



**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:** May 8, 2025  
**Date of Decision:** June 13, 2025  
  
**Zone Case:** 47 of 2025  
**Address:** 5541 Ellsworth Avenue  
**Lot and Block:** 51-S-215  
**Zoning Districts:** RM-M  
**Ward:** 7  
**Neighborhood:** Shadyside  
  
**Request:** Front Yard Parking Pad  
  
**Application:** BDA-2024-08006

Variance	Section 912.04.L	Front yard parking prohibited; two-car front yard parking pad proposed
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**Appearances:**

Applicant: Anshika Rana, Amit Sirohi

Observing: Danielle Chiotti, Ronald Lee

**Findings of Fact:**

1. The Subject Property is located at 5541 Ellsworth Avenue, at the corner of Ivy Street, in an RM-M (Residential Multifamily Moderate Density) District in Shadyside.
2. The dimensions of the parcel are approximately 37' by 100' (3,700 sf). Like many other parcels in the immediate vicinity, the parcel has a regular rectangular shape and its topography is flat.
3. The three-story structure on the property is set back approximately 31' from Ellsworth Avenue and 10' from Ivy Street.
4. Like many other parcels in the immediate vicinity, no access is available to the rear of the property.
5. A 1977 Certificate of Occupancy permits use of the Subject Property for "four family dwelling."

6. The structure on the property, which was built in approximately 1910, predates the adoption of the Zoning Code and the Code's off-street parking requirements.
7. The absence of an area for off-street parking and the lack of rear access are obvious, discernable features of the Subject Property.
8. On-street parking is permitted on both Ellsworth Avenue and Ivy Street.
9. Other uses in the proximate area of the Subject Property include other multi-unit residential uses and single-family residential uses. The Liberty School and associated parking lot are located across Ellsworth Avenue from the Subject Property. Ellsworth Avenue is used for a public bus route.
10. The Applicant proposes to use a portion of the front yard of the Subject Property for an 18' by 18' parking pad, with access from a curb cut on Ellsworth Avenue.
11. In support of the application, the Applicant provided the Board with a 13-page presentation that included a photograph of the required posted notice, a site plan, photographs of the Subject Property, photographs intended to depict current street parking challenges and photographs of cars parked in front yards or on driveways, on unidentified parcels. The presentation also included assertions regarding the requirements for a variance.
12. The Applicant testified that the location of the house on the parcel and the lack of rear access are unique conditions that preclude development of off-street parking in compliance with the Code's requirements for off-street parking.
13. The Applicant explained that one of the intended uses for the parking pad would be for a dedicated charging space for electric vehicles.
14. Referencing the photographs provided in the presentation, the Applicant testified that other, unspecified properties in the general vicinity of the Subject Property have off-street parking and asserted that the proposed front yard parking area on the Subject Property would be generally consistent with the context of the neighborhood.
15. The Applicant did not provide evidence that any of the examples of front yard parking included in the presentation were on Ellsworth Avenue or were otherwise proximate to the Subject Property. Several of the Applicant's examples depicted a driveway to a garage.
16. Although the Applicant asserted that the location of the house precludes the location of off-street parking in the side or rear yard on the Subject Property, the Applicant was not able to provide any evidence that that condition is unique to the Subject Property. The Applicant did not identify any features or conditions that distinguish the Subject Property from other parcels in the immediate vicinity.
17. The Applicant did not demonstrate that a desire for off-street parking is a "hardship" that is unique to the Subject Property.
18. 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, how it would affect

pedestrian use of the sidewalk or the impacts it might have on the intersection of Ellsworth Avenue and Ivy Street and on the Ellsworth Avenue bus route.

19. The Applicant asserted that the variance requested would be the minimum that would afford relief because the structure contains four residential units and the requested parking pad would only be for two cars.

20. Danielle Chiotti and Ronald Lee, the owners of the adjacent property at 5539 Ellsworth Avenue, appeared at the hearing. The neighbors did not express a position on the specific request, but expressed concerns about the location of the proposed curb cut.

21. Several individuals submitted written testimony to the Board in opposition to the request, noting concerns about the impact of the parking pad on the availability of on-street parking, pedestrian safety, and the streetscape on Ellsworth Avenue. Because the individuals who submitted written testimony did not establish standing and were not available for questioning from the Board or the Applicant, the Board did not consider the written submissions in reaching a decision.

### **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 required front setback in RM-M Districts is 25'.

3. Section 914.01.B provides that the Code's off-street parking requirements apply to new buildings and developments. Where use of an existing structure or use is expanded or enlarged, additional off-street parking spaces are required only to serve the enlarged or expanded area and "not the entire building or use."

4. The structure on the Subject Property is set back 31' from the front property line. Because the Applicant proposes an 18' long parking pad, the parking pad would extend into the required front setback in the front yard and the Applicant seeks a variance from Section 912.04.L.

5. 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).

6. An application for a variance is, in essence, a request to do something that a zoning ordinance prohibits. Because a zoning ordinance is legislation that a municipality's governing body adopts, the request for a variance is "an exception to the otherwise expressed will of the citizens regarding the use of property in certain neighborhoods of the community." *Metal Green*, 266 A.3d at 511.

7. 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.

8. 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.

9. 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.

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

11. Like other parcels in its immediate vicinity, the shape of the Subject Property is rectangular and regular. Also, like other proximate parcels, its topography is flat. Like other proximate parcels, including the immediately adjacent parcel, the Subject Property lacks rear access.

12. The house on the Subject Property was constructed before the Zoning Code was adopted. However, the location of the house on the property is not a unique condition with respect to the requested variance from the Code's prohibition against front yard parking.

13. The Code's requirements for off-street parking do not constitute a unique condition or hardship with respect to the front yard parking prohibition, particularly where, as here, the use and structure are legally nonconforming with respect to parking and, pursuant to Section 914.04.B, the off-street parking requirements do not apply.

14. The challenges associated with on-street parking in a dense urban setting, with a number of buildings and uses that predate current needs for vehicular parking, is not a condition that is unique to the Subject Property. The desire to have dedicated access to charging for electric vehicles also is not a unique condition or a hardship associated with the property.

15. The Applicant here did not provide any evidence of unique conditions of the Subject Property or of any hardship that would justify a variance from the Code's prohibition against front yard parking.

16. Because the Applicant did not meet the standards for the requested variance, the Board did not rely on other testimony or submissions in reaching its decision.

17. Consistent with the evidence and testimony presented to the Board, and the applicable legal standards governing 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 allow for the installation of 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.