



Division of Zoning and Development Review

City of Pittsburgh, Department of City Planning

412 Boulevard of the Allies, Second Floor

Pittsburgh, Pennsylvania 15219

ZONING BOARD OF ADJUSTMENT**Date of Hearing:** June 11, 2026**Date of Decision:** August 7, 2026**Zone Case:** 72 of 2026**Address:** 1639 Denniston Street**Lot and Block:** 86-H-216**Zoning Districts:** R2-L**Neighborhood:** Squirrel Hill North**Request:** Appeal of approval of BDA-2025-11422 for the construction of a front deck with integral garage**Application:** DCP-PAP-2026-00101

Protest Appeal	Sections 923.02.D/92506.A.14	Appeal of zoning approval for BDA-2025-11422
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Appearances:

Applicant: Ryan Wotus, Andrew Moss, Michelle Yanefski

Appellant: Stuart Gaul, Debra Lange

Observing: Carolyn Ristau

Findings of Fact:

- Identification of the Appeal and Parties to the Appeal**

1. This case involves the appeal of the Department of City Planning's January 6, 2026 approval of a portion of a project on the Subject Property at 1639 Denniston Street in a R2-L (Residential Two Unit Low Density) District in Squirrel Hill North.

2. The Appellant is Debra Barnisan-Lange, who owns property at 1642 Denniston Street, across the street from the Subject Property. Stuart Gaul, Esquire represented the Appellant before the Board.

3. The owners of the Subject Property, and the Appellees here, are Michelle Yanefski, Erik van de Venne and Mark van de Venne. Ryan Wotus, Esquire represented the Appellees before the Board.

- **Description of the Subject Property and the Project at Issue**

4. The dimensions of the parcel are approximately 150' by 35' (5,250 sf).
5. The grade of the parcel has a significant slope upward from the front property line.
6. The three-story house on the Subject Property is set back 40' from the front property line and the existing open, covered porch that is attached to the house is set back 30' from the front property line.
7. No rear access is available and no garage structure is located on the property.
8. Concrete stairs lead from the street level to the top of the slope, with additional steps to the front porch.

- **Relevant Factual Background**

1. Since mid-2025, the Appellees have engaged in various interior and exterior construction and renovations projects on the Subject Property. Some of the work involved excavation of the basement, which involved disruption of the front yard.
2. As part of the renovation project, the Appellees filed an application for an 11' extension of the existing porch, with a garage to be located under the extended porch. Because the porch extension, as initially proposed, would have intruded into the front setback by more than 9', a variance was required. A hearing on that variance application was scheduled for September 18, 2025, but, at the request of the Appellees, that hearing was continued indefinitely.
3. On November 7, 2025, a representative of the Appellees submitted BDA-2025-11422, which sought approval for what was described as a "deck" that would extend no more than 9' from the existing porch, and would be set back 21' from the front property line. The Appellees again proposed to construct a 2-car integral garage underneath the deck, which would have access from a curb cut on Denniston Street and would be substantially below grade.
4. The new design proposed was essentially identical to the original porch extension, with the exception that, instead of an 11' extension of the porch deck, a 9' extension was proposed. Like the original design, the additional 9' of depth would extend from the existing porch, at the same height as the porch.
5. With the new design, the garage door, at the front of the proposed porch extension, would be 21' from the front property line.
6. It seems apparent that the intent of the extended porch is to allow for an interior garage beneath the extended porch.
7. On January 6, 2026, the Department of City Planning issued zoning approval for the proposed addition to the porch, with the interior garage.

- **Procedural Background**

8. On April 15, 2026, Mr. Gaul, on behalf of the Appellant, filed an appeal of the Department of City Planning's January 6, 2026 approval.

9. The Board conducted a hearing on the appeal on June 11, 2026.

10. At the hearing, Zoning Administrator Carolyn Ristau provided background information about the zoning approval and subsequent application for the appeal. Ms. Ristau noted that the application was approved before she assumed her position as Zoning Administrator.

11. The parties stipulated to the essential facts relating to the property and the proposed addition and offered different interpretations of the relevant provisions of the Code.

12. The parties also raised issues as to the timeliness of the appeal, based on when the Appellant knew or should have known about the issuance of the January 6, 2026 approval.

