



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 8, 2021 (Virtual Hearing)
Date of Decision: May 26, 2021

Zone Case: 200 of 2020
Address: 525 Yarrow Street
Lot and Block: 28-H-271
Zoning District: R2-H
Ward: 4
Neighborhood: Central Oakland

Owner: Perfectal Holding LLC
Applicant: Christopher Richardson
Request: New construction of six, single-unit attached residential dwellings.

Application: DCP-ZDR-2020-06639

Variance	Section 903.03.D.2	1,800 sf minimum lot size; 1,550 sf, 1,565 sf, 1,484 sf, and 1,454 sf proposed 15' front setback required; 5.9', 6', 7.1', 7.2', 9.8', and 10' proposed 40' ² / ₃ -stories maximum height; 45' ¹ / ₄ -stories, 43.75' ¹ / ₄ -stories, 42.9' ³ / ₄ -stories, and 42.7' ¹ / ₄ -stories proposed 15' accessory front setback; 3', 1.7', 4.1', 5.8', and 5.5' proposed
	Section 912.04.A	5' accessory interior side setback; 4', 4.2', 4.4', and 4.4' for front decks; and 3.7' and 2.1' for rear decks proposed
	Section 925.06.C	3' interior side setback; 2.2' and 1.9' proposed
	Section 926.129	Frontage on a street required for newly subdivided lots

Appearances:

Applicant: Kendall Pelling

In Favor: Zhao Lu, Sue Li

Opposed: Wanda Wilson (OPDC), Bruce Kraus, Guy Giampolo, Janice Markowitz, Mark Oleniacz

Findings of Fact:

- **Description of the Subject Property**

1. The Subject Property is identified as Parcel No. 28-H-271 with a street address of 527-45 Yarrow Street. The parcel is proximate to Boundary Street, in an R2-H (Residential Two Unit High Density) District in the Panther Hollow area of Central Oakland. Isis Way is at the rear of a portion of the site.

2. The City designates the portion of Yarrow that is perpendicular to Isis Way as "Yarrow Way". The portion of Yarrow that extends into Boundary Street is designated as "Yarrow Street." Parcel No. 28-H-271 is at the corner of both Yarrow Way and Yarrow Street.

3. The area of Parcel No. 28-H-271 is approximately 10,915 sf.

4. Parcel No. 28-H-271 was originally comprised of several parcels that were consolidated into a single L-shaped lot. The longest and widest length of the L-shape extends along Yarrow Street, from Yarrow Way to Boundary Street. The shorter and narrower portion of the L-shape extends from Yarrow Street to Isis Way at the rear.

5. A 1923 G. M. Hopkins map of the site depicts 4 parcels, with two larger parcels on the upper Yarrow Way/Yarrow Street corner and two narrow parcels that extend from Yarrow Street to Isis Way. The map depicts three primary structures and one accessory structure on the combined site.

6. A 1945 Sanborne Fire Insurance map depicts two structures on the site.

7. The grade of the site slopes downward from Yarrow Way to Parcel No. 28-H-270, which has the street address of 525 Boundary Street. A retaining wall extends along a portion of the Yarrow Street length of the Subject Property. Another retaining wall separates the upper portion of the lot from the lower portion that extends from Yarrow Street to Isis Way

- **Current and Proposed Use of the Subject Property**

8. A 1976 Certificate of Occupancy permits use of the parcel "for parking of autos, storage for field trailers, storage of construction materials and equipment."

9. The two deteriorating garage structures on the property are to be demolished.

10. The Applicant proposes to re-subdivide the Subject Property into 6 parcels and to construct an attached single-family house on each of the new parcels.

11. As proposed, four of the new parcels proposed would have frontage on Yarrow Street (Lots A through D), from Yarrow Way to Boundary Street, and the other two lots (Lots E and F) would front onto Isis Way.

12. As proposed, the areas of the new parcels would be:

- Lot A (corner of Yarrow Way and Yarrow Street): 2,940 sf
- Lot B: 1,550 sf
- Lot C: 1,565 sf
- Lot D: 1,922 sf
- Lot E (on Isis Way): 1,484
- Lot F (on Isis Way): 1,454

13. The Applicant proposes to construct a four-story, single-family, attached house on each of the new parcels, each with an integral garage and new curb cut. The height of the new structures would range from 42.7' to 45'.

14. Driveway access for the integral garages on Lots A through D would be from curb cuts on Yarrow Street. Driveway access for the garages on Lots E and F would be from curb cuts on Isis Way.

15. As proposed, the front setbacks for the houses on Lots A through D would range from 5.9' to 7' from the front property lines on Yarrow Street. The two Isis Way houses would be set back 9.8' and 10' from the front property line on Isis Way.

16. The house on Isis Way Lot E would be set back 2.16' from the property line shared with the parcel at 525 Boundary Street. The house on Isis Way Lot F would be set back 2.2' from the property line shared with the parcel at 418 Yarrow Way.

17. Each of the Yarrow Street houses would have a front deck, with front setbacks ranging from 1.5' to 6' and interior side setbacks ranging from 4' to 4.5'. The rear decks for the houses on Lots E and F would be set back 3.7' and 2.1' from the interior side property lines.

18. The houses would otherwise comply with the Code's setback requirements.

- **Evidence And Arguments Presented to The Board**

19. At the hearing before the Board, the Applicant presented documentation and testimony to describe the features and context of the site and the surrounding area. The Applicant also provided a summary of evidence and arguments in support of the requested variances.

