

September 11, 2012
City of Erie, Pennsylvania
ZONING HEARING BOARD
1:00 P.M.

The regular meeting of the Zoning Hearing Board was held on Tuesday, September 11, 2012 at 1:00 p.m., in the City Council Chambers, Municipal Building, 626 State Street.

- MINUTES -

THE FOLLOWING APPEALS WERE HEARD:

Appeal No. 12,020 by Fedor and Dina Kovalevich (1035-204) concerning property located at **1045 East 7th Street** in an R-2 district. The appellant is seeking a dimensional variance and a parking variance to continue to use this property as a two-family dwelling. Per Section 205 of the Erie City Zoning Ordinance, the minimum lot size for a two-family dwelling is 6,000 square feet. The lot is 2,426.625 square feet. Per Section 302 of the Erie City Zoning Ordinance, a two-family dwelling requires two off street parking spaces. One off street parking space is provided.

Findings of Fact

1. The appellants, Fedor and Dina Kovalevich, both appeared at the hearing, with Mrs. Kovalevich providing most of the testimony in support of the proposed variance. Mr. and Mrs. Kovalevich, owners of the East 7th Street house, currently reside in Waterford, PA.
2. Mrs. Kovalevich explained to the Board the reasons why she and her husband have always considered the property to be a two-unit dwelling. The couple personally inspected the house prior to their purchasing it. The house had two electrical boxes and two separate rear exits. All indications, she said, was that the property was a two-unit dwelling. The appellants only found out about the violation when they registered the house with the City.
3. Mr. and Mrs. Kovalevich learned that the previous owner of the house had at one time utilized the home as a two-unit structure, but at some point the upstairs apartment was abandoned, and only the first floor unit remained occupied. Mrs. Kovalevich said that the upstairs was in deplorable condition when the appellants purchased the house; they filled up several dumpsters full of junk when cleaning out the upstairs unit.
4. The Board further inquired about the official status of the property to Erie City Zoning Office officials. Zoning Office officials indicated that their records show the property was listed as a two-unit in the 1968 Polk directory.

It was converted into a one-unit in 1996, and then converted back into a two-unit in 1998. The zoning official also indicated that the house is similar to other non-conforming, two-unit properties with density limitation, in this particular neighborhood.

5. Board members then asked the appellants some more specific questions about the house itself. Mr. and Mrs. Kovalevich purchased the home as a rental unit in May 2012. They did not use a realtor or agent; Mrs. Kovalevich was introduced to the seller through a mutual acquaintance. Both the first and second floor units have two bedrooms, a living and dining room, kitchen and bath. One family currently lives in the downstairs apartment. The appellants have a prospective family slated as tenants for the renovated upstairs apartment, pending the approval of the proposed variances.
6. When questioned by the Board about converting the house once again into a conforming, single-unit dwelling, Mrs. Kovalevich indicated that she does not see a practical way of doing it, as there are two sets of stairwells, and separate entrance and exit ways. Mr. Kovalevich also testified, adding that they had another important consideration in purchasing the house. The appellants have four children, and hope to make one or both of the apartments available for the children to live in sometime in the future.
7. With respect to the violation for off-street parking, Mrs. Kovalevich said that she does not anticipate a parking problem. Like the appellant's house, the next door neighbor also has an off-street parking space. There is a high school directly across the street, where all the school employees park either behind or on the opposite side of the school building. For these reasons, the available on-street parking should be more than adequate for the current and future tenants at the house.

Conclusions

1. When the appellants purchased the house in May 2012, all indications were that it was a legal two-unit dwelling. There were two electrical boxes, two separate exits, etc...
2. The upstairs apartment appeared to be abandoned and was filled with junk.
3. The appellants have since cleaned up the upstairs and made the apartment livable. There is a tenant presently living in the downstairs unit, and prospective tenants waiting for the upstairs unit pending the approval of the variance.
4. There is ample parking on the street to satisfy the occupants of the house. Both the appellant's house and the neighboring house have one off-street spot, and there is a school across the street with parking in the rear for its employees.

