

# Board of Zoning Appeals

## MINUTES OF THE MEETING OF MARCH 5, 2007

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

**MEMBERS ABSENT:** Kipp Riddle, Chairperson  
Don Judd

**OTHERS PRESENT:** Bob Faires, Howard & Helmer Architects, Wichita, KS  
J. C. Kraus, St. Mary's/Colgan High School, Pittsburg  
Perry Cummins, 810 S. 260<sup>th</sup> St, Pittsburg  
Carol Cummins, 810 S. 260<sup>th</sup> St, Pittsburg  
Todd Kennemer, Assistant Director of Public Works

The Pittsburg Board of Zoning Appeals met on Monday, March 5, 2007, at 5:15 p.m., in the City Hall Commission Room. In the absence of the Chairperson, Vice Chairperson Earl Ward called the meeting to order at 5:15 p.m. with three (3) members present.

**The first order of business was the approval of the minutes of the meeting of November 6, 2006.** In this regard, Jim Belew moved, seconded by Tim Bailey, that the minutes be approved as submitted. Motion carried unanimously.

**The second order of business was the election of a Chairperson and a Vice Chairperson.** Tim Bailey moved, seconded by Jim Belew, that this item occur after the public hearings for the variances being requested. Motion carried unanimously.

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

Case No. 07-1 - A request submitted by St. Mary's/Colgan High School for a 19 foot variance in rear yard setback to allow a new addition to be constructed 1 foot from the rear property line located at 212 East 9<sup>th</sup> Street.

Acting 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, Bob Faires of Howard & Helmer Architects, representing Steve Sloan for SMC, stated they would like approval to build an addition to the SMC High School. The addition would be on the west side and would basically consist of a commons area at the north end of the addition and restrooms at the south end. There would also be a hallway and doors at the south end. The addition would be an extension of the existing school building.

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Earl Ward asked what the “notch out” was on the south end of the addition. Mr. Faires stated that was where the doors would be located. They [the doors] would be inset to provide a covered entryway. There would be railing on the west side of the entry to keep the kids from running out in front of a car should there be one coming down the alley. Mr. Ward stated that it looked pretty crowded at that corner of the L-shaped alley and asked if the addition could be shifted to the north, or if the hallway and the restrooms could be switched to allow more room at the corner of the alley. Mr. Faires stated the addition was designed to match up with the hallways and fire exits on the existing building. It really wouldn't work if the addition was shifted to the north. If the bathrooms and the hallway were switched it would close off a required fire exit. The proposed bathrooms were already small and if they were made smaller they would not be ADA compliant.

Tim Bailey asked about traffic flow at the bend of the L-shaped alley. Mr. Faires stated that high school parking was located to the north. The parking lots shown were mainly for teachers or visitors.

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

Mr. Perry Cummins, 810 S. 260<sup>th</sup> Street, spoke in opposition to the requested variance. He had sent a letter stating his concerns and presented pictures to the Board showing traffic congestion and illegal parking during [basketball] game night. He was concerned that the close proximity would limit the access to the rear of his property. Mr. Cummins stated there was not enough room at the bend in the L-shape alley for current two-way traffic and that this problem would become worse if the school addition made it even narrower than what it already was. Presently, opposing traffic at the bend have a somewhat limited line of sight, but can at least see if another car was coming in the opposite direction. If the school building was extended, there would be no line of sight. Mr. Cummins stated the traffic and congestion was already bad when parents drop off/pick up their children. He stated that many of these parents circle the high school in both directions and at times traffic gets blocked at the L-bend causing traffic to back up in the parking lot lanes and into the streets. Mr. Cummins also stated that if this variance was approved there would be a loss of several parking spaces on the west side of the school (15 spaces). He asked where this parking would be relocated. Mr. Cummins also asked about stormwater runoff; would he be granted a variance to build a carport on his property in the future; the lack of lighting and pedestrian safety in and around the parking lot on nights when there were activities at the school such as games or meetings; and enforcement of no parking along the boundary lines he shares with the school.

