

**September 8, 2015**  
**City of Erie, Pennsylvania**  
**ZONING HEARING BOARD**  
**1:00 P.M.**

The regular meeting of the Zoning Hearing Board was held September 8, 2015 at 1:00 P.M. in City Council Chambers, Municipal Building, 626 State Street.

**-- MINUTES --**

**THE FOLLOWING APPEALS WERE HEARD:**

**Appeal No. 12,105 by Mary Reber (5043-135)** concerning property located at 2622-26 East 30<sup>th</sup> Street in an R-1 district. The appellant is seeking a use variance to continue using the property as a four family dwelling. Per Section 204.10 of the Erie City Zoning Ordinance, four-family dwellings are not permitted in the R-1 district.

**Findings of Fact**

1. The appellant, Kathleen Peden, was represented at the hearing by her daughter, Mary Kay Reber. Mrs. Peden, the property's owner, is now in her eighties, and is no longer capable of maintaining the building. According to Ms. Reber, it was only when the appellant recently attempted to sell the property that she discovered the violation – when a real estate agent made the appellant aware that a four-unit dwelling is not permitted in an R-1 zoning district.
2. Ms. Reber provided the Board members with a series of photographs showing the property from several different vantage points. The photos clearly showed where the left portion of the building is shorter than the rest of the structure. Ms. Reber explained that this shorter portion of the building was previously a garage, and is now the smallest of the four units. (The former garage door is still visible although it is no longer functioning except as siding.)
3. At some point after the appellant purchased the property in the early 1980's, the former garage was made into a small apartment, thereby converting the 3-unit dwelling into a 4-unit property. Ms. Reber indicated that the smaller unit – which is 23' x 37' (approximately 850 square feet) – is suited for one, or at most two people.
4. The appellant is seeking a variance to sell the property as a 4-unit structure. The property is located on East 30<sup>th</sup> Street near Byrd Drive. As shown on the photographs, the eastern

border of the property abuts a wooded area; there is no street bordering the property to the east.

5. Board members had several questions about the property for the Erie Zoning Office. Zoning official Matthew Puz told the Board that the Code only regulates the density a building, and does not specify the required space for individual apartments. Mr. Puz also informed the Board that when the Erie City Zoning map was last changed (sometime in the early 2000's), the area of the appellant's property was changed from an R-2 district into the present R-1. Prior to the change, the 4-family dwelling would have been permitted under the old zoning map.

### **Conclusions**

1. The appellant is seeking a variance to allow her to sell her house as a 4-unit dwelling. The property was changed several years ago from a 3-family dwelling into a 4-family, when a garage was converted into a small efficiency apartment.
2. According to Section 204.10 of the Erie City Zoning Ordinance, four-family dwellings are not permitted in the R-1 district.
3. The appellant only became aware of the violation when she attempted to put the house up for sale on the market, and was informed by the real estate broker about the Code.

### **Decision**

By a unanimous decision, the Board voted to approve the appellant's request for a use variance. Board Chairman Mike Hornyak said that since the smaller, fourth unit sits back against a wooded area, it does not alter the character of the neighborhood. Board member Jackie Spry said that there was no way for the appellants to change the building back, and that the structure is otherwise in compliance and is well maintained. Board members Selena King, Edward Dawson and Patty Szychowski all agreed, and all five voted to approve the variance.

**It is So Ordered.**

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**Appeal No. 12,106 by John Scherrer (5359-111)** concerning property he owns located at 314 East Lakeview Blvd. in an R-1 district. The appellant is seeking a dimensional variance to construct a 12' x 20' attached garage. Per Section 205 of the Erie City Zoning Ordinance, the combined side yard setback in the R-1 district is 15'. The appellant is proposing a combined side yard setback of 12'.

### **Findings of Fact**

1. Appearing on behalf of the appellant, John Scherrer, was his daughter Ms. Virginia Titus. Mr. Scherrer fell and broke his hip last February. He is presently recovering in a nursing home, and when he returns home, he will require the use a wheelchair.
2. Ms. Titus indicated that given the appellant's situation, some accommodation must be made to enable him to navigate in his house, and to protect him from the elements when winter comes. The appellant and his family have decided that the best way to make the necessary accommodations is to build an attached garage onto the house.
3. The appellant has hired a contractor who has drafted a proposal for a 12'x20' attached garage. The variance application included a site plan of the property, and a blueprint of the garage itself.
4. The appellant's neighbor, Mrs. Harriet Devon, also appeared to testify about the proposed garage. Mrs. Devon told the Board that she and her husband are not opposed to the construction of the garage, but did express a concern about whether the new structure will create additional drainage run-off from rain and melting snow. She indicated that her property has already experienced some erosion in recent years.
5. Ms. Titus said that she does not know the specifics regarding the construction of the proposed garage, but assured the Board that she will speak to the contractor about the potential run-off problem. All required permits from the City Engineer's office will be obtained, she said, to ensure that the construction is completed properly.

### **Conclusions**

1. The appellant is a 94 year old man who has recently broken his hip and now requires the use of a wheelchair. In order to make his house safer and more accommodating given the circumstances, the appellant proposes to build an attached garage onto his house.
2. The proposed garage is 12'x20', which would leave a combined side yard setback of twelve feet.
3. According to Section 205 of the Erie City Zoning Ordinance, the combined side yard setback in the R-1 district must be at least 15'.

### **Decision**

By a unanimous vote, the Board approved the appellant's request for a dimensional variance. The Board agreed that they are pleased to see the appellant's family making changes to the property that would enable the appellant to return to his home. Several Board members expressed concern, however, about the storm water issue. Board members Mike Hornyak and Selena King said that they are relying on the building Code to prevent the water problems from occurring.

**It is So Ordered.**