

**April 8, 2014**  
**City of Erie, Pennsylvania**  
**ZONING HEARING BOARD**  
**1:00 P.M.**

The regular meeting of the Zoning Hearing Board was held on Tuesday, April 8, 2014 at 1:00 p.m., in the City Council Chambers, Municipal Building, 626 State Street.

**- MINUTES -**

**THE FOLLOWING APPEALS WERE HEARD:**

**Appeal No. 12,061 by O'Reilly Automotive Store, Inc. (5107-104.01)** concerning property they own located at **2120 Broad Street** in a C-2 District. The appellant is seeking a dimensional variance to construct 492 square feet of signage at this address. Per Section 303.14 of the Erie City Zoning Ordinance, signage cannot exceed 360 square feet.

**Findings of Fact**

1. The appellant O'Reilly Auto Parts was represented at the hearing by one of their employees, Mr. James DiLuzio. He explained to the Board that the developers of the appellant's new store had moved the original proposed location of the building slightly to the north, in such a way that the company can no longer use Fairmont Parkway as the frontage for the sign; rather, they would now be limited to using only Broad Street (U.S. Route 20), a less suitable location for a sign.
2. Referring to the site plan included in the appellant's application, Mr. DiLuzio indicated that the creation of an access driveway south of the site effectively restricts a structure from occupying the space between their lot and Fairmont Parkway.
3. Mr. DiLuzio said that the site is currently permitted two (2) square feet per one (1) linear footage. On Broad Street, where there is 180 feet, there is a total of 360 square feet of sign area permitted. If they were to add the linear frontage along Fairmont, it would add an additional 200 linear feet of frontage, or 400 square foot of sign area. The variance then would allow the appellant to create a total sign area of 760 square feet. The larger area (760 square feet) would allow for O'Reilly Auto Parts to erect their nationally recognized, standard sign.
4. The appellant's said that the variance would not alter nor substantially impair the character of the neighborhood, as it would be in an area with a shopping

mall and other drive-in businesses. It would be understood by any passerby, they said, that the site has frontage along Fairmont Park.

5. The Board questioned the Erie City Zoning about the property. Zoning officer Matthew Puz confirmed that in February 2012 the lot was subdivided. This left the 20' strip along Fairmont Parkway for ingress and egress, and left to the unique circumstances that the appellant's are facing.

### **Conclusions**

1. The appellants wish to erect a sign on their Broad Street property that would extend to Fairmont Parkway. Due to a change by the developers, the new location would be slightly to the north, so as to prevent the appellants from using Fairmont as frontage area for the sign.
2. By combining the frontage of both Broad Street and Fairmont Parkway the sign the appellants wish to erect would comport with Section 303.14 of the Erie City Zoning Ordinance.
3. Under the Code, the appellants are currently permitted two (2) square feet per linear (front) footage. On Broad Street this is 180 feet, or 360 square feet of sign area; if they were to add the linear frontage along Fairmont, it would add an additional 200 linear feet of frontage, or 400 square foot of sign area. The variance would then allow the appellants to create a total sign area of 760 square feet.
4. The hardship is that the lot was sub-divided in 2012, prohibiting the appellants from using Fairmont Parkway as frontage.

### **Decision**

By a unanimous decision the Board approved the dimensional variance for the appellants to use both Broad Street and Fairmont Parkway as frontage, and enable them to erect the larger sign that they had originally planned. Board chairman Mike Hornyak said that this is a new business put in a situation not of their own making, and deserves the benefit of the frontage on both streets. Member Lisa Austin agreed, indicating that since the hardship was not of the appellant's making, she too supported the proposal. Board members John Drew, Patty Szychowski and Selina King also agreed, and all voted to approve the variance.

**It is So Ordered.**

---

**Appeal No. 12,062 by John Corwin (4104-102)** concerning property at **1341 West 6<sup>th</sup> Street** in an RLB district. The appellant is seeking a dimensional variance to construct a 12' x 36' addition. Per Section 205 of the Erie City Zoning Ordinance, the front yard setback for West 6<sup>th</sup> Street is 55' +/- 5'. The appellant is requesting 12'.

