

**December 10, 2013**  
**City of Erie, Pennsylvania**  
**ZONING HEARING BOARD**  
**1:00 P.M.**

The regular meeting of the Zoning Hearing Board was held on Tuesday, December 10, 2013 at 1:00 p.m., in the City Council Chambers, Municipal Building, 626 State Street.

**- MINUTES -**

**THE FOLLOWING APPEAL WAS HEARD:**

**Appeal No. 12,054 by the Erie Water Works (6045-117)** concerning property located at **2602 Sigsbee Street** in a C-4 district. The appellant is seeking a height variance to install an 11' fence on the property. Per Section 205.19 of the Erie City Zoning Ordinance, the maximum fence height in a non-residential district is eight feet, six inches.

NOTE: Due to several unrelated circumstances, there were not enough Board members present at the hearing to constitute a quorum. Therefore, as permitted by state and local law, prior to the commencement of the proceeding, the appellant agreed to allow the Board Chairman, Richard Wagner, to serve as a hearing officer – casting the lone, deciding vote.

**Findings of Fact**

1. The appellant was the Erie Water Works / Erie Water Authority (hereafter referred to as the “Water Works”). The local agency was represented at the hearing by Mr. Craig Kern. Prior to testifying, Mr. Kern passed out color photographs to the hearing officer, counsel and Erie Zoning Office officials, showing several different views of the Water Works pumping station at the corner of West 26<sup>th</sup> and Sigsbee Streets.
2. Mr. Kern began by explaining the strategic importance of the pumping station, which provides the water supply for much of the northwest section of the City of Erie. The pumping facility (and adjacent reservoir) are deemed to be “critical infrastructure.” In order to comply with federal EPA and Homeland Security guidelines, the facility requires regular monitoring and physical protection. Mr. Kern said that the fence presently in place to protect the facility is low enough so that vandals have been able to jump the fence on several occasions. This activates the security system, requiring the police to

- respond immediately; and on at least one occasion, the lock to the building itself had actually been cut.
3. Referring to the photographs, Mr. Kern said that the problem stems from a concrete retaining wall, approximately twenty inches high, that runs along the entire perimeter of the property. The existing chain link fence is installed atop this cement retaining wall, and was designed to meet the height requirements of the City Ordinance. As previously stated, this height has proven to be too low to deter vandals and trespassers.
  4. After recently conducting one of its mandatory annual inspections of all the facilities in the City, the Water Works adopted this proposal for the 26<sup>th</sup> and Sigsbee station. The entire existing fence will be replaced with a new black colored, vinyl chain link fence. This new fence will run the whole length of the present one (approximately 35 feet), and join with an existing cement lattice wall, together encircling the whole property. There will be one foot of barbed wire on top of both the chain link and the lattice fences, making the height of the fences consistent around the entire property.
  5. The new chain link fence will be installed atop the cement retaining wall, just as the existing fence is. This 8' fence (7' chain link and 1' barbed wire), when installed on top of the retaining wall will slightly exceed the Code height requirement, which is why the variance is requested.
  6. There was one additional witness to testify in support of the proposal. Mr. Ed Kissell is a resident of Sigsbee Street and neighbor to the Water Works for more than thirty-five years. Mr. Kissell said that he believes the proposed fence is a good idea, ensuring security for both the water station and the adjacent doctor's offices. The facility has always been well maintained, he said, and has the support of the neighborhood in general.

### **Conclusions**

1. The appellant, the Erie Water Authority, is required by federal E.P.A. and Homeland Security Dept. regulations to regularly inspect, and provide security for all the water facilities in the City. The pumping station near the area of West 26<sup>th</sup> and Sigsbee Streets has recently become the target of trespassers and vandals, despite the chain link fence around the facility.
2. The appellant proposes to install a new, stronger vinyl chain link fence to deter vandals. However, there is a cement retaining wall, approximately twenty inches high, upon which the new fence must be installed. The eight foot fence, when placed atop this retaining wall will exceed the eight feet, six inch height limit specified in Section 205.19 of the Erie City Zoning Ordinance.
3. The proposed new fence will join an existing cement lattice wall, and provide adequate protection for the facility. The tops of the fences will be lined up so that the barbed wire on both the chain link fence and the ornamental lattice fence will be one contiguous line encompassing the entire perimeter of the property.

### **Decision**

The hearing officer voted to approve the variance, saying that he saw no reason to deny the request. The proposal provides the necessary security requirements, and the property has been well maintained so that aesthetically it does not alter the character of the partially residential neighborhood.

**It is So Ordered.**