

April 12, 2011
City of Erie, Pennsylvania
ZONING HEARING BOARD
1:00 P.M.

The regular meeting of the Zoning Hearing Board was held on Tuesday, April 12th, 2011 at 1:00 p.m., in the City Council Chambers, Municipal Building, 626 State Street.

- MINUTES -

THE FOLLOWING APPEALS WERE HEARD:

Appeal #11,083 by Mark Engel concerning property located at **4320 Genesee Avenue (5235-405)** in an R-1 District. The appellant proposes to build a detached garage, which requires a 3' side yard setback – 1' is requested.

Finding of Facts

1. The applicant, Mr. Mark Engel, appeared to testify on his own behalf and described to the Board the unusual features of his backyard, which includes a hill approximately 5' high. The presence of the large hill, Mr. Engel said, makes it necessary that he builds around the impediment. In order to build a garage on or along side of the hill, it would require the installation of a foundation wall of probably 10 feet, much larger than the foundation for a garage built on flat ground. Mr. Engel said that he did not conduct a comprehensive cost study, however, in order to build the structure next to the hill so that it will comply with the Code, it would cost significantly more than the plan that he proposes.
2. Several Board members inquired about why Mr. Engel needs such a large garage. The proposed two-car garage will be 40' long by 16' wide with a ten foot wide garage door. Both the dimensions and square footage comply with the City Ordinance. The large garage is requested in order to store some equipment items and vehicles, Mr. Engel said. He provided the Board with photos of the backyard area, together with an outline of the dimensions; the proposed location would place the garage about four feet from the existing shed.
3. There was one opposition witness, Mr. Engel's next door neighbor, Timothy Jobczynski, who expressed several concerns about the proposed garage. Mr. Jobczynski said that his main concern is that the large structure, being so close to the property line, would negatively affect his home's value. Also, he indicated that such a large structure would prevent the view of the lake from his back porch, which Mr. Jobczynski said, is one of the features of the house that made him purchase it in the first place. Upon questioning from the Board regarding a compromise, he said that he would have no problem with Mr. Engel building a smaller, one-car garage instead.

Conclusions

1. Section 205.18 of the City Ordinance requires, in part, that any detached accessory building, like the applicant's proposed garage, must be setback at least three feet from the property line, and be no larger than 720 square feet.
2. The applicant's proposal is within the Code's size limit. Therefore, the applicant can build the structure he wants; however, in order to comply with the setback he would have to encroach on the hill in his backyard, which would require a deeper, more expensive foundation for the garage.

Decision

By a three to two vote, the Board denied the applicant's request for a variance to build his garage without a three-foot setback. Board member Glenn Duck voted to approve the variance, stating that a home owner should have the right to build on their own property when it is within the dimensions of the Code. Member Mike Hornyak agreed, adding that he does not believe that the slight change in setback would negatively affect the adjacent property. Member Ron Desser voted to deny the variance, stating that the proposed forty foot long garage is too large to ask for this exception. He said that a proposal of perhaps twenty feet would be more reasonable, but that he could not approve the variance for the dimensions proposed. Members Lisa Austin and Richard Wagner agreed; Mr. Wagner adding that he does think that the larger size garage would adversely affect the neighborhood.

It is so Ordered

Appeal #11,084 by the Erie Housing Authority concerning property located at **315 East 16th Street (2020-208)** in an R-3 District. The appellant proposes to build a detached garage, which has a maximum size of 720 square feet – 864 square feet is requested.

Finding of Facts

1. Mr. John Horan, Executive Director of the Erie Housing Authority (EHA), appeared on behalf of the applicant and told the Board that the EHA wants to construct a new two-vehicle garage with a storage area that will be larger (864 square feet) than the City Ordinance permits. Mr. Horan said that the proposed garage is aimed at addressing several storage issues at EHA's East 16th Street complex, including two large containers presently sitting outside in the parking lot. These containers, which hold refrigerators and ranges from the apartments, would be housed in the new garage together with EHA pick-up trucks used to service the complex.
2. The chief engineer for the EHA, Mr. Robert Marz, appeared to discuss the project, and provided the Board with site plans and aerial photographs of the block. The proposed garage will be approximately 864 square feet (144 more than the permissible 720). In addition to eliminating the unsightly storage containers from the parking area, Mr. Marz

pointed out the safety benefit of the proposal. The EHA trucks would be able to drive from the street directly into the garage instead of traversing the playground across 16th Street several times a day. The garage itself, he said, would lie twenty feet from East 16th Street property line and six feet from the side property line, and it will actually free up two additional parking spaces currently occupied by the storage containers.

Conclusions

1. Section 205.18 of the City Ordinance requires that any detached garage must be no larger than 720 square feet.
2. The proposed garage would occupy only a small percentage of the EHA property in the area; less than one percent of the entire lot according to Zoning Office officials.

Decision

By a unanimous vote, the Board approved the appellant's request for a variance. Board members Ron Desser, Richard Wagner, Lisa Austin, Mike Hornyak and Glenn Duck voted to approve the variance, all providing similar rationales for their decisions. Member Ron Desser pointed out that the Code regarding setbacks and square footage of structures are primarily intended for residential houses and backyards; given the circumstances of this case, he said, the dimensions are actually to scale of that in a residential area.

It is So Ordered.
