

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

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

-- MINUTES --

Prior to the hearing, the Board elected its officers for 2016:

- Board member Mike Hornyak was nominated and unanimously approved to serve another year as Board Chairman;
- Board member Jackie Spry was nominated and unanimously approved to serve as Board Vice-Chairperson;
- Erie City Zoning official Matthew Puz was nominated and unanimously approved to serve another year as Board Secretary.

THE FOLLOWING APPEAL WAS HEARD:

Appeal No. 12,114 by The Sisters of Mercy (5372-109) concerning property they own located at 444 East Grandview Blvd. in an R-3 district. The appellant is seeking a dimensional variance for the side yard setback to be reduced to 0'. A proposed subdivision shows a building crossing the new lot line. Per Section 205 of the Erie City Zoning Ordinance, the minimum required side yard setback in the R-3 district is 3'.

Findings of Fact

1. The appellant, the Sisters of Mercy, were represented at the hearing by Attorney Michael Fetzner, who began by providing the Board with photographs of the property and buildings. Attorney Fetzner also introduced the two appellant witnesses, Mr. Thomas Guelcher, the property manager for the Sisters of Mercy in Western Pennsylvania, and Sister Mary Duska, executive director of the Mercy Terrace Apartments, owners and managers of the buildings in question.
2. Responding to questions from both Attorney Fetzner and Board members, Mr. Guelcher provided a brief history of the property. The Sisters of Mercy (hereafter referred to as

“Sisters”) have owned the property and buildings since the 1920’s. In recent years, however, the number of nuns in the Sisters has decreased, as has their need for space. As a result, the Sisters have been piecemeal divesting their ownership of the property, selling several of the buildings to Mercyhurst University over the past several years; one of the photographs provided to the Board showed the portions of the land which has already been sold to Mercyhurst.

3. Mercy Terrace Apartments Inc. has owned and managed the building where the remaining Sisters of Mercy reside since 1986. Adjacent to the Sisters’ residence is another building which houses the Mercy Terrace Apartments, a 64-unit senior living facility which was constructed in 1986.
4. Using the photographs again as a guide, Mr. Guelcher explained that the two buildings are connected by means of a second story enclosed walkway, which was installed when the senior living facility was constructed in 1986. The walkway enables the residents of Mercy Terrace and the sisters living there to go from their apartments to the Mother House without having to go outside; a luxury especially important in the winter months. Also, according to Sister Mary Duska, the walkway provides another important function, as it enables the sisters to go from their residence to the Mercy Terrace living facility to care for one of the seniors who may need immediate attention.
5. According to both Mr. Guelcher and Attorney Fetzner, the reason for the requested variance is to set the stage for when the Sisters of Mercy completely divest their interest in the property – when the last of the Sisters leave the residence. The appellants are not proposing any changes to the buildings or property at the present time.
6. One witness who appeared to inquire about the proposed variance was Ms. Catherine Tarr, who wanted to know whether the variance would affect the west side of the building, which neighbors her mother’s house. Attorney Fetzner indicated that the variance is only for the existing crossing walkway on the east side of the building, and that it would in no way affect the west side of the structure.
7. To assuage the concerns of any neighbor or other concerned party, the appellants indicated that Mercyhurst University – who has already purchased large portions of the Sisters’ land – will have the right of first refusal on any such future sales, either by the Sisters or by Mercy Terrace. Additionally, any future sale must be approved by the Sisters of Mercy.

Conclusions

1. The appellants own and reside in a building that is connected to an adjacent building by a second story, enclosed crosswalk. The appellants use this enclosed crosswalk regularly to access the other building, where they conduct activities, as well as care for residents of a senior living facility housed in that building.
2. The enclosed crosswalk has been in place since the senior living facility was constructed in 1986.
3. The variance is requested in anticipation of when the appellants, who have been selling portions of their property for several years, seek to sell their residence building. A proposed subdivision, with a new lot line, would violate the City's side yard setback requirements, as there would be no setback.
4. According to Section 205 of the Erie City Zoning Ordinance, the minimum required side yard setback in the R-3 district is 3'

Decision

By a unanimous vote the Board approved the appellant's request for a dimensional variance. Board Chairman Mike Hornyak said that once he understood that the proposal was for a plot change only, and that there would be no change to the property, he had no objection to the request. He added that the walkway is a necessity given the set-up of the appellant's residence and the adjacent facility. Board member Jackie Spry agreed, adding that it is the unique circumstance in this case that warrants the hardship. Along with members Selena King and Patty Szychowski, all four members voted to approve the variance request.

It is So Ordered.
