

**January 14, 2014**  
**City of Erie, Pennsylvania**  
**ZONING HEARING BOARD**  
**1:00 P.M.**

The regular meeting of the Zoning Hearing Board was held on Tuesday, January 14, 2014 at 1:00 p.m., in the City Council Chambers, Municipal Building, 626 State Street.

**- MINUTES -**

The Board held its annual election of officers. Upon motions properly made, it was unanimously decided that for 2014:

- Current Board member, Mike Hornyak, was elected Board Chairman.
- Current Board member, Patty Szchowski, was elected Vice-Chairperson.
- Erie Zoning Office official Mathew Puz will serve as Board Secretary;

**THE FOLLOWING APPEALS WERE HEARD:**

**Appeal No. 12,055 by Twentymile Realty (4017-100)** concerning property located at **502 West 6<sup>th</sup> Street** in a R-2 district. The appellant is seeking a nonconforming change of use from a group care facility to a sorority. Per Section 301.20 of the Erie City Zoning Ordinance, a nonconforming change of use shall be referred to the Erie City Zoning Hearing Board.

**Findings of Fact**

1. The appellant in this case is Twentymile Realty, a limited liability company (LLC) owned by two Erie County residents. One of the owners is Chris Orton, who appeared to testify on behalf of the proposal. Mr. Orton told the Board that until last July the building was occupied by the Abraxas House, a group home facility for delinquent youth. In its capacity as a group home the building was outfitted with multiple bedrooms, a community kitchen, a sprinkler system, etc... to accommodate the youth facility. As such, Mr. Orton said, the building is now well suited for a sorority.

2. The proposed tenant is a sorority house from Gannon University, Sigma Sigma Sigma (hereafter referred to as “Sigma”). The sorority has been at its current site since the 1980’s, and is looking to move into a better location.
3. According to Mr. Orton, having the sorority occupy the former group home is a less invasive use of the property than any alternative proposals, given the alterations made to the house by Abraxas. The proposed change will not alter the character of the neighborhood, he said, as there are multi-unit apartment buildings on either side of the house on the same block. In addition, Mr. Orton said, there is a convent on a nearby corner on West 7<sup>th</sup> Street, as well as several other multi-unit dwellings in the area.
4. Mr. Orton said that the hardship in this matter is that there are no other sites available on the lower Westside that could accommodate the sorority. He said that he is aware of the concerns of area residents, concerns resulting from a former nearby Gannon fraternity house that was so disruptive and destructive that it was recently forced to disband and move. Mr. Orton said that the proposed sorority would not be a disruptive neighbor, and in fact Gannon has very strict procedures that govern fraternities and sororities.
5. Answering questions from Board members, Mr. Orton indicated that given the good condition in which Abraxas maintained the house, he and his partner are prepared to purchase the house for two hundred seventy thousand dollars as soon as possible – pending Board approval of the nonconforming change of use. In an effort to relieve concerns of area residents over the recent fraternity that was forced to disband because of its disruptive behavior, Mr. Orton added that he is willing to accept a condition that his company would never rent or sell the house to a fraternity. Lastly, Mr. Orton said that the site plan attached to the application incorrectly indicated that there are five parking spaces. In fact, he said, there would be twelve parking spaces in the rear of the house, in addition to two indoor garage spaces (fourteen in all). This more than meets the parking requirements of the City Ordinance, and should guarantee that the new house will not create a new parking problem on West 6<sup>th</sup> Street.
6. Father Shawn Clerkon also addressed the Board. Father Clerkon said that while he is a faculty member and fraternity advisor at Gannon, he is not appearing as a spokesperson for the University. Father Clerkon said that he lives directly across the street from the house, and that he does not anticipate the typical concerns of disruptive behavior that neighbors have are likely to become problems in this case. Father Clerkon said that Sigma is one of the top three “houses” at the University. Its members are good students (mostly science majors) who have demonstrated a willingness to perform community work. Citing the Gannon security staff that routinely checks all the University buildings with periodic drive-bys, Father Clerkon said that Gannon works hard to promote a good relationship with the community. He added that since the early 1990’s there have been strict insurance regulations that require schools like Gannon to monitor closely the behavior and alcohol consumption of fraternities and sororities.
7. Speaking on behalf of Sigma was Breana Lusca, a junior nursing student. Ms. Lusca told the Board that she is appearing instead of the faculty advisor, who

