

**June 12, 2012**  
**City of Erie, Pennsylvania**  
**ZONING HEARING BOARD**  
**1:00 P.M.**

The regular meeting of the Zoning Hearing Board was held on Tuesday, June 12, 2012 at 1:00 p.m., in the City Council Chambers, Municipal Building, 626 State Street.

**- MINUTES -**

**THE FOLLOWING APPEALS WERE HEARD:**

**Appeal No. 12,009 by Kenneth Campbell (3129-205)** concerning property located at **1260 West 20<sup>th</sup> Street** in an M-1 Zoning District. The appellant is seeking to reduce the rear and side setback requirements to 3 feet each for a 24' x 36' garage. Per Section 205 of the Erie City Zoning Ordinance, the rear setback requirement is 30 feet and the side setback requirement is 10 feet.

**Findings of Fact**

1. The appellant Mr. Kenneth Campbell appeared to testify on his own behalf, and told the Board of his plans to build a garage in the rear area of his property, behind the house. Mr. Campbell has lived in the house for approximately twenty years, and said that he has thought about building a garage ever since he purchased the property.
2. Mr. Campbell said that he plans to build the garage now because of recent thefts; he has had a motorcycle, bicycle, ladders and other personal property stolen from his back yard. His plans are to build a 24' x 34' garage (816 square ft.) to store his property to avoid any further thefts.
3. The property is in a Zoning District which abuts a business area. Mr. Campbell said that there is nothing behind his house besides an unused storage facility and old railroad tracks. The character of the neighborhood, he said, will not be altered by the addition of a garage on his property.

**Conclusions**

1. The property in question is in an M-1, "Light Manufacturing" Zoning District. It abuts a large M-2, "Heavy Manufacturing" District.
2. According to Section 205 the City Ordinance, the rear setback requirement is thirty (30) feet, and the side setback is ten (10) feet.
3. The proposed garage (24' x 34') would have total dimensions of 816 square feet.

### **Decision**

By a unanimous vote, the Board approved the requested variance. Prior to casting his vote, however, Board member Ron Desser proposed a condition: that the dimensions of the garage be reduced from the proposed 816 square feet to 720 square feet, as Section 205.18 of the Code requires. The condition was unanimously approved. Board members Mike Hornyak, Lisa Austin, Patty Szychowski, and Richard Wagner all then voted to approve the variance (with the said condition attached).

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

**Appeal No. 12,010 by Todd Beer (6034-232)** concerning property located at **1122 West 21<sup>st</sup> Street** in an R-2 District. The appellant is seeking a dimensional variance for a two-family dwelling. Per Section 205 of the Erie City Zoning Ordinance, the required minimum lot size for a two-family dwelling is 6,000 square feet. The lot is 5, 200 square feet.

### **Findings of Fact**

1. The appellant Todd Beer appeared to testify on his own behalf. He told the Board that he purchased the house approximately six years ago, and that he doesn't know how long it has been a two-unit dwelling; it was already converted before he purchased it. Mr. Beer indicated that the dwelling had been advertised as a two-unit when he bought it. Zoning Office officials indicated that there was nothing in their records indicating when the house had been converted.
2. Answering questions from the Board, Mr. Beer said that he is not in a position financially to make any major changes to the house in order to make it compliant. He said that he only became aware of the violation when the contractor he hired to install a furnace applied for a permit.
3. Mr. Beer told the Board that he does not use the dwelling as rental property. His daughter presently lives in the upstairs unit, and the family has no plans to change the living situation.

### **Conclusions**

1. In an R-2 Zoning District, two-family dwellings require a minimum lot size of 6,000 square feet.
2. The appellant purchased the house believing that it was a compliant, two-unit dwelling. Any changes to the dwelling were done before the appellant purchased the property.
3. The appellant and his family live in the house. His daughter lives in the upstairs unit; he does not use the apartment as rental property.

### **Decision**

Prior to voting on the variance, the Board proposed a condition, to which the appellant Mr. Beer agreed. Since the appellant was an innocent purchaser, if the Board approved the variance, it would be with the understanding that if/when the appellant ever tries to sell the property, he would have to represent it properly as being in violation of the Code, or make the dwelling compliant himself prior to selling it.

