

February 9, 2010
City of Erie, Pennsylvania
ZONING HEARING BOARD
1:00 P.M.

The regular meeting of the Zoning Hearing Board was held on Tuesday, February 9, 2010 at 1:00 p.m., in the City Council Chambers, Erie Municipal Building, 626 State Street.

- MINUTES -

THE FOLLOWING APPEALS WERE HEARD:

Appeal #11,056 (5049-223) by Nick Marinelli. concerning property located at **1061-1063 East 26th Street** in an RLB Zoning District. The appellant is proposing to turn a 5-family unit into a 6-family unit. This would violate Section 205 of the Zoning Code. The minimum lot size required is 9,000 square feet; 3,750 square feet is requested.

Findings of Fact

1. The Appellant appeared and testified on his own behalf. He indicated that he has owned the property in question for five to six years, and has remodeled the entire dwelling, including the attempted installation of a laundry room for the tenants. The laundry room could never be completed, as vandalism by former tenants prevented its completion.
2. Upon abandoning the project, Mr. Marinelli consulted with construction companies who recommended the area instead be converted into a two-bedroom unit.
3. Mr. Marinelli testified that he simply wished to utilize the space in the most efficient way. He did admit under questioning, however, that he purchased the property without knowledge of whether it would be a 5-unit dwelling, or larger. When he bought the property, he said it was a complete "mess." Mr. Marinelli had to re-do everything, investing approximately one hundred twenty-five and one hundred fifty thousand dollars between this property and the one he also owns across the street.
4. The Board questioned City Zoning Officer Armand Chimenti as to the specifics of the Code in question. Mr. Chimenti indicated that the 1,500 sq. foot requirement is a minimum square footage for each unit; the requested 6-unit dwelling would then have a minimum square footage requirement of 9,000 feet (1,500 * 6 units = 9,000).
5. Mr. Marinelli was questioned about the potential problems that could be posed by an additional tenant. He testified that few of his existing tenants drive their own cars, so parking should not be a concern. Likewise, garbage for city pick-up is not going to be increased, as Marinelli provides a dumpster in the back of the property for the tenant's use.

6. Upon further questioning, Mr. Marinelli indicated that his hardship – the justification for requesting the variance – is that the space as it is now is unusable. It is a waste of space which could be better utilized in an economy where low income, efficiency apartments are in high demand. His research and experience indicate that 1-bedroom apartments are more in demand than larger apartments, which makes the conversion of this space into an efficiency apartment is the most viable use for the property.
7. Mr. Marinelli further indicated that no store or other commercial use for this location has been successful. Wal-Mart, Country Fair and other businesses in the area prevent businesses from locating in this property.

Conclusions

1. It was never determined whether the property would be a 5-unit dwelling or not. The Appellant purchased, and renovated the property without a long-range plan.
2. The appellant's property is located in an RLB district, which requires a 1,500 square foot per unit area. The type of small, efficiency apartment proposed is in high demand in the current economic environment.
3. The appellant is not experiencing any hardship; the only reason for requesting the variance is to use the space more efficiently.

Decision

By a split two to two vote, the Board rejected the request for the variance. Board members Richard Wagner and Lisa Austin both denied the request, both citing that the 1,500 square foot restriction is in the Code for a reason, and that no good reason, or hardship to the Appellant, were demonstrated why the City Ordinance should be overruled. Members Glenn Duck and Mike Hornyak voted to approve the variance request. As no majority was reached, the request was denied.

It is So Ordered

Appeal #11,057 (1130-100) by The Erie Housing Authority concerning property located at **2120 East 10th Street**. The Appellant is proposing to construct a dental clinic, which is not a permitted use in an R-3 district.

Findings of Fact

1. Appearing on behalf of the Appellant was Mr. John Horan, Director of the Erie Housing Authority (E.H.A.). E.H.A. is appealing the decision of the Erie Zoning Office rejecting the proposal of a dental clinic at the East 10th Street location.
2. Mr. Horan described for the Board the overall function of the E.H.A. as being larger than just housing people; it includes, he said, providing health care and other

facilities to help make the people more self-sufficient. The clinic is intended to be accessible to people with disabilities.

3. According to Horan, the location is ideal for several reasons, including its proximity to Gannon's nursing unit. This provides a good combination of services the E.H.A. is able to provide its tenants, and the partnership with Gannon represents an important feature to the community.
4. Mr. Horan said that although requesting a use variance to place a dental facility in an R-3 district would be denied, the same request would be approved in an R-2 district, depending on classification. If the dental clinic was to be classified as a "neighborhood center" instead, it would be allowed in an R-2 district. This narrow distinction, he said, is a key factor why the Board should approve the variance request.
5. When questioned about other sites for the clinic, Mr. Horan said that no alternate site is viable, because they are using E.H.A. funds, and those funds must only be used on an E.H.A. location.
6. Severable Board members had questions about the logistics of the facility, and the effect it would have on traffic and parking. Mr. Horan indicated that there would be only one entrance to the 2nd floor (where the clinic will be located), and that entrance would be accessible from the outside; it would not be accessible to the 1st floor businesses. As most of the people expected to use the facility would be walking or taking public transportation, parking is not expected to be a major concern.

Conclusions

1. Neither a "Medical Facility" nor "Dental Facility" are permitted uses in an R-3 District.
2. A "Neighborhood Center" is a permitted use in an R-2 District.
3. The Board adopted a condition, prior to their vote, that if approved the property would be used exclusively as a medical or dental facility.

Decision

By a unanimous decision the Board approved the proposed use variance.

It is So Ordered.