

November 12, 2013
City of Erie, Pennsylvania
ZONING HEARING BOARD
1:00 P.M.

The regular meeting of the Zoning Hearing Board was held on Tuesday, November 12, 2013 at 1:00 p.m., in the City Council Chambers, Municipal Building, 626 State Street.

- MINUTES -

THE FOLLOWING APPEALS WERE HEARD:

Appeal No. 12,051 by Ronald DeWalt (4119-100) concerning property he owns located at **546 Lincoln Avenue** in an R-1 District. The appellant is seeking a use variance to convert a single family dwelling to a two family dwelling. Per Section 204.10 of the Erie City Zoning Ordinance, two family dwellings are not permitted in the R-1 District.

Findings of Fact

1. The appellant, Ronald DeWalt, appeared before the Board to testify on his own behalf and indicated that he purchased the subject property in 1961. Mr. DeWalt told the Board that the house has been a two family dwelling for that entire time; if his variance request was granted, no changes to the property would be required.
2. The appellant had renters in the property for more than twenty years. The second floor apartment has not been rented out since 1999. In recent years his wife had used the upstairs unit as an art studio. Mr. DeWalt said that his wife died recently; he now hopes to have his grandson move in to the upstairs unit and serve as his caregiver.
3. Mr. DeWalt told the Board that when his former tenant moved out in the late 1990's, he tried to receive funding from the Homestead Act. He was advised that in order to qualify for said funding, he would have to re-classify the house as a single-unit dwelling, which he did. He showed photographs to the Board showing that the house has two separate entrances and reiterated that no substantive changes would be required in order to make the house a two-unit dwelling again. He also said that he has spoken to neighbors, who did not oppose the change, and that he has off-street parking so that the change would create no parking problems.

4. Despite the appellant's claim that his neighbors have no objections, the Board heard otherwise. Ms. Cynthia Welch, who lives across the street from the appellant, appeared and presented a petition signed by several neighbors who oppose the variance request. Ms. Welch said that Mr. DeWalt actually only spoke to one neighbor. She told the Board that the majority of the neighbors in the vicinity are concerned about the future detrimental effect to the neighborhood if the variance is granted.
5. Ms. Welch told the Board that Mr. DeWalt does not need to obtain a variance in order to have one additional family member (his grandson) move in to the house; the Ordinance already allows for it. Ms. Welch went on to say that the appellant demonstrated no hardship that would qualify him for the variance and that there is no legitimate reason for the change.
6. Another neighbor who testified in opposition to the variance request was Mr. Dana Wycoff, who owns the corner lot across the street from the appellant's house. Mr. Wycoff told the Board that, in his opinion, the appellant's house is really a single unit, or at most a one and a half story building; it does not lend itself to a two-unit structure. He expressed the concern that if the variance were granted making the property a two-unit dwelling, it could create problems with renters in the future. Mr. Wycoff reiterated much of what Ms. Welch had already told the Board, adding that there are other compliant, multi-generational households in the neighborhood, like the one the appellant described with his grandson that did not require a variance.
7. In response to the testimony, Board members, noting that there are other rental homes in the area with two-units, had several questions for both Mr. DeWalt and the Erie Zoning Office. Zoning official Mathew Puz confirmed that under the Erie City Zoning Ordinance, the appellant's grandson would be permitted to move in and live with the appellant without requiring a variance. Mr. Puz added that Zoning Office records indicate that the subject property is listed as a single-unit, and therefore should have only one set of utilities. Mr. DeWalt then added that one of the reasons he is requesting the variance is to have separate addresses, utilities, etc... after his grandson moves in with him.

