



**Division of Development Administration and 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 12, 2025  
**Date of Decision:** July 23, 2025  
  
**Zone Case:** 52 of 2025  
**Address:** 725 Chislett Street  
**Lot and Block:** 83-A-97  
**Zoning Districts:** R2-M  
**Ward:** 11  
**Neighborhood:** East Liberty  
  
**Request:** Detached garage in front setback  
  
**Application:** BDA-2025-01926

Variance	Section 912.04.L.3	Front yard parking is prohibited
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**Appearances:**

Applicant: Audrey and Brian Kovack

**Findings of Fact:**

1. The Subject Property is located at 725 Chislett Street in an R2-M (Residential Two Unit Moderate Density) District in East Liberty.
2. The dimensions of the parcel are approximately 31' by 150' (4,650 sf). Like many other parcels in the immediate vicinity, the parcel has a regular rectangular shape and the grade of the property slopes upward from the front property line.
3. The three-story structure on the property is set back approximately 30' from the front property line on Chislett Street.
4. Like many other parcels in the immediate vicinity, no access is available at the and no off-street parking is available on the property.
5. On-street parking is permitted on both sides of Chislett Street.
6. The Applicant proposes to construct a 17' by 12'-8" (215 sf) detached garage in the front yard of the Subject Property, with a 9" setback from the Chislett Street property line. A curb cut would be necessary to provide access to the proposed garage.

7. The Applicant explained that one of the intended uses for the garage would be for a dedicated charging space for electric vehicles.

8. Although the Applicant asserted that the location of the house and lack of rear access are unique conditions of the property, the identical conditions exist for the parcels on both sides of the Subject Property and for many of the other parcels in the immediate vicinity.

9. The Applicant was not able to provide any substantial evidence of any unnecessary hardship, resulting from conditions that are unique to the Subject Property, that prevent compliance with the Code's prohibition against front yard parking pads.

10. The Applicant also did not provide any evidence as to how a curb cut for the proposed parking pad would impact the availability of on-street parking or how it would affect pedestrian use of the sidewalk.

11. The Applicant identified other properties on Chislett Street that have detached garages located in the front yard. The Applicant did not indicate whether those garages predated the current Code requirements or how they were otherwise approved.

12. No one appeared at the hearing to oppose the request.

### **Conclusions of Law:**

1. Section 912.04.L, titled "Parking Pads and Garages for Residential Uses with Fewer than five (5) Spaces," provides that residential parking pads and garages are permitted "in setbacks in side and rear yards." This section does not extend to parking in the required setbacks in front yards. Thus, the Code prohibits parking pads within a setback in a front yard. Section 912.04.L applies to residential areas throughout the City.

2. Pursuant to Section 903.03.C.2, the minimum front setback required is 30'.

3. The structure on the Subject Property is set back approximately 30' from the front property line. The detached garage that the Applicant proposed would be located entirely within the required front setback and the Applicant thus seeks a variance from Section 912.04.L.

4. Section 922.09.E sets forth the general conditions the Board is to consider with respect to variances. The criteria for determining whether to grant a variance include: 1) whether unique circumstances or conditions of a property would result in an unnecessary hardship; 2) whether the property could be developed in accordance with the Code's requirements to allow for its reasonable use; 3) whether the applicant created the hardship; 4) whether the requested variance would adversely affect the essential character of the neighborhood or the public welfare; and 5) whether the variance requested is the minimum variance that would afford relief with the least modification possible. See *Marshall v. City of Philadelphia and Zoning Bd. of Adj.*, 97 A.3d 323, 329 (Pa. 2014); *Hertzberg v. Zoning Board of Adj. of the City of Pittsburgh*, 721 A.2d 43 (Pa. 1998), citing *Allegheny West Civic Council v. Zoning Bd. of Adj. of the City of Pittsburgh*, 689 A.2d 225 (Pa. 1997); see also *Metal Green Inc. v. City of Philadelphia*, 266 A.3d 495, 510 (Pa. 2021).

5. An application for a variance is, in essence, a request to do something that a zoning ordinance prohibits. An applicant is not entitled to the grant of a variance. Whether an

applicant seeks a use variance or a dimensional variance, it is the applicant's burden to present substantial and credible evidence in support of the request, in accordance with the applicable variance standards. See Code Section 922.09.E.

6. In *Hertzberg*, the Pennsylvania Supreme Court recognized that a less restrictive standard is appropriate for dimensional variances, which require only for a reasonable adjustment of the zoning regulations to accommodate a use of property that is permitted. *Hertzberg*, 721 A.2d at 47-48. However, even the less restrictive standard does not obviate the requirement of some evidence of a unique condition of the property that results in an unnecessary hardship and some evidence that the asserted hardship is not self-created.

7. The location of a property in an area where a use is not permitted does not, of itself, create a hardship. The hardship asserted must be an "unnecessary hardship," derived from conditions of the property, and not from the Code's requirements. As set forth in the Code's variance standards, an asserted "unnecessary hardship" must be unique to the property and cannot be based on "circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or district in which the property is located." Section 922.09.E.1. Consistent with this rule, the Pennsylvania Supreme Court has held that, to support a variance request, an asserted hardship cannot arise from the impact of the zoning regulations on the entire area. *Marshall*, 97 A.3d at 329, citing *Valley View*, 462 A.2d at 640.

8. An assertion that property would have more value but for the Code's requirements does not support a claim of an "unnecessary hardship." A variance cannot be granted simply because the zoning ordinance "deprives the landowner of the most lucrative and profitable uses." *Wilson v. Plumstead Twp. Zoning Hearing Bd.*, 936 A.2d 1061, 1070 (Pa. 2007), citing *Laurel Point Assoc. v. Susquehanna Twp. Zoning Hearing Bd.*, 887 A.2d 796, 803 (Pa. Commw. Ct. 2005), *alloc. denied* 903 A.2d 1235 (Pa. 2006); *Valley View*, 462 A.2d at 640 (citations omitted) ("mere evidence that the zoned use is less financially rewarding than the proposed use is insufficient to justify a variance"). These cases make clear that the relevant analysis for a variance is not whether the proposed use is more desirable to the owner than a permitted use, but whether the property can be used in a reasonable manner, as the ordinance allows.

9. An applicant's individual interests or preferences simply do not support a "hardship" claim under the variance standards.

10. Like other parcels in its immediate vicinity, the shape of the Subject Property is rectangular and regular. Also, like other proximate parcels, its topography slopes upward from the front property line. Like other proximate parcels, including the immediately adjacent parcels, the Subject Property lacks rear access. The location of the house on the property is also not a unique condition with respect to the requested variance.

11. The house on the Subject Property was constructed before the Zoning Code's on-site parking requirements were enacted and thus on-site parking is not required.

12. The Applicant here did not provide any evidence of unique conditions of the Subject Property or unnecessary hardship that preclude compliance with the Code's prohibition against front yard parking.

13. Consistent with the evidence and testimony presented to the Board, and the applicable legal standards governing dimensional variances, the Board concludes that denial of the request is appropriate.

**Decision: The Applicant's request for a variance from Section 912.04.L to construct a front yard parking pad is hereby DENIED.**

s/Alice B. Mitinger  
**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.