is teaching a class at the same time as the hearing. Ms. Lusca said that there would be approximately 12-15 students living at the sorority in any given year. Only upperclassmen are permitted to live in the sorority house. She said that due to Sigma's national by-laws, as well as Gannon's regulations, the sorority is not permitted to serve alcohol or have male visitors in the member's private rooms. Ms. Lusca indicated that there would be no loud music and no alcohol being served at the house. Any social events where there are visitors is usually for special occasions, and often includes family members attending; she said that the sorority will not allow what most people think of as a "typical party."

8. Ms. Lusca told the Board that Sigma wants to move because of the condition of their current house, and its location. She said that while nobody has ever had to call the police because of a disturbance at the Sigma house, the sorority has occasionally had to summon the police or campus security because of intruders (likely homeless people or a run-away from one of the group homes), who are believed to have gained access through a crawl space into the basement. The new landlords (the appellants), on the other hand, have demonstrated a willingness to work closely with the sorority to avoid such occurrences, and both parties are confident that this will be a successful proposal.
9. Appearing in opposition to the proposal was local property-owner Marion Theuerkauf, who said she was representing several other residents of the neighborhood, including her parents. Ms. Theuerkauf presented a petition to the Board with twenty-three signatures, in addition to two individual letters, all in opposition to the sorority (the appellant had previously presented a single letter in support of the proposal). Ms. Theuerkauf said that these residents who oppose the proposal do not feel that a sorority will have a positive impact on the area, indicating that Gannon does not provide on-site supervision to its sororities and fraternities; something that Abraxas House did provide.
10. Ms. Theuerkauf added that there should be a limit to Gannon's expansion in the lower Westside area; that the present Sigma location, one block from the university's library, seems like an ideal place for the sorority. She said that there are several small businesses, including small law offices, along the West 6<sup>th</sup> Street corridor, that also believe that the presence of the sorority will negatively impact the area. When asked about what alternative enterprises would be interested in the building, given its conversion by Abraxas into a group home, Ms. Theuerkauf said that it is unclear as to what other businesses may utilize the property since it has not been placed on the open market.
11. Another neighborhood resident appearing to testify in opposition to the proposal was Mr. Mark Adams, who has owned and operated an accounting office on West 6<sup>th</sup> Street for the past ten years. Mr. Adams reiterated to the Board that there is no guarantee that members of the sorority will be good tenants, as there will be no on site supervision, as there was when Abraxas House occupied the building. He said that to compare the sorority to the multi-unit apartment buildings in the neighborhood is inaccurate, as residents

of the apartments are individually screened, and when necessary, evicted. This is not going to be the case with the sorority. Additionally, given the history of disruptive behavior by other student occupied buildings in the neighborhood, Mr. Adams said that the presence of another “Greek house” could only have a negative effect on the residential nature of the area. He added that while having a single-family tenancy would be the best use for the property, he thinks that converting it to multi-unit apartments would be a better alternative than the proposed sorority.

12. The appellant, Mr. Orton, briefly rebutted the claims made by the opposition witnesses. He said that the previous occupants were juvenile offenders who required constant supervision, not twenty and twenty-one year old women who have demonstrated a commitment to the community. Still, he added that the new owners will be on site whenever necessary if a problem arises. Mr. Orton also pointed out that the building was unoccupied since Abraxas left last July, and that his company has been the only interested buyer for what would otherwise remain a vacant property.