Conclusions

1. The appellant purchased the property in 1961 and claims that it has always in fact been a two-unit dwelling. He had rented the upstairs unit for many years until the late 1990's, while he has lived in the downstairs unit the entire time.
2. After the last tenant moved out the appellant's wife, who died recently, used the upstairs unit as an art studio. The appellant voluntarily changed the status of the house to a single-unit to make him eligible for government subsidies. He is now proposing to change the status of his house back to a two-unit so his grandson can move in to the upstairs unit and serve as a caregiver.
3. Several neighbors oppose the variance request, maintaining that under the City Ordinance the appellant's grandson can move in without obtaining the

variance. The change to a two-unit could create several long-term problems that could negatively affect the whole neighborhood.

Decision

By a unanimous decision, the Board voted to deny the variance request. Board Chairman Richard Wagner said that if what the appellant stated is accurate, then his grandson could move in without requiring the variance, and without changing the status of the property. Board members Patty Szychowski and Angela McNair both agreed, and also voted to deny the variance.

It is So Ordered.

Appeal No. 12,053 by Erie Sign Corp. (5019-122) concerning property located at **2509 Parade Street** in a C-4 District. The appellant is seeking a dimensional variance for 295 square feet of signage at this address. Per Section 303.12 of the Erie City Zoning Ordinance, 192 square feet of signage is permitted at this property.

Findings of Fact

1. The appellants, Erie Sign Corporation, were represented at the hearing by Mr. Gale Kelly. Mr. Kelly explained that Dollar General, the nationwide retail chain, plans to open a new store in the existing building at the corner of East 26th and Parade Streets, formerly an Eckerd's Drug store. Dollar General, like other national chain stores, employ the EverBrite Company to manufacture their signs. Erie Sign Corp. is the company that would be installing four proposed signs at the store.
2. The Dollar General store will have an entrance facing East 26th Streets heavy traffic approaches from several directions. Like any business, Mr. Kelly said, this store needs identification on both sides; signage that would hopefully be identifiable from all sides. The building sits approximately 130' inbound from East 26th Street, and 35' in from Parade Street. If they were to conform with the code, he said, the signs would be too small to be relevant. Mr. Kelly also added that the location had previously been designated as a C-2 zoning district, where the front sign could be nearly double what is permitted in the present C-4. This was confirmed by Erie Zoning officials.
3. Answering questions from the Board about the property itself, Mr. Kelly said that the lot is currently vacant, Eckards having moved out many years ago. He said that Dollar General hopes to move in as soon as possible, but he is not sure whether the chain store corporation has actually purchased the property or plans on leasing it. The proposed building signs would be two 3' 9" x 26'

box style; the two stand alone pylon signs are 5' x 10', with overall heights of 20'.

4. There were some neighborhood residents who appeared to testify in opposition to the variance request. Ms. Theresa Conoway, whose family has lived on East 25th Street behind the store for fifty years, told the Board that she is concerned that allowing the larger signs could negatively affect the small, partially residential neighborhood. She said that the smaller signs were fine for the previous occupant, and satisfy the advertising needs of other retail businesses around the busy corner. Ms. Conoway also said that prior to attending the hearing and listening to the testimony, the neighbors did not know that a Dollar General store was moving in next door to them.
5. Ms. Emily Conoway reiterated what her mother (the first opposition witness) said, and added that the present owners have not been receptive to the considerations of the residents of this semi-residential area (e.g. no plowing or maintaining the vacant lot). She said that the larger signs would not only be offensive to neighbors, but once the variance is granted it would permit future owners, perhaps with different types of businesses, to install other, even more offensive signs.
6. After hearing the neighbor's concerns, the Board questioned Mr. Kelly some more regarding the signs. Mr. Kelly said that he has done some installation work for Dollar General Corp. in the past, and knows that the signs would not be kept lit all night; they are shut off after the store has closed for the day. The sign that is parallel to Parade Street, and the other one facing 26th Street (on the store front itself) would be turned on only during business hours.

