

# BOARD OF ZONING APPEALS

## MINUTES OF THE MEETING OF JANUARY 7, 2013

**MEMBERS PRESENT:** Don Judd, Vice Chairperson  
Joseph Caskey  
Sara Henry

**MEMBERS ABSENT:** Hyun Joong Kim  
Tim Kundiger

**OTHERS PRESENT:** Ron Frazier, 501 E Monroe, Pittsburg  
Joe Porter, 306 E Hudson, Pittsburg  
Nathan Stahl, 110 E Oak, Arma, KS  
Gloria Williamson, 2011 S English, Pittsburg  
William A. Beasley, Director of Public Works  
Troy Graham, Assistant Director of Public Works  
Andrea Holtzman, Administrative Assistant, Public Works

The Pittsburg Board of Zoning Appeals met on Monday, January 7, 2013, at 5:15 p.m., in the Municipal Court Room of the Law Enforcement Center located at 201 N. Pine. Vice Chairperson Don Judd called the meeting to order at 5:15 p.m. with three (3) members present.

**The first order of business was the introduction of Tim Kundiger as the newest member to the Board of Zoning Appeals.** However, since Mr. Kundiger was unable to make the meeting Troy Graham announced he would introduce him at the next scheduled meeting.

**The second order of business was the election of a new Chairperson and Vice Chairperson to serve the 2013 Term.** In this regard, Sara Henry moved, seconded by Joseph Caskey, that Don Judd serve as Chairperson. This motion passed unanimously and Don Judd was elected by acclamation. Sara Henry then moved, seconded by Don Judd, that Joseph Caskey serve as Vice Chairperson. This motion passed unanimously and Joseph Caskey was elected by acclamation. Don Judd then presided as the newly elected Chairperson.

**The third order of business was approval of the minutes of the meeting of November 5, 2012.** Sara Henry moved, seconded by Joseph Caskey, that the minutes be approved as submitted. Motion carried unanimously.

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

Case No. 13-01 - A request submitted by Ronald L. Frazier to consider a request for a variance to allow a 6 foot privacy fence to be placed on the property line of South Smelter at the property located at 501 E Monroe.

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, Ron Frazier stated he had already put up the fence; however, he was unaware that he was in violation of the City Ordinance. He indicated the 6 foot privacy fence was put up for the safety of his young Labrador. Mr. Frazier stated he felt that one concern with the fence might be the line of site for traffic entering and exiting Smelter. He then provided four (4) photographs from various locations on his lot to show the relationship to the fence to demonstrate the vision line. These photos have been attached to, and become a part of, these minutes. Mr. Frazier stated he believes that the fence adds to the pleasing aesthetics of the neighborhood.

Sara Henry stated the photos clearly show the fence is not an obstruction to traffic view.

Troy Graham stated the City also provided photos in the Board members packets showing the fence in reference to the houses around it.

There being no one 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, i.e. small lot size, unusual grade, easements, right of ways, etc.**

No, this is a corner lot.

2. **Has such condition or circumstance been created by the action or actions of the owner or applicant.**

No.

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- 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.**

No.

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

Yes, the fence will extend past the existing front yard setback of the house located directly to the north. The fence could possibly hinder view of the property owner to the north when looking south from the front of the house.

- 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, however, other property owners may also make request for the same type of variance if necessary.

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

Yes, potential fence location could restrict view of house located north of the fence.

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

Yes, fence will extend past front yard setback of neighboring property.

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

No.

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

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

Case No. 13-02 - A request submitted by Kevin Watt to consider a request for an 18 foot variance in front yard setback from Miller Street to allow a 4-unit townhouse to be placed 12 feet from the right-of-way of Miller Street; a request for a 20 foot variance in front yard setback from English Street to allow residential parking and a refuse enclosure to be placed 10 feet from the right-of-way of English Street; and request for a 2% variance in impervious lot coverage to allow 62% of impervious lot coverage on the property located at 2006 S. Joplin.

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, Nathan Stahl stated the plan was to build a 4-unit apartment building. He indicated he was going to be the local property manager and that he felt the new building would improve and update the area substantially. Mr. Stahl stated there was a plan to add landscaping to the area as well.

