

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

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

-- MINUTES --

THE FOLLOWING APPEALS WERE HEARD:

Appeal No. 12,073 by Drew and Mary Larson (3122-317) concerning property they own located at 2017 Rudolph Ave. in an M-1 district. The appellants are seeking two dimensional variances for the side and rear setbacks for an addition. Per Section 205 of the Erie City Zoning Ordinance, the required side yard setback is 10' minimum and 20' total. The appellants are proposing a 0' minimum and 10' total. Per Section 205 of the Erie City Zoning Ordinance, the required rear yard setback is 30'. The appellants are proposing a 4' setback.

Findings of Fact

1. The appellants Mary and Drew Larson jointly testified on behalf of their proposal. Mrs. Larson told the Board that the appellants have owned and operated Spektra Manufacturing Inc. since 1985, and have been at the same location since 1992. The company has outgrown its current facility and the appellants wish to expand the building south, onto an adjoining Rudolph Ave. property which they also own.
2. The present location of the company is centrally located, and important to the company's customer base; they do not want to relocate. The appellants plan to demolish a house on the one site and expand the size of another building. They wish to consolidate all of the properties under one roof, providing the additional space the company needs, while maintaining easy access for their customers.
3. Referring to the site plan included with the application, the appellants explained that in expanding the M-2 zoned building to the adjoining M-1 zoned property, they will not meet the M-1 setback requirements. The new building must provide the adequate square footage. To make the building smaller, so it would meet the M-1 setback requirements, would not allow the space needed, and would not justify the cost or effort of the expansion.

4. In responding to questions from the Board, Mrs. Larson said that the hardship in this case is that the appellants have maximized the space of the current buildings as a result of the company's growth, and they hope to remain in the same location for their customer base. Mrs. Larson also pointed out that the hardship was not of the appellant's making, and, given the fact that the sites are already in a manufacturing-zoned district, would not impact or negatively affect the neighborhood.
5. One neighbor of the appellants appeared to speak to the Board regarding the proposal. Mr. Wesley Barzinski owns two properties directly next to the appellants. He said while he is not necessarily opposed to the proposal, he is concerned that if the appellants receive the 4' setback it may alter future use of his property. Mr. Barzinski asked that the appellants give him some assurance that they would not oppose a similar request by him to reduce the required setback at some future time. The Board told him that they could not compel anyone to make such a commitment, but that if he did ever apply for a variance in the future the fact that his neighbors had received a dimensional variance would be a factor to be considered in his favor.

Conclusions

1. The appellants own and operate Spektra Manufacturing, a local company in business since 1985 and at its present location since 1992. In an effort to remain at the same location, they wish to expand their warehouse by demolishing a house on an adjacent property, and expanding the size of their current building. Their proposal would violate the side and rear yard setbacks as required by the Erie City Zoning Ordinance.
2. According to Section 205 of the Code, the required side yard setback is 10' minimum and 20' total, and rear yard setback of 30'. The appellants are proposing a 0' minimum and 10' total side yard setbacks, and 4' rear yard setback.
3. The appellant's hardship is that they have maximized the available space at their present location, and wish to stay where they are because of the easy access it provides for their increasing customer base.

Decision

By a unanimous decision, the Board approved the appellant's variance requests. Board Chairman Mike Hornyak said that the appellants have a good business that is an asset to the community, and have demonstrated a willingness to work with the community. Board members Lisa Austin, Patty Szychowski and Selina King all agreed, and all voted to approve the dimensional variance requests.

It is So Ordered.

Appeal No. 12,074 by P&C Offices II, Inc. (3035-132) concerning property they own located at 650 West 10th Street in an R-2 district. The appellant is seeking a dimensional variance for lot size to convert a single family dwelling to a two family dwelling. Per Section 205 of the Erie City Zoning Ordinance, in the R-2 district, a two family dwelling is permitted provided each dwelling has at least 3,000 square feet of lot area per family. There is currently 2,887.5 square feet of lot area per family.

