

January 12, 2016
City of Erie, Pennsylvania
ZONING HEARING BOARD
1:00 P.M.

The regular meeting of the Zoning Hearing Board was held January 12, 2016 at 1:00 P.M. in City Council Chambers, Municipal Building, 626 State Street.

-- MINUTES --

THE FOLLOWING APPEAL WAS HEARD:

Appeal No. 12,115 by Suzanne Hurst (5045-205) concerning property she owns located at 1211 East 28th Street, in an R-1 district. The appellant is seeking a use variance to continue using the property as a two-family dwelling. Per Section 204.10 of the Erie City Zoning Ordinance, two-family dwellings are not permitted in the R-1 district.

Prior to the commencement of the hearing, the Board consulted with the appellant, Suzanne Hurst, to determine whether she was willing to have her case heard by a hearing officer. The Board did not have a quorum; the only members in attendance were Vice-Chairperson Jackie Spry, and Board member Edward Dawson. It was decided by the two Board members that Mr. Dawson would serve as the hearing officer, casting the lone vote (with Ms. Spry serving as chair). The appellant agreed on the record to have Mr. Dawson serve as hearing officer.

Findings of Fact

1. The appellant, Suzanne Hurst, appeared to represent herself and told the Board that she is seeking a use variance to allow her to rent the upstairs apartment of her East 28th Street house. She indicated that her great aunt had owned the house since the 1930's. Upon the original owner's death, the appellant's brother acquired the house; he subsequently left it to the appellant. To the appellant's knowledge, the previous owners had also rented out the upstairs apartment.
2. The appellant provided the Board with photographs of the exterior of the house to help aid her presentation. She said that just as the previous owners had done, she has tried to rent the upstairs apartment primarily to young professionals (e.g. health practitioners from St. Vincent hospital), and the downstairs unit to small families, often single mothers with young children.

3. Ms. Hurst indicated that while she did not bring any of the annual inspection certificates with her, she has been compliant with all City Codes for the past ten years. She indicated that she had no idea that the dwelling was not permitted as a two-family residence until she and her family attempted recently to sell the house. She added that there are at least two other two-family dwellings on her street, and that her property does not appear out of place with the other houses in the neighborhood.
4. Referring to the photographs of the house, the Board had several questions for the appellant about the property. Ms. Hurst said that the outside staircase leads to the second floor apartment only. The stairs were installed in the driveway, which means that the tenants of the house park on the street; and the garage is not used except for storage.
5. As the house has been in the appellant's family since the 1930's, the Board questioned Ms. Hurst about some of the renovations that have been made to the house. The appellant indicated that she did not know which of the renovations to the house were made by her aunt, but added that the electric and plumbing have been updated recently. She said that she is unaware of whether Dobrich (the electric company that made the recent renovations) obtained the proper permits, but she said that she obtained a permit in 2004 when she applied for her renter's application.
6. There were neighbors of the appellant who appeared in opposition to the variance request. Mary Beth McMann lives one house away from the appellant, and asked for the Board to deny the variance request. She told the Board that she has lived at her residence for many years, and knew the previous owner (the appellant's aunt). Ms. McMann said that the house has always been listed as a single-family dwelling, with the appellant's aunt and mother living in the house; she said that there was no outside renters, as the appellant claims. Further, Ms. McMann, who also provided photographs of the house, said that there was no outside staircase in the driveway in the past. She claims that it was the appellant who built the staircase in the driveway, requiring the appellant's tenants to park on the street, often in front of Ms. McMann's house. She added that the other two multi-unit dwellings in the neighborhood both provide off-street parking for their tenants.
7. Ms. McMann said that the only reason that the appellant is requesting the variance is so the house can be sold easier. She said that she feels that the integrity of the neighborhood will be affected, judging by the type of rowdy type of tenants that have lived in the appellant's upstairs apartment in recent years. This concern was also expressed by another neighbor, Ms. Arlene Schlinewein. She too has observed loud, disruptive tenants in the appellant's upstairs apartment in recent years. Ms. Schlinewein also said that the property has not been maintained well, especially the garage, which she claims is on the verge of collapsing because of its state of disrepair.
8. In response to the opposition witnesses, the appellant was given an opportunity for rebuttal. Ms. Hurst admitted that in the past she has had to ask tenants to leave, as soon as their lease expired, because of their rowdy and disruptive behavior. She agreed that the upkeep of the property in general, and the garage in particular, is problematic, but

added that this is the reason why she is requesting the variance. Without the ability to rent the upstairs apartment, she said, she would not have the money to make the necessary repairs to the property.

Conclusions

1. The appellant is requesting a variance for her to continue to use her East 28th Street property as a two-family dwelling, so that she can rent out the upstairs apartment.
2. The house on East 28th Street is in an R-1 district. According to Section 204.10 of the Erie City Zoning Ordinance, two-family dwellings are not permitted in the R-1 district.
3. Prior to the appellant owning the property, it was previously owned first by her aunt, and then by her brother. According to the appellant, both previous owners had used the property as a two-family dwelling, and rented out the upstairs apartment. The appellant claims that she only learned of the violation when she recently tried to put the property up for sale.
4. The appellant told the Board that her house is compliant with all City Codes, and that it has always passed the annual inspections for rented properties.

Decision

The Board hearing officer Edward Dawson voted to approve the appellant's request for a use variance, allowing the appellant to continue to use the property as a two-family dwelling. He said that he was comfortable with the evidence that the house has been inspected regularly, and has met all Code requirements for at least the past ten years. He also indicated that he thought there is ample parking for the tenants in the appellant's house, and that the variance would not negatively affect the neighborhood.

It is So Ordered.
