



**Division of Development Administration and Review**

City of Pittsburgh, Department of City Planning

200 Ross Street, Third Floor

Pittsburgh, Pennsylvania 15219

**ZONING BOARD OF ADJUSTMENT**

**Date of Hearing:** April 11, 2013

**Date of Decision:** July 11, 2013

**Zone Case:** 68 of 2013

**Address:** 4021-4029 Butler St

**Zoning District:** LNC

**Ward:** 9

**Neighborhood:** Central Lawrenceville

**Owner/Applicant:** Lawrenceville Holdings VI, LP

**Request:** Existing restaurant expansion and use of two and three story addition with a second restaurant (general); use of second, third and fourth floors as multi-unit residential with 7 dwelling units.

<b>Special Exception</b>	911.02	Use of restaurant (general) is a Special Exception in LNC zoning district.
<b>Special Exception</b>	914.07.G.2(a)	Off-site parking shall be authorized in accordance with a Special Exception; valet parking incorporating 3 off-site locations proposed.
<b>Variance</b>	914.07.G.2(a).1	No off-site parking space shall be located more than 1,000ft from the primary entrance of the use and one valet parking lot location is greater than 1,000ft maximum distance.
<b>Variance</b>	918.03.A	Off-street parking areas shall be screened on all sides and no screening proposed.

**Appearances:**

**Applicant:** Mitchell Zemel, Esq.  
John Pesqual  
Christopher Lasky

**Observing:** Lisa Considine  
Diana M. Jones  
Andrew Sherry  
Alfonso Danzuso

The Zoning Board of Adjustment reserves the right to supplement the decision with Findings of Fact and Conclusions of Law.

In favor: Jim Niel  
Sarah Forsyth  
Ryan Cole  
Jason Hamilton  
Gavin Hamer  
Mark Wood

Opposed: Thomas J. Madigan, Esq.  
Lauren Byrne  
Patrick Dowd  
Matthew Galluzzo  
Andrew Moss  
Aja Jones  
Paul Alessio  
Allison Hydzik  
Joy Snyder  
Lynne Glover  
Ray Czachowski  
Sandra Paprocki  
Doris Schoffstall  
Thomas Schoffstall  
Rob Steplanny  
Matthew Eib  
Lynn Lewandowski  
William Briston  
Mike Cummins

#### **Findings of Fact:**

1. Subject Property is located at 4021-4029 Butler St, in an LNC zoning district in Central Lawrenceville.
2. Applicant proposes an existing restaurant expansion and use of two and three story addition with a second restaurant (general); use of second, third and fourth floors as multi-unit residential with 7 dwelling units.
3. The subject property 4021 Butler St. is currently operated under the use classifications of Retail Sales and Services (Limited); Single-Unit Residential; and Recreation and Entertainment, Indoor (Limited).
4. The subject property 4023 Butler St. is currently operated under the classification of Restaurant with Liquor License (General) and Single-Unit Residential.
5. The subject property 4025-4029 Butler St. is currently operated under the use classifications of Office (Limited) and Single-Unit Residential.
6. The proposed development will consolidate the subject properties into the proposed development of a 9,100 sq. ft. restaurant and seven residential units.
7. The proposed restaurant will have the capacity to hold 625 patrons, and host live music on the premises.



8. The proposed development will encompass 12 on-site parking spaces for residents of the proposed units and persons with disabilities and 65 off-site parking spaces pursuant to a parking plan, at 190 40<sup>th</sup> St. and 106 S. 18<sup>th</sup> St., and will be subject to the requirement of providing proof of leases and the use of the lots.
9. The proposed parking arrangement will have little or no impact on traffic congestion and parking in the area as it is off-street parking.
10. The Applicant will submit a proposal for valet parking services for the restaurant.

#### **Conclusions of Law:**

1. The standards governing the grant of a variance have long been established by statutory and case law and are well settled. The reasons for granting a variance must be substantial, serious and compelling. As summarized in *Valley View Civic Association v. Zoning Board of Adjustment*, 501 Pa. 550, 462 A.2d 637 (1983), "the party seeking the variance bears the burden of proving that: 1) unnecessary hardship will result if the variance is denied; and 2) the proposed use will not be contrary to the public interest." *Id.* The Board finds that an unnecessary hardship would result if the variance is denied, and that the proposed use would not be contrary to public interest – it would, in fact, enhance the public interest.
2. Zoning Code section 911.02 provides in relevant part:
  - A. The use of property as a Restaurant (General) in an LNC zoning district is a special exception.
3. Zoning Code section 922.07.D.1 General Criteria for a Special Exception provides in relevant part:
  - A. The Zoning Board shall approve Special Exceptions only if (1) the proposed use is determined to comply with all applicable requirements of this code and with adopted plans and policies of the City and (2) the following general criteria are met.
    - That the development will not create detrimental visual impacts, such that the size and visual bulk of the proposed development is determined to create an incompatible relationship with the surrounding built environment, public streets and open spaces and land use patterns;
    - That the development will not create detrimental transportation impacts, such that the proposed development is determined to adversely affect the safety and convenience of residential neighborhoods or of vehicular and pedestrian circulation in the vicinity of the subject tract;
    - That the development will not create detrimental transportation impacts, such that the proposed development will result in traffic volumes or circulation patterns that substantially exceed the capacity of streets and intersections likely to be used by traffic to and from the proposed development.
    - That the development will not create detrimental operational impacts, including potential impacts of hours of operation, management of traffic, servicing and loading operations, and any on-site operations associated with the ongoing functions of the use on the site, in consideration of adjacent and surrounding land uses which may have different sensitivities to such operational impacts.

