



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 14, 2026**Date of Decision:** June 24, 2026**Zone Case:** 49 of 2026**Address:** 5898 Wilkins Avenue**Lot and Block:** 28-F-206**Zoning Districts:** R1D-VL**Neighborhood:** Squirrel Hill North**Request:** Generator**Application:** BDA-2026-01366

Special Exception	Section 916.09	Waiver of residential compatibility noise standards for generators
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Appearances:

Applicant: Craig Dunham, Aaron Pearlstein

Opposed: Frank Schwarz, Joseph Jolson, Sabina Robinson

Findings of Fact:

1. The Subject Property is located at 5898 Wilkins Avenue in an R1D-VL (Residential One Unit Detached Very Low Density) District in Squirrel Hill North.
2. The parcel has an irregular shape and its area is approximately 1.5 acres.
3. The parcel is at the intersection of Shady Avenue and Wilkins Avenue. The rear property line is shared with the rear property lines of several residential properties on Solway Street.
4. The existing structure on the Subject Property has been used as a synagogue since the 1950s.
5. In Case 248 of 2023, the Board approved a special exception to permit the renovation and expansion of the synagogue.
6. The Applicant proposes to install an emergency generator behind the building that would be set back approximately 5' from the property line shared with 5857 Solway Street and 5' from the property line shared with 5861 Solway Street.

7. As proposed, the generator would operate at a 78 Dba sound level, as measured from the property lines shared with 5861 and 5857 Solway Street.
8. The Applicant explained that the proposed generator would be within a secured service area at the rear of the property, and that it would be screened from view from the adjacent residential properties by a solid fence.
9. The Applicant explained that the generator would be located within a soundproof enclosure, and that the proposed sound level is the lowest possible for a functional emergency generator.
10. The Applicant explained that the generator is required to comply with building code requirements and would provide backup power the fire suppression system during emergencies.
11. The Applicant explained that the generator would only be operated during brief testing periods and emergency conditions.
12. Frank Schwarz, the owner of the property located at 5861 Solway Street, Joseph Jolson and Sabina Robinson, the owners of the property located at 5867 Solway Street, appeared at the hearing to oppose the request. The neighbors expressed concerns about noise and air pollution.

Conclusions of Law:

1. The Applicant seeks a special exception pursuant to Code Section 916.09 to allow waiver of the Code's residential compatibility standard for the maximum permitted sound level as set forth in Section 916.06 for the emergency generator that would operate only during a brief monthly testing period and emergencies.
2. Code Section 916.09 permits the waiver of a residential compatibility standard where waiver of the standard will not cause detrimental impacts on the surrounding area, taking into consideration the physical relationship of the proposed use to surrounding neighborhood uses and structures.
3. 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. Comm. Ct. 2007) and *Robert S. Ryan, Pennsylvania Zoning Law and Practice*, § 5.1.1; see also *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.
4. To prove a "detrimental impact," objectors to a proposed special exception cannot simply speculate about potential impacts but must raise specific issues regarding the effect of the proposed use on the public interest and they must show with "a high degree of

probability” that the effect of a proposed use will be substantial. Quaker Valley Sch. Dist.v. Leet Twp. Zoning Hearing Bd., 309 A.3d 279, 289 (Pa. Commw. Ct. 2024)(citing Manor Healthcare Corp. v. Lower Moreland Twp. Zoning Hearing Bd, , 590 A.2d 65, 71 (Pa. Commw. Ct. 1991). Personal opinions, without more substantive evidence, do not satisfy the objectors’ burden of proof. Appeal of R.C. Maxwell Co., 548 A.2d 1300, 1304 (Pa. Commw. 1988); Commonwealth of Pennsylvania Bureau of Corrections v. Pittsburgh City Council, 532 A.2d 12, 14-15 (Pa. 1987).

5. The testimony presented in opposition to the requested special exceptions did not establish with “a high degree of probability” that the effect of the special exceptions would result in any substantial or detrimental impacts.
6. The Board concludes that the Applicant presented credible evidence that the proposed generator, which would only operate during emergencies and during brief exercise periods, would have a limited impact in the context of the surrounding area, including the nearby residential properties.
7. Consistent with the evidence and testimony presented, and the applicable legal standards governing special exceptions, the Board concludes that approval of the request is appropriate.

Decision: The Applicant’s request for a special exception pursuant to Section 916.09 to waive the residential compatibility requirement for a emergency generator is hereby APPROVED; subject to the condition that the emergency generator shall only operate during emergencies and a monthly testing period.

RECUSED

Alice B. Mitinger, Chair

s/Lashawn Burton-Faulk
LaShawn Burton-Faulk

s/ John J Richardson
John J. Richardson

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