

March 10, 2015
City of Erie, Pennsylvania
ZONING HEARING BOARD
1:00 P.M.

The regular meeting of the Zoning Hearing Board was held Tuesday, March 10, 2015 at 1:00 P.M. in City Council Chambers, Municipal Building, 626 State Street.

-- MINUTES --

THE FOLLOWING APPEALS WERE HEARD:

Appeal No. 12,086 by Agresti Development LLC (3105-206 and 207) concerning properties they own located at 917 and 921 Lincoln Ave. in an R-1 district. The appellant is seeking a use variance to convert the property from two single-family dwellings to a two-family dwelling by combining the lots of 917 and 921 Lincoln Ave. 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 is Agresti Development, LLC, a locally owned real estate company. Representing the appellant at the hearing was Ms. Emily Taft, the property manager at Agresti Development. She told the Board that she is appearing on behalf of Brian Agresti, the president of Agresti Development, who was unable to attend the hearing. Mr. Agresti instead provided a prepared statement that Ms. Taft read into the record.
2. The appellant purchased the properties (917 and 921 Lincoln Avenue) in July 2014. At the time they were two separate single-family homes that were attached to each other. Finding this unusual, Mr. Agresti researched other properties in the area, and found some to be similar to his – two single-family homes that had been combined into one property. Believing that it made more sense to have one party own the entire building, Mr. Agresti had a new deed drafted, and filed it in the Erie County Recorder of Deeds office.
3. A short time after the appellant recorded the new deed, he had an appraisal of the property performed. It was at this time that the appellant discovered that the property is now in violation of the City Code; two-family dwellings are not permitted in an R-1 zoning district.

4. Erie Zoning Office official Matthew Puz told the Board that he had recently spoken with the Erie County Assessment Office's map room at the county courthouse and confirmed what Ms. Taft had said. Mr. Puz said the County Assessment Office informed him that recently two lots were combined into one parcel. Two separate single-family dwellings, on two lots, were combined to make one two-family dwelling on one lot. Mr. Puz also confirmed that the newly designated two-family dwelling is not permitted in an R-1 district.
5. Ms. Taft indicated that the previous owner allowed the house(s) to go into a state of disrepair. The appellants have invested approximately twenty to twenty-five thousand dollars to repair one of the two units. The other unit also requires extensive repairs, she said, which the appellants plan to make when the present tenant leaves. Ms. Taft added that the appellants plan on making the repairs needed because they plan on owning the properties long-term, eventually finding new tenants.

Conclusions

1. The appellants recently purchased the two-unit dwelling – actually two attached houses – located at 917 and 921 Lincoln Ave. in an R-1 district. The appellant then had the deed to the property changed, combining the two previously separate lots into one parcel.
2. According to Section 204.10 of the Erie City Zoning Ordinance, two-family dwellings are not permitted in the R-1 district.
3. The appellants have made significant repairs to the one house, and plan to make similar upgrades to the other unit, when it becomes vacant. The appellants plan to keep and maintain the properties for a long time.
4. There are other similar dwellings in the area (two separate, but connected houses, combined into one lot); therefore, the appellants claimed that the variance would not alter the character of the neighborhood.

Decision

By a unanimous decision, the Board voted to approve the appellant's variance request. Board Chairman Mike Hornyak said that he has no objection to the change given that the type of house is similar to other dwellings in the neighborhood. He added that the appellants are making no structural changes, and the alterations that were made do not alter the character of the area. Board members Selena King, Edward Dawson and Jaqueline Spry all agreed, and all voted to approve the variance request.

It is So Ordered.

Appeal No. 12,087 by Jeffrey Scott Pamula (3049-103) concerning property he owns located at 1607 Raspberry Street in an M-2 district. The appellant is seeking a nonconforming change of use from an eating and drinking establishment to retail. Per Section 301.20 of the Erie City Zoning Ordinance, a nonconforming change of use shall be referred to the Zoning Hearing Board.

Findings of Fact

1. The appellant Jeffrey Pamula appeared on his own behalf and told the Board that his proposal is to open a retail “second hand” store, operated as a sole proprietorship. The proceeds from the proposed store would be used for the benefit of the city’s animals. The proposed name of the store is “Cause for Paws.”
2. Mr. Pamula said that his business plan is to receive donations from the community in the form of used clothing, appliances, etc... Those proceeds would then be donated to animal friendly establishments (e.g. shelters, veterinary hospitals, etc...) in the community, all intended to benefit of the plight of animals in the City.
3. In addition to the retail store, the appellant indicated that a portion of the facility would be used to sell soft drinks, hot dogs and other similar snacks in a cafe-like area. This is inspired, in part at least, to a variance that was obtained for the property by a previous owner in 2004. That previous variance authorized a nonconforming change of use to operate an eating and drinking establishment, and single-family dwelling, at the premise. [The zoning certificate from the 2004 variance was included with the appellant’s application.]
4. As indicated in the 2004 certificate, the property also includes a single-family residential dwelling. The appellant told the Board that the previous owners did not maintain the building, particularly the apartment. Mr. Pamula indicated that the property could be transformed into a habitable dwelling; however, at this point, he has no plans to make the significant renovations necessary to make the apartment suitable. He said that he may rent it in the future, but for now, his primary focus is to open the retail store to benefit local animal facilities.
5. For now, the employees who would man the facility would be primarily volunteers, although Mr. Pamula admitted that he may have to employ some paid workers in the future. Patrons will park across the street for now, with limited parking space in the rear of the building. However, the appellant again referred to long range plans, indicating that eventually he plans to create a parking area in the front of the building.
6. Mr. Pamula fielded several questions from the Board, including what, if any, services his facility will actually provide for animals. He said that there will be no animals kept overnight on the site. However, he may schedule times, probably in conjunction with

other animal service organizations, for people to bring their pets in to be examined or vaccinated, for example.

7. When asked about his decision to open this type of store, Mr. Pamula said that his goal is to help animals while investing in Erie at the same time. The appellant indicated that he doesn't believe that his proposal will harm any other existing stores in the general area. There is at least one other antique store in the area, he said but that there is no other second-hand stores nearby with which he would be in competition.

Conclusions

1. The building purchased by the appellant was previously a nonconforming change of use eating and drinking establishment, and single-family dwelling. The appellant purchased the property with the intention of keeping a small café but primarily transforming the facility into a retail second-hand store.
2. The store would receive donations from the community such as clothing, used appliances, etc... All of the proceeds from the store and café will be used to benefit local animal care facilities, such as shelters, veterinary clinics, etc...
3. According to Section 204.20 of the Erie City Zoning Ordinance, neither a retail store nor an eating and drinking establishment are permitted uses in an M-2 zoning district. The appellant is therefore seeking a nonconforming change of use from the Board.
4. Patrons of the facility will park across the street, at least until the appellant converts the property in front of the building into a parking area. The appellant presently has no plans on renovating the apartment in the building.

Decision

By a three to one decision the Board voted to deny the nonconforming change of use. Board chairman Mike Hornyak said that he has concerns about the unusual multi-use proposal for the building, as well as having a second-hand store in this location. Board members Selena King and Jaqueline Spry both agreed, indicating concern about the location of the proposed facility.

Board member Edward Dawson voted to approve the request. He said that he was expecting to see letters of support from local animal shelters or other potential supporters but indicated that he was willing to permit the proposed facility.

It is So Ordered.