The Board approved the condition four to one. Member Ron Desser did not vote to approve the condition because he said that any such conditions should be on the land itself, and not the individual property owner.

With the condition attached, the Board voted unanimously to approve the variance. Member Ron Desser said that the two-unit dwelling is a permitted use in the R-2 District, making this variance a dimensional question. He said that the size difference here (5,200 instead of 6,000 square feet) is minimal, and does not present any problem. Board members Mike Hornyak, Lisa Austin, Patty Szychowski and Richard Wagner all agreed, and voted to approve the variance.

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

**Appeal No. 12,011 by Aleksandar Buntic (3052-210)** concerning property located at **1035 West 8<sup>th</sup> Street** in an R-2 District. The appellant is seeking a dimensional variance for a four-family dwelling. Per Section 305.24 of the Erie City Zoning Ordinance, the required minimum lot size for a four-family dwelling is 8,000 square feet. The lot is 6,847.5 square feet.

### **Findings of Fact.**

1. The appellant Mr Aleksandar Buntic appeared to testify on his own behalf regarding the property he recently purchased. The property, located at 1035 West 8<sup>th</sup> Street, is in an R-2 Zoning District. Mr. Buntic bought the structure in May, 2012 as a three-unit property; it was converted into a three-family dwelling by a previous owner in 2005.
2. Mr. Buntic would like to utilize the property as a four-unit dwelling. He anticipated that the cost for the renovations he has in mind would be between ten and fifteen thousand dollars. His plan would be to split one of the current units into two, and convert the attic (where someone had been living) into another unit. Mr. Buntic told the Board that he believes the changes he proposes are possible, and would be an improvement to the present structure. The building presently has three apartments on the first story, but the utility bills are crossed, as the units are not divided well (in one place you must go through the closet of one apartment to gain access to the next unit).
3. The Board questioned Mr. Buntic about making changes to expand the property in an already congested area. Mr. Buntic indicated that his goal is only to provide clean and safe housing, and that all of his efforts are intended to provide a positive contribution to the City. For example, the trees that he cut down on his property were in very poor condition, and potentially posed a safety hazard. He did not cut down the trees just to make more space to expand the rental properties.
4. Parking should not be a problem. Mr. Buntic indicated that there will be ample parking for all four proposed units in the rear of his property.

### **Conclusions**

1. The Erie City Zoning Ordinance requires that in an R-2 Zoning District the minimum lot size for a four-family dwelling is 8,000 square feet.
2. The structure is presently in compliance for a three-family structure. Under the City Code, Section 305.24(a), a three-family dwelling must provide a minimum of 6,000 square feet. The present three-unit structure is 6,847.5 feet.

### **Decision**

By a vote of three to two, the Board voted to deny the appellant's variance request. Board member Ron Desser said that the property is presently in compliance as a three-unit structure under Section 305.24 of the City Ordinance, and that the appellant did not state any hardship under Section 508(9) of the Code that would justify granting the variance. Members Lisa Austin and Richard Wagner likewise indicated that there was no hardship provided, and both voted to deny the request. Members Mike Hornyak and Patty Szychowski dissented, both voting to approve the variance.

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

**Appeal No. 12,012 by Erie Insurance Exchange (1001-111, 123, 127)** concerning property located at **114, 124, 144 East 8<sup>th</sup> Street**, in a C-3 Zoning District. The appellant is seeking a dimensional variance for a 20.833' front yard setback. Per Section 205.29 of the Erie City Ordinance, no building may be set back in any degree from the front property line in a C-3 District.

Prior to the commencement of the hearing, Board member Ron Desser recused himself from the vote. Mr. Desser indicated that his employer, the Erie Civic Center, has been the benefactor of a 3 million dollar donation by the appellant, Erie Insurance Exchange.

