

May 12, 2015
City of Erie, Pennsylvania
ZONING HEARING BOARD
1:00 P.M.

A special meeting of the Zoning Hearing Board was held Tuesday, May 12, 2015 at 1:00 P.M. in City Council Chambers, Municipal Building, 626 State Street.

-- MINUTES --

THE FOLLOWING APPEALS WERE HEARD:

Appeal No. 12,093 by ECHO GetGo Partners 2004 (3104-103.02) concerning property they own located at the northwest corner of Greengarden Blvd. and West 12th Street in an M-1 district. The appellant is seeking a dimensional variance to locate an outdoor advertising sign at this property within 1,000 feet of another outdoor advertising sign. Per Section 303.25 of the Erie City Zoning Ordinance, outdoor advertising signs shall be spaced a minimum of 1,000 feet from any other outdoor advertising.

Findings of Fact

1. The appellant is ECHO GetGo Partners, part of Giant Eagle. The appellant owns the subject property, located at the northwest corner of West 12th Street and Greengarden Blvd., where they plan to open a retail convenience store and gas station. Representing the appellants at the hearing was Mr. George Dragon from Cicogna Electric & Sign of Ashtabula, Ohio. Mr. Dragon is the national installer of signs in this part of the country.
2. According to Mr. Dragon the appellant's proposed establishment will not be a standard convenience store - in addition to a retail store, it will include a sit-down café, gas station and possibly a car wash. (Posting gas prices on an "LED" will be one of the main functions of the proposed sign.)
3. Although governed as a billboard, Mr. Dragon said, the sign will actually be more of an identification sign – identifying the GetGo logo, space for future tenants, and the gas prices. The proposed establishment will be large, and a significant investment for the appellants. The identifying sign on the busy West 12th Street is a key; the company plans to use their new prototype and new logo on the sign.
4. The proposed sign will be 35' in height to the top, with the actual sign itself being 15' wide, Mr. Dragon told the Board that the sign is what is known as a "goal post" design,

which allows for cutting grass and other maintenance of the land around the structure. The company is also seeking a high rise sign in Harborcreek.

5. Appearing to testify in opposition to the proposed sign was Mr. Edward Kissell. He questioned whether the additional lights from another sign will create a traffic hazard at the already busy intersection. He also inquired about whether the appellants stated a hardship. Mr. Kissell's main concern, however, is the potential run-off into Cascade Creek.
6. In rebuttal Mr. Dragon said that the proposed sign will meet all City Code requirements (e.g. setbacks, height, etc...). The lights on the sign will not flash, and therefore not present a traffic hazard. He said that the location of the sign is determined in large part from the unique size and configuration of the property; placed so as to maximize the visual appeal, while staying in the character of the surrounding retail businesses along the Bayfront Highway commercial corridor.
7. Responding to a question from the Board, Zoning Office official Matthew Puz said that he estimates that the other large sign, on the northeast corner of the busy intersection, is approximately 600-700 feet away from the appellant's proposed sign.

Conclusions

1. The appellants own the property at the northwest corner of West 12th Street and Greengarden Blvd. They plan on building a convenience store that includes a gas station, car wash and other amenities.
2. In order to identify the retail establishment, and post the gas prices, the appellant proposes to install a billboard-like sign, which will be seen by motorists on both West 12th Street as well as the Bayfront Highway.
3. According to Section 303.25 of the Erie City Zoning Ordinance, outdoor advertising signs shall be spaced a minimum of 1,000 feet from any other outdoor advertising.
4. There is another free-standing sign on the northeast corner of intersection, which the Erie zoning officials estimate is approximately 600-700 feet away.

Decision

By a four to one decision the Board approved the appellant's request for a dimensional variance. Board chairman Mike Hornyak said that he sees a significant distinction of the proposal being an identification sign rather than a billboard. Likewise, Board member Ed Dawson also said that the appellants have the property that can be utilized to improve the community, and that the business will require the sign. Board members Selena King and Patty Szychowski also agreed, indicating that they are in favor of keeping businesses in the City. All four voted to approve the variance.

Board member Jackie Spry voted to deny the variance. She cited that there is already adequate advertisement for most of the vehicular traffic coming from the (I-79) highway. Additionally, she said that the appellants did not state a hardship.

It is So Ordered.

Appeal No. 12,094 by Norb Belsterling concerning property located on Pittsburgh Avenue and identified by tax parcel ID 3118-100 in a C-2 district. The appellant is seeking a variance to gravel a parking lot greater than 5,000 square feet. Per Section 305.11 of the Erie City Zoning Ordinance, parking lots that exceed 5,000 square feet shall be paved.

Findings of Fact

1. The appellant Norm Belsterling, owner of Prime Storage, appeared to testify on his own behalf. He has been the owner and operator of a storage facility on West 12th Street for the past twenty years. In his application for the variance, Mr. Belsterling included a comprehensive site plan, and a confirmation letter from the Pennsylvania Department of Environmental Protection (D.E.P.), which the Board was able to evaluate during his testimony.
2. A little more than a year ago the appellant purchased the property which had been the old Pontillo land fill on Pittsburgh Avenue, next to the U-Haul rental office. His plan was to put a storage facility on the property. Because the storage facility would have trucks coming and going, unloading large containers, an asphalt surface was not practicable (the trucks would tear up the surface). Instead, he proposes to install a gravel surface, for which he requires the variance.
3. Mr. Belsterling told the Board that he had applied for a variance last year for the same proposal. At the (April 2014) Zoning Board hearing, he was “hit” with a letter from the D.E.P. at the last minute; a letter which had been emailed to the City Zoning Office early the day of the hearing. In part because of the concerns stated in that letter, the Board denied Mr. Belsterling’s application for a variance at that time. This time, however, he said that he is prepared; he has a letter from the D.E.P. addressing the concerns that the Board had expressed previously, and approving the proposal that Mr. Belsterling’s engineers have submitted.
4. The appellant’s property has received what is known as an “Act 2” environmental clean-up. As part of this Act 2 release of liability, there are certain restrictions imposed on future use of the property, one of them being related to disturbances of the subsurface. According to Mr. Belsterling, to install a paved surface at the property would require the

type of soil disturbances that is restricted. On the other hand, installing a gravel surface above grade at the property is not prohibited by the environmental restrictions.

