

November 11, 2010
City of Erie, Pennsylvania
ZONING HEARING BOARD
1:00 P.M.

The regular meeting of the Zoning Hearing Board was held on Thursday, November 11, 2010 at 1:00 p.m., in the City Council Chambers, Erie Municipal Building, 626 State Street.

- MINUTES -

THE FOLLOWING APPEAL WAS HEARD:

Appeal #11,075 by Liz Freitag, concerning property located at **801 West 12th Street (3038-300)** in a M-2 District. The Appellant proposes to operate an animal care facility, which is not a permitted use in M-2.

Findings of Fact

1. The Appellant, Liz Freitag, appeared to testify on her own behalf as owner and operator of Peninsula Pups Doggie Daycare. If approved for the use variance it is requesting, Peninsula Pups would provide a kennel-free day care facility for dogs only. During the facilities hours of operation – 7:30 a.m. to 6:30 p.m. – the dogs would be continuously supervised by handlers and be segregated by size (small, medium, large, puppies and geriatric). Peninsula Pups would offer day care supervision only, and would not provide overnight boarding or grooming care; however, the center may offer obedience training after hours.
2. Ms. Freitag told the Board that there currently is no type of animal care business in operation anywhere in the Erie area. Her business model targets the downtown area, where a large segment of the community works. Ms. Freitag testified that she was unable to find any other suitable location (one that provides at least the 7,000 to 10,000 square feet required) anywhere else near downtown. Although she was unable to find a suitable location in a C-2 District, the building that she did find near the corner of 12th and Liberty is just across the street from a C-2. Besides meeting the size requirements, the location on West 12th and Liberty is ideal for several reasons; in addition to being located on a busy street where a large number of people pass by every day, the site provides two entrance spots – one facing 12th Street and one facing Liberty – each having its own parking area. Additionally, the site has the added feature of providing its own advertisement due to the volume of traffic passing by the intersection already.
3. Responding to questions from Board members, Ms. Freitag explained that the facility itself is approximately 8,900 square feet. The dogs will always be confined to the inside of the building, with special areas in the rear of the building for the dogs to relieve themselves (the dogs would be taken out two at a time at regular intervals during the day). When the facility is up and running at full capacity Ms. Freitag

expects that it will provide up to ten new jobs. While she is not aware of any state or local regulations governing the daily care of dogs, Ms. Frietag did acknowledge that there are accepted standards that dog care providers follow. For example, the animals would be under constant supervision, and the floors of the facility would be rubber, making for a more comfortable setting for the animals.

4. Both Mr. Rick Griffith, the owner of the building, and Mr. Joseph Herbert of Coldwell Banker Realty testified on behalf of the Appellant. Mr. Griffith indicated that the proposed business is ideal for the building he was renting, and that he is pleased to have found such a tenant. The only other tenant in the building is a carpentry class from Triangle Tech. Mr. Herbert confirmed what Ms. Frietag had already testified about. Specifically that it would be very unlikely to find another location in the downtown area; specifically one on the first floor with the size requirements needed, having the traffic and parking access that the 12th and Liberty site provides.
5. Ms. Frietag concluded her remarks by indicating that while the facility is not technically located in a C-2 District, it is nonetheless in an area of the city where its operation will not impede on a residential area, and would not alter or disrupt the character and existing businesses in the surrounding neighborhoods. Finally, she said that Peninsula Pups is in cooperation/partnership with the Erie Animal Shelter with the intention of placing the many hundreds of homeless dogs in the city each year.

Conclusions

1. Animal care facilities are not a permitted use in an M-2 District. However, they are permitted in C-2 areas, and the proposed site is directly across the street from a C-2 District.
2. The site in question meets several features required for the business to operate most effectively: it is on a first floor, has two access points for traffic to enter, and has ample parking and space to let the dogs outside within a fenced in area.

Decision

By unanimous decision, the Board voted to approve the use variance to permit the Appellant to operate the dog day care facility. In voting to approve the proposal, Board member Ron Desser said that in order to warrant a use variance the applicant has to provide a good reason, and that in this case the Appellant did. Mr. Desser pointed out that opening an animal care facility in a C-2 District would require a one hundred foot setback from any residential area; this, he said, would be nearly impossible to find in the downtown area of the city. Further, the proposed site is not near any residential homes, and as was pointed out in the hearing, is in close proximity to a C-2 area. For these reasons, Board members Richard Wagner, Mike Hornyak and Lisa Austin also voted to approve the variance.

It is So Ordered.
