

December 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, December 11, 2012 at 1:00 p.m., in the City Council Chambers, Municipal Building, 626 State Street.

- MINUTES -

VOTING FOR 2013 BOARD OFFICERS:

Upon motions properly presented, by acclamation, the Zoning Hearing Board unanimously named the following members as Board officers for the year 2013:

Board Chairman:

-Board member Richard Wagner

Board Vice-Chairman:

-Board member Mike Hornyak

Board Secretary:

-Erie Zoning Office official Matthew Puz.

THE FOLLOWING APPEALS WERE HEARD:

Appeal No. 12,026 by Erie Beer (3041-400) concerning property located at **812 West 14th Street** in an M-2 district. The appellant is seeking a variance to construct a garage within 20' of a property line. Per Section 205.23 of the Erie City Zoning Ordinance, the minimum distance between any street property line and any garage doors facing the same street shall be 20'.

Findings of Fact

1. The appellant was represented by Mr. Michael McCormick, co-owner and president of Erie Beer Company. Mr. McCormick began by explaining to the Board that Erie Beer is a local, family-owned business that has been at the same location for 80 years. For the past thirty years Erie Beer has anchored the entire corner of West 14th and Liberty Streets, as well as owning much of

the neighboring vicinity. Most of the company's fifty-five employees are Erie residents.

2. Mr. McCormick explained that as a result of the growth of the business, together with recent acquisitions, Erie Beer Co. must expand the size of its warehouse. Presently the warehouse has two overhead garage doors facing West 14th Street – one of the doors is set back several yards from the street, and the other is set back only eleven feet. The appellants are requesting a variance to allow them to move the first door forward to where it would be set back the same as the other door (eleven feet from the street).
3. The proposal is part of a multi-million dollar development project for the company. The proposal represents the minimal setback possible, and is necessary so the company can load their trucks inside the warehouse facility. The vast majority of the vehicle traffic on West 14th Street is Erie Beer related; this change would not increase the volume of the company's present traffic.
4. In addition to Mr. McCormick, two members of MGM General Construction Corp., Martin McCormick and Steven Timko, also testified and presented exhibits. They presented a large photograph of the entire corner and warehouse, together with a site plan for the Board to follow along with the testimony. According to the contractors and the project's architect, Mr. Robert Mars, as an additional safety measure the first twenty feet of the east wall of the expanded warehouse (that area facing Liberty Street) will be glass. This is to ensure that the drivers will have an unobstructed view. Mr. Mars indicated that the design specifically implemented this window, recognizing the potential safety concern.
5. According to Mr. (Michael) McCormick, the warehouse has been in its present location for thirty years without any accidents or incidents. Answering questions from Board members, Mr. McCormick and Mr. Timko indicated that there is little pedestrian traffic on the corner aside from Erie Beer employees. There are no bus stops or school crossings in the area. The trucks would never be required to back out into the street; the trucks will turn around inside the building, and exit from the second overhead garage door.
6. Appearing to speak on behalf of the City of Erie, Ms. Brenda Sandburg indicated that the Administration fully supports the variance request. Both Ms. Sandburg and Erie Zoning Office official Matthew Puz said that the purpose of the ordinance is pedestrian safety. Ms. Sandburg added that the ordinance (the 20' setback for garage doors) is really to protect areas like downtown Erie, where there is much pedestrian traffic. The Code is not as significant in an industrial area like the one that Erie Beer occupies.
7. The hardship in this case is not of the appellant's making. The new acquisitions were not foreseeable when the existing warehouse was built, and the company already utilizes all of the available space in the entire area. The proposal will not alter the character of the industrial neighborhood where it is located.

Conclusions

1. The appellant has an existing warehouse on the corner of West 14th and Liberty Streets, with two overhead garage doors facing 14th Street. The appellant is seeking a dimensional variance in order to adapt the building to have both overhead doors setback 11 feet from the street.
2. Section 205.23 of the Erie City Zoning Ordinance states that garage doors must be setback at least 20 feet from the street. According to City officials, the purpose of the setback is chiefly to insure safety of pedestrian traffic in well-traveled areas. It is not as important in industrial areas where there is little pedestrian traffic.
3. The appellant's warehouse is in an M-1 district, primarily industrial area, where there is little pedestrian traffic. The change will not increase the volume of vehicle traffic.
4. According to the appellant's design, the first twenty feet of the east wall of the expanded warehouse (that area facing Liberty Street) will be glass. This is to ensure that the drivers will have an unobstructed view.

