



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: May 7, 2026
Date of Decision: July 20, 2026

Zone Case: 26 of 2026
Address: 1700 Murray Avenue
Lot and Block: 86-L-13
Zoning Districts: LNC
Ward: 14
Neighborhood: Squirrel Hill South

Request: BDA-2026-00955

Application: Renovation of existing building for grocery store

Special Exception	Sections 911.02/911.04.A.83.c	Grocery Store (General)
Variance or Special Exception	Section 914.02/914.11.A.1	79 parking spaces required; 23 proposed

Appearances:

Applicant: Scot Kurtz, Yitzchok Glassner, Arthur Zamosky, Esquire

Opposed: Irving Firman, Esquire

Findings of Fact:

1. The Subject Property is located at 1700 Murray Avenue, at the corner of Forbes Avenue, in an LNC (Local Neighborhood Commercial) District in Squirrel Hill South.
2. The LNC District extends along both Murray Avenue and Forbes Avenue.
3. Property in an RM-M (Residential Multi-Unit, Moderate Density) District, used for the Jewish Community Center, abuts the Subject Property and other multi-unit residential uses are within the proximate RM-M District areas.
4. Located on the property is a three-story, mixed-use building with a 28-car parking lot at the rear, which has access from a curb cut on Forbes Avenue.

5. A 2004 Certificate of Occupancy permits the use of the upper floors of the building for “53,000 sq. ft. three-story retail structure with 28 surface parking spaces including 2 handicapped stalls (1st floor drug store upper spaces to remain vacant).”

6. The parking area is intended for the use of the first floor tenant only.

7. The approximately 11,900 sf tenant space on the ground was most recently used for a pharmacy, which the Code categorizes as a retail sales and services (general) use.

8. The Applicant proposes to renovate the ground floor tenant space for a grocery store (general) use. No substantial exterior work on the building is proposed.

9. The grocery store would sell groceries and limited hot food options that would be prepared on-site in a commercial kitchen and would be sold to-go or for consumption on-site in a seating area with 8 to 10 seats.

10. As proposed, the grocery store would be open Sunday through Friday from approximately 8 a.m. until 8 p.m., with closure on Fridays consistent with the Jewish sabbath.

11. The Applicant proposes to install a kitchen ventilation system that would be designed to reduce the impact of odors from food preparation on nearby properties. The Applicant has not yet developed the specifications for the proposed ventilation system and did not specifically describe how it would limit off-site impacts, but noted that it would be similar to typical restaurant ventilation systems.

12. The Applicant explained that trash and recyclables would be stored in a dumpster within a screened enclosure at the rear of the parking lot, and that trash would be collected 4 times per week and recyclables 2 times per week.

13. The Applicant identified other restaurant and retail uses in the proximate area of the Subject Property and asserted that the proposed use would be consistent with the character of the surrounding LNC District.

14. The Applicant also proposes to install a new accessible entrance on the side of the building, with access from the parking lot, and to create an ADA parking space. The effect of adding the accessible entrance and the ADA space would reduce the number of on-site parking spaces from 28 to 23.

15. Based on the full 11,900 sf gross floor area of the first floor tenant space, the Department of City Planning determined that 79 parking spaces would be required for the proposed grocery store (general) use. The Department’s calculation did not account for any permitted reductions for nonpublic areas.

16. The Applicant asserted that the 23 on-site parking, as supplemented with proximate public parking lots, street parking spaces and public transit, would be sufficient to support the proposed use.

17. The Applicant identified two Pittsburgh Parking Authority parking lots within a block of the Subject Property that are available to support the commercial uses in the area and a major

public transit line and a bus stop that are located outside the entrance to the building. The Applicant also stated that many customers live nearby and would walk to the grocery store.

18. The Applicant generally asserted that the proposed grocery store would not adversely impact nearby residential properties and would be consistent with the prior use of site.

19. Irving Firman, Esquire appeared at the hearing as a representative of the property owner to oppose the request. Mr. Firman cross-examined the Applicant's witnesses, noting concerns about the ventilation system, air conditioning, waste disposal and parking.