5. Answering questions from the Board, the appellant went on to explain that an asphalt surface would require much excavation, whereas a gravel surface would not. He added that as long as he does not disturb the soil cap, the state D.E.P. is responsible for any potential liability, and not the City. The site plan drawings have been sent to and approved by the City Engineer's Office.
6. Speaking in opposition to the proposal was Mr. Edward Kissell. Mr. Kissell said that he has concerns because the site has been a "super fund" site which has been vacant for a long time. Specifically, he said that he is concerned about the run-off from the appellant's property, and how contaminated water may find its way into the nearby Cascade Creek.
7. In response, Mr. Belsterling told the Board that he has a "rubber diaper" – a rubber layer that is on top of the cap and is designed to prevent any contaminated run-off from seeping into any nearby creek. He also reiterated that the letter from the D.E.P. insulates the City from any liability. Mr. Belsterling added that he has always maintained his property well, and intends to do the same with the new site.

Conclusions

1. The appellant purchased a former land fill and plans to install a storage facility on the site. He proposes using a gravel surface instead of an asphalt surface.
2. According to Section 305.11 of the Erie City Zoning Ordinance, parking lots that exceed 5,000 square feet shall be paved.
3. The appellant has an "Act 2" environmental clean-up approval from the Pennsylvania Department of Environmental Protection. Part of the approval is to not disturb the subsurface of the former land fill.
4. The appellant maintains that he requires the gravel surface to remain compliant with the D.E.P., as well as a practical reason; specifically the trucks that would constantly be coming and going from his facility would tear up an asphalt surface.

Decision

By a unanimous decision, the Board approved the appellant's request for a variance. Board chairman Mike Hornyak said that he had some doubts lingering from the previous application, but felt that the appellant really did his homework and answered all of the Board's concerns. Member Jackie Spry said that there were two reasons why she voted to approve the request: first, that the proposal will not be disturbing the contaminated site, and also because the appellant's storm water plan was specific in how the proposal employs the best known practices for filtration and vegetation. Member Selena King said that she was pleased that the appellant will maintain

the aesthetics of the property, and not allow it to become another unused industrial site. Member Ed Dawson said that his concern was that the proposal will create potential future liability for the City. He said that his vote relies on the letter from the D.E.P. and the fact that the appellant still must receive permits from the appropriate City agencies. Along with member Patty Szychowski, all five Board members voted to approve the variance request.

It is So Ordered.

Appeal No. 12,095 by Lori Fracassi (5022-221) concerning property she owns located at 1006 East 37th Street in an R-1 district. The appellant is seeking a dimensional variance to exceed lot coverage for a 24'x22' addition. Per Section 205 of the Erie City Zoning Ordinance, the maximum lot coverage in the R-1 district is 35%. The proposed lot coverage is 45%.

Findings of Fact

1. The appellant, Lori Fracassi, appeared to testify on her own behalf, and told the Board that she is seeking approval for a porch cover extension. In addition to the site plan attached to the application, the appellant passed out several photographs of the house for the Board to see.
2. The appellant said that there is currently an awning over her porch, which she hopes to replace with a more permanent roof. She said that given the small size of the lot, the addition would not look out of place, based on the sizes of the surrounding houses. The roof, she said, would make the house look better overall, improving its aesthetic appeal to the neighborhood.
3. The hardship in this case is the limited, small size of the lot. Ms. Fracassi said that she is already at capacity for building any additions onto her house, and would not be able to extend the porch without the variance. She added that the proposal would enable her to utilize the house in the most effective way.
4. Speaking in support of the proposal was Mr. David Fracassi, the appellant's brother. He said that both the vacant lot bordering the appellant's property, and the house adjacent to the lot, are owned by the same person. Mr. Fracassi said that he has heard no voices of disapproval for the proposal from that owner, nor any other property owner in the neighborhood. Erie Zoning Office official Matthew Puz confirmed that the usual notices were sent to all neighbors in the vicinity of the appellant's house, including the neighboring property owner.

Conclusions

1. The appellant hopes to build an extension cover to the roof of her porch, with a proposed lot coverage of 45%.
2. According to Section 205 of the Erie City Zoning Ordinance, the maximum lot coverage in the R-1 district is 35%.
3. The appellant's hardship is the limited size of the lot of her property.
4. The proposed cover would enhance the aesthetic quality of the house.

Decision

By a unanimous decision, the Board voted to approve the appellant's request. Board member Mike Hornyak said that given the small lot size, he does not think that a ten percent overreach is an excessive request. Board member Ed Dawson said that anytime someone seeks to improve their property it is an improvement for the City as a whole. Board members Selena King, Jackie Spry and Patty Szychowski all agreed, and all five voted to approve the variance request.

It is So Ordered.