Decision

By a unanimous four to zero vote, the Board approved the appellant's request for a dimensional variance. Board member Mike Hornyak said that the request was reasonable, and that the appellant's presentation satisfactorily answered any concerns. For the same reasons, Board members Richard Wagner, Lisa Austin and Patty Szychowski also voted to approve the variance. Board member Ron Desser abstained from voting due to a conflict of interest.

It is So Ordered.

Appeal No. 12,027 by the Salvation Army (3041-209) concerning property located at **823 West 10th Street** in an R-2 District. The appellant is seeking a use variance to convert this address to a group care facility. Per Section 204.12 of the Erie City Zoning Ordinance, group care facilities are not a permitted use in the R-2 District.

Findings of Fact

1. The appellant, the Salvation Army, was represented by Major Leslie Walter, who explained to the Board that the Salvation Army is requesting approval to start a group care facility for homeless, teenage girls. The proposed site on West 10th Street would be adjacent to the Salvation Army's existing canter on the corner of

- West 11th and Liberty Streets. The proximity of the proposed youth home to the existing Salvation Army site would provide the occupants of the home the opportunity to use the computers, gymnasium and other services at the Liberty Street center.
2. The proposed youth site would be exclusively for non-adjudicated girls, ages 16-19, who wish to finish high school. It is the Salvation Army's effort to address an important, unmet need in the Erie community. According to Major Walter there are several hundred young ladies in the area who live in appalling, often dangerous conditions where it is a challenge just to attend school regularly. In order to qualify for residency at the proposed youth home, the girls must have no criminal record or history of violence, have good grades and a good record of attendance, and be recommended by the local school district.
 3. A similar Salvation Army facility is presently operating in Syracuse, New York, with great success. Using the Syracuse facility as a model, the proposed group home would house 8-10 girls. The goal is to get the girls through high school and into either college or trade school. The Salvation Army initially tried a dormitory setting, but they found a home-like environment to be much more successful. Additionally, they attempt to keep the girls in their home-area school district as being near familiar settings and friends is found to be conducive to the educational goals.
 4. Major Walter explained to the Board how serious this problem is in many communities, including Erie. He said that the Salvation Army's research has showed that many good girls are automatically sent to reform-type facilities, simply because it is too dangerous for them to remain at home, and the authorities have no place else to send them. Major Walter went on to say that at his previous position, in Toledo, he realized how many young girls like this are eventually sold into sexual slavery, or end up in some other unfortunate situation. He is currently in the process of meeting with neighbors of the proposed site. After explaining this serious need for the service, and considering how well the Liberty Street Salvation Army site has been kept up, Major Walter is optimistic that he will receive the approval of the neighborhood residents.
 5. The Board had many specific questions about the administration of the facility and how it will be funded. Major Walter testified that they plan to have three full-time employees: one full-time director on site during regular business hours, as well as a day-time and a night-time manager. All employees would minimally have a B.A. in psychology or counseling, and must pass all applicable federal and state clearances. However, it was pointed out to Major Walter that in order to conform to the Erie City Zoning Ordinance definition for "Group Care Facility", at least two responsible adults must be on duty on the premises at all times. Major Walter then agreed to increase the number of employees so as to comply with the Code. Also, in addition to the other services offered at the Liberty Street Salvation Army facility (e.g. computers, gymnasium, etc...), the girls will have counseling available to them.
 6. Regarding security on the site, the Syracuse facility has installed alarm and sprinkler systems. Together with any other local Codes, at a minimum the proposed house will duplicate the Syracuse house. The Salvation Army also has the availability of a licensed protection service if necessary. Major Walter added that he has known of

situations where girls have actually broken the law just to get away from the abusive setting where they are living. Therefore, he does not anticipate that running away or similar disruptive behaviors will be a problem with the girls who are accepted in this facility.