Findings of Fact

1. The appellant in this case is P&C Offices II, Inc. It is owned by Mr. Chuck Herron, who appeared to testify in support of the proposal. Mr. Herron purchased the house at a December, 2013 judicial tax sale. He told the Board that he determined that the best use of the property was as a 3-unit dwelling, and he applied for a variance to convert the house to include a third unit. However, at its May 2014 hearing, the Zoning Hearing Board denied the request. The appellant has filed a new application, this time requesting a variance to renovate the house and run it as a 2-family dwelling.
2. According to the appellant when he purchased the house it had been vacant and in a state of disrepair – including many Code violations - for many years. Upon securing the deed in March 2014, Mr. Herron said he immediately began to “rehabilitate” the property, including the removal of several hazardous portions of the house and garage.
3. Prior to the tax sale, Mr. Herron said, he was only able to view and inspect the outside of the house. At the outside inspection he saw two utility boxes; to his knowledge the house had been used as a 2-unit dwelling before he purchased it.
4. In his application the appellant included a map indicating all of the houses on the entire block of the subject property, in addition to the south side of West 10th Street. It indicated that the neighborhood is comprised mostly of one and two-family dwellings, with almost half being two-unit. Therefore, Mr. Herron suggested that his proposed two-unit structure would fit perfectly into the area, and the variance would have no impact on the character of the neighborhood.
5. Mr. Herron said that there are several reasons for the variance request. The lot area per family in his house contains 2,887.5 square feet, and the zoning requirement is 3,000 square feet per family. Therefore, his property is only 112.5 feet short of compliance. There would be more than the required number of two parking spaces; after he demolishes the garage the appellant’s property will have five off-street parking spaces. The hardship the appellant indicated was in the limited options available to develop the house other than as a two-unit dwelling. To rehab the house as a single-family dwelling, he said, would make it a six or seven bedroom house. The only likely tenants for such a structure would be two single parent families with many children. This alternative does not make sense, he said. It would be very difficult to rent, and would have a negative impact on the neighborhood.

6. Appearing in opposition to the proposal was the subject property's next door neighbor, Donna DelFino. Ms. DelFino said that she has lived at the same residence for 22 years, and for probably 17 of those years the house has been vacant. It will not benefit the area to rush into a renovation now just because it is still vacant. She said that the house has always been a single-family home, and that she never remembers it as a duplex. Ms. DelFino also told the Board that there has been little or no change to the poor condition of the house, especially in the front, since the appellant purchased it.

Conclusions

1. The appellant purchased the house at a December, 2013 judicial tax sale. He first told the Board that he wanted to convert the house as a 3-unit dwelling; the Board rejected this request at its May 2014 hearing. The appellant is now requesting a variance to renovate the house as a 2-unit dwelling.
2. According to Section 205 of the Erie City Zoning Ordinance, in the R-2 district, a two-family dwelling is permitted provided each dwelling has at least 3,000 square feet of lot area per family. The appellant's house currently contains 2,887.5 square feet of lot area per family – 112.5 square feet short.
3. Most of the other houses in the neighboring area are either single or two-family dwellings, with almost half being two-unit. The variance would not alter the make-up of or change the character of the neighborhood.

Decision

By a unanimous decision the Board voted to approve the dimensional variance. Board chairman Mike Hornyak said that this is a diminimus request as the appellant's house is only 112 feet short of compliance, and that many of the other houses in the neighborhood are duplexes. He added, however, that the Board hopes that the appellant will not wait until the end of summer to begin to renovate and clean up the house. Board member Lisa Austin agreed, adding that the character of the neighborhood would not be changed by renting the house as a duplex. Board members Board members Patty Szchowski and Selina King also agreed, and all voted to approve the dimensional variance requests.

It is So Ordered.

Appeal No. 12,075 Pyramid Network Services (4026-100) concerning property located at 816 Park Ave. in an R-2 district. The appellant is proposing a communication antenna at this address. Per Section 204.12 of the Erie City Zoning Ordinance, communication antennas are a special exception in the R-2 district and shall be referred to the Zoning Hearing Board for approval.

Findings of Facts

1. The appellant, Pyramid Network Services, is working as an agent for Verizon Wireless. Verizon is proposing to install several antennas on the roof of the Emerson-Gridley elementary school, located on Park Avenue and West 5th Street, between Liberty and Plum Streets. The school is in an R-2 zoning district; communication antennas are a special exception in the R-2 district.
2. Appearing on behalf of Pyramid Network Services was Mr. Richard Hanson. Mr. Hanson began his testimony by passing out a packet to each Board member containing maps, photographs, diagrams, etc... of the subject property. He told the Board that schools are a good option for the installation of antennas, as they are often in a residential part of the city, and are usually among the tallest buildings in the area.
3. Mr. Hanson said that the appellants have been using schools for the site of communication towers/antennas for about a decade now. In this case, Emerson-Gridley was proposed as a good site because Verizon has been experiencing poor coverage in the area, with many “dropped” calls. Referring to the photos and diagrams in the hand-out, Mr. Hanson showed the Board that the installations are primarily along West 5th street – the rear of the school building - and are all placed where the antennas are on the lower portions of the roof. For aesthetic reasons, he said, nowhere are the antennas higher than the highest point of the roof of the school.
4. The Erie School District will receive rent of \$1,850.00 per month. This amount will increase at a rate of 3% per year.
5. According to Mr. Hanson, Pyramid Network Services and Verizon Wireless have been very careful to meet all the requirements of the Code, and to make the installations the least intrusive as possible. The antennas are hidden from view as much as possible. The appellants have also obtained all federal and local permits, and will regularly inspect and maintain the structures.
6. The appellants held a neighborhood meeting regarding the proposal at the school in late May. One of the neighborhood residents who attended the meeting was Mr. John Reiting. Mr. Reiting appeared to testify, and told the Board that he is one of the majority property owners in the area, listing several rental homes that he owns around the school. He said that his initial concerns were with the aesthetics of the project, and how the appearance of the antennas would affect the neighborhood. As all of the towers are

on the 5th Street side, he said, and are not exceeding the highest points of the school roof, he has no objections to the proposal