### **Findings of Fact**

1. The appellant is John Corwin, the contractor of the proposed addition. He appeared at the hearing to represent the property owners: Douglas, Ann and Paul Vaughn.
2. Using a site plan/map of the proposal as a guide, Mr. Corwin explained to the Board that the appellants are seeking to build a new addition to a two-story office building. The 12' x 32' addition would change the present front setback of the building, violating the Erie City Zoning Ordinance.
3. The hardship in this case, and the reason they must build the addition where they propose, is due to the location of the existing building. According to Mr. Corwin the Bayfront Highway is at the rear of the building. There is a steep cliff drop off there, making the rear portion of the property unusable for a building.

### **Conclusions**

1. The appellants are seeking to build a 12' x 32' addition to an existing two-story building. The extension would decrease the present front setback of the building.
2. According to Section 205 of the Erie City Zoning Ordinance, a front yard setback in an RLB zoning district must be at least 55' (+/- 5'). The new addition would make the building's setback only 12'.
3. The appellant's hardship is in the contour of the land to the rear of the building. The steep bluff leading to the Bayfront Highway makes this part of the property unusable.

### **Decision**

By a unanimous decision the Board approved the appellant's request for the dimensional variance. Board chairman Mike Hornyak said that the appellants were put in a bad position due to the configuration of the land. Board members Lisa Austin, John Drew, Patty Szychowski and Selina King also agreed, and all voted to approve the variance.

**It is So Ordered.**

---

**Appeal No. 12,063 by the Erie Historical Museum (4011-119)** concerning property they own located at **356 West 6<sup>th</sup> Street** in an RLB District. The appellant is seeking two dimensional variances for an expansion of the existing museum. Per Section 205 of the Erie City Zoning Ordinance, the front yard setback for West 5<sup>th</sup> Street is 15' +/- 5'. The appellant is requesting 50'. Per Section 305.29 of the Erie City Zoning Ordinance, the museum cannot exceed 7,000 square feet in the RLB district. The appellant is proposing a 10,000 square foot addition to the existing museum.

### **Findings of Fact**

1. The appellant, the Erie Historical Museum, was represented at the hearing by Mr. Jeff Kidder (of Kidder-Wachter Architecture & Design), the chief architect of the proposal. In their application for a variance, the appellant had included three graphical drawings of the property and proposed site plan, together with a blueprint-like design of the proposal, all prepared by the architecture company. Mr. Kidder used these renderings and design as a guide for the Board to follow along with during the testimony.
2. Mr. Kidder began by giving the Board a brief history of the Erie Historical Society and Museum. He explained that the Erie Historical Society and Museum consisted of three primary locations: the headquarters at 419 State Street, the Watson-Curtze Mansion (the site of the museum and location of the proposal) on West 6<sup>th</sup> and Chestnut Streets, and a museum in Girard. After several years of analyzing the Museum's situation, it has been decided that the State Street location will be sold to the Erie Art Museum, and the Watson-Curtze Mansion on West 6<sup>th</sup> Street will become both the primary location of the Erie Museum as well as its headquarters. The Watson-Curtze Museum has been a public museum for 73 years now; it was previously owned by the Erie School District who donated it to the Erie Historical Society in 2000.
3. The West 6<sup>th</sup> Street Mansion is a classic three story, stone structure that consists of 15,000 gross square feet; it is accompanied by a two-story, 5,000 gross square foot stone Carriage House in the rear. Both buildings are listed on the National Registry of Historic Places. The Historical Society has also acquired five lots directly behind the Museum, facing West 5<sup>th</sup> Street. All seven parcels are being combined into a single, large lot. The Mansion property has been in an RLB zoning district; however, the lots on West 5<sup>th</sup> Street were zoned R-3. The new large, combined parcel has recently been re-zoned as an RLB, at the recommendation of the Erie City Planning Commission. (The Historical Society had proposed re-zoning the area as a C-1 district; however, the Planning Commission did not want to allow all the various businesses that a commercial district would permit. Therefore, the City proposed changing the area to the RLB, which the Historical Society agreed to with the understanding that they would need to secure the variances in order to continue with the proposed expansion.)
4. Until recently the Carriage House at the rear of the Watson-Curtze Mansion Museum had housed the Erie Planetarium. The Planetarium recently closed,