13. The Appellant presented evidence that she became aware that the permit had been issued in late March/early April, 2026 through a conversation with Appellees' counsel who informed her that although the previous variance application for the porch extension/garage had been withdrawn, a new "by right" design had been approved and construction was proceeding.

14. She testified that a single building permit had been posted on the front of the house but that a second building permit had been posted in mid-April.

15. The Appellant submitted photographs which indicate that only one City-issued permit, apparently for interior renovations, was visible on the Subject Property on April 14, 2026, and that a second City-issued permit, for the porch extension/garage, was posted on April 16, 2026.

16. The Appellant noted that because of the other renovations projects, the construction activities in the front yard did not indicate that the work being done was for a porch extension/garage. She also indicated that because the variance request for the original porch extension/garage design had been withdrawn, it was reasonable to assume that the porch extension/garage was no longer part of the renovation projects.

17. The Appellees' architect testified that it was his understanding that contractor had posted the permit for the porch extension/garage project shortly after it had been issued but did not provide any evidence that the permit had been visibly posted on the property.

18. The Appellees' architect also testified that the Appellees had incurred costs based on the issuance of the approval.

19. Following the hearing, the Board left the record open for the parties to submit proposed findings of fact and conclusions of law. The record of the hearing closed with the receipt of the Applicant and Appellant's post-hearing submissions on June 23, 2026.

- **Relevant Provisions of the Code**

20. Pursuant to the setback standards from section 903.03.B.2, the minimum front setback in R1D-L Districts is 30'.

21. Pursuant to Section 912.04, accessory structures must comply with the front setback standard that applies to primary structures.

22. Section 925.06.A, titled “Features Allowed in Setbacks,” provides in subsection 925.06.A.14.a: “Open structures such as porches, decks or landing places which do not extend above the first floor of the building, may be erected in required front, or rear yards, or street side yard, provided the structure is not more than nine (9) feet in depth and no closer to an abutting interior side yard lot line than the existing primary structure.”

23. Section 925.06.A.14.b provides that “the space beneath the projecting porch, decks or landing place may serve as part of an interior minor garage, provided no portion of the garage extends above the adjoining ground level or farther into the yard than the open porch, deck or landing place and no garage doors open outward.”

- **Positions of the Parties**

- **Timeliness of the Appeal**

24. In support of the timeliness of the appeal, Mr. Gaul asserted that the Appellant was only made aware of the issuance of a permit for the revised porch extension/garage design through a conversation with Appellees’ counsel, in late March or early April of 2026 and that only a single City-issued permit, for the interior renovations, was posted on the property until a second permit was posted in mid-April.

25. The Appellant maintains that the appeal, filed on April 15, 2026, was filed when it became apparent that a permit had been issued for the porch extension/garage.

26. In challenging the timeliness of the appeal, Mr. Wotus maintained that his client had posted the City-issued permit on the property in late January shortly after the issuance of the permit. He also argued that the site work in the front yard should have provided sufficient constructive notice of the approval for the revised design of the porch extension/garage.

- **Interpretation of Section 925.06.A.14**

27. On behalf of the Appellant, Mr. Gaul asserted that Section 925.06.A is intended to allow a house to have a front porch that is no more than 9’ in depth, even where the existing porch does not extend into the front setback. The proposed deck would extend 9’ from an existing 10’ deep front porch and would result in a porch with a combined 19’ depth, which does not comply with this standard. The Appellant thus maintains that the permit for the porch extension was issued in error.

28. The Appellant also asserted that the garage should not have been approved because it is not completely below grade.

29. On behalf of the Appellees, Mr. Wotus stated that because Section 925.06.A only regulates features that are located within required setbacks, the depth of the existing porch, which is not within the front setback, should not be measured when determining the depth of the structure.

30. Mr. Wotus also asserted that the porch and the porch extension should be treated as distinct structures that should be measured independently.

31. The Appellees maintain that the permit for the porch extension/garage was properly issued.

Conclusions of Law:

- **Timeliness of Appeal**

1. Code Section 923.02.D provides that appeals to the Board are to be taken within 30 days of the action that is the subject of the appeal.

