unanimously.

There being no further business to be discussed, Hyun Joong Kim moved, seconded by Sara Henry, that the meeting adjourn. Motion carried unanimously and the meeting adjourned at 615 p.m.

Respectfully submitted,

Andrea Holtzman  
Administrative Assistant