Sara Henry inquired if the parking lot was going to be hard surfaced. Mr. Stahl's response was that the lot would not be hard surfaced. Ms. Henry then inquired if the building would be a single story structure. Mr. Stahl's responded that the building would be a 2-story structure with 2 units on each floor and that each unit would have 2 bedrooms.

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

Joe Porter, 306 E Hudson, stated that he lives one block north of the proposed building site. He expressed concern with how this complex would affect the traffic in the area and indicated that the traffic on English Street and Miller Street was already hazardous and overwhelming. Mr. Porter stated that the on-street parking already creates a narrowing on Miller Street and that there needs to be no parking signs in the area. He stated there was a lack of significant parking for the current residents which causes the overflow to park in their yards. Mr. Porter stated he did not feel a new building for rental housing was needed as most of the area was already rentals and that he felt the construction of this property would not help the resale value of his home. He stated that he didn't feel the proposed parking lot offered adequate parking for the amount of people that will be residing in the building.

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Gloria Williamson, 2011 S English, stated she too was concerned about traffic in the area. She stated people travel too fast in the area and the current renters in the area do not have enough parking because of the number of vehicles. Ms. Williamson stated there was also a trash problem in the area. She stated there was too much garbage and it was not adequately collected, then the dogs get into the bags and tear up the trash and the wind blows it into her yard.

Sara Henry inquired about the current zoning of the property. Troy Graham stated the property is zoned RP-3 Planned Medium Density Residential, which is multifamily and allows apartment buildings. He stated the business had been there so long it had been grandfathered in. Mr. Graham also stated that according to the City Ordinance there would need to be two parking spaces for each unit and that the proposed site adequately meets this requirement.

Nate Stahl stated he felt there would be more traffic in the area with a restaurant than with a residential area. He also showed on the site plan where the dumpsters would be fenced in and have a gate on them as well to assist with the containment of the garbage.

There being no one else 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, i.e. small lot size, unusual grade, easements, right-of-ways, etc.**

Yes, current lot has three (3) sides of street frontage which requires the owner to meet three different setbacks. This makes placement of a structure more complicated to meet all required setbacks.

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

No, the current owner purchased the property in its present configuration.

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- 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 building lot is unusual in having three front yard setbacks. If the variance is not granted, the owner may have to reduce the number of units he was proposing to build on the property to meet the required setbacks and have required parking lot with allotted spaces.

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

No, currently the property had been used commercially and exceeded required setbacks. Renovation and development of the property would actually bring property closer to conformance of Zoning Regulations.

- 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, however, other property owners may also make request for the same type of variance if necessary.

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

No, this request will provide more off-street parking and additional green space which is not currently available on the property.

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

No, Intent is to provide additional parking for future residents of the property as well as more green space and provide a better use of property.

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

No, structure size could be reduced for a smaller footprint to meet existing setbacks.

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Joseph Caskey inquired if the curb in that area would be built back up. Bill Beasley indicated there was no current plan for that at this time.

Sara Henry stated she felt that the proposal would in fact improve and increase the property value in the area.

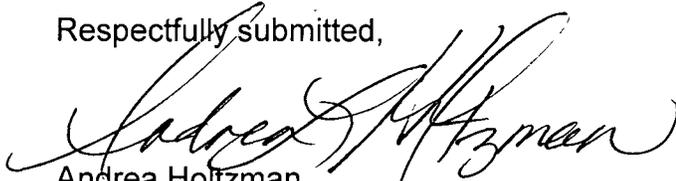
Don Judd suggested Mr. Porter and Ms. Williamson contact the City to discuss traffic issues in the area. Mr. Beasley agreed and indicated they could address the Traffic Advisory Board to request no parking or other needed street signs in the area.

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.

Under New Business, the Board of Zoning appeals received the tentative schedule for 2013-2014 for their consideration and approval. Joseph Caskey moved, seconded by Sara Henry, to approve the schedule. Motion carried unanimously.

