

April 11, 2017
City of Erie, Pennsylvania
ZONING HEARING BOARD
1:00 P.M.

The regular meeting of the Zoning Hearing Board was held Tuesday, April 11, 2017 at 1:00 P.M. in City Council Chambers, Municipal Building, 626 State Street.

- MINUTES -

THE FOLLOWING APPEAL WAS CONTINUED FROM A PRIOR HEARING:

Appeal No. 12,147 by Thomas and Karen Paskievitch (6049-338) concerning the property located at 416 Stafford Avenue in an R-2 district. The appellant is seeking a dimensional variance for a 15' x 40' side addition. Per Section 205 of the Erie City Zoning Ordinance, a 3' least side yard and 6' total side yard is required; a 0' least side yard and 1' total side yard is proposed.

Findings of Fact

1. The appellants case was heard at the March 2017 Zoning Hearing Board hearing, but the Board chose to continue the vote for two reasons: first, the appellant had made some changes to his property and revisions to his application after the time that he filed the appeal, but before the Board heard the case. Secondly, since the appellant had made the recent changes to the premises, some of the Board members did not have an opportunity to view the site after these changes were made, and wanted the opportunity to see the changes before voting on the variance request.
2. The appellant is proposing to construct a car port, 40' x 13'7½" in size, on the side of his house (originally designed to be 40' x 15'). The appellant claims that he needs the additional space in order for him to fit his van into the small area.
3. Showing photographs of the property to the Board, the appellant explained that the parking space, as it sits now, is on a slight slant. This slant, the appellant said, creates a hazard for his wife in cold weather when the cement ices over. This hazard, together with the fact that this is the only place on the appellant's property where the car port can be built, and that nothing else can be constructed in the area, constitutes the appellant's hardship. Additionally, there would be no harm to the immediate next door neighbor, and no change to the character of the neighborhood as a whole, as there are several other similar structures in the area. To verify this fact, the appellant provided

photographs of several other similar garage-type structures on other houses in the neighborhood.

4. The appellant plans to tear down the existing, ten year old car port, and construct the new one. The existing structure is free standing, whereas the new proposed car port will be attached to the house. Mr. Paskievitch indicated that he knows that he must acquire permits from various City officials before beginning construction, and added that he plans to have a professional design engineer construct the new car port.
5. When questioned about the property lines between the appellant and his neighbor, Mr. Paskievitch said that there was a professional survey conducted by his neighbor several years ago, which confirmed that the current fence dividing the properties is reliable. The neighbor whose property the car port will border has agreed to the proposal, as have several other neighborhood residents – the Zoning Office received three emails sent by neighbors, in support of the proposal; the emails were read into the record.

Conclusions

1. The appellant plans to construct a new car port, attached to his house; that will replace the existing one. The proposed car port will be 40' x 13'7½" in size (originally designed as 40' x 15'), set on the side of his house.
2. The proposed car port is designed to fit into a small area, against the neighbor's fence; the proposal is similar to other nearby properties, and therefore will not alter the character of the neighborhood.
3. According to Section 205 of the Erie City Zoning Ordinance, a minimum 3' side yard setback, and 6' total side yard is required. The appellant's proposal would be a 0' side yard setback, and 1' total side yard area.
4. The hardship is in the contour of the driveway, which is slanted and creates a hazard in icy weather; if approved the appellant will begin by installing a new cement driveway without the slope. Additionally, there is no other place on the appellant's property where the proposed car port can be built.

Decision

By a split three to two vote, the Board approved the appellant's decision to construct a car port. Board members Selena King and Mike Hornyak both indicated that they were not entirely comfortable with the proposal, given the way the property has been maintained in recent years. They indicated, however, that the proposal would be an improvement, provided that the appellant better maintains the property after the car port is completed. Together with Board member Jeffrey Johnson, the three voted to approve the variance.

Board members Jaqueline Spry and Edward Dawson voted to deny the variance, citing that they did not fully understand the appellant's proposal, in part because he has changed his explanation more than once. Ms. Spry also added that she did not accept the appellant's hardship.

It is So Ordered.

THE FOLLOWING APPEALS WERE HEARD:

Appeal No. 12,152 by Society of Holy Trinity (5026-217) concerning the property located at 604 East 23rd Street in an R-2 district. The appellant is seeking a dimensional variance for a 22' x 44' addition. Per Section 205 of the Erie City Zoning Ordinance, maximum lot coverage is 50%; 58% is proposed.

Findings of Fact

1. The appellants, the Society of Holy Trinity, were represented at the hearing by Mr. Robert Marz, architect of the proposed construction, and Mr. Bernard Slomski, president of Holy Trinity. Using a site plan drawing of the property and proposed construction, Mr. Marz explained to the Board that the appellants recently purchased the lot directly adjacent to its main building, and have combined the two lots into one.
2. On the property (the two combined lots) the appellants must expand the club in order to accommodate their large membership. Additionally, if they are not able to build a larger facility, the appellants will not be able to continue much of their work; they may be forced to look for another site if they are not able to expand this present facility.
3. Mr. Slomski provided the Board with a history of the Society of Holy Trinity, and its important historic place in Erie's eastside. The Society has been at the same location since 1905, and has become a fixture to the east Erie neighborhood. The focus of the Holy Trinity club, Mr. Slomski said, is to provide support to various private and non-profit organizations. They have been successful in providing many important services to the Erie community, and they want to stay where they are to continue that work. Unfortunately, the size of the club has reached its maximum capacity for the services that it provides; as stated, if the appellants are to keep their club in its present location, it will have to expand the size of the facility.
4. The appellants representatives also pointed out that the area where Holy Trinity is located has fallen on hard times in recent years, and there has been little in the way of new businesses or investments in the eastside neighborhood. The appellants purchased the new land in a sheriff's sale, with the hope of expanding the size of the

existing facility; they told the Board that they are not seeking any special tax breaks or other considerations other than the variance.

5. When questioned about security in the high-crime neighborhood, Mr. Slomski said that the building itself will have eleven exterior security cameras, which provide visual coverage of the facility and adjacent area. He said that the Erie Police have been able to successfully utilize the cameras for investigations in the past; another example of how the appellants provide a benefit to the area.
6. Mr. Marz added that the proposed size of the new facility will be 968 square feet, which will provide a comfortable size for the club's members, and that there will be sufficient parking to accommodate the club's patrons. The hardship in this matter, he said, is that the original lot is not compliant, whereas the new lot is. The appellants have no choice but to expand on the existing building in order to remain at the same location, which, as they stated, is their wish.
7. Also appearing before the Board in favor of the proposal was nearby store owner Daniel Serafin, who said that he is very encouraged to see that the appellants want to stay in the area (like Holy Trinity, Serafin's Store has been a local fixture in the neighborhood for many years), and wants to see more people making the effort to revive the historic neighborhood. Also appearing was Mr. David Thiemann, a governing member and treasurer of the Holy Trinity Society, who presented a letter from Pastor Bernard Urbaniak. The letter was read into the record.

Conclusions

1. The appellants purchased a lot next to where their social club is located. They have combined the lots, and now need to expand the size of the club. In doing so the total coverage will slightly exceed the City Code.
2. According to Section 205 of the Erie City Zoning Ordinance, the maximum lot coverage in an R-2 district is 50%. The appellants propