

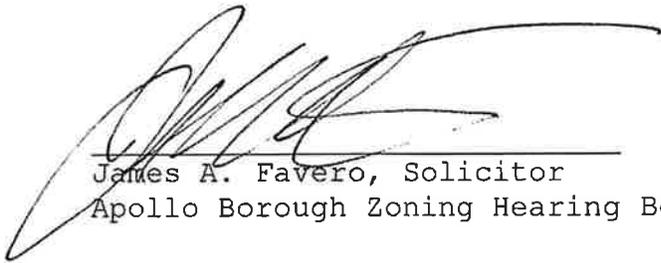
**BEFORE THE APOLLO BOROUGH ZONING HEARING BOARD
ARMSTRONG COUNTY, PENNSYLVANIA**

**IN RE: Petition of Pivotal GP Holding, LLC, Applicant
Requesting Variance**

NOTICE

ATTACHED is the Decision of the Apollo Borough Zoning Hearing Board to grant three variances to allow for the construction of a multifamily dwelling a permitted use on property located at 400 North 2nd Street, Apollo, Armstrong County, Pennsylvania located in an "R-2" Residential Zoning District as set forth in the Apollo Borough Zoning Ordinance and a variance from 2 parking spaces per unit to 1.75 parking spaces per unit with 31 parking spaces to be located on vacant property located in an "R-1" Residential Zoning District as accessory off-street parking.

ANY PERSON who has standing that is aggrieved by this decision has the right to appeal to the Court of Common Pleas of Armstrong County within Thirty (30) Days of the date of the Decision. Any person that is contemplating an Appeal should contact any attorney for a full explanation of who has standing and the appeals process.



James A. Favero, Solicitor
Apollo Borough Zoning Hearing Board

Date: February 13, 2026

**BEFORE THE APOLLO BOROUGH ZONING HEARING BOARD
ARMSTRONG COUNTY, PENNSYLVANIA**

IN RE: **Petition of Pivotal GP Holding, LLC, Applicant
Requesting Variance**

FINDINGS OF FACT

1. Armstrong County Industrial Development Council is the owner of a certain piece, parcel and tract of land situated in Apollo Borough, Armstrong County, Pennsylvania with an address of 400 N. 2nd Street, Apollo identified as Tax Map No. 01-227.11-07-25. The property is located in an R-2 Zoning District pursuant to the Apollo Borough Zoning Ordinance (Ordinance No. 223-07, as amended). This property was the location of the Apollo High School which has been demolished and the property is currently vacant.

2. Armstrong County Industrial Development Council is the owner of a certain piece, parcel and tract of land situated in Apollo Borough, Armstrong County, Pennsylvania with a Tax Map No. 01-227.11-06-60. The property is located in an R-1 Zoning District pursuant to the Apollo Borough Zoning Ordinance (Ordinance No. 223-07, as amended). This is a vacant property.

3. Owner has an agreement with the Applicant, Pivotal GP Holding, LLC to purchase both parcels of property so that it can be developed by the Applicant.

4. Applicant filed a Zoning Hearing Board Variance Application on December 3, 2025, and paid the required filing fee on December 10, 2025, for the construction of a new multifamily building and another Application on the same date and payment date for a parking lot. A hearing was scheduled before the Apollo Borough Zoning Hearing Board for February 4, 2026. Notice of the hearing was placed in the Leader-Times, a newspaper of general circulation in Apollo Borough on January 20, 2026, and January 27, 2024. Notice of the hearing was posted to notify adjoining landowners and the property was posted by the zoning officer. On the date, time and place scheduled for the hearing four members of the zoning hearing board were in attendance.

5. Applicant, Pivotal GP Holding, LLC was represented by Trey Barbour, Senior Vice President for Development who provided a narrative power point presentation which is contained in Applicants Exhibit "1".

6. Applicant is desirous of redeveloping the former Apollo High School site by constructing a new multifamily building consisting of 42 units with 32 being 1. bedroom and being 2 bedrooms. In order to construct the proposed multifamily 10 building Applicant needs three variances: 1 minimum lot size from the 5,000 sq. feet required by the zoning ordinance to 1,100 sq. feet;

2. Maximum building height from 2½ stories 35 feet required by the zoning ordinance to 45 feet; 3. Architectural features from the 2 inches per 1 foot not to exceed 3 feet of yard depth required by the zoning ordinance to 5 feet.

7. Applicant is desirous of using a vacant lot located in the R-1 zoning district as a parking lot as an accessory lot to the primary development (multifamily building) to provide parking. This request requires a variance from the two (2) parking spaces per unit to 1.75 parking spaces per unit and a use variance. This lot is located less than 250 feet from the proposed multifamily building.

