

# BOARD OF ZONING APPEALS

## MINUTES OF THE MEETING OF DECEMBER 3, 2007

**MEMBERS PRESENT:** Earl Ward, Chairperson  
James Belew, Vice Chairperson  
Tim Bailey  
Don Judd

**MEMBERS ABSENT:** Kipp Riddle

**OTHERS PRESENT:** Thelma Miller, 2302 North Grand, Pittsburg  
Robert Scott, 106 North Highland, Pittsburg  
Ruth Lemon, 110 East Carlton, Pittsburg  
Todd Kennemer, Assistant Director of Public Works

The Pittsburg Board of Zoning Appeals met on Monday, December 3, 2007, at 5:15 p.m., in the City Hall Commission Room. Chairperson Earl Ward 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 November 5, 2007.** In this regard, Jim Belew moved, seconded by Tim Bailey, that the minutes be approved as submitted. Motion carried unanimously.

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

Case No. 07-14 - A request submitted by Thelma Miller for a six (6) foot variance in front yard setback to allow a covered entry porch to be constructed 24 feet from the right-of-way of Grand Street located at 2302 North Grand.

Chairperson Earl Ward opened the **PUBLIC HEARING** by stating the request and then asked the applicant to comment on behalf of said request. In this regard, Thelma Miller stated that the lot is a corner lot and her builder said she would need a variance to build the six foot porch.

Todd Kennemer stated that the lot is 60 feet wide, and since it is a corner lot it is required to have two front yard setbacks. Meeting the second front yard setback requirement reduces the buildable area to a 25 foot width, as opposed to a standard buildable area with 40 feet width on the non-corner lots. He stated this corner lot is larger than the standard non-corner lot and the six foot porch will have no detrimental effect on the area.

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

1. There are conditions which exist in respect to the property or structure being considered which are different from other properties or building in the neighborhood. This property is a corner lot requiring two (2) front yard setbacks. The larger setback requirements create a buildable area much narrower than non-corner lots.
2. The conditions or circumstances have not been created by action of the owner.
3. There are 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, such as larger setback requirements for corner lots.
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. This is an older neighborhood and most of the other residential structures do not meet the 30 foot setback requirement.
5. The granting of the variance requested would not be opposed to the general spirit and intent of the Zoning Ordinance.
6. The variance being requested is the minimum variance that would accomplish this purpose.

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

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

Case No. 07-15 - A request submitted by Robert Scott for a 750 square foot variance in allowable square footage for accessory structures located at 106 North Highland

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Chairperson Earl Ward opened the **PUBLIC HEARING** by stating the request and then asked the applicant to comment on behalf of said request. In this regard, Robert Scott stated that the parcel is a total of 3 lots consisting of his existing home, garage, and storage shed. He wants to build a 24' x 40' (960 square feet) garage/shop at the south side of the house. He will enter the garage/shop from the existing driveway.

Earl Ward asked Mr. Scott if he would be removing the large, mature oak tree on the west of the lot. Mr. Scott stated he is keeping the oak tree as is, and, for this reason the garage will be set back about 40 feet from Highland. Mr. Ward then asked how far the building will set back from 1<sup>st</sup> St. Todd Kennemer stated the existing residential structure to the east establishes the minimum setback. Mr. Scott said he wants to be able to park a car between the garage/shop and the sidewalk to the south (this would be a distance of at least approximately 20 feet...much further than the setback established by the existing house to the east).

There being no one present to speak in opposition to the request, Chairperson Earl Ward 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 building in the neighborhood. This property consists of 3 lots instead of only one lot. If they were individual lots, 900 square feet (2700 square feet total) of accessory buildings would be allowed by right.
2. The conditions or circumstances have been created by action of the owner.
3. There are 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; however, steps are being taken by the City to base the limit on accessory buildings to a percentage of lot coverage instead a set amount of 900 square feet regardless of lot size.
4. The granting of the variance requested would confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands, structures, or buildings in the same district; however, other residents in the area may also apply for a variance for the same request if they so choose.
5. The granting of the variance requested would not be opposed to the general spirit and intent of the Zoning Ordinance.

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6. The variance being requested is the minimum variance that would accomplish this purpose.

The Board considered all eight (8) factors, but expounded on the above. Based on these factors, Tim Bailey moved, seconded by Jim Belew, that the variance be **granted**. Motion carried unanimously.

Under Other Business, Todd Kennemer reminded the Board that the terms of Kipp Riddle, who has already resigned, and Earl Ward will expire at the end of the year. This is the end of Earl Ward's second term so he cannot be re-appointed at this time. Mr. Kennemer told the members of the Board if they know of any one interested in serving they should submit a letter of interest and a short biography to the City Clerk as soon as possible.

The Board thanked Mr. Ward for his service and said it was an honor to have served with him.

The next Board of Zoning Appeals meeting is scheduled for January 7, 2008.

There being no further business to discuss, Earl Ward 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