

East Allegheny Community Council

Battles over parking and commercial intrusion into residential land

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Those of us who have lived in Deutschtown for a while are familiar with the desire of businesses to expand into the residential area, especially for parking. As local customers left the neighborhood, neighborhood businesses sought customers outside the area and still believe that providing parking will result in thriving business for them. This is debatable, but what is not debatable is that if all the businesses were successful in their individual efforts to carve parking lots out of the adjacent residential area, East Allegheny would be turned into a suburban-style commercial area with stores and restaurants as islands in a sea of parking. The following attempts are the ones that I remember:

Shellhaas Funeral Home: In 1985, Schellhaas Funeral Home on East Street bought an old auto-repair garage (a non-conforming use in a residential zone) at 621-23 Foreland Street and an adjacent house at 619 Foreland Street and sought to replace them with a parking lot. We encouraged them to renovate the house, offering to solicit the Urban Redevelopment Authority (URA) for low-interest renovation funding, and to provide parking for their customers inside the garage since that was permitted by the Zoning Code (changing from one non-conforming use to another). They tried this for a while but were not satisfied with the situation so they demolished the garage and the house and began parking on the lots, and we turned them in to the Building Inspector. Once a non-conforming use structure is demolished, the legal right to the non-conforming use disappears. This is to encourage compliance with the prevailing zoning classification which is residential. Schellhaas appealed to the Zoning Board of Adjustment to use the lot as a 'community parking lot', which is ostensibly to be used by neighbors, of course including Schellhaas and their customers. We asserted that this was just a back-door attempt to have a commercial parking lot in a residential zone which is not permitted. The Zoning Board ruled in their favor. We appealed its decision to Common Pleas Court and we lost there, also, but we prevailed at Commonwealth Court. Schellhaas appealed to the State Supreme Court in 1989 which refused to hear it. Thus, we won an expensive five-year battle.

In 2005, Schellhaas asked Luke Ravenstahl, our City Councillor at the time, to rezone all the land from East Street up to Schellhaas's lots at 619-623 Foreland Street from residential to commercial. EACC spoke in opposition to this proposal at the City Planning Commission in June. The Planning Commission was to vote on the proposal in September 2005, but for some reason, Luke requested that his proposal be tabled. This was done and the proposal died at the end of the year.

In 2011, Schellhaas closed their funeral home and rented the building to A&A Consultants who began parking in the vacant lots at 619-623 Foreland Street. After two years of attempting to stop this, and the City errantly granting an occupancy permit based on a block and lot number in the commercial zone, A&A Consultants has been told that parking is not permitted there. In November of 2013, EACC bought the lots from Schellhaas. At the time of this writing, we have a verbal agreement with a developer to build houses there and on our other vacant lots in this block.

Lockhart Tire Company, 507 Lockhart Street: Lockhart Tire attempted in 1984 to expand east across Kilday Way, buying and demolishing a house at 510 Pressley Street and parking trucks on it. We opposed the appeal to permit the business to expand across the alley and it was defeated. It remains vacant land with an interstate guard-rail surrounding it.

The Elks and Sperling's Funeral Home: After a fire occurred in 1984 in what was then a 14-unit rooming house at 404 Cedar Avenue, both the Elks, on one side, and Sperling's Funeral Home, on the

other side, sought to buy it and tear it down for parking. We asked the developers who were then building Deusstown Square (Larry Gessner & David Koloskee) to buy it, which they did. We aided the developer in obtaining low-interest renovation funding from the URA for the house. It was restored and converted into a 6-unit Condominium.

Stephens Funeral Home, 600 Cedar Avenue: The funeral home bought 414 and 416 Avery Street in 1983 and built a parking lot for their customers. We opposed this but were forced to withdraw our appeal since Stephens Funeral Home appealed our proposed development of Deusstown Square across the street which required variances to build. At that time, we were zoned R-4 (Residential, Multi-family), a suburban-model zoning classification requiring large front, side, and rear yards. Building attached row-houses required large variances even though the entire neighborhood consists of attached row houses. Delays in our zoning approval would have resulted in losing our funding for the project. This forced us to abandon our principles and choose the path with the greatest good for the neighborhood. The Deusstown Square land was temporarily being used as a commercial parking lot (there was little code enforcement in those days) and it could easily have been made permanent without our intervention.

The Foreland Street parking lot: The East North Side Businessmen's Association approached the East Allegheny Community Council with a plan to create a parking lot (the present commercial lot behind Citizens Bank) for the entire business district requiring the demolition of numerous houses. They told us that they needed this parking lot for the business district to thrive and that, if we went along with this plan, they would never ask for more parking. We went along with their plan. The results: the business district did not thrive, the Businessmen's Association no longer exists, and the parking lot is used mostly by employees of the businesses, not customers. The lesson: the problem is not lack of parking.