however, and moved to the campus of Penn State-Behrend. The now vacant Carriage House will be converted into a visitor center, gift shop, archive research library as well as the Historical Society's new headquarters and office. The existing parking area is also under construction to add additional spaces.

5. Using the three dimensional drawings as a guide, Mr. Kidder told the Board that in addition to the existing Museum and Carriage House, the Historical Society plans to construct a large archives and collections storage addition on the West 5<sup>th</sup> Street properties. In order to fit all of the Historical Society's archives and collections, the new warehouse-like facility would have to be larger than the Erie City Zoning Ordinance allows. The new addition would have to be up to 10,000 square feet. The Code permits "museums" in an RLB district to be no larger than 7,000 square feet. The existing Mansion/Museum and Carriage House occupy 20,000 square feet. With the new addition the total area of all the floors of all the buildings will be 30,000 square feet
6. Also testifying on behalf of the proposal was the executive director of the Erie Historical Society, Mr. Caleb Pifer. Mr. Pifer presented to the Board a letter of support from a neighboring attorney, and also indicated that the Historical Society has received no indication of opposition from anyone, including the residents on West 5<sup>th</sup> Street.
7. Responding to questions from the Board about the proposed new storage facility, Mr. Pifer said that the Historical Society has taken into consideration how the building will compare to and affect the area and other traditional structures. The Watson-Curtze Mansion and Carriage House, for example, are classic turn of the (20<sup>th</sup>) century stone buildings. There are many other classic structures in the area as well. The new building, he said, should be as neutral as possible, and not stick out as a modern structure among many classic old houses. The appellant's hope, Mr. Pifer said, is to design a building that would "blend in" with the historic homes around it, yet not be a modern building meant to deceive people into believing that it is a historic landmark itself.
8. As to the size of the storage facility, Mr. Pifer indicated that it must be large enough not only to satisfy the present needs, but must be able to serve future functions as well. He said that the Museum has many holdings, which must be properly cared for; and is also receiving new donations all the time. Mr. Pifer said that the Museum's policy is to keep present holdings and future accessions (entire collections donated to the Historical Society) intact. The large, 10,000 square foot facility is intended to meet those needs.
9. Mr. Kidder was also answered questions by the Board about the new storage facility. He admitted that by annexing the properties on West 5<sup>th</sup> Street as the appellants have, it makes most of the rest of the houses on 5<sup>th</sup> Street essentially the 'back yard' of the Museum. Referring again to the site plan drawings, Mr. Kidder said that the extensive green space (shrubs, plantings, grass etc...) was intended to lessen the effect of the new facility to the remaining 5<sup>th</sup> Street houses. The Museum's long-term goal, he said, is eventually to fence in the property, giving it more of a "campus" effect.

10. In summing up the proposal, Mr. Kidder said that the project is intended to allow for unforeseen changes that may occur in the future. There should not be a parking problem, he said, as the new parking lot will add approximately 25 spaces; which, together with the present spaces will provide about 40 spaces in all – more than adequate for the day-to-day activities of the Museum.