8. Multiple family dwelling is a permitted use in the R-2 Residential District (Zoning Ordinance Article 5 §502 (A)(7)).

9. Lot, Yard, Bulk and Height Regulation applicable to R-2 Residential District are found in Article 5 §504.

10. Projections into yards applicable to cornices, canopies, eaves or other architectural features are found in Article 11 §1101 (C)(3)(a).

11. Parking requirements applicable to a multiple family dwelling are found in Table 1 Article 14 §1401. Off-site facilities parking is found in Article 14 §1401 (D).

12. There are unique physical features and conditions associated with the property where the proposed multifamily dwelling is to be located.

13. A site plan for both the proposed multifamily dwelling and the off-street parking are contained with Applicants Exhibit "1".

14. A prior application was presented by the Applicant and on or about October 24, 2024, a hearing was held before the zoning hearing board which was continued generally and was never moved for further hearing by the Applicant.

15. Several residents raised concerns about the parking situation on the streets adjoining the proposed development and how it could be impacted by there not being enough parking spaces to accommodate the number of units.

16. Several residents and other individuals spoke in favor of the proposed development.

17. Following the conclusion of the taking of testimony the Zoning Hearing Board immediately moved to deliberate and voted 4-0 to grant the requests made for variances with conditions.

CONCLUSIONS OF LAW

For a variance to be considered, the Board must conclude that provisions of the Zoning Ordinance inflict unnecessary hardship upon the Applicant. The Board must also conclude that the property contains unique physical circumstances or conditions which would render the property difficult if not impossible to develop in strict conformity with the provisions of the Zoning Ordinance of Apollo Borough.

Discussion

The Decision of the Apollo Borough Zoning Hearing Board must be in accordance with the Zoning Ordinance of the Borough of Apollo as well as the Pennsylvania Municipalities Planning Code. Those provisions are found in the Zoning Ordinance, Ordinance #223-07, adopted November, 2007 as amended.

Under the terms and conditions of the Zoning Ordinance, the property where the proposed multifamily dwelling is to be located is in an R-2 Residential Zoning District and where the proposed off-street parking lot is to be located is in an "R-1" Residential Zoning District pursuant to the Apollo Borough Zoning Ordinance. In order for the Applicant and developer (Pivotal GP Holding LLC) to construct the proposed multifamily dwelling on the vacant lot where the former Apollo High School is located four separate and distinct variances are needed.

The evidence presented at the hearing before the Zoning Hearing Board indicates that the Applicant wants to construct a multifamily dwelling which is a permitted use in an R-2 Residential District (Article 5 §502(A)(7)). While the use is permitted, in order to construct the building, the developer needs three (3)

dimensional variances. In addition, the developer needs a use variance from the parking requirements. The burden of proof in any variance request is upon the Applicant. It is normally a heavy burden that the Applicant must meet, however is a lesser burden when the variance is dimensional.

The Municipalities Planning Code, section 910.2 (53 P.S. section 10901.2) sets forth the requirements that an Applicant must meet in order to be entitled to a zoning variance. In order for a variance to be granted, all of the following findings must be made:

1. that unnecessary hardship exists which is not created by the party seeking the variance.
2. that unnecessary hardship is caused by the unique physical circumstances of property for which the variance is sought.
3. that a variance is needed to enable to party's reasonable use of the property.
4. that a variance will not alter the essential character of a district or neighborhood, or substantially or permanently impair use or development of adjacent property such that it is detrimental to public's welfare.
5. that a variance will afford the least intrusive solution.

To obtain a variance, the Applicant must prove that the variance will not be contrary to the public interest. The burden is always on the Applicant, and it is a heavy burden. Variances should be granted sparingly and only under circumstances that are exceptional. The reasons to justify the granting of a variance must be substantial, serious, and compelling. Once a zoning hearing board determines that a variance is justified, the variance granted must be the minimum variance necessary to afford relief and must result in the least modification of the regulation at issue.

In determining if a variance should be granted, the board must look at the evidence presented at the time of the hearing. That evidence must be evaluated in light of the five requirements that must be met in order for a variance to be granted. A variance may only be granted upon a clear showing of unnecessary hardship, which deprives a property owner of the reasonable use of his or her property. Swemley v. Zoning Hearing Bd. of Windsor Tp. 698

A2d 160 (Pa. Cmwlth. 1997). Unnecessary hardship may be established by evidence that the property has no value for any purpose permitted by the zoning ordinance. A variance will be granted when a zoning ordinance imposes unnecessary hardship because of the unique physical circumstances or conditions peculiar to the property and unnecessary hardship is due to such conditions. Young v. Pistorio, 715 A2d 1230 (Pa. Cmwlth 1998). The unnecessary hardship must be unique and peculiar to the Applicant's property. The Applicant must demonstrate that due to the physical characteristics, the property cannot be used for the permitted purpose or could only conform to such purpose at prohibitive expense, or that the property has either no value or only distress value for any permitted purpose. Hohl v. Caernarvon Tp. Zoning Hearing Board, 736 A2d 57 (Pa Cmwlth. 1999). Finally, before a variance may be granted, the impact of the proposed use on the area surrounding the property at issue must be considered. A variance may not be granted solely on the ground that the proposed use will be more desirable than the existing one. A variance may not be granted solely on the ground that the proposed use is seriously needed and that the district is more suitable to the use than other districts.

