

**October 11, 2011**  
**City of Erie, Pennsylvania**  
**ZONING HEARING BOARD**  
**1:00 P.M.**

The regular meeting of the Zoning Hearing Board was held on Tuesday, October 11<sup>th</sup>, 2011 at 1:00 p.m., in the City Council Chambers, Municipal Building, 626 State Street.

**- MINUTES -**

**THE FOLLOWING APPEALS WERE HEARD:**

**Appeal #11,090 (6140-106-114-117) by Alberico Melaragno** concerning property located at **West 34<sup>th</sup> and Washington**. This appeal was withdrawn due to the untimely passing of Mr. Alberico Melaragno.

**Appeal #11,091 (5104-142) by Kelly Dabrowski** concerning property located at **1728 East 28<sup>th</sup> Street**. The appellant has demolished a 9' x 18', detached garage and proposes to build a 17' x 24' attached garage. This would violate section 205 of the Zoning Code which requires 15' side yard setbacks; 7' is requested.

**Finding of Facts**

1. The applicant, Ms. Kelly Dabrowski appeared to testify on her own behalf, and provided photographs to the Board of the yard, highlighting the dimensions of the site and its proximity to the property line.
2. Ms. Dabrowski told the Board that there was a previous garage on the site, which was destroyed when someone drove a vehicle into the structure, damaging it beyond repair. She was told by her insurance company that the damaged garage was a complete loss, even though one wall still stood and may have been salvaged. However, Ms. Dabrowski told the Board that a contractor she hired actually tore down the entire structure without telling her first.
3. Saying that she understands that attached garages have different code restrictions, Ms. Dabrowski indicated to the Board that she already has estimates from contractors to build the new structure as proposed. There are several factors that require her to build an attached, two-car garage going backward rather than sideways, as the previous structure sat. The primary reason, she said, was the hill (slope) on the property.
4. When questioned by Board members, Ms. Dabrowski said that she could not afford to build the new garage back another 10-15 feet in order to accommodate the setback requirements. That would require a lengthening the driveway.

**Conclusions**

1. The Code has different restrictions for attached garages than it requires for free standing structures.
2. The proposed structure is a reasonable size, and represents a diminimus change from the Code.
3. There is at least one other similarly-sized garage in the neighborhood. The proposed garage would not affect the sight line of any other property owner.

### **Decision**

By a unanimous 5-0 vote the Board approved the applicant's request for a variance to construct an attached garage. Board member Ron Desser, speaking for the Board, said that the proposed size of the garage is not unreasonable, that there is no opposition from neighbors, and that the location of the new structure would be in essentially the same location as the previous one – all reasons for the Board to permit the variance request.

### **It is So Ordered.**

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**Appeal #11,092 (2025-121-123-105-1060) by Kulwant Lakhman** concerning property at **1705-19-25 Parade Street and 418 East 18<sup>th</sup> Street**. The Appellant proposes to build a convenience store with fuel pumps. Gas stations are not a permitted use in C-4 or M-1.

### **Finding of Facts**

1. Representing the applicant Kulwant Lakhman was Attorney John Mehler, who outlined to the Board the proposal submitted by Mr. Lakhman to build a convenience store-gas station on the northeast corner of East 18<sup>th</sup> and Parade Streets. According to Attorney Mehler the site is currently occupied by under-utilized buildings and vacant lots. The proposed plan would encompass four separate, irregularly shaped lots on the corner of the block, presently owned by three different people. All of the owners have an agreement to sell the properties to Mr. Lakhman, pending the approval of the variance and necessary building permits.
2. According to Attorney Mehler, the location is ideal for the proposed project as the neighborhood needs a convenience store, and the intersection is a major traffic thoroughfare that would attract people who need to purchase gasoline. The area in general is in need of economic development, and Mr. Lakhman, who operates other similar stores in the Erie area, plans to invest approximately eight hundred thousand dollars in the site.
3. The proposed plan, which would completely demolish all of the structures presently on the site, is consistent with other businesses and recent economic development in the Parade Street area. According to Mr. Mark Tanenbaum, owner of two of the parcels, the only structures on the lots are warehouses and vacant buildings, at least two of which predate the 1960's. At least one of the buildings had previously served as a truck garage,

first for a coal company and later an asbestos removal company. According to a Zoning Office official, none of the businesses recently operating on Parade Street would be considered permitted uses today.

4. Mr. Lakhman told the Board that he owns and operates other similar convenience stores in the Erie area. Most recently he opened a store near West 12<sup>th</sup> Street and Peninsula Drive which is thriving, and is an attractive addition to what was an unused business area. He also operates a gas station-convenience store on the corner of East 6<sup>th</sup> and Holland Streets. Mr. Lakhman indicated that this store too was a welcome addition to the neighborhood, and utilizes a property which was vacant and not generating any tax revenue.
5. There were several witnesses who appeared in opposition of the proposed store. Ms. Cynthia Glover Mohamed, who owns two properties in the area, told the Board that she has spoken to, and is appearing on behalf of several neighboring businesses and advertisers who she said are opposed to the project. Ms. Berta Duck likewise indicated that she was speaking on behalf of many neighborhood residents, mostly senior citizens, who are not able to appear themselves. She indicated that ever since notice of the hearing was sent out she has been receiving calls from many of the long time home owners along East 19<sup>th</sup>, Parade and Wallace Streets. Ms. Duck told the Board that the neighbors are scared about the problems associated with a large commercial business in their quiet neighborhood. Specifically, she said that vandals and people loitering around the store would make the neighborhood homes and their residents easy targets.
6. In response to the neighbor's concerns, Mr. Lakhman reiterated that the convenience store and gas station which he opened on 6<sup>th</sup> and Holland Streets did not disturb the peace and quiet of that neighborhood, and in fact turned out to be a welcome addition to the area. Ms. Rose Noyer, a real estate agent from Caldwell Banker, confirmed that Mr. Lakhman's store on 6<sup>th</sup> and Holland is very popular with the senior citizens and other neighbors who frequent the store, and that she is aware of Mr. Lakhman's compliance with local, state and federal environmental laws at the store. The realtor of any new store (like the one on 18<sup>th</sup> and Parade) would consult with the D.E.P. to ensure compliance on proposed sales.

### **Conclusions**

1. Convenience stores are a permitted use in C-4 and M-1 Districts; however, gas stations are not.
2. The proposed project is only feasible to the investors if the store offers fuel pumps.
3. The corner of East 18<sup>th</sup> and Parade Streets is largely unused. The proposed plan includes a vacant lot, an empty building, and two warehouses. The other businesses around the Parade Street area are mostly non-conforming uses.

### **Decision**

By a four to one vote, the Board approved the applicant's request for a variance to build a new convenience store and gasoline station. Member Ron Desser said that since convenience stores are permitted uses, the variance request is for the installation of the gas station. Most gas stations today

are in close proximity to residential areas, he said, and in this case the proposed store would be a block away from the concerned neighbor's houses. The existing buildings on the site are being used for long-term storage, which, he said offers no economic benefit to the area. Chairman Richard Wagner likewise said that convenience stores and gas stations are generally one in the same in the modern commercial environment, and he feels that the new store should benefit the local economy. Member Mike Hornyak said that he was influenced by the fact that the applicant is currently operating similar stores in other residential areas of the city, and has been in compliance with strict environmental laws. Member Glenn Duck voted to approve the variance, however, he said that he strongly encourages the store owner to reach out and allay the fears of the neighbors who testified. The lone dissenting vote was from Board Member Lisa Austin, who said that she believes that the essential character of the adjacent residential neighborhood will be affected by the installation of a gas station.

**It is so Ordered.**