Old Giant Eagle site at 601 East North Avenue (presently the AGH Day-Care Center): Dr. George Magovern, then the owner of the vacant grocery store site, attempted in 1984 to rezone the land commercial in order to permit him to demolish the existing building, a non-conforming use in a residential zone. Dr. Magovern had owned the Latimer Middle School (now the School House Apartments) with the intent to convert it into an office building. After the North Side Leadership Conference worked with him for a year or two providing technical help and seeking financial aid for this project, he abruptly sold it to Historic Landmarks for Living of Philadelphia, which converted it into 77 apartments. He made approximately \$500,000 on the deal. He then bought the vacant Giant Eagle next door, which he said was smaller and more manageable. We supported his appeal to convert it into medical offices and it was approved. His time-limit for acting upon this appeal lapsed and he re-appealed with a less-lavish proposal. Before the hearing could even take place, he got Ben Woods, a City Councillor at the time, to propose rezoning the parcel. A commercial zone permits any use listed in the City Code, including fast-food restaurants, etc. In the meanwhile, a speculator bought three houses at 1000, 1002, and 1006 Middle Street and demolished them. The speculator claimed that he wanted to build new housing there, but we correctly presumed that he bought the properties with the intent to sell them to Dr. Magovern to expand his site. We mobilized East Allegheny citizens and the rezoning proposal was defeated at City Council. The 'developer' of the Middle Street houses never built them. We bought the property years later and built three new houses there in 2001 (1000-1004), and restored 1008 Middle which had been owned by Paul Fehrenbach, who refused to sell his house to the speculator.

MPCGS (presently North Side Christian Health Center, 816 Middle Street): A group of doctors led by Dr. Stanley Marks bought the old Allegheny County Health Department building at the corner of

Middle and Suismon Streets with the intent to convert it to medical offices. They needed our support for adding an elevator tower to the south side of the building, and to provide a small parking lot adjacent to the building, also on the south side of the building. We supported them, and Barbara Burns secured a patient loading zone along Middle Street to help with their needs. Just prior to that time, we noted with alarm that they purchased the three houses adjacent to their building to the east along Suismon Street. When questioned as to their intent, they claimed that they just wanted to control the properties close to them and that they would not attempt to seek parking on the site. We supported them at the 1991 Zoning hearing in exchange for a written commitment not to seek parking to the east of their building. They continued to buy properties to the east including the next empty lot and the next two duplexes. After they received zoning approval, they demolished the three adjacent houses and created a parking lot up to the first of the duplexes and got approval to provide parking there, ostensibly for the tenants of the two duplexes. Of course, this was nothing more than a back-door attempt to provide parking for their customers. We appealed the zoning approval for the parking lot without legal guidance and failed in our appeal due to the vagueness of our choice of words - that the Zoning Administrator 'exceeded his authority' to grant such parking. This battle has been made moot by the purchase of the lots along Suismon by a developer who is presently building housing there, unfortunately for our history, including demolition of the two duplexes.

Wheeler's Paints: What had become known as Wheeler's Paints' parking lot at 713-719 James Street is on residential land. Once occupied by at least four houses, it had been used as parking since 1951 when permission was granted to use the lot for parking for five years. In 1956, it was denied continued parking use. According to the record, this denial was because a new zoning code was being written and significant changes were anticipated regarding such situations. The new code was implemented in 1958 and the land in question was zoned R-4 (Multi-Family Residential) which did not permit commercial parking in a residential zone. The parking continued, however, illegally, until the EACC asked for the law to be enforced in 1991. Wheeler's appealed on 16 July 1991 to use the lot as parking for 18 vehicles, split evenly between the former Wheeler's Paints store at 500 East Ohio Street, and for the dwelling units at 702, 706-08 James Street. On 5 March 1993, the Zoning Board of Adjustment approved the appeal since, they said, the approval in 1951 was a right granted by the Board that ran with the land, and that denying continued use as a parking lot would be a hardship on the owners. We appealed this decision to the Court of Common Pleas which, in February 1994, affirmed the decision of the Zoning Board. We then appealed to Commonwealth Court which ruled that Wheeler's did not have a right to use the lot for parking for commercial use and that no evidence was presented showing that the lot could not be used as residential. Wheeler's then appealed to the Zoning Board in December of 1995 to use the lot exclusively for residential parking for the apartments above Wheeler's Paint and the owner's residence at 706-08 James Street. This was approved in March of 1996 with the restrictions that no commercial vehicles or dumpsters are permitted in the lot, that access to the lot will be barred by an automatic parking gate with cards given only to the residents of the listed properties, that the lot shall be paved with asphalt maintained in good condition, and that a brick wall shall be constructed along Moravian Way and a hedge planted and maintained along James Street, both at a height of not less than three feet.

The block encompassed by Tripoli, Moravian, North, and James: We found that half the properties in this block were in the hands of one owner - Samuel Stroh - who was attempting to buy the other properties. We were told by evicted tenants that he wanted to tear down the whole block for either a parking garage, an office building, or an apartment building. We approached him with the reminder that the present zoning would not permit a parking garage or an office building, and that severe restrictions were placed on apartment buildings even in an R-4 zone. We purchased the buildings from him (420, 422, 424 Tripoli, and 415 East North) and restored them in 2001. 414 and 418 Tripoli have

also now been restored, the first by EACC and the second, privately.

415 Foreland Street: The United Food Workers Union Local 325 bought this house and appealed to the Zoning Board of Adjustment in January 2006 to occupy it as their offices. We prevailed at the Zoning Board hearing with our observation that there is no reason the house cannot be occupied as residential, with housing to the East, to the West, and to the South. They claimed that since there are two non-conforming uses across the street - the James Street restaurant and an accountant's office - they should also be permitted to have a non-conforming use. They appealed to Common Pleas Court which cost us over \$1,000 in legal fees. They later dropped their appeal and put the house up for sale. It was sold in 2008 to a real estate agent who renovated the house and sold it to an owner-occupant couple.