With regard to the dimensional variance request, there is case law that supports that this heavy burden has been relaxed if the Applicant is requesting a dimensional variance. In the case of O'Neill v. Zoning Hearing Bd. of Adjustment, 434 Pa. 331, 254 A2d 12 (1969), the Supreme Court stated that "we might be willing to concede that in a given case the quantum of proof required to prove an unnecessary hardship might be less where the petitioner is seeking a variance from space requirements than from use requirements" Using the rationale of the Supreme Court as stated, the court in the case of Hertzberg v. Zoning Board of Adjustment, 554 Pa. 249, 721 A2d 43 (1998), established as a rule of law that the quantum of proof required to establish unnecessary hardship is indeed lesser when a dimensional variance, as opposed to a use variance, is sought.

In applying the factors that must be proven to obtain a variance and in consideration of the relaxed burden when it is strictly a dimensional variance the zoning hearing board concluded with regard to the Applicants three (3) requested dimensional variances 1 minimum lot size from the 5,000 sq. feet required by the zoning ordinance to 1,100 sq. feet; 2. Maximum building height from 2½ stories 35 feet required by the zoning ordinance to 45 feet; 3. Architectural features from the 2 inches per 1 foot not to exceed 3 feet of yard depth required by the zoning ordinance to 5 feet the zoning hearing board concluded as follows:

1. that unnecessary hardship exists which is not created by the party seeking the variance in that the requirements were established by the zoning ordinance and the Applicant showed that because of the slope of the property the multifamily dwelling could not be built in strict compliance with the zoning ordinance.
2. that unnecessary hardship is caused by the unique physical circumstances of property for which the variance is sought. Applicant proved that there are unique physical circumstances and conditions of the property that causes the hardship.
3. that a variance is needed to enable to party's reasonable use of the property. In that in order to construct the multifamily dwelling on the property (a reasonable use and a permitted use) the Applicant has to be granted the three (3) dimensional variances
4. that a variance will not alter the essential character of a district or neighborhood, or substantially or permanently impair use or development of adjacent property such that it is detrimental to public's welfare. A multifamily dwelling is a permitted use in the R-2 district so the construction of the proposed development with the three dimensional variances will not alter the essential character of the neighborhood.
5. that a variance will afford the least intrusive solution. The dimensional variances will not be intrusive in that the requested deviation from the zoning ordinance requirements will be incorporated into the design of the multifamily dwelling and not be able to be perceived by the general public.

Based upon the factors set forth above and after careful consideration of the evidence presented, the Apollo Zoning Hearing Board concluded that the Applicant had met its burden of proof, and that the requested three (3) dimensional variances should be granted with no conditions.

Applicants' fourth request is a use variance coupled with a dimensional variance. There are defined parking requirements set forth in the zoning ordinance applicable to multifamily dwellings. Developer reduced the size of the original concept for the multifamily dwelling in order to increase the number of parking spaces. As proposed, there will be 43 parking spaces on the building lot and 31 spaces on the vacant property (referred

to as the upper lot) for a total of 74 parking spaces. The number of parking spaces translates to 1.75 parking spaces per unit with the zoning ordinance requiring 2 parking spaces per unit. Evidence was presented by the Armstrong County IDC that the type of proposed development statistically only requires 1.5 parking spaces.

Parking areas are a permitted accessory use in an R-1 Residential District (Article 4 §402 (B)(4)). While the intended use requested by the Applicant is not accessory to a permitted use (therefore a variance is required) in the off-street parking requirements (Article 14) off-site parking is permitted (all permitted and required accessory off-street parking spaces, open or enclosed shall be located on the same lot as the use, except that such space may be provided elsewhere but shall be provided within a radius of no greater distance than 250 feet from the lot. The lot in question is within 250 feet of the location of the proposed multifamily dwelling and would qualify as an off-street parking facility, however in order for that to be accomplished there has to be a use variance to permit the parking at the reduced number of parking spaces.