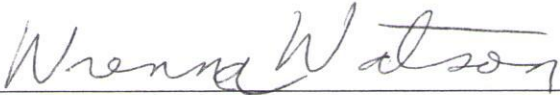


- That the development will not create detrimental health and safety impacts, including but not limited to potential impacts of noise, emissions, or vibrations from the proposed development, or functions within the proposed site which would otherwise affect the health or safety of others as a direct result of the operation of the proposed use.
  - That the development will not create detrimental impacts on the future and potential development of parcels in the vicinity of the proposed site of the development; and
  - That the development will not create detrimental impacts on property values.
4. In regard to the Special Exception under 911.02 the Zoning Board Finds the following:
- A. The proposed development will not create any detrimental visual impacts.
  - B. The proposed development will not create any detrimental transportation impacts affecting the safety and convenience of residential neighborhoods as evidenced by the traffic analysis that was performed, and by which parking impacts will be lessened by the leased parking accrued by the Applicant, as mention in No. 8 of the Findings of Fact.
  - C. The proposed development will not create any detrimental parking and transportation impacts based on volume of traffic generation on the streets to and from the proposed development as evidenced by traffic analysis which was performed, which also included an analysis on which valet parking was at subject. The valet parking would further decreased any parking and transportation impacts, and the Applicant will provide a proposal for valet parking, which will be submitted and reviewed by the Zoning Administrator.
  - D. The proposed development is not detrimental to the health and safety of the surrounding neighborhood, especially in regards to noise, as live entertainment is generally limited to the hours between 8:30 and 11:30 pm 4-5 nights a week.
  - E. The proposed development will not detrimentally impact future and potential development of parcels in the vicinity of the proposed project nor will it be detrimental to property values as new development generally improves property values.
5. Zoning Code 914.07.G.2(a) provides in relevant part:
- A. The Zoning Board of Adjustment shall be authorized, in accordance with the special exceptions provisions of section 922.07 to permit all or a portion of the required off-street parking spaces to be located on a remote and separate lot from the lot on which the primary use is located, subject to the following standards...
6. The Zoning Board finds the following in regard to the special exception for off-street parking:
- A. The proposed parking arrangement will not create any detrimental visual impacts.
  - B. The proposed parking plan will not create any detrimental transportation impacts affecting the safety and convenience of residential neighborhoods, as the proposed parking is located off-street, secured by lease, and will direct patrons on a direct route to the subject property, away from residential areas.
  - C. The proposed parking plan will not create any detrimental parking and transportation impacts as it is secured off-street by way of lease of a private lot which will be restricted only to use by the proposed development.

- D. The proposed parking plan is not detrimental to the health and safety of the surrounding neighborhood as emissions will be dispersed between 3 different parking locations and the general nature of the restaurant allowing patrons to come and go at different times will not create "que-ing" of traffic or cars.
  - E. The proposed parking arrangement does not impact future and potential development or property values in the surrounding area.
7. Zoning Code section 914.07.G.2(a)(1) provides in relevant part:
- A. No off-site parking space shall be located more than 1,000 feet from the primary entrance of the use served, measured along the shortest legal, practical walking route. This distance limitation may be waived by the Zoning Board of Adjustment if adequate assurances are offered that van or shuttle service will be operated between the shared lot and the primary use.
8. In regard to the special exception under 914.07.G.2(a)(1) the Zoning Board finds the following:
- A. The parking lots that the Applicant has secured by lease, as noted in No. 8 of the Findings of Fact, are located less than 1,000 feet from the primary entrance of the restaurant.
  - B. The operation of a valet parking system, proposed by the applicant minimizes the impact of pedestrian traffic to and from the parking lot as only valets would be making the trip to and from the said leased parking lots.
  - C. The operation of a valet parking system closely mirrors a "van or shuttle service" as required by 914.07.G.2(a)(1).
9. In regard to the screening requirement under zoning code 918.03.A requiring off-street parking areas to be screened on all sides the Zoning Board finds the following:
- A. The nature of the neighborhood and surrounding area do not allow for adequate on-site parking.
  - B. The said leased parking lots will meet the requirements currently in force for said lots, which includes all current screening and landscaping requirements already in place for the said lots.
  - C. The applicant would suffer undue hardship if this variance was denied after considerable effort to attain adequate parking was made.

**Decision:** The Applicant's Request for variances under Code Sections 911.02, 914.07.G.2(a), 914.07.G.2(a)(1) and 918.03.A are hereby APPROVED, subject to the following conditions:

1. Final Site Plan Review by the Zoning Administrator shall be required, in accord with the Board's findings.
2. The Applicant will submit a proposal for valet parking service to the Zoning Administrator for review within thirty (30) days of receipt of this approval.

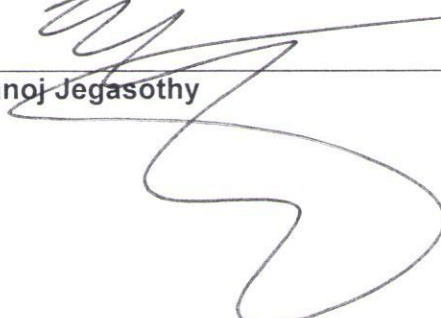


Wrenna L. Watson, Chair

Kirk B. Burkley



S. Manoj Jegasothy



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