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Todd Kennemer advised him if his carport was to be a detached structure it could be built 5 feet from the rear property line and he would not need a variance unless he wanted to build it closer. He also stated that the issues of runoff and lighting would be addressed during the review of the site plan by the Planning and Zoning Commission during their special meeting on March 12<sup>th</sup> and that he would check with the Police Department regarding the no parking issue.

Tim Bailey asked why this variance request was being heard before the site plan review had been conducted. Todd Kennemer explained the site plan review was originally scheduled for February 26<sup>th</sup>, however, his office received an incorrect legal description and a partial list of property owners from the title company. The correct description and list was not received in time to make the February meeting and abide by State Statutes regarding notification time periods. A special session of the Planning and Zoning Commission was then scheduled for March 12<sup>th</sup> to conduct the site plan review for the proposed addition.

Mr. Bailey asked if a fence could be erected to eliminate the traffic congestion at the bend in the alley. Todd Kennemer stated that the L-shaped alley was a condition of approval to vacate the eastern portion of the east-west alley back in 1997.

Mr. Bailey asked how this building, being one (1) foot off the property line, would be any different than a fence being built on the property line. Mr. Kennemer stated the only difference would be 21 foot in width at the school building verses 20 foot in width at a fence. Mr. Bailey stated the traffic circulation issues needed to be addressed before granting a variance.

The Board then discussed fencing options such as a knock down fence or drive over bollards.

Acting Chairperson Earl Ward closed the **PUBLIC HEARING** for the request and the Board then considered the following findings:

1. There are conditions which exist in respect to the structure being considered which are different from other properties or buildings in the neighborhood. This is a school building located in an R-2 Two-Family Residential Zoning District.
2. There are special conditions or circumstances such that the strict literal interpretation of the provisions of the Zoning Ordinance (20 foot setback) would constitute a hardship upon the property owner represented in the application.

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3. As submitted, the granting of a permit for the variance requested may adversely affect the rights of adjacent property owners or residents.
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 (school buildings are different from residential).
5. As submitted, the granting of the variance requested may adversely affect the public health, safety and general welfare.
6. The variance being requested may not be the minimum variance that would accomplish this purpose.

The Board considered all eight (8) factors involved, but expounded on the above. Jim Belew stated that he personally felt he could not grant the variance without the benefit of a site plan review and knowing whether or not the Planning and Zoning Commission was satisfied with the site plan. He stated that he would also like to see more information regarding traffic circulation on the L-shaped alley. Based on these factors, Jim Belew moved, seconded by Tim Bailey, that the variance being requested be **tabled** until the April 2<sup>nd</sup> Board of Zoning Appeals meeting until the Planning and Zoning Commission has had the opportunity to review the site plan and to address traffic circulation issues. Motion carried unanimously.

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

Case No. 07-2 - A request submitted by Bryan Hanson for a 40 foot variance in front yard setback and a 15 foot variance in side yard setback to allow a canopy to be built up to the property line and over the existing patio located at 221 East 3<sup>rd</sup> Street (McCarthy's Pub).

Acting Chairperson Earl Ward opened the **PUBLIC HEARING** by stating the request and then asked the applicant to comment on behalf of said request. Since there was no one in attendance to present the case no action could be taken. Tim Bailey moved, seconded by Jim Belew, to **table** this request until the April 2<sup>nd</sup> Board of Zoning Appeals meeting to allow the applicant to be in attendance to present the case.

Regarding the election of a Chairperson and Vice Chairperson to serve for 2007-2008; Tim Bailey nominated current Vice Chairperson Earl Ward to serve as Chairperson and Jim Belew to serve as Vice Chairperson. Both candidates agreed to serve as nominated.

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The next scheduled Board of Zoning Appeals meeting will be April 2, 2007.

There being no further business to be discussed, Jim Belew moved, seconded by Tim Bailey that the meeting adjourn. Motion carried unanimously and the meeting adjourned at 6:35 p.m.

Respectfully submitted,

Todd Kennemer  
Assistant Director of Public Works