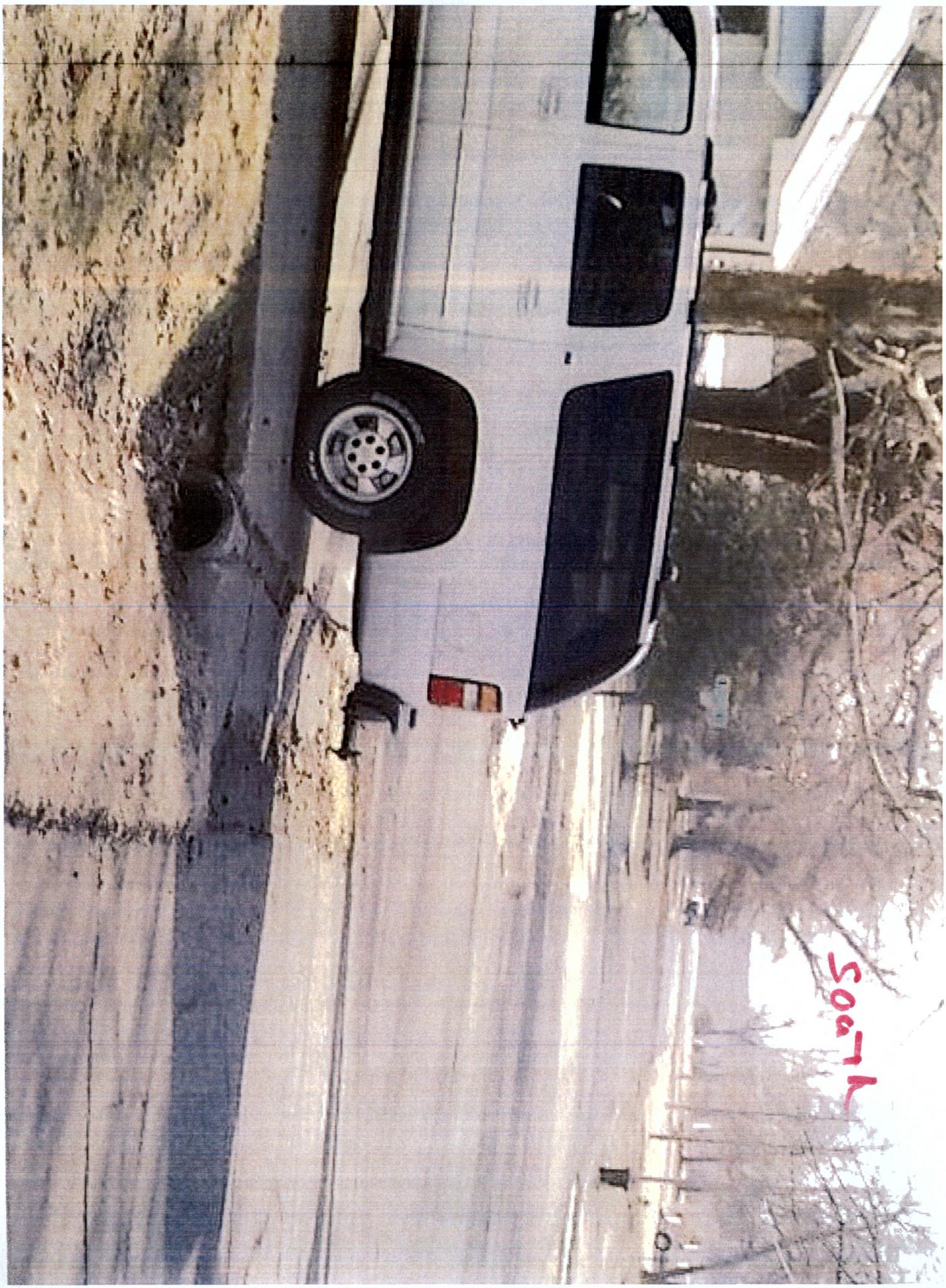
There being no further business to be discussed, Sara Henry moved, seconded by Joseph Caskey, that the meeting adjourn. Motion carried unanimously and the meeting adjourned at 6:10 p.m.

Respectfully submitted,



Andrea Holtzman  
Administrative Assistant

Attachments: Four (4) Photos of fence location from 501 E Monroe.



South



DRIVEWAY  
LOOKING EAST

