

**September 13, 2011**  
**City of Erie, Pennsylvania**  
**ZONING HEARING BOARD**  
**1;00 P.M.**

The regular meeting of the Zoning Hearing Board was held on Tuesday, September 13, 2011 at 1:00 p.m. in City Council Chambers, Municipal Building, 626 State Street.

**-MINUTES-**

**THE FOLLOWING APPEAL WAS HEARD:**

**Appeal No. 11,089 by Jeanette Bickerstaff (5254-115)** concerning property located at **2412 East 42<sup>nd</sup> Street** in an R-1 zoning district. The appellant is proposing to build an attached garage to the residence with a sideyard setback of less than 5 feet. Under section 205 of the City Zoning Ordinance, the requirement is that the minimum width for the lesser side of the house be at least five (5) feet. The applicant is requesting a three foot setback.

**Findings of Fact**

1. Mr. Jon Bickerstaff appeared on behalf of his mother Jeanette, the applicant. Mr. Bickerstaff began by providing the Board with several photographs and a diagram of the property for the Board to follow the testimony. Mr. Bickerstaff told the Board that it was his desire to build a garage in order to protect his mother from the effects of inclement weather, and that he has already consulted with a contractor to construct it. It was the contractor who informed the applicant that the standard size garage (14' x 26') would not fit into the space where the structure was slated, and that even if the applicant chose to build a slightly smaller size garage – 13' x 26' – it would still not fit within the guidelines of the Code. Mrs. Bickerstaff would have to file for a variance.
2. When questioned about the hardship that the applicant is claiming, Mr. Bickerstaff said that the neighbors have a structure on the west side of the applicant's residence, and there is not enough room to build a garage there. Also, referring to the photographs, he said that the terrain (a noticeable slope) on the property limits the possible areas where the garage could be built.
3. A brief recess was called by Board Chairman Richard Wagner after Board members Lisa Austin and Richard Wagner both expressed problems with the plot plan that was provided. It appeared from the diagram that a portion of the proposed structure would actually cross over onto the neighbor's property.
4. When the hearing was called back to order two City officials, Andy Zimmerman, chief manager of Code Enforcement, and Armand Chimenti, chief Zoning Officer, both addressed the Board. It appears that the diagram that was provided to the applicant – that which was presented to the Board at the beginning of the hearing – was inverted (i.e. the western portion of the property should have been

- on the left side of the diagram, not the right side; the diagram appeared as a reverse negative). This was cleared up when Mr. Zimmerman showed the Board a G.I.S. aerial photograph of the property in question, which he said was provided by the City Engineer's office. Mr. Chimenti assured the Board that it is conveyed to everyone who contacts the Zoning Office that the records could be outdated or incorrect, and that it is incumbent on anyone seeking a permit or applying for a variance to undertake their own independent research.
5. With the new diagram, it was determined that the applicant still needed to secure a variance because of the dimensions of the garage. In an R-1 District the minimum sideyard space is ten (10) feet on one side of the house, and five (5) feet on the other. According to Mr. Bickerstaff, his mother has to build the garage (14' x 26') on the corner of her property where it would leave three feet of clearance, and the Code calls for ten feet.
  6. The only other witness to appear was the applicant's neighbor, Ms. Patricia Billiboana. She indicated that she has no objection with the construction of the garage. She inquired about whether a boundary marker could be installed which would identify the property line. It was explained to Ms. Billiboana that this is a matter over which the Zoning Board has no authority.

### **Conclusions**

1. In an R-1 Zoning District, the minimum sideyard setback for a garage is ten (10) feet on one side of the house, and five (5) feet on the other side.
2. Modern satellite technology images reveals that the old process of determining property configurations may be misleading. Likewise, the records provided and used by the City may be outdated or incorrect. It is up to the individual applicant to make an independent assessment of the information provided by the Zoning Office before commencing any significant project.

### **Decision**

By a unanimous three to zero decision, the Board granted the variance. Board chairman Richard Wagner once again cautioned the applicant that the documents identifying the property line may not be reliable, and that it is the applicant's responsibility to make sure that the garage is actually situated entirely on their land.

**It is So Ordered.**