

**April 29, 2015**  
**City of Erie, Pennsylvania**  
**ZONING HEARING BOARD**  
**1:00 P.M.**

A special meeting of the Zoning Hearing Board was held Tuesday, April 29, 2015 at 1:00 P.M. in City Council Chambers, Municipal Building, 626 State Street.

**-- MINUTES --**

**THE FOLLOWING APPEAL WAS HEARD:**

**Appeal No. 12,092 by Rubino Realty, LLC (3104-105)** concerning property located at 1556 West 12<sup>th</sup> Street in an M-1 district. The appellant is seeking a use variance to operate a retail business and eating and drinking places at this property. Per Section 204.19 of the Erie City Zoning Ordinance, retail business and eating and drinking places are not permitted in the M-1 district.

**Findings of Fact**

1. The appellant, Rubino Realty LLC, was represented by its vice president Daryl Terella. Mr. Terella explained to the Board that the appellants, who are seeking a use variance, only purchased the property the week before the hearing. The property had been on the market since 2004; according to Mr. Terella the site has been underutilized as a truck terminal. Its proximity to the Bayfront Expressway, on the other hand, makes the property a great location for a retail establishment.
2. Although the property is zoned M-1, Mr. Terella said that there is really no zoning category that suits the area; it is really more of a “hybrid” type area, he said, where commercial and industrial businesses can coexist.
3. Mr. Terella said that one of the current tenants will continue to use part of the property as a warehouse; however, other nearby businesses plan to use the site as commercial property. One nearby retail business, Divers World, will soon lose its lease, and be forced to move from their 8<sup>th</sup> Street location. Another service-oriented business (that sells hydraulic hoses) will likely also be moving into the appellant’s property soon.
4. Responding to questions from the Board, Mr. Terella said that the renovated building, which has been used as a warehouse and loading area until now, will stay within the character of the neighborhood. He said that the appellants plan to completely renovate

the existing building. The renovated facility, with the different store fronts and new, attractive roof, will be aesthetically pleasing he said, and that there will be ample parking for the anticipated businesses.

5. In addition to providing a master plan site drawing showing the extent of the reconstruction, Mr. Terella also gave the Board letters of support from all four businesses that currently occupy the heavily traveled corner. At this point, he said, there is no plan to add an additional entrance; the Greengarden Street access point is the best side of the property for incoming and exiting traffic. If the variance is granted, the renovation could be completed in about thirty days; this, Mr. Terella said, provides a good transition timetable for the two tenants who must leave their present locations and wish to move into the newly renovated property.
6. Also speaking on behalf of the proposal was Mr. Michael Hamill, the general contractor for the project. He said that by repurposing the existing building, it enables the appellants to offer space to prospective tenants at a more reasonable cost, where an entirely new location could price some businesses out of the area. Mr. Hamill added that they have conducted an environmental study, and there are no run-off or lead paint issues that could delay the project or create problems in the future.

### **Conclusions**

1. The appellants purchased the property at the northeast corner of West 12<sup>th</sup> and Greengarden Streets, bordering the Bayfront Highway, in an M-1 district. The building has been used as a warehouse and docking facility, but the appellants plan to convert the building into a facility for service-oriented businesses.
2. There are two nearby retail businesses (on West 8<sup>th</sup> Street) who are being evicted from their present locations. They will move in to the appellant's building as soon as the renovations are completed.
3. According to Section 204.19 of the Erie City Zoning Ordinance retail business (and other service establishments) are not permitted in the M-1 district.
4. Despite being in an M-1 district, the appellants claim that the building's proximity to the Bayfront Highway makes the property well suited for retail businesses. All four of the property owners that are adjacent to the appellant's building sent letters to the Board stating that they have no objections to the proposal.

### **Decision**

By a three to one decision the Board approved the appellant's request for a use variance. Board chairman Mike Hornyak said that he thinks that this is a good plan for an unused

property. He said that the appellants have a good track record, and have satisfactorily addressed the environmental concerns. Board members Ed Dawson and Patty Szychowski indicated that they are in favor of keeping businesses in the City, and both agree that the proposed businesses will be an asset to the area. All three members voted to approve the variance request.

Board member Jackie Spry voted to deny the variance. She said that the appellants did not state a hardship, and that she thinks there should have been more detail in the site plan that the appellants presented.

**It is So Ordered.**