Conclusions

1. The appellants and local cell phone provider, Verizon Wireless, hope to install several antennas on the roof of the Gridley-Emerson elementary school. The school is in an area where Verizon has been experiencing poor coverage, and makes for a good site as it is in a residential neighborhood, and stands several stories high.
2. The school is located in an R-2 residential zoning district. According to the Erie City Zoning Ordinance, communication antennas are a special exception in the R-2 district
3. The antennas are hidden from view as much as possible; all of them are on the West 5th Street side (the rear) of the school, and none exceed the highest points of the roof of the school.

Decision

Prior to voting on the special exception, the Board adopted the condition that, as per the testimony and site plan drawings submitted, none of the towers would be higher than the highest point of the roof of the school. The condition was passed unanimously.

With the condition attached, the Board unanimously approved the special condition. All of the Board members, Mike Hornyak, Lisa Austin, Patty Szychowski and Selina King agreed that the appellants made a thorough presentation. They said that the proposal was well planned, and received no objections from the neighboring residents, and all voted to approve the request.

It is So Ordered.

Appeal No. 12,076 by Nicholas C. Scott concerning property located north of the Bayfront Parkway between State and Holland Streets and identified by the tax parcel ID's 1046-101, 112, 128, 136, 142, 146 and 147 in a WC district. The appellant is seeking a height variance of 123'6" for a mixed-use development of commercial, hotel, and multi-family residential uses. Per Section 205 of the Erie City Zoning Ordinance, the maximum height of a commercial structure or hotel in the WC district is 50'. The maximum height for a multi-family residential use in the WC district is 100'.

Findings of Fact

1. The appellants were represented at the hearing by Mr. Brian Weber of the architecture/contractor firm Weber Murphy Fox. Mr. Weber had provided each Board member with an information packet that contained three three-dimensional site plan maps of the proposed site and had large blow-ups of those site plans to use as a graphic description with his presentation.
2. Mr. Weber told the Board that the site plans depict Scott Enterprises new waterfront development, Harbor Place. The twelve acre development, he said, will be a mixed use of commerce, recreation, residential housing, parking, etc..., and perhaps most importantly, public access activities. The proposal is envisioned to be the "signature development" that will contribute to the long-term vitality of the bayfront and downtown area, and, according to the appellants, is estimated to contribute three million dollars annually to the local tax base.
3. According to Mr. Weber, the hardship in this case is the high water table; the development's proximity to the water line precludes any underground uses (e.g. indoor parking garage), and results in the "pushing up" of the buildings. All areas of a building that would usually be in the basement must be above grade. And the development has to be as close to the water line as it is to accommodate the community/public access to the waterfront.
4. The appellants have developed the site plan for Harbor Place to create connections up to the water's edge, while incorporating water-use activities. All this is made possible, Mr. Weber said, by building taller, thinner buildings rather than shorter, wider ones. Of the twenty buildings proposed for Harbor Place only four will exceed the Code's height limits. Their goal is to complete the development and all its activities while maintaining as much of the view from the bluffs as possible. The appellants summarized in their application packet that the location of the proposed site within the central bayfront area requires a balance of public access with a reasonable amount of "mixed land use" necessary to make the project financially viable.
5. Of the four buildings that exceed the height limits, two are commercial buildings that are 63,6 feet each, and two residential hotels that are 123.6 feet, approximately twelve stories each (Code height limit 50'). Mr. Weber told the Board that the heights of these and all

of the Harbor Place buildings are roughly designed to match other structures at the bay front area (e.g. Hamot/UPMC Hospital, Sheraton Hotel apartments, etc...). These plans represent the minimum height that will allow for the proposed land use, he added, and will represent the least modification possible of the regulation at issue. The proposed building heights allow Harbor Place to achieve a total lot coverage of only 47%, leaving a greater amount of space for public access and green space.