In addressing the factors to obtain a variance the zoning hearing board determined the following:

1. that unnecessary hardship exists which is not created by the party seeking the variance. Off street parking is a permitted accessory use in the R-1 zone and can be used as off-street parking for the proposed development but for the limitations of the zoning ordinance. The zoning ordinance requirement of 2 parking spaces per unit creates a hardship as because of the characteristics of the property where the multifamily dwelling is to be constructed there is not enough parking spaces available so that an off-street parking is needed and to strictly adhere to the 2 spaces would prevent the development.
2. that unnecessary hardship is caused by the unique physical circumstances of property for which the variance is sought. The lot that is proposed for the off-street parking is already being used as a parking area by some of the residents. The development location is within the 250 foot radius and no more parking is available on the site of the development because of the topographical grade changes. The location where the multifamily dwelling is to be developed has unique

physical circumstances that make it impossible to adhere to the requirement of 2 parking spaces per unit.

3. that a variance is needed to enable to party's reasonable use of the property. A multifamily dwelling as a permitted use in the R-2 zone but the only way it can be developed is for the off-street parking site in the R-1 district to be used. Since it is already a vacant lot and is used for parking the use is reasonable. The variance from 2 parking spaces to 1.75 is needed for the developer to reasonably use the property where the multifamily dwelling is to be located.
4. that a variance will not alter the essential character of a district or neighborhood, or substantially or permanently impair use or development of adjacent property such that it is detrimental to public's welfare. Concerns were raised by residents about parking, however, the zoning hearing board felt that reasonable conditions could be applied to the grant of a variance to address those concerns. In addition, the vacant lot has been used for parking previously and additional parking will not change the nature of the area. Deviating to 1.75 parking spaces per unit will not alter the essential character of the neighborhood.
5. that a variance will afford the least intrusive solution. A vacant lot that has been used in the past for parking that is now an accessory off-street parking area for a permitted use in the R-2 district is the least intrusive solution. The variance request to 1.75 parking spaces is not intrusive.

The number of combined spaces is 1.75 where the zoning ordinance requires 2 based upon the number of units in the multifamily dwelling. Based upon the Applicant making all reasonable efforts to redesign the multifamily dwelling in order to increase the number of parking spaces and there being a small deviation from 2 parking spaces to 1.75 and for the reasons set forth above, the zoning hearing board decided to grant the variance for the off-street parking location for 1.75 parking spaces instead of 2 per dwelling unit.

Zoning hearing board was mindful of the concerns of the residents raised during the hearing regarding parking and fashioned conditions to the grant of the off-street parking variance.

DECISION

For the reasons set forth above and in consideration of the evidence presented it is the decision of the Apollo Borough Zoning Hearing Board on a four to zero vote that the Applicant, Pivotal GP Holdings, LLC be granted the following variances:

With regard to the proposed multifamily dwelling unit to be constructed on the property of the former Apollo School situated in Apollo Borough, Armstrong County, Pennsylvania with an address of 400 N. 2nd Street, Apollo identified as Tax Map No. 01-227.11-07-25 located in an R-2 Zoning District:

- a. Variance from the 5,000 square foot per dwelling unit required by the zoning ordinance to 1,100 square foot per dwelling unit to a maximum of 42 dwelling units.
- b. Variance from the 2½ stories or thirty-five (35') required by the zoning ordinance to a maximum building height of forty-five feet (45').
- c. Variance from the projection of architectural features not to exceed two inches (2") inches per one foot (1') of required yard depth not to exceed a total of three feet (3") as required by the zoning ordinance to allow a main door canopy to project a distance not exceeding five feet (5').

No Conditions were placed on the above grant of variances.

With regard to the a certain piece, parcel and tract of land situated in Apollo Borough, Armstrong County, Pennsylvania with a Tax Map No. 01-227.11-06-60 located in an R-1 Zoning District a variance is granted to allow for 1.75 parking spaces per unit instead of the 2 parking spaces per unit required by the zoning ordinance with 31 spaces to be located on this parcel as off-street accessory parking to the multifamily dwelling location where 43 parking spaces will be located for a total of 74 parking spaces. This grant of a variance is conditioned upon the following:

1. All residence living in the multifamily dwelling shall have a parking permit to a specific parking space either the 43

located where the multifamily dwelling is constructed, or the 31 located on the off-street parking location.

2. Developer Pivotal GP Holding LLC is to work with the Apollo Borough Council in an effort to address any reasonable parking issues raised by residents of the neighborhood where the development is located.
3. When an application is made for a rental unit Pivotal GP Holding LLC will assign all applicants that enter into a lease a dedicated parking space.
4. Applicant will make all reasonable efforts to limit the number of parking spaces for each unit to no more than two (2).
5. Leases will contain language concerning parking in the dedicated location.
6. All parking space assignments are to be renewed annually.

By


James A. Favero, Solicitor
Apollo Zoning Hearing Board

Dated: February 13, 2026