

**August 11, 2015**  
**City of Erie, Pennsylvania**  
**ZONING HEARING BOARD**  
**1:00 P.M.**

The regular meeting of the Zoning Hearing Board was held Tuesday, August 11, 2015 at 1:00 P.M. in City Council Chambers, Municipal Building, 626 State Street.

**-- MINUTES --**

**THE FOLLOWING APPEAL WAS HEARD:**

**Appeal No. 12,104 by Yakaremye Omari (5043-135)** concerning property he owns located at 1154 East 26<sup>th</sup> Street in an RLB district. The appellant is seeking a variance for off-street parking requirements for a convenience store. Per Section 302 of the Erie City Zoning Ordinance, the required off-street parking spaces for an 813 square foot convenience store are three spaces. The appellant is proposing one off-street parking space.

**Findings of Fact**

1. The appellant, Yakaremye Omari, was represented at the hearing by Attorney Anthony Rodriguez, who explained to the Board that the purpose of the appeal is because the appellant's property does not have enough space for the three parking spaces required by the Erie City Zoning Ordinance. He added that there are at least three similar neighborhood-style stores in the City that provide minimal, if any, parking spaces.
2. Attorney Rodriguez referred to Section 508(9) of the City Zoning Ordinance, and delineated several reasons why the appellant should be granted the variance. The hardship is that there is no place on the appellant's property sufficient to put the parking spaces. The appellant did not create this hardship, as he is converting an already existing dwelling into a convenience store. Additionally, Attorney Rodriguez indicated that the variance, if approved, will not negatively affect or alter the character of the East 26<sup>th</sup> Street neighborhood.
3. The Board had several specific questions for Mr. Omari about the proposed store. Through his counsel, the appellant told that Board that he plans to convert the property, which he purchased in 2012, into a small corner store that would cater to a very select group of immigrant customers. Most of the customers live in the general area, he said, and many of them would either be on foot or use public transportation (the property is on

- an E.M.T.A. route) – eliminating the need for expanded parking. Mr. Omari said that he expects to be open for approximately five hours a day, six days a week; however, at this time he cannot say what hours specifically he would be open on any given business day.
4. The Board also had questions about the aesthetics of the store, and how the appellant planned on providing parking to those customers who do drive to the store. Again, through Attorney Rodriguez, the appellant indicated that he is not planning on using any large advertising, and will not have any neon or other garish signs. There will be no cigarettes sold at the store, and no cigarette advertising outside. Being a store that provides mostly “ethnic products”, the appellant said that he does not expect to attract many children anyway. Given the size of the proposed store (approximately 800 square feet) and the shelves that would be installed in the aisles, Attorney Rodriguez said that he could not imagine more than three or four customers could fit in the store at any time. Therefore, during daytime business hours, the small number of public parking spaces on the side street would suffice.
  5. There was one witness who appeared to testify in opposition to the proposal. Ms. Deborah Deboe, who resides in the house next to the proposed store, said that based on the character of the neighborhood, with many rental units, she anticipates that the parking situation could become a problem if the store is permitted to operate without its own parking spaces. Ms. Deboe said that very few residents have their own driveways, and the many commuter residents in the neighborhood are always vying for parking spaces on the street. Her concern is that there will not be enough spaces available on the street to operate the store on a daily basis, especially in the winter months.
  6. Ms. Deboe also told the Board that there are many children playing in the neighborhood, making the parking situation a potential hazard. She said that there is already a “no parking” sign directly in front of the appellant’s property, for safety purposes. Ms. Deboe added that the appellant does not live in the premises, and is therefore not familiar with the feelings of the neighborhood. She said that many of her neighbors feel the same way that she does about the addition of the store. There are other stores in the area, she said, including one on East 21<sup>st</sup> Street that caters to “ethnic clientele.”
  7. Attorney Rodriguez spoke briefly to rebut what Ms. Deboe had told the Board. He indicated that the appellant had in fact lived in the property until recently. He reiterated that the addition of a store that provides the ethnic food and other goods that the immigrant community wants is a positive addition for the neighborhood.

### **Conclusions**

1. The appellant is proposing to convert an existing house into a small, neighborhood convenience store that would cater to a largely immigrant community. The store would provide ethnic-style food and other goods for its customers; many of whom would be on foot or using public transportation.

2. According to Section 302 of the Erie City Zoning Ordinance, an 813 square foot convenience store requires three parking spaces. The appellant's property only has enough space for one off-street parking space.
3. The appellant believes that since his hours of operation would be during normal business hours, there would be enough public parking spaces to accommodate his customers.

### **Decision**

Prior to voting on the variance request, Board member Selena King proposed a condition be attached to the variance: due to the limited availability of general public parking spaces in the vicinity of the proposed store, the appellant would only be permitted to operate the store between the hours of 8:00 a.m. and 5:00 p.m. The condition was seconded and unanimously approved by the Board

With the condition attached, by a four to one decision the Board voted to approve the appellant's request for a dimensional variance. Board Chairman Mike Hornyak said that he believes that a hardship does exist, and his main concern, as expressed by the opposition witness, is the limited public parking. This concern, he said, was addressed with the condition that the Board approved. Board member Jackie Spry likewise felt that the hardship criteria had been met. She added that a store of this nature could be a real benefit to the immigrant neighborhood that it serves, but she said that she hopes the appellant does not alter the aesthetics of the residential neighborhood with large or unsightly advertising signs. Board members Selena King and Patty Szychowski both agreed with Ms. Spry's comments, and all voted to approve the variance.

The lone dissenting vote was from Board member Edward Dawson. He said that the neighbor's opposition to the proposed store influenced his vote. Erie is a small town, he said, and neighborhood concerns and opinions are important. He added that the appellant should have at least attempted to discuss the neighbor's concerns with them

**It is So Ordered.**

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