### **Findings of Fact**

1. Appearing on behalf of the appellant was Mr. Mike Glass from Erie Indemnity Company, who owns the property in question. Mr. Glass indicated to the Board that he is representing Erie Insurance Exchange, and not the architect who designed the site plan. Mr. Glass presented the Board copies of the architectural design, together with a scale site plan, to use as guides while explaining the plan.
2. The proposed project is a building / parking garage. The parking ramp would occupy the majority of the center of the block between French and Holland Streets, from East 7<sup>th</sup> to 8<sup>th</sup>. The topography of the land where the garage is to be built has a significant slope; an approximately ten (10) feet decrease in elevation going from west (French Street) to east (Holland Street). The original schematic design did not factor in the slope. As a result of the large size of the proposed garage – 350 feet long and four stories high – the requested setback is required in order to make the garage structurally sound.
3. Erie Insurance owns the properties adjacent to the proposed garage. Erie Insurance and other nearby property owners have been in close collaboration to design an overall architectural scheme in the downtown area. The parking ramp itself will provide spaces for approximately one thousand cars.
4. If the variance is approved the grade of the property line will become flush as the building is set back. The area that is proposed to be set back will serve as a leisure area for pedestrians. The small park-like area will be in the center of the building, and will also serve as the handicap access area. Additionally, by altering the location of the garage, the two primary access points (one entrance and one exit) will both be facing East 7<sup>th</sup> Street and will be on opposite ends of the structure.
5. There were several witnesses who testified in support of the project, on behalf of Erie Insurance. Mr. Dan Dahlkamper appeared representing Dahlkamper Landscape Architectural Design. Company. Dahlkampers is an architectural company who was hired to help make the existing design feasible. Mr. Dahlkamper pointed out that his company did not contribute to the site plan. Rather, Erie Insurance has employed Dahlkampers to make the parking ramp consistent with the other construction projects in the area; including those projects planned or already underway. Mr. Dahlkamper

described his task as helping to make the ramp blend in aesthetically with respect to the overall redevelopment. He agrees that the parking garage is a vital component to the downtown improvement project, and that the changes proposed in the variance request will make the overall project more pleasing aesthetically.

6. Another witness who appeared in support of the project was Mr. Casey Wells, representing the Erie County Convention Center Authority. He indicated to the Board that the Convention Center Authority is strongly in support of the proposed parking garage, as it would serve a valuable parking consideration in the downtown area. Mr. Wells also favors the variance request because he believes that the setback itself will provide a safe environment, not only for Erie Insurance employees, but also for pedestrians coming from sporting events and Warner Theater shows.
7. One neighboring businessman appeared before the Board to express his concerns about the project. Attorney Peter Sala is a co-owner of the law office building on the nearby corner of East 8<sup>th</sup> and French Streets. Attorney Sala indicated that his concerns are not with the overall redevelopment plan, but specifically with the parking situation for the neighboring residents. While the garage will alleviate much of the parking problems for Erie Insurance's employees and clients, it may worsen the already limited parking for the other businesses on the block. Until recently there was a parking lot on the southeast corner of 8<sup>th</sup> and French, adjacent to the Civic Center; that lot has recently been torn down. There are presently only three metered parking spots on 8<sup>th</sup> Street, east of French. The site plan presented to the Board does not identify any spaces for more metered parking spaces.
8. In response to the concerns expressed, Mr. Glass was permitted a rebuttal. He said that neither his company nor Erie Insurance has any influence over how many metered parking spaces will be placed on East 8<sup>th</sup> Street. He did indicate, however, that Erie Insurance is considering allowing parking for the general public; if they do permit open parking, however, it would be for evening hours only.

### **Conclusions**

1. The proposed parking garage is part of a large, overall redevelopment plan for the downtown area. Erie Insurance Exchange is but one of several businesses that have contributed to the architectural design.
2. The proposed building / garage is slated for the center of the block between French and Holland, from East 7<sup>th</sup> to 8<sup>th</sup> Streets. On the 8<sup>th</sup> Street side of the design is an elevation slope in the land, an approximately ten feet decrease going from west (French Street) to east (Holland Street).
3. The proposed variance is requesting a setback that would not only make up for the slope, but would allow space for a small park for pedestrian traffic.
4. Upon completion of the parking ramp, it is uncertain if the garage will be open for parking by the general public.