20. The parties provided post-hearing submissions to the Board as of June 5, 2026 and the record closed as of that date.

Conclusions of Law:

1. Section 911.02 permits the grocery store (general) use as a special exception in the LNC District, subject to the criteria set forth in Section 911.04.A.83.

2. The specific criteria for the grocery store (general) use in Section 911.04.A.83 require the Board to consider whether sufficient parking exists to meet the anticipated demand for the use; potential detrimental impacts on nearby residential uses; and the compatibility of the use with the surrounding neighborhood.

3. Pursuant to the Parking Schedule in Section 914.02.A, the Department of City Planning determined that 79 off-street parking spaces would be required for a grocery store (general) area with an 11,900 sf floor area. For the computation of the floor area for the purpose of computing on-site parking requirements, Section 914.03.C allows for the reduction in the gross floor area of a use to account for nonpublic spaces.

4. Section 914.11.A.1 allows the Board to consider modifications to the parking schedule as a special exception where the proposed modification would be consistent with the Code and where the proposed use is located in an area where adequate off-street parking otherwise exists or where additional parking would be undesirable.

5. Section 922.07.D sets forth the general review criteria for special exceptions. Section 922.07.D.1 provides that the Board is to approve a special exception if the proposed development is determined to comply with all applicable provisions of the Code and if the listed criteria are met. Section 922.07.D.1.d provides that a development is not to create detrimental operational impacts, including impacts from hours of operation and traffic management. Consideration is to be given to "adjacent and surrounding land uses which may have differing sensitivities to such operational impacts."

6. Under Pennsylvania law, a special exception is a form of a permitted use. A use that is permitted as a special exception "evidences a legislative decision that the particular type of use is consistent with the zoning plan and presumptively consistent with the health, safety and welfare of the community." *Allegheny Tower Assoc's., LLC v. City of Scranton Zoning Hearing Bd.*, 152 A.3d 1118, 1123 (Pa. Commw. Ct. 2017), citing *Greth Dev. Grp., Inc. v. Zoning Hearing Bd. of L. Heidelberg Twp.*, 918 A.2d 181 (Pa. Commw. Ct. 2007); see also

Cogan Properties, LLC v. East Union Twp. Zoning Hearing Bd., 318 A.3d 981 (Pa. Commw. Ct. 2024) and *Bray v. Zoning Bd. of Adj.*, 410 A.2d 909 (Pa. Commw. Ct. 1980). By designating a use as a “special exception,” the governing body has determined that the use is one that is appropriate in the zoning district, subject to the criteria that the governing body has established for the use. *Cogan*, 318 A.3d at 986, quoting *Siya Real Est., LLC v. Allentown City Zoning Hearing Bd.*, 210 A.3d 1152, 1157 (Pa. Commw. Ct. 2019).

7. In *Cogan*, the Commonwealth Court reiterated the rules regarding the initial duty to present evidence and the burden of persuasion in special exception cases, as set forth in *Bray*. *Cogan*, 318 A.2d at 989. The applicant has the initial duty to present evidence that its proposal complies with the specific criteria delineated in the ordinance. *Id.*, citing *Bray*, 410 A.2d at 912-13. If the applicant demonstrates compliance with all of the specific criteria, any objectors must attempt to prove, to a high degree of probability, that the proposed use would generate adverse impacts on the health, safety and welfare of the community in a manner not normally generated by the type of use at issue and not anticipated when the governing body established its list of uses permitted by special exception. See, e.g., *Cogan*; *Bray*, 410 A.2d at 911; *Archbishop O’Hara’s Appeal*, 131 A.2d 587, 596-97 (Pa. 1957).

8. In *Broussard v. Zoning Bd. of Adj. of City of Pittsburgh*, 907 A.2d 494, 497 (Pa. 2006), the Pennsylvania Supreme Court recognized that conditional approval of a special exception is appropriate where the applicant has demonstrated compliance and/or the ability to comply with all of the specific criteria for the special exception.

