

**July 13, 2010**  
**City of Erie, Pennsylvania**  
**ZONING HEARING BOARD**  
**1:00 P.M.**

The regular hearing of the Zoning Hearing Board was held on Tuesday, July 13<sup>th</sup>, 2010 at 1:00 p.m., in the City Council Chambers, Municipal Building, 626 State Street.

**- MINUTES -**

**THE FOLLOWING APPEAL WAS HEARD:**

**Appeal #11,065 Erie School Employees Federal Credit Union** concerning property located at **2436 Buffalo Road**, in a C-1 District. The Appellant is proposing to install roof-mounted solar panels, without the required 3' access pathways along all four edges of the roof.

**Findings of Fact**

1. Appearing on behalf of applicant was Mr. John Purvis from Solar Revolution, the company contracted to install the solar panels for the Erie School Employees Credit Union. Mr. Purvis testified that he has been installing similar roof-mounted solar panels since 2008, including those done at the Collegiate Academy in Erie. Mr. Purvis said that he has previously met with local planning commission officials where it was decided that the three foot access walkway was necessary, and is now included in the Code. Mr. Purvis indicated his belief that the decision to adopt the three foot access pathway was copied from the federal O.S.H.A. requirements for flat roofs, but which is not necessary for the type of roof proposed in this case, a flush-mount.
2. Mr. Purvis, who provided photographs of previously completed projects, explained to the Board that there are three types of solar panels: ground mounts, flat roof mount, and flush (or slanted) mount roofs. According to Mr. Purvis, the three foot pathway, such as that adopted by O.S.H.A., is appropriate for flat roof mounts, but is not necessary for a slanted, flush mount roof as is proposed here. He said that he believes the three foot rule was mistakenly put into the statute because the drafters did not understand that the flush-mount style of roof, like the one in question, would be strong enough to support people walking on the surface of the panels. He reiterated that the three foot pathway is more appropriate for flat roofs.
3. When questioned about the hardship they would encounter, Mr. Purvis indicated that they would lose approximately 75% of the effectiveness of the solar energy capture because the three foot pathway would prevent them from

installing as many solar panels as needed to make this project cost effective. The current plan is to build the panels very close to the edges of the roof, with no more than a foot available and in some instances, no distance at all. He said that the angles and number of the panels is designed to maximize the sun, and again pointed out that he believes that you can walk on the angled solar panels, and do not need the three foot walkway.

4. Also appearing on behalf of the Appellant was Councilwoman Jessica Horan-Kunco, who wanted to express her support of the City's efforts to utilize alternative energies. She said that the planning commission began with wind sources, but quickly recognized the benefit of solar energy. Ms. Horan-Kunco testified that while she supports having the Code as it is, she recognizes that as with any new technology there are likely to be adjustments to the law as we learn more. The Code, she said, could be "fine-tuned" later, but she supports projects like this that benefit from new technologies like solar panels.
5. Mr. Purvis, who said he is in the process of helping to develop classes and training guides for fire fighters and other public safety purposes, indicated that the three foot platform went into the ordinance for the purpose of fire safety.
6. Testifying in opposition of the proposal was Mr. Guy Santone, Chief Fire Inspector for the Erie Fire Department. Chief Santone said that the access provided by the three foot walkway is necessary. He said that fire fighters cannot rely, as Mr. Purvis indicated, that they could gain access to part of the building they would need to if the walkway is not installed. Mr. Santone pointed out to the Board that fire fighter's equipment such as boots and other protective clothing would make navigating on solar panels difficult, and could pose a safety hazard. He did say, however, that he thinks that the three foot walkway would only be necessary on the top and sides of the roof, and that he was not so concerned with having access on the bottom.
7. Upon further questioning from the Board, however, Chief Santone did indicate that he was not overly concerned about this particular project. He is concerned, however, with the standard it would set of allowing exceptions to laws that were enacted to provide safety for fire fighters and the public.

### **Conclusions**

1. The City of Erie encourages the use of new technology and alternative sources of energy, including the installation of solar panels where feasible.
2. The City has recently drafted several ordinances to regulate the new technology, including codes on how solar paneling must be installed on rooftops. These new codes are not specific, however, with respect to the different types of roofs where solar panels can be installed (i.e. flat mount roofs, flush-mounted/angled roofs, etc...).
3. The new codes correspond with existing O.S.H.A. regulations that require a three foot pathway around all the sides of the roof, but unlike O.S.H.A. do not specify the types of roofs, or make a distinction between commercial and residential buildings, that such codes might apply to. O.S.H.A.'s rule is only

in place for flat-mount roofs. It is expected that the local ordinance will be amended as new technology is better understood.

4. In the Erie School Employees Federal Credit Union building, the local fire inspector has no objection to not having the three foot walkway, but does not want this case to serve as a precedent whereby all future solar-paneled roofs would be exempt from the three foot pathway

### **Decision**

By a three to one vote, the Board approved the request for the variance to construct the new solar-paneled roof on the Erie School Employees Credit Union without installing a three foot access pathway around the entire roof. Board members Richard Wagner, Lisa Austin and Glenn Duck voted to approve the request, all indicating that they are doing so for this particular building only, and are not intending to set a precedent for all future projects. Mr. Duck said that he would not agree to the exemption if it were a residential dwelling. Mr. Wagner likewise indicated that his vote was due to the fact that the building would not be continuously occupied, and that he believes that in this instance, the owners should be allowed to maximize the use (sunlight access) that makes the project feasible. Ms. Austin concurred with the fact that the building would not be occupied, and added that her vote was influenced by Councilwoman Horan-Kunco's support of the project. The lone dissenting vote was from Board member Ron Desser. Mr. Desser used as his rationale that the fire inspector's safety analysis of the building differed from that given by the applicant, and that he believes that safety factors mandate that the Code be obeyed.

**It is So Ordered.**

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