2. Under Pennsylvania law, lack of notice of the decision from which the appeal is taken is a reasonable basis for an objector to file an appeal after the 30-day period. Where an objector proves a lack of notice, the 30-day appeal period is tolled until a reasonable basis exists for the objector to be aware of the issued permit. It is the objector's burden to establish sufficient evidence demonstrating lack of notice of an approval. See e.g., *Schoepple v. Lower Saucon Twp. Zoning Hearing Bd.*, 624 A.2d 699, 704 (Pa. Commw. Ct. 1993); *Berryman v. Wyoming Borough Zoning Hearing Bd.*, 884 A.2d 386, 389 (Pa. Commw. Ct. 2005); *In re Appeal of Broad Mt. Dev. Co., LLC*, 17 A.3d 433 (Pa. Commw. Ct. 2011); Robert S. Ryan, *Pennsylvania Zoning Law & Practice*, Section 9.4.3. Where notice of the issuance of permit is not required, the fact that a permit has been issued is often not apparent until construction commences.

3. The City does not require the provision of notice for the issuance of a building permit for a use or structure that is permitted by-right.

4. Here, the Appellant presented sufficient credible evidence that she only became aware of the issuance of the January 6, 2026 permit for the revised deck/garage design through a conversation with the Appellees' counsel, in late March or early April, 2026. She reasonably understood that the variance application for the original porch extension/garage design had been withdrawn and reasonably understood the construction activity in the front yard of the Subject Property was associated with other aspects of the renovation work. She also presented credible evidence that only a single building permit was posted until after her conversation with Appellees' counsel and that a second permit was posted as of April 16, 2026.

5. For these reasons, the Board concludes that the Appellant met her burden of proving that the April 15, 2026 appeal taken when the Appellant became aware of the January 6, 2026 permit and the appeal was timely.

- **Interpretation of Section 925.06.A.14**

6. Section 925.06.A governs "Features Allowed Within Setbacks," with specific reference to open structures, including porches and decks, which do not extend above the first floor. That section provides that, in required front, rear or exterior side yards, open accessory structures are features that are allowed in a setback, if the feature does not extend into the setback by more than 9'.

7. The Appellant essentially maintains that this section should be interpreted to limit the depth of a porch to 9', regardless of whether the porch is within or outside of a required setback.

8. The Appellees assert that the porch extension would be a separate structure and thus its 9' intrusion into the front setback should be measured separately.

9. Both the primary house structure and the existing accessory porch structure comply with the 30' front yard setback requirement. The porch extension would extend from the existing porch, at the same height. Although it cannot reasonably be viewed as a separate structure, it would not extend any further into the front setback than the 9' permitted for a feature allowed within a setback under Section 925.06.A.14.

10. If the existing front porch were to be enclosed and thus incorporated into the primary structure, the primary structure would still comply with the 30' setback requirement. An open porch with a 9' depth, in front of the enclosed porch, would, without question, be a feature that is allowed within the front setback.

11. If the house complied with the 30' front setback requirement and the porch extended to that setback, the Board would agree that the porch could not be extended further into the setback and no porch addition could be permitted.

12. Because Section 925.06.A.14 allows open porches in the front setback, the Board cannot conclude that the depth of a porch is limited to 9', regardless of where it is located in relation to the required setback.

13. The Board appreciates the basis of the appeal and the neighbors' concerns about the porch extension/garage project, particularly where the Appellees originally proposed a design that required a variance, withdrew the variance application, and then, without notice to the concerned neighbors, redesigned the project and avoided the need for a variance hearing. The Board is also mindful that, if the existing porch were to be enclosed, the new porch/garage would clearly be allowed by right, with a more significant impact on the character of the neighborhood.

14. Because the porch will not extend more than 9' into the required setback, the issuance of the January 6, 2026 approval was not in error.

Decision: Upon consideration of the testimony and evidence presented, the Board concludes that the Appellant's appeal was timely. Because the porch extension will not extend more than 9' into the required front setback, the January 6, 2026 approval of BDA-2025-11422 was proper and the appeal is DENIED.

s/Alice B. Mitinger
Alice B. Mitinger, Chair

s/Lashawn Burton-Faulk
LaShawn Burton-Faulk

RECUSED
John J. Richardson

Note: Decision issued with electronic signatures, with the Board members' review and approval.