9. Because of its expertise and experience, a zoning board’s interpretation of its own zoning ordinance is entitled to great weight and deference. *Cogan*, 318 A.3d at 986, quoting *Hamilton Hills Grp., LLC v. Hamilton Twp. Zoning Hearing Bd.*, 4 A.3d 788, 793 (Pa. Commw. Ct. 2010).

10. As the factfinder, a zoning board is “the sole judge of credibility and conflict in the testimony and has the power to reject even uncontradicted testimony that the Board finds to be lacking in credibility.” *Nettleton v. Zoning Bd. of Adj. of City of Pittsburgh*, 828 A.2d 1033, 1041 (Pa. 2003) (affirming the zoning board).

11. The Applicant here proposes a grocery store (general) use in an LNC District, subject to the specific criteria in Section 911.04.A.83.c.

12. Sections 911.04.A.83.c.1 and 2 require the Board to consider whether the parking for the proposed grocery store use will be adequate to meet the demand of the use and has been designed so that it will not interfere with parking spaces required for any surrounding residential uses. Adequacy of parking is thus central to the Board’s review here.

13. Although the off-street parking schedule in Section 914.02.A would require 79 parking spaces for an 11,900 sf grocery store (general) use, that calculation does not take into account any reductions that would be allowed for nonpublic areas under Section 914.03.C. It can be reasonably assumed that fewer than 79 parking spaces are required for the use under the off-street parking schedule.

14. Even without the permitted reductions, the Code authorizes the Board to modify the minimum off-street parking schedule as a special exception where the proposed use is located in

an area where adequate off-street parking otherwise exists or where additional parking would be undesirable.

15. The Subject Property is located on a major public transit line, with two public parking facilities immediately proximate to it. In the dense urban neighborhood, which includes both the LNC District and RM-M Districts, it can be reasonably anticipated that a number of the users of the grocery store will walk to the store. The on-site parking spaces adequately supported the previous use of the same tenant space for the RiteAid retail sales use and no additional area on the site is available for parking.

16. Under these circumstances, for the special exception that permits modification of the off-street parking requirements in Section 914.11.A.1, the Applicant credibly demonstrated that the proposed use would exist in an area where adequate off-street parking otherwise exists and that additional parking would not be desirable. The Board thus concludes that it is appropriate to grant a special exception to modify the off-site parking schedule to allow for the provision of 23 on-site parking spaces.

17. With respect to the special exception for the grocery store (general) use pursuant to Section 911.04.A.83.c, and based on the approval of the special exception under Section 914.11.A.1, the Board concludes that the Applicant presented sufficient credible evidence to demonstrate compliance with the specific criteria delineated in the ordinance.

18. The proposed use will be located within an existing building that was previously used for a retail sales use. With no significant exterior changes, the proposed use will not create any detrimental visual impacts. The on-site parking, as supplemented with the nearby public parking lots and major transit line, will be adequate and will not interfere with parking for residential uses. The Applicant also demonstrated the intent and ability to comply with the other potential impacts from the proposed use, including trash storage, exhaust odors and signage.

19. For these reasons, the Board concludes that it is appropriate to approve special exceptions pursuant to Sections 911.04.A.83.c and 914.11.A.1 to allow the proposed grocery store (general) use on the Subject Property and to allow a modification in the minimum off-street parking standards, subject to the conditions set forth in the decision.

Decision: The Applicant's request for special exceptions pursuant to Sections 911.04.A.83.c and 914.11.A.1 to allow a grocery store (general) use, with 23 on-site parking spaces, on the Subject Property is APPROVED, subject to these conditions:

- The hours of operations shall be approximately 8 a.m. until no later than 8 p.m., Sunday through Friday;
- Customer seating area shall be limited to no more than 10 seats;
- The dumpster shall be located within the parking area and shall be screened in accordance with the Code's standards;
- Garbage collection shall occur no more than 4 times per week and collection of recyclable materials no more than 2 times per week; and
- A kitchen ventilation system shall be installed in accordance with building code standards.

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

s/Lashawn Burton-Faulk
LaShawn Burton-Faulk

s/ RECUSED
John J. Richardson

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