Decision

By a unanimous vote, the Board approved the appellant's variance requests. Board member Ron Desser indicated that this is an older house that existed prior to the modern zoning laws. The house was intended to be and has been utilized as a two-unit dwelling. Mr. Desser also pointed out that just because the upstairs unit was unoccupied and left in a state of disrepair, it should not automatically be considered abandoned; it may therefore be a non-conforming use. He also added that the appellant's investment in the property is an asset to the neighborhood. For all these reasons, Mr. Desser voted to approve the variances. Board members Richard Wagner, Lisa Austin and Patty Szychowski all agreed with Mr. Desser's rationale, and also voted to approve the variances. All the members likewise applauded the appellant's investing in the neighborhood. Board member Mike Hornyak abstained from the vote, as he was unable to be present for all the testimony heard by the Board.

It is So Ordered.

Appeal No. 12,021 by Allegheny West Conference Corporation of Seventh Day Adventists (5010-125) concerning property located at **2317 Holland Street** in an R-2 District. The appellant is seeking a dimensional variance for the installation of two signs totaling 59.63 square feet. Per Section 303.11 of the Erie City Zoning Ordinance, identification signs for a church in any "R" District shall not exceed twenty-four (24) feet.

Findings of Fact

1. The appellants in this case are congregation members of the Mt. Zion Seventh Day Adventist Church, located at 2317 Holland Street, Erie, PA. The recently constructed church was built in a residential area. The location was chosen with the hope of attracting new parishioners from the neighborhood community. As part of the effort to attract new parishioners the church is installing two signs – one on the outside face of the church wall, and the other erected on the lawn between the church and the street.
2. Appearing on behalf of the appellants was the design architect of the signs, Mr. George Dragon, president of Cicogna Sign Company. Mr. Dragon explained to the Board that the church was built in 2004 with limited funds. At first, the church was only able to erect a wooden sign. Now that the church has grown, they propose to put a 5' diameter illuminated sign on the front of the building with the church logo. Additionally, they wish to replace the old wooden sign with a larger electronic sign, together with a "reader" board in order to attract new parishioners.

3. Mr. Dragon provided detailed site plans of the area of the block where the church is located, together with photographs of the proposed signs. He explained that the free-standing, monument style sign is sturdier than the previous wooden sign it is replacing. The new sign is double-faced so that it could be read by vehicle or foot traffic going in either direction. The sign is forty (40) square feet; 5' x 8', standing on a three foot cement platform. The lower portion of the sign would announce community-related activities, with the top area containing the permanent "reader" board with the logo containing the name of the church, intended to serve as an announcement of the church in the community.
4. When questioned about reducing the size of the sign by removing the logo and name of the church, which constitutes a large upper portion of the erected sign, Mr. Dragon said the church is adamant in not wanting to remove this portion of the sign. He indicated that the church members have decided that to have a message board without the name of the church attached would defeat the purpose. They believe the logo must be included, even if it requires getting the variance for the larger sign.
5. Board members had several questions about the monument sign, most concerning how the large sign will affect the character of the neighborhood, potentially creating a distraction for local residents. Mr. Dragon told the Board that the church owns the adjoining property, as well as the property across the street, and it is therefore unlikely that the sign will disrupt the neighborhood. Another concern from the Board was whether the sign could be converted into an L.E.D. in the future, if the variance to erect the sign were granted. Mr. Dragon said that he could not rule out the possibility of making the sign L.E.D. at some point in the future, but said that this has not yet been considered, as there is presently not enough money in the budget for it to be possible.
6. Also appearing in support of the proposal was Ms. Betty Simmons, a board member of the church. Ms. Simmons told the Board that the new sign is necessary because the previous wooden sign was always being vandalized. She said that they simply want to beautify the church by providing the most efficient and attractive sign as possible. As for the placement of the sign, Ms. Simmons indicated that the initial plan was for the church to be fronting Holland Street. This could not be done for design reasons. She said that many of the concerns raised during the hearing (like the placement of the church and sign) have already been discussed among the church members. Being a small church, she said, they have had to make many compromises along the way, and most changes have been incremental. She reiterated that the proposed sign is the size the church needs in order to serve the dual purpose of attracting new members and announcing upcoming church events to the community.
7. Another church member who testified in support of the proposal was Ms. Jesse Beered. Ms. Beered told the Board that the proposed sign will not interfere with anyone, reminding them that there is a vacant lot across the

street. She also testified that nobody's view will be disturbed or blocked by erecting the new sign.