Conclusions

1. The appellant is a local sign company seeking a variance on behalf of Dollar General Corporation. Dollar General plans to open a store on the corner of East 26th and Parade Streets, in a C-4 zoning district, where a former retail store building stands vacant. The appellant would be installing the signs for the new Dollar General store.
2. The store's entrance faces East 26th Street. There is heavy traffic approaching from several directions at the busy intersection. The appellant claims that passing cars would not be able to see the signs if they were required to conform with the square footage permitted under Section 303.12 of the City Zoning Ordinance.
3. The appellant proposes installing four signs. Two signs would be box style signs, and hang on the side of the building itself; they would each be 3' 9" x 26'. The other signs would be erected on a stand alone pylon; these signs would be 5' x 10', with an overall height of 20'.
4. The location had previously been designated as a C-2 zoning district, where the front sign could have been nearly double what is permitted in the present C-4.

Decision

By a unanimous decision, the Board voted to approve the appellant's request for a dimensional variance. Board Chairman Richard Wagner said that against a building this size, the larger sign would not be so invasive. Member Patty Szchowski said that the request was not unreasonable, and she did not want this to be the reason for this business, that would be important to the community, to be kept out. Member Angela McNair, agreed, adding that since the signs would only be lighted during business hours, they should not create a problem for neighbors. All three Board members voted to approve the variance.

It is So Ordered.

Appeal No. 12, 053 by Terry Porter (6245-210) concerning property located at **2707 Schaper Avenue** in a R-1 district. The appellant is seeking a dimensional variance to construct a '16 x '28 addition to an existing '28 x '40 detached garage. Per Section 205.18 of the Erie City Zoning Ordinance, the maximum square footage for a detached garage is 720 square feet in any "R" district.

Findings of Fact

1. The appellant, Terry Porter, appeared on his own behalf and told the Board that the uniqueness of his situation goes back forty years, to when Interstate 79 was constructed around his West 12th Street neighborhood. Once construction of the highway was complete, the land adjacent to the few remaining residential properties was never kept up. Mr. Porter's late father took it upon himself to "adopt" the properties, mowing the grass, cleaning up debris, etc...
2. Mr. Porter showed photographs of the house and vacant properties to the Board. He said that since 1970 his father was voluntarily tending to the vacant lots; the senior Mr. Porter tried to get City officials to come and help maintain the area but to no avail. All the while, the only maintenance for these vacant properties, according to the appellant, is what he and his father before him have done on their own.
3. Given that he and his father before him have continued to mow the grass on the properties, they purchased a riding lawn mower. Mr. Porter now asks for a variance to construct a detached garage – a '16 x '28 addition to his existing '28 x '40 structure – that is large enough to hold the mower, cars and all the other personal property that his family owns.
4. The appellant's mother has purchased the adjoining property, and has no plans to build on it. Therefore, there is no chance of having a neighbor who would

object to the large garage – the only residents of the whole area are the appellant and family, and mother who lives next door.

5. Mr. Porter said that there is no financial gain for him in this proposal. He wants to enlarge his garage for the sole intention of housing the riding mower in order to maintain the area for him and his family. The hardship is in the fact that his family has unselfishly maintained the property at their own expense for so many years. Mr. Porter now just wishes to keep the property in nice condition and needs the mower and larger garage to store it in to do that.

Conclusions

1. The appellant and his father before him have voluntarily mowed the grass on City-owned vacant properties around his house. He is seeking the dimensional variance in order to build a detached garage that is large enough to house the riding lawn mower he uses to cut the grass on the large, vacant lots.
2. Section 205.18 of the Erie City Zoning Ordinance states that the maximum square footage for a detached garage is 720 feet.
3. The appellant's mother has purchased the vacant lots and intends on keeping them as they are; therefore, there will be no neighbors who could object to the construction of the larger garage.

Decision

By a unanimous decision, the Board voted to approve the appellant's request for a dimensional variance. Board Chairman Richard Wagner said that he visually inspected the area, and that the appellant and his family really comprise the entire neighborhood. Given the unique shape of the property it could not really be developed commercially, he said, and he added that he was very impressed at how well kept the appellant has kept the vacant lots. For the same reasons, Board members Patty Szchowski and Angela McNair also voted to approve the variance.

It is So Ordered.