



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: August 21, 2025
Date of Decision: September 25, 2025

Zone Case: 106 of 2025
Address: 1241 Western Avenue
Lot and Block: 7-C-213
Zoning Districts: UNC
Ward: 21
Neighborhood: Chateau

Request: 16 Stall Commercial Parking Lot

Application: BDA-2025-03692

Variance	Section 907.03.B	Commercial Parking is prohibited in the North Side Parking Area Overlay
	Section 918.02	5' deep landscaping area required; 4' deep landscaping area proposed

Appearances:

Applicant: Brendan Lucas, Cameron Ashe, Theodore Teris

Findings of Fact:

1. The Subject Property is located at 1241 Western Avenue in an LNC (Local Neighborhood Commercial) District in Chateau.
2. The property is also located within the North Side Commercial Parking Area Overlay, as described in Code Section 907.03.C.
3. The dimensions of the Subject Property are approximately 110.5' x 60' (6,630 sf).
4. The property is vacant but for a commercial advertising billboard structure and it is surrounded on three sides with industrial buildings.
5. A 1992 Certificate of Occupancy for the Subject Property permits "use of first floor and basement as a restaurant with outdoor seating with a bar in rear at basement level; second

and third floors vacant with leased parking 35 stalls at 1240 Western Ave from 6:00 pm to 2:00 am and 88 stalls at 1130 Ridge Ave from 6:00 pm to 2:30 am.”

6. A fire apparently destroyed the building on the Subject Property sometime in 1993.

7. From at least 1996 until 2020, the property was used for parking for the nearby industrial buildings and for events at the stadium currently known as Acrisure.

8. The City issued licenses and collected parking tax revenue for the parking use on the Subject Property from 1996 through 2019.

9. In 2019, the City recognized that the use of the property for parking was not consistent with the restaurant use described in the 1992 Certificate of Occupancy and issued a notice of violation.

10. The property has not been used for parking since 2020.

11. The gravel-covered lot does not comply with the current design standards for commercial parking lots.

12. The Applicant seeks approval to use the Subject Property for 16 parking spaces, with 8 compact and 8 standard spaces. One of the spaces would be ADA accessible and 3 bicycle parking spaces would also be provided. The Applicant indicated that the parking use would generally be limited to parking for events at the stadium.

13. The Applicant provided evidence that former owners used the property for event parking from 1996 through 2019; and that the City issued parking lot licenses and collected parking taxes for the use of the lot during that period.

14. With its current application, the Applicant indicated an intent to make improvements to the lot that would make it more consistent with the Code’s current site design standards by providing landscaping, an accessible parking space and bicycle parking spaces.

15. The width of the proposed landscaped area along the property line shared with the parcel at 1231 Western Avenue would be 4’.

16. The Applicant explained that the width of the lot and the requirements for the size of parking spaces preclude the provision of a 5’ wide landscaped area, as the Code requires.

17. The Applicant stated that because use of the parking lot would generally be limited to use for events at the stadium, a gate would be installed to prevent unpermitted use of the parking lot.

18. The Applicant generally asserted that the location and dimensions of the parcel preclude development of the site for any use that would comply with the Code.

19. Manchester Chateau Partnership Alliance; Alter Properties LLC, the owner of the property at 806 to 874 Fulton Street; and Blackwood Supply, the owner of the property at 1231 Western Avenue, submitted letters of support for the request.

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

Conclusions of Law:

1. The Zoning Code defines “parking, commercial” as “an area used or intended to be used for the off-street parking of operable motor vehicles on a temporary basis, other than as accessory parking to a principal use, and excluding parking structures.” The “parking, commercial (limited)” use means a commercial parking area for fewer than 25 spaces and that use is permitted as an administrator’s exception in UNC Districts.

2. Section 918.02.B sets forth the landscaping requirements for off-street parking areas, including the requirement that perimeter landscaped areas are to have a minimum depth of 5’.

3. Section 907.03, which was adopted in 2000, describes the North Side Commercial Parking Area Overlay District. As stated in Section 907.03.A, the intent of the Overlay District is “to prohibit the installation of a commercial parking areas” on “vacant lots” within the Overlay District.

4. The Subject Property is within the boundaries of the Overlay District, as described in Section 907.03.C.

5. The Applicant asks the Board to allow use of the Subject Property for 16 parking spaces, primarily for event parking, either through the grant of a variance from the Overlay District prohibition on parking or by recognizing a “variance by estoppel.”

6. The Applicant proposes to improve the gravel lot so that it would be more consistent with the current design standards for commercial parking areas. The only variance requested from those standards would allow a perimeter landscaped area on one side with a depth of 4’ instead of the required 5’ depth.

7. The standards for a use variance are familiar and are set forth in Section 922.09.E.

8. The terms “vested rights,” “variance by estoppel” and “equitable estoppel,” under Pennsylvania law, are often used interchangeably. These legal theories share common elements and zoning boards and courts have relied on them “to permit a landowner to continue to use his property in violation of a zoning ordinance, where to not do so would create an unnecessary hardship by virtue of the landowner’s detrimental reliance on municipal inaction, active acquiescence or misrepresentation.” See *Vaughn v. Zoning Hearing Bd. of Twp. of Shaler*, 947 A.2d 218, 223 (Pa. Commw. Ct. 2008).

9. A “vested right” can be created where a municipality has taken some affirmative action – like the issuance of a permit. A “variance by estoppel” is the appropriate term where a municipality’s inaction is essentially “active acquiescence” to a use that is not permitted. “Equitable estoppel” is the term applied where a municipality intentionally or negligently misrepresented its position, with reason to know that the landowner would rely on its position. See *Vaughn*, 947 A.2d at 225, citing *In re Kreider*, 808 A.2d 340, 343 (Pa. Commw. Ct. 2002).

10. The Applicant presented credible evidence that use of the Subject Property began in 1996 and continued through 2020. The use of the parcel for parking was not reflected in a

Certificate of Occupancy. However, during the time that it was used for parking, the City issued licenses for use of the parcel for parking and collected parking taxes.

11. Under these circumstances, the property owner reasonably understood that the City was actively acquiescing to the use of the parcel for parking, despite the fact that the parking use was not described in the 1992 Certificate of Occupancy and despite the adoption of the Overlay District provisions in 2000.

12. Before the Overlay District was adopted in 2000, the commercial parking (limited) use would have been permitted as an administrator's exception in the UNC District. Although not reflected in the 1992 Certificate of Occupancy, use of the Subject Property for parking predated the adoption of the Overlay District provisions.

13. The Applicant presented credible evidence that the parcel is surrounded with industrial buildings and could not be viably used for other uses permitted in the UNC District.

14. The Applicant also intends to comply with the design and landscaping standards for commercial parking lots, seeking only one dimensional variance, to allow a perimeter landscaped area with a depth of 4' instead of the required 5'.

15. Consistent with the evidence and testimony presented, and the applicable legal standards governing nonconforming uses, the Board concludes that use of the 16-space commercial parking lot is approved as a variance by estoppel and the dimensional variance to allow a perimeter landscaped area with a depth of 4' is also approved.

16. The approvals are subject to the condition that the Applicant implements the intended improvements to the lot, as presented to the Board.

Decision: The Applicant's application to allow the use of the Subject Property for a 16-space commercial parking (limited) use is hereby APPROVED as a variance by estoppel. The request for a dimensional variance to allow a perimeter landscaping area with a depth of 4' is also APPROVED. The approvals are subject to the condition that the Applicant complies with the Code's other requirements for commercial parking (limited) uses, as presented to the Board.

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

RECUSED
LaShawn Burton-Faulk

s/John J. Richardson
John J. Richardson

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