20. In support of the requested variances, the Applicant noted that the 10,915 sf area of Parcel No. 28-H-271 is sufficient to divide it into six 1,819 sf lots, but asserted that the topography of the site and the location of existing retaining walls preclude subdivision into six

lots of uniform size. The residential density of the site with the proposed subdivision of lots would thus be comparable to six compliant parcels.

21. With respect to the proposed height, which would exceed both limitations of the height measurement and the number of stories, the Applicant explained that the additional height and story for each of the new units is intended to accommodate integral parking and to allow three stories of living space above the ground floor garage. The Applicant also stated that the additional height of the structures is intended to accommodate a pitched roof, and to match the context of the surrounding area.

22. The Applicant presented evidence that the reduced front and interior side setbacks proposed are generally consistent with other structures in the immediate vicinity.

23. The Applicant did not present any specific evidence to support the request for a variance to allow frontage of two parcels on Isis Way.

24. The Applicant made general assertions that it would not be “financially feasible” to develop and market houses without garages and that the “economics” of smaller houses on fewer lots “would not work.” The Applicant did not provide sufficient, credible evidence to support those assertions.

25. The Applicant expressed a preference to develop the site for single-family residential units but noted that a two-unit residential use would be permitted on the site.

26. Oakland Planning Development Corporation (OPDC), the registered community organization for Central Oakland, submitted a letter and provided testimony in opposition to the requested variance. OPDC generally asserted that the proposal is too dense for the limited site and that the variances requested would be inconsistent with and would adversely affect the existing residential community in the immediate vicinity.

27. Councilman Bruce Kraus, who represents the district that includes the Subject Property, appeared at the hearing to oppose the request and expressed concerns about the impact of the development on the residential character of Panther Hollow.

28. Guy Giampolo, the owner of the property at 525 Boundary Street, appeared at the hearing and presented a letter in opposition to the requested variances, which several other residents of Panther Hollow signed.

29. Janice Markowitz and Mark Oleniacz appeared at the hearing to oppose the request.

30. Zhao Lu, owner of a property located at 3616 Parkview Avenue, and Sue Li appeared at the hearing to support the request.

Conclusions of Law:

1. The Subject Property is located in an R2-H District where single-unit and two-unit residential uses are permitted by right.

2. The site development standards for R2-H Districts are set forth in Section 903.03.D.2 and include requirements of an 1,800 sf minimum lot size; a 750 sf minimum lot size

per unit; 15' front and rear setbacks; 5' interior side setbacks; and a maximum height of 40'/3-stories.

3. Section 912.04.A requires a 5' interior side setback for accessory structures including porches and decks.

4. Pursuant to Section 926.129, the Code defines "lot" as "land occupied or intended to be occupied by no more than one (1) main structure, or unit group of buildings, and accessory buildings, together with such setbacks and lot area as are required by this Code, and **having at least one (1) frontage upon a street.**" Under the Code's definitions, a "street" must have a width of at least 25'; and a "way" is a strip of land that provides access to property and has a width of less than 25'.

5. Section 922.09.E sets forth the general conditions the Board is to consider with respect to variances, which include unique physical circumstances or conditions of the property; and a hardship resulting from the unique circumstances or conditions that has not been "self-created." A variance, if authorized, must not alter the essential character of the neighborhood and must be the minimum that would afford relief, with the least modification of the regulation at issue.

6. The Pennsylvania Supreme Court has recognized a distinction between "use" variances and "dimensional" variances, which require adjustment of dimensional standards to accommodate a use of property that is permitted. See *Hertzberg v. Zoning Bd. 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).

7. In determining whether unnecessary hardship has been established for a requested dimensional variance, the Board may consider multiple factors, including the economic detriment to the applicant if the variance was denied, the financial hardship created by any work necessary for strict compliance with the zoning requirements and the characteristics of the surrounding neighborhood.

8. Although the standards for reviewing dimensional variances are more relaxed, the applicant must provide substantial and credible evidence with respect to the nature of the hardship asserted and why the relief requested is the minimum that would afford relief.

9. Here, the Applicant seeks a variety of variances from the site development standards for the R2-H District, including variances to allow reduced parcel sizes and heights that exceed both the 40' and 3-story height limitations. The Applicant also seeks a variance to allow two of the proposed new lots to have frontage on a "way."

10. The Applicant presented some credible evidence of unique conditions of the site, including its topography and the existing deteriorating structures, which could warrant some relief under the variance standards.

31. However, the Applicant did not demonstrate the variances requested are the minimum that would afford relief.

32. The Applicant simply made general assertions that it would not be "financially feasible" to develop and market houses without garages on the site and that the "economics" of

smaller houses on fewer lots “would not work.” The Applicant did not provide sufficient, credible evidence to support those assertions.

11. The Applicant also did not present any specific evidence to support the request for a variance to allow frontage of two parcels on Isis Way.

12. Based on the evidence presented and the applicable legal standards, the Board concludes that the variances, as requested, must be denied.

13. Because the Board recognizes the existence of some unique conditions with respect to the site, the denial of the current proposal is without prejudice so that the Applicant may submit a revised proposal for the site.

Decision: The Applicant’s request for variances from Sections 903.03.D.2, 912.04.A, 925.06.C and 926.129 to allow subdivision of the Subject Property into six lots, two with frontage on Isis Way, and the construction of six four-story attached houses with limited front and interior side setbacks, is hereby DENIED, without prejudice to resubmit a revised proposal for the site.

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.