6. Mr. Weber was questioned extensively by the Board about the public access in Harbor Place. He said that the plan utilizes Front Street as a development feature, where bars, restaurants and other similar businesses will border a street, and also allow for the rear of those properties to be along the waterfront; the public will have access to the water and green spaces behind the development and all associated activities to the waterfront.
7. Also appearing to testify on behalf of the proposal was Ms. Brenda Sandburg, the director of Economic and Community Development for the City of Erie. Ms. Sandburg said that the Administration is in favor of Scott Enterprises well planned proposal. She also indicated that the excess height of the four buildings is minimal, and should not create obstructed views. She said that the bluff overlooking the Bayfront Parkway is 80', so the view should not suffer from the high structures
8. There were two letters in support of the proposal that were contained in the application packer and/or read into the record. One was from Mr. R.P. Schreckengost, the Executive Director of the Erie Port Authority, and the other from Mr. V. James Fiorenzo, President of UPMC-Hamot. Both letters expressed support for the efforts and vision of Scott Enterprise's waterfront development project, and pledged to support them in those efforts.
9. The Board also heard testimony from Mr. Ed Kissell. Mr. Kissell said that he is not necessarily opposed to the proposal, but did wish to register some concerns that he and his group have. Primarily he was concerned with the view and appeal of the water, and how those features may be lost or compromised with the development. For example, it is not just the view from the bluff that could be lost, but also the view to the drivers and passengers of the many thousand vehicles that pass the property every day on the Bayfront Parkway Mr. Kissell urged the Board to examine closely the public access and use that will exist after completion of the development proposal.
10. The Board also received a letter of opposition to the proposal that was read into the record. The letter was sent by Attorney John J. Mehler of the law firm MacDonald Illig Jones & Britton, LLP, on behalf of their clients, the 100 State Street Condominium Association. The Association owns one of the properties very near the proposed site, and believes that the project would negatively impact property values, future waterfront development and the general health and safety of the bayfront community. The proposal seeks exceedingly large variances, they said, variances that are much more intrusive than the height variances obtained by the Erie County Convention Center. The Association

asked the Board to deny the appellants a variance and, if necessary, to attach conditions to prevent any further encroachment of the important waterfront property.

11. In response to the opposition letter the Board permitted the appellant, Nick Scott, to make a rebuttal statement. He said that the project has been in the works for years, and has gone through numerous iterations, without serious objections until this late stage. Along with the architects, Mr. Scott said that his company is seeking to build projects that are “transformational” - projects aimed at improving the quality of and making the bayfront vibrant.
12. Mr. Scott was upset by the letter of objection from the 100 State Street Condominium Association. He said that the Association was not opposed to previous variances that were granted to similar buildings in the past, and added that some of their own construction projects are inconsistent with their stated objection in this matter. Another architect on the project, Mr. Richard Speicher, briefly addressed the Board also. He pointed out that the proposal is still a prototype, and not the final plan. In the end, he said, a favorable ratio of public access and green space to the development is likely to be achieved.

Conclusions

1. The appellants are proposing a twelve acre development on East Front Street, between Holland and State Streets, in a WC zoning district. The development will be a mixed use of commerce, recreation, residential housing, parking, etc..., and is expected to provide easy public access and activities along the bayfront.
2. Section 205 of the Erie City Zoning Ordinance specifies the maximum height of a commercial structure or hotel in the WC district is 50'. The maximum height for a multi-family residential use in the WC district is 100'.
3. The proposal contains four structures – two commercial buildings and two hotels. The two commercial buildings will each be 63'6” high, and the hotels 123'6” (approximately 12 stories) high.
4. According to the appellants, the hardship in this case is the development’s proximity to the water line, which precludes any underground uses, such as indoor parking garages, and results in the “pushing up” of the buildings. All parts of a building that would usually be in the basement area must be above grade.
5. The development is designed to allow for public access to the waterfront. The appellants said that the proposed building heights allow Harbor Place to achieve a total lot coverage of only 47%, leaving a greater amount of space for public access and green space.

Decision

Condition:

Prior to voting on the proposal, the Board unanimously adopted the following condition to be attached to the requested variances:

For each addition square footage of real estate created by the height variance, an additional square foot of open space is to be dedicated to the public, excluding parking lots.

Vote:

With the condition attached, the Board unanimously voted to approve the appellant's request for height variances on the specified buildings. Board chairman Mike Hornyak said that he thinks this is a good project that will work well for the City, including the jobs it will create. He added that he understands the importance of the higher, narrower buildings, and hopes that the final plan will accommodate the many concerns expressed by Board members and others about open public access. Member Lisa Austin made the motion for the condition, and with its approval she voted to approve the variance. However, she expressed concerns about the potential exclusivity of the development; that it may not benefit the whole community. She said that the Board has no authority over the planned development other than the variance; but she urged the planners to create more inclusive areas, and avoid the appearance of "gated communities." Board member Selina King liked the proposal because she believes that it will appeal to younger people in the community. Projects like this one, she said, will address the "brain drain" problem that the City faces. For many of the same reasons expressed by the others, Board member Patty Szchowski also voted to approve the variances.

It is So Ordered.