7. Financially, again using the Syracuse model, Major Walter estimates that the annual cost of running the facility will be approximately two hundred fifty thousand dollars. Based on expected donations from a number of local groups, Major Walter said that the facility will work off of a three-year plan. In addition to traditional donations for operating costs, Major Walter said that the Salvation Army has secured promises from several local professionals, including attorneys, doctors and dentists, to provide needed services to the girls living at the facility. The Salvation Army also has plans to transport the girls to and from school and other appointments.
8. In addition to Major Walter, the Board also heard testimony from Mr. Andrew Teets, owner of the house slated to be used for the group care facility, and Mr. Robert Mars, an architect who has worked with the Erie School District. Mr. Teets owns other properties in the area, and disclosed the proposed sale price of the house. He indicated that he strongly supports the proposal, and believes that the new group home will serve the entire neighborhood well. Mr. Mars also said that the proposal is consistent with other dwellings in the neighborhood.
9. Major Walter finished his remarks by reiterating that the need is overwhelming. He said that there are probably more than 400 “documented” homeless youth in the Erie area (not counting those girls who are not accounted for through some official government agency). There is no traditional hardship in this matter, he said; the site was chosen primarily because of its proximity to the Salvation Army center on Liberty Street. They had examined a few houses in other locations and zoning districts, but were unable to find an affordable one that satisfied all their requirements. Major Walter said that the proposed house will fit into the character of the neighborhood where there are many multiple-dwelling buildings. The girls who will be chosen will have demonstrated a record of good behavior and a desire to live in quiet surroundings; they will not have children, so there will be no daycare facility. For all these reasons, he does not anticipate any problems with the neighbors, and believes the proposed facility will not alter the character of the area.

Conclusions

1. The Salvation Army has documented a need for a facility for high school-age girls who are either homeless or live in intolerable situations. They propose to start a youth site facility to house between 8-10 girls, located near the corner of West 10th and Liberty Streets.
2. The proposed site is in close proximity (backyard adjacent to rear parking area) to the existing Salvation Army center on the corner of West 11th and Liberty Streets. This proximity will enable the occupants of the youth site to have access to the computers, gymnasium, and other services offered at the Salvation Army center.
3. In order to qualify for admittance to the proposed facility, girls must be non-adjudicated (no criminal history), must have good grades, a good attendance record

at school, and must show a desire to leave their present living situation for safety reasons so they can finish school. The determination of admission will be done by combination of the Salvation Army, officials from the appropriate local school district, and, where applicable, O.C.Y. or other court-related agency.

4. Group Care facilities are not a permitted use in an R-2 District; however, they are permitted in an RLB District. In order to satisfy the Erie City Zoning Ordinance, Group Care facilities must have at least two supervisors on duty at all times.
5. The Salvation Army plans to provide access to all necessary services to those living in the facility (i.e. transportation, legal and medical services, etc...), as though they were living at any traditional home.

Decision

By a three to two vote, the Board approved the requested variance to allow the Salvation Army to operate a group care facility for teenage girls. Board member Ron Desser said that the primary use of the proposed facility is residential. While the teenage girls are not considered a protected class under federal housing laws, you still cannot discriminate against who may be living in the facility, he said while other zoning requirements still apply. Mr. Desser went on to say that the Salvation Army center on Liberty Street is a non-conforming use, and in sharing its services with the proposed facility, it would just be a matter of the Salvation Army expanding its already existing non-conforming use. Board member Patty Szychowski said that her experience as a former school teacher makes her familiar with the huge need for the proposed service. She said that she supports the variance for two main reasons: the proximity with the existing Salvation Army center and that being a pilot program, there would be unique situations that would naturally arise which must be allowed in order to ensure its success. Board member Mike Hornyak also voted to approve the variance, indicating that he applauds the efforts to help good people who have fallen through the cracks of the many programs that exist. Board members Richard Wagner and Lisa Austin both voted to deny the variance. Both indicated that while the proposal is worthwhile, there are other viable, alternative sites in zoning districts that permit group care facilities, and there was no hardship shown in this case that warrants the exception. Ms. Austin added that it is the Board's duty to protect the City zoning map in cases where there are other suitable, permitted areas.

It is So Ordered.