### **Conclusions**

1. The property was occupied by Abraxas House, a group home for juvenile offenders, until July 2013; it has been vacant since then. The building has been converted for its previous nonconforming use as a group home (e.g. individual rooms, community kitchen, etc...).
2. The appellants are a locally owned company that has an agreement with the present owners to purchase the building as soon as possible, pending Board approval of the nonconforming change of use. The appellants then plan to lease the building to a sorority house from Gannon University.
3. The sorority is one of the top organizations at the university. The sorority is unhappy with its present location and wishes to move. They feel that the former group home is the best site that they have found in the area for their sorority.
4. Given the history of disruptive behavior by other Gannon affiliated student houses, there are several neighborhood owners and residents who are opposed to the proposal.

### **Decision**

By a three to one vote, the Board approved the appellant’s request for a nonconforming change of use. Board chairman Richard Wagner indicated that the building has already been refitted for use by a group home, and therefore would provide adequate housing for an organization like a sorority house; he said that this is a fair request for use of the property. Board members Mike Hornyak and Patty Szychowski agreed, and also voted to approve the request; Mr. Hornyak adding that he sees no good reason to deny this sorority an opportunity to use the property as it proposes. Citing the opposition from the

neighborhood residents for the potential harm to the area, Board member Lisa Austin voted to deny the proposal.

Although the appellant had agreed never to sell or rent the property to a fraternity, a Board motion to add this stipulation as a condition to the proposal did not pass.

**It is So Ordered.**

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**Appeal No. 12,056 by David Clemente (1015-112)** concerning property he owns located at **445 East 3<sup>rd</sup> Street** in an R-2 district. The appellant is seeking a dimensional variance to convert the property from a single-family dwelling to a two-family dwelling. Per Section 205 of the Erie City Zoning Ordinance, a two-family dwelling requires at least a 6,000 square foot lot. The lot is currently 4,770 square feet.

**Findings of Fact**

1. The appellant David Clemente appeared to testify on his own behalf, and began by providing the Board with a handout of several photographs showing the dilapidated condition of the house. Mr. Clemente told the Board that he recently purchased the house in December 2013, for six thousand dollars. He described the property as a “low value house,” and said that he anticipates that it will require \$30,000 to renovate it.
2. Referring to the copies of two zoning certificates that were attached to his application, Mr. Clemente explained that the previous owners first changed the status of the house to a 2-unit dwelling in 1972, and then changed it back to a one-family dwelling in 1993. He is requesting that the Board now allow him to change it back to a two-unit, as most of the other houses on the block are.
3. The house is still formatted as a 2-unit dwelling, with two kitchens, separate entrances, etc... It is very unlikely, Mr. Clemente said, that any single-family purchaser could afford to purchase and renovate the property as he has. He described himself as a diligent landlord who properly maintains his properties.
4. The appellant said that he owns thirteen homes in the City. He told the Board that he appreciates that Erie allows for prospective landlords like himself to purchase blighted properties and convert them into nice, affordable places for lower income people to live.

**Conclusions**

1. The appellant purchased the property in December 2013. He anticipates spending upward of \$30,000 to renovate the house.
2. Previous owners had converted the house to a 2-unit (in 1972), and then back again to a single-family dwelling (in 1993). The appellant is seeking to have the house classified back to a 2-unit dwelling.
3. Although the property is not large enough to satisfy the density requirements for a two-family dwelling in an R-2 zoning district, the house is still formatted as a 2-unit. It is unlikely that anyone could afford to purchase and completely renovate the house as a single-family dwelling.

### **Decision**

The Board unanimously voted to approve the appellant's request for a dimensional variance. Board members Richard Wagner, Lisa Austin and Patty Szychowski all said that allowing the appellant to maintain the house as a 2-unit dwelling is a good idea that will benefit the area. They all expressed thanks to the appellant for his efforts to renovate blighted properties into affordable housing.

**It is So Ordered.**