### **Conclusions**

1. The Erie Historical Society and Museum (appellants) have sold their former headquarters on State Street, and will move it to their West 6<sup>th</sup> and Chestnut Street property. The Historical Society proposes expanding the former Watson-Curtze Mansion on 6<sup>th</sup> Street, together with the Carriage House that sits in the rear of the property, converting it into a visitor center, gift shop, archive research library as well as the Historical Society's new headquarters. In an RLB zoning district, "museums" are a permitted use.
2. The Historical Society also owns five parcels directly behind the Mansion and Carriage House, where they plan to construct a new archives and collections storage facility. The "warehouse-like" facility may need to be up to 10,000 square feet to house the ever-increasing Museum collections in the future.
3. The appellants are seeking two variances (both dimensional) for the new building. The proposed facility will be larger than the Erie City Zoning Ordinance permits. According to Section 305.29 of the Code, however, structures must be no larger than 7,000 square feet. The existing Mansion/Museum and Carriage House occupy 20,000 gross square feet. With the new addition the total area of all the floors of all the buildings will be 30,000 gross square feet.
4. The second variance request concerns the setback of the proposed facility. Per Section 205 of the Erie City Zoning Ordinance, the front yard setback for West 5<sup>th</sup> Street is 15' (+/- 5'). The appellant is seeking to have the building set back 50' so it can be annexed to the existing Carriage House.

### **Decision**

By a four to one vote, the Board approved both of the dimensional variances sought by the appellants. Board Chairman Mike Hornyak said that he likes that the building set back is in the middle of the "campus." A good architect, he said, will find a way to utilize the unused land in such a way that it does not have a negative impact to the neighborhood. Board member Selina King agreed, and added that as a historical society, the appellants will be sensitive to the concerns of the neighbors, and the efforts to maintain the many traditional, historic houses in the area. Board members John Drew and Patty Szychowski also agreed, and all four voted to approve both variances.

Board member Lisa Austin disagreed, and voted to deny the variance application. She said that any hardship in this matter was of the appellant's own making, and that the proposal does not fit in with the rest of the neighborhood. The warehouse-like facility, she said, is not appropriate on West 5<sup>th</sup> Street.

**It is So Ordered.**

---

**Appeal No. 12,064 by Jeff Kidder (4048-300)** concerning property located at Sassafra Street in a WC district. The appellant is seeking a height variance for a proposed 61' high hotel at this location. Per Section 205 of the Erie City Zoning Ordinance, the maximum height of structures in this district is 50'.

**Findings of Fact**

1. The appellant is Mr. Jeff Kidder of Kidder Wachter Architecture & Design, a local consulting company. The consultants filed the variance application on behalf of the Erie Convention Center Authority, who wish to construct a new hotel immediately west of the existing Erie Convention Center.
2. According to Mr. Kidder, the new hotel is to be built on the same parcel of land as the existing Convention Center and its surface parking lots; it will be adjacent to the former GAF property. The Convention Authority has been advised by its hospitality consultant that the new hotel should contain approximately 200 guest rooms, and in order to be considered a "convention center", it must have an interior connection to the Convention Center facility.
3. The appellants provided the Board with two new three-dimensional drawings, in addition to the nine drawings and site plans included with the application, for the Board to follow along with during the testimony. Using the renderings as a guide, Mr. Kidder explained that a large portion of the Convention Center lot is underwater and unusable.
4. In addition to having the hotel connected to the convention center, Mr. Kidder said that the new construction must satisfy several other things in order to meet the needs of the facility; most important, perhaps, is to provide a loading zone into the hotel for trucks and other delivery service people. The proposed L-shaped hotel would wrap around the west and north sides of the Convention Center's loading dock area. (The loading area is presently open air, but in the new proposal it would be covered by a second floor exterior roof deck.)
5. In addition to Kidder Wachter, another design representative, Mr. Lee Sterritt, testified on behalf of the proposal. His company is SinkCombsDethlefs Architecture & Design of Denver, Colorado. Together with Mr. Kidder, Mr. Sterritt told the Board that the first floor of the new hotel will contain the

administrative offices, arena rooms, etc..., and the proposed 200 guest rooms would occupy the upper four floors.