### **Decision**

By a four to zero vote (with one abstention), the Board voted to approve the variance and allow for the setback with the parking garage. Board member Mike Hornyak agreed that the slope was a legitimate hardship under Section 508(9) of the City Code. He said that the proposed parking ramp is necessary for Erie Insurance, and will be a nice addition to the downtown area. He also said that by stacking the parking in a ramp, it will open up many of the parking spaces now being occupied by Erie Insurance employees and clients. For the same reasons, Board members Lisa Austin, Patty Szychowski and Richard Wagner also voted to approve the variance request.

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

**Appeal No. 12,013 by Sisters of St. Joseph Neighborhood Network (3016-100)** concerning property located at **302, 304 West 18<sup>th</sup> Street / 1720 Myrtle Street**, in a C-4 District. The appellant is proposing a two family dwelling. Per Section 204.18 of the Erie City Zoning Ordinance, two-family dwellings are not a permitted use in the C-4 District.

### **Findings of Fact**

1. Appearing on behalf of the appellant was Ms. Rose Graham, director of Sisters of St. Joseph neighborhood Network. Sisters of St. Joseph operates a program that provides affordable rental units to potential home owners. Their goal is not only to help someone own their own home, but to make them familiar with the challenging processes of securing financing, budgeting, home maintenance, etc... The program has been successful and well received by community leaders, and is now entering its fourth year of operation.
2. Ms. Graham provided the Board with photographs of the property in question, neighboring houses and the intersection. The building is on the corner of West 18<sup>th</sup> and Myrtle Streets. The property had previously been two separate structures, but at some point was combined into only one (West 18<sup>th</sup> Street) address, with five units. The parcels where the structure stands sits on a narrow C-4 Zoning District; however, it is surrounded by adjacent R-2 Districts.
3. To renovate the entire structure would be cost prohibitive. The goal therefore is to demolish and eliminate the front portion of the house, while rehabilitating the rear portion, which still has a sturdy foundation. The rear portion would be divided into two units. The longer range plan is then to install parking spaces in the vacated front area, which would be shielded by shrubbery and small trees.
4. The Sisters of St. Joseph Network has widespread support in the community. Several neighboring residents and property owners appeared to testify in support of the variance request. Mr. Michael DeDad, a lifelong resident of West 18<sup>th</sup> Street and nearby property owner, expressed his total support of the project. Mr. DeDad said that Sisters of St. Joseph Network have greatly benefited the area. Likewise, property-owner Mr. William Power told the Board that he supports Sisters of St. Joseph Network's initiatives in the neighborhood.

5. Mr. Wally Brown, representing the Little Italy Neighborhood Watch Group, appeared to tell the Board about the support that the project enjoys among the neighborhood residents. Another neighboring property-owner, Mr. Doug McGahan, expressed his concern about absentee and negligent property owners. Mr. McGahan told the Board that when properties like the one in question are allowed to deteriorate the whole neighborhood suffers. Efforts like this, he said, help keep the area from degrading, preventing property values and quality of life from suffering.

### **Conclusions**

1. The appellant's property is in a narrow, commercially-zoned section (C-4). However, it abuts a larger, residentially-zoned area.
2. The property was at one time two separate dwellings, which was combined to make a large, five-unit structure.
3. Of the two parts of the present structure which were previously separate, one part has deteriorated to the point where it is cost prohibitive to try to rehabilitate it. The other part can be rehabilitated into a new, two-unit structure.
4. Two-unit dwellings are not a permitted use in the C-4 Zoning District.

### **Decision**

By a unanimous vote, the Board approved the request for the variance to rehabilitate the structure into a two-unit dwelling. Board member Ron Desser pointed out that traditionally West 18<sup>th</sup> Street has been a difficult zoning corridor, and the abutting residential areas have suffered. This is a good project, he said, that will provide an improvement to the neighborhood. Members Mike Hornyak, Patty Szychowski and Richard Wagner all agreed that the project will be an improvement to the City, and voted to approve the variance request.

**It is So Ordered.**