8. Prior to calling for a vote, the Board discussed the question of whether the sign on the face of the church should even be considered as part of the variance. The Board unanimously decided not to consider the round sign on the face of the church as part of the variance request. The Board members all agreed that the logo is more decorative than informative, and as it was to be painted directly on or attached to the wall of the church, it did not constitute a sign for purpose of the variance request.

Conclusions

1. According to section 303.11 of the City Zoning Ordinance, an identification sign in a residential district shall not exceed twenty-four (24) square feet. The ordinance specifies that this included signs connected to a church.
2. The sign the appellants wish to erect is forty (40) square feet (5' x 8'), not including the three foot cement base upon which it is constructed.
3. The sign is double faced, so pedestrians or traffic traveling in either direction can read the message board.
4. The appellants own properties adjoining the church where the sign will be placed, as well as directly across the street.

Decision

By a three to two decision, the Board voted to approve the requested variance. Board member Ron Desser said that the sign was proportional given the size of the property the church occupies. For this reason, he voted to approve the variance request. Board members Mike Hornyak and Patty Szychowski also voted to approve the variance, both, like Mr. Desser, indicated that the size of the sign is reasonable given the large size of the property the church occupies. Members Richard Wagner and Lisa Austin voted to deny the variance. Mr. Wagner said that he believed the 24 feet the statute provides is an adequate size for the sign for the purpose the church indicated. Ms. Austin said that she did not believe the appellants provided a hardship justifying nearly doubling the size allowed by the Code.

It is So Ordered.

Appeal No. 12,022 by Frederick and Shelly Gleichsner (5370-215) concerning property located at **419 East 33rd Street** in an R-1A District. The appellant is seeking a dimensional variance for a detached accessory structure. Per Section 205.18 of the Erie City Zoning Ordinance, detached accessory structures shall be no larger than 720 square feet in size. The proposed detached accessory structure is 864 square feet.

Findings of Fact

1. The appellant, Mr. Frederick Gleichsner, appeared to represent himself, and indicated to the Board that since purchasing his house he really has not utilized the garage that accompanies it. In recent years he has treated his garage as a “glorified shed”, storing small personal property items, like his lawn mower. Recently, however, Mr. Gleichsner has acquired a classic car, and wants to protect it by housing it in the garage. However, the garage is not large enough to house both the classic car and the family’s regular cars, as well as the items of personal property. Therefore, he proposes building a new, larger garage.
2. Mr. Gleichsner indicated that the size of garage permitted by the Code (24’ x 30’) is slightly too tight to store his classic car. He said that based on the size of similar garages owned by neighbors, he has determined that he would require a 24’ x 36’ structure – slightly larger than the Code permits – to satisfy his storage needs. This larger garage would allow him to store both his classic car as well as the two everyday cars his family owns. Mr. Gleichsner presented the Board with letters from neighbors stating their approval of the larger garage.
3. After presenting photographs of the property for the Board to examine, Mr. Gleichsner indicated that the present garage will be taken down, and the new proposed larger garage set back about six feet from the present location, as the Code specifies.
4. The Board questioned Mr. Gleichsner about the necessity of building a larger garage, when the alternative would be to build a garage that is permitted by the Code, and then build an attached shed to accommodate the smaller items of personal property. Mr. Gleichsner said that for many reasons he determined that it was better to build a single larger structure, rather than several smaller ones.

Conclusions

1. The appellant petitioned for the variance in order to build a garage larger than that permitted by the Erie City Zoning Ordinance, for the purpose of housing his classic car together with his family’s cars, and his smaller items of personal property.
2. Section 205.18 of the Code specifies the dimensions (e.g. setback requirements, height restrictions, etc...) for any accessory structure built in a Residential District.

3. The Board discussed with the appellant the possibility of building a conforming garage, together with a separate utility shed for the smaller items.
4. The appellant indicated that he preferred to have one larger structure rather than several smaller, conforming accessory structures.

Decision

The Board unanimously voted to deny the variance request. Board member Mike Hornyak said that the neighbors who did not object to the proposal may not realize the dimensions of the garage. Member Ron Desser also addressed the size of the proposed garage. He said that the 720 feet provided by the Code is more than reasonable. He also indicated that a home owner does not have a right to build a structure in violation of the Code just for the convenience of keeping all his personal property in one location. Members Richard Wagner, Lisa Austin and Patty Szychowski all agreed that the variance was for convenience only, and also voted to deny the variance; Mr. Wagner adding that the appellant did not state a hardship.

It is So Ordered.