6. The designers have had consultations with Erie Zoning Office officials before filing the variance application. The designers said that the proposal complies with all zoning requirements except the height of the new building. The proposed hotel would be 61' tall, where the Code only allows for a maximum height of 50'. The requested variance is to allow for the additional 11'.
7. Also appearing to testify in support of the proposal was Ms. Brenda Sandburg, of the Erie City Economic Development Office. She told the Board that she is appearing on behalf of the present Administration, who wanted the Board to know that the administration supports the proposal. Ms. Sandburg added a little history on the issue for the Board's consideration. She said that when the Code was rewritten in 2005 it was discussed whether a narrow, higher building would be preferable to several shorter buildings that collectively would obstruct a view more than a single, higher structure. The proposed change to the Code, however, was never adopted; therefore, the appellants must get a variance for the taller building.
8. In opposition to the proposal was Mr. Ed Kissell of the Sons of Lake Erie. He said that there really is no hardship in this case, in that there is land where the appellants could build the hotel; it is just that the developers want to build on the proposed site. Mr. Kissell read from a 2005 deed between the Erie Port Authority (the previous owner of the property) and the Convention Center, for the property in question. He said that there is a clause in the deed requiring a specific number of parking spaces for any future use of the property. He then questioned whether there is any present agreement between the Port Authority and the Convention Center on that, or any other issue that might affect the development of this project; and whether the proposal meets all other local, state and federal regulations.
9. In response to the opposition testimony, Mr. Kidder was permitted a rebuttal. He said that during the life of the project, the appellants anticipated several additional steps would be required with various agencies, but that all permits, Code requirements, federal regulations, etc... will be addressed in due time. The appellants are here only to obtain a dimensional variance to keep the project moving along. He said that it is the first step to take before commencing with a large project. Mr. Kidder also reiterated that the proposed location is the only site that the developers thought was feasible – if they had other land where the hotel could be built they would use it, he said.
10. In response to some questions from the Board, Mr. Matthew Puz of the Erie City Zoning Office said that if the project does in fact move forward it would be as a conditional use; therefore there will be public hearings on the matter. The Erie City Design Review Committee meets the first Wednesday of each month, he said, when there is a development project in the Waterfront District for review.



## **Conclusions**

1. The appellants wish to build a new 200 room hotel at the bayfront site of the Erie Convention Center. The proposed height of the new hotel would be 61'.
2. Per Section 205 of the Erie City Zoning Ordinance, the maximum height of a structure in the Waterfront District is 50'.
3. In order to be considered a "convention center", the hotel must have an interior connection to the actual Convention Center building. This would require access for trucks and other delivery services to the loading dock area. Building in the proposed location is the only feasible alternative that the developers say they have, that would meet all the various requirements.
4. The hardship in this case is that due to the building's proximity to the lake shore, any other alternative design would be under water.

## **Decision**

By a four to one vote, the Board approved the appellant's request for a dimensional variance. All of the Board members expressed concern about the proposal. Chairman Mike Hornyak said that it is a difficult vote for him because in addition to being a citizen, he is also a construction worker and member of the Erie Yacht Club. In the end, he said, he came down in favor of the proposal because he sees good in the project and he feels that a taller, more narrow building is preferable to a shorter, wider structure at this site. Member Lisa Austin agreed; but added that she feels that the Sons of Lake Erie should be included in the decisions for future proposals. Member Selina King said that this was a difficult decision for her also because any bayfront development could adversely affect the beautiful view. However, she said that the proposal is limited to the necessary use, and the City needs the economic development that accompanies a project like this. Board member Patty Szychowski also had real concerns about the proposal; but voting strictly on the dimensional variance for the height of the hotel, she said that the appellants made their case why they should receive the variance. They all voted to approve the variance.

Board member John Drew voted to deny the variance. He said that he may have supported the proposal if the variance had one or two certain conditions attached to it; but his concerns about the parking situation and the overall reduced "green" space resulting from the project made him vote to deny the request.

**It is So Ordered.**