

January 27, 2009
City of Erie, Pennsylvania
ZONING HEARING BOARD
1:00 P.M.

The regular meeting of the Zoning Hearing Board was held on Tuesday, January 27, 2009 at 1:00 p.m., in the City Council Chambers, Municipal Building, 626 State Street.

- MINUTES -

THE FOLLOWING APPEALS WERE HEARD:

Appeal No. 11,031 (5308-113) by Curtis Bannister concerning property located at **3801 Wood Street** in an R-1 zoning district.

Findings of Fact

- 1) The appellant sought a variance in order to place an advertising sign on his vacant lot. The sign would not be required to identify a location, but rather would be advertising his nearby medical clinic.
- 2) Appellant argued that the sign would face West 38th Street, not Wood Street, and would therefore not alter the character of the neighborhood. The small strip of land, the appellant pointed out, was what remained from a larger parcel that had been subdivided when the City widened the West 38th Street corridor; if not able to utilize the small parcel for advertising it would have no value.
- 3) Three Wood Street residents appeared and testified in opposition to the proposed variance. They argued that the sign would alter the residential nature of the neighborhood, and lower property values. Additionally, the neighbors raised concerns of maintenance of the property. Dr. Bannister, on rebuttal, said that he has always maintained the small parcel and would continue to if granted the variance.

Conclusions

- 1) The variance, if granted, would alter the characteristic of the neighborhood. The proposed sign was for advertising purposes, and not for identification of the clinic. Therefore, there was no significant hardship for the appellant if the variance was not granted.

Decision

By a unanimous vote, Board Members Dale Neimenski, Lisa Austin, Richard Wagner and chairman Ron Desser voted to reject the request for a variance. The appellant is not permitted to place a sign on the property in the R-1 zoned district. DENIED

So Ordered

Appeal No. 11,032 (5211-300) by Thomas Kroll concerning property located at **3530 Burton Avenue**. Requesting a variance to allow him to convert his single-family dwelling into two units, which is not permitted in an R-1 district.

Findings of Fact

- 1) Mr. Kroll appeared with his realtor, and testified that he bought the house in December, 2008, believing he was purchasing a two unit dwelling. The house was advertised as a two unit, and all previous inquiries made by them prior to the purchase led them to believe it was in fact a two unit house. He purchased the house with the intention of living in one unit and renting the other.
- 2) The Erie Zoning Office confirmed that the house has been a two unit dwelling for eighty-four years. The previous owner had made some cosmetic changes in an effort to re-designate the house as a single. Mr. Kroll indicated that with minimal structural changes the house could again be a two unit house.

Conclusions

- 1) The Krolls acted in good faith when they purchased the house believing they were obtaining a two unit dwelling. For all intents and purposes the dwelling was never really converted from a two unit house. The Board agreed that the Krolls would realize an undue hardship if the request was rejected.

Decision

By a unanimous vote, Board Members Dale Neimenski, Lisa Austin, Richard Wagner and chairman Ron Desser voted to grant the appellant's request for a variance. The appellant is permitted to modify the property and designate it as a two unit structure. GRANTED

So Ordered

Appeal No. 11,033 (3127-106) by Robert Doyle concerning property located at **1440 West 21st Street**, proposing a dimensional variance allowing the erection of a 20' by 40' addition to his building. The extension would violate Section 205 of the Zoning Ordinance which requires a 10' sideyard setback for M-1, and 4' is requested.

Findings of Fact

- 1) Mr. Doyle appeared to testify that he needs the requested variance in order to provide additional office space to his business, Perry Construction.
- 2) Mr. Doyle indicated that he occupies the property adjacent to the East. The property owner to the West, Anthony Builders is not opposed to the variance. Mr. Doyle produced a letter from Anthony's attesting to the proposed addition, which the Board introduced into evidence.

Conclusions

- 1) The variance, if authorized, would not alter the character of the area, which is zoned M-1. The Appellant has demonstrated a legitimate reason for the request, and the variance would allow the expansion of his business with an overall positive effect for the Erie business community.

Decision

By a unanimous vote, Board Members Dale Neimenski, Lisa Austin, Richard Wagner and chairman Ron Desser voted to grant the appellant's request for a variance. The appellant is permitted to erect the addition to the property. Chairman Desser made his vote conditionally on the terms that the property be approved by the City Planning Commission for a subdivision.
GRANTED

So Ordered

Appeal No. 11,034 (5211-207) made by Gregory Moore concerning a property located at **3603 Brandes Street**. The Appellant lives at this location and wishes to purchase the house, but only if it can remain a two-unit dwelling, which is in violation of Section 204.10, Permitted Uses in an R-1 district.

Findings of Fact

- 1) Mr. Moore appeared and testified that he is incurring a hardship because he is currently unable to acquire financing for purchase of the house, even though he has already been approved for it. The Appellant indicated that granting the variance would not alter the character of the neighborhood,

and that there are several other rental units, similar to the property in question, already existing in the area.

- 2) Several neighbors appeared and testified that the house, built in 1962, has always been a two-unit dwelling. Zoning office members confirmed that prior to 1968 the neighborhood was not designated as an R-1, and that several two-unit dwellings may be in the area.
- 3) The other tenant of the two-unit house, Cheryl Babel, was present and testified that she would incur a hardship if a subsequent purchase designating the house single unit would require her to move. Mr. Moore, she said, has agreed to keep her as a tenant if he is in fact able to purchase the home.
- 4) The representative of the current owner of the house testified that he has researched the assessed value of this house, and that it is similar to other two-unit homes in the area. There would be no tax benefit or advantage to the current owner if the variance were granted.

Conclusions

- 1) The dwelling has always been a two-unit house. There are several other two-unit dwellings in the area, which, like the 3603 Brandes location, were in conformance with the Zoning Ordinance and Map when they were constructed in 1962.
- 2) If the variance were to be granted, there would be an economic benefit to the City as it would hereafter collect tax, water and sewer bills for two dwellings.

Decision

There was a split two to two decision, with Board Members Ron Desser and Richard Wagner voting to approve the requested variance. Chairman Desser indicated that the rationale for his vote was that the house was originally erected as a two-unit dwelling, and has existed as such for the most part ever since. Board Members Dale Niemenski and Lisa Austin voted to deny the request for a variance. Both dissenting members indicated that they would be willing to change their vote if any and all back taxes which would have been due on the house were to be paid. The board will reconvene next month and call for a revote if additional evidence regarding tax information is submitted.

So Ordered