



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: August 13, 2026
Date of Decision: September 23, 2026

Zone Case: 110 of 2026
Address: 7 and 9 Nusser Street
Lot and Block: 3-S-127 and 128
Zoning Districts: H
Neighborhood: South Side Slopes

Request: Construction of two single-unit, detached residential structures

Application: DCP-ZDR-2021-12832

Variance	Section 905.02.C	50% maximum area of disturbance; 63% and 58% requested
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Appearances:

Applicant: Tysen Miller, Keilan Walls

Opposed: Nancy Mitchell

Findings of Fact:

1. The Subject Property is comprised of two vacant parcels (Parcel Nos. 3-S127 and 128 with street addresses of 7 and 9 Nusser Street, in an H (Hillside) District in the South Side Slopes.
2. The dimensions of both parcels are 20' by 100' (2,000 sf).
3. The grade of the site has a significant downward from Nusser Street towards the rear of the site on Brosville Street.
4. The Applicant proposes to construct a detached single-family house with an integral garage, with access from Nusser Street, on each of the lots. The proposed height of each of the structures would be 3-stories/31'.
5. As part of the development, the Applicant proposes to disturb approximately 63% (1,261 sf) of the 7 Nusser Street parcel and 58% (1,162 sf) of the 9 Nusser Street Parcel to prepare for the proposed development.

6. The Applicant indicated that a residential structure had been located on each of the parcels but that both were demolished approximately ten years ago.

7. The Applicant identified remnants of the foundation walls of the demolished structures and explained that the proposed structures would have a smaller footprint.

8. The depth of the proposed structures on each parcel would be less than that of the structure on the adjacent parcel at 11 Nusser Street.

9. The Applicant provided information about the proposed grading plan and asserted that the proposed area of site disturbance is the minimum necessary to allow for reasonable development of the parcels for a use that is permitted in the H District.

10. The proposed structures would otherwise comply with the site development requirements for structures in H Districts, including the permitted 3-story/40' height limitation.

11. In Zone Case No. 248 of 2018, the Board approved a variance from the maximum disturbance area and a variance to allow for the two single-family residential structures, which were then proposed as attached units. The 2019 approval was not extended and expired.

12. Nancy Mitchell, the owner of the 11 Nusser Street property, appeared at the hearing to oppose the request. Ms. Mitchell expressed concerns about the geological issues in the area, the potential impact of runoff, the location of a utility pole, and the stability of coal mines underneath the site.

Conclusions of Law:

1. Pursuant to Section 911.02, single-unit detached residential uses are permitted in H Districts.

2. The site development standards for H Districts are set forth Section 905.02.C and include a maximum area of disturbance of 50% and a maximum 3-story/40' height limitation.

3. 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).

4. In *Hertzberg*, the Pennsylvania Supreme Court recognized that a less restrictive standard is appropriate for dimensional variances, which require only a reasonable adjustment of the zoning regulations to accommodate a use of property that is permitted. *Hertzberg*, 721 A.2d at 47-48.

5. Here, the Applicant presented sufficient evidence to demonstrate that the topography of the site is a unique condition that precludes development in strict compliance with the Code's standards, and that the proposed 58% and 63% areas of disturbance is the minimum that would allow for the development of the site and would not significantly exceed the permitted 50% area of disturbance.

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

7. In the course of obtaining building permits for the proposed structures, the Applicant will be required to follow building code provisions with regard to geological testing and to address stormwater issues.

Decision: The Applicant's request for a variance from Section 905.02.C to allow 63% and 58% areas of disturbance for the construction of two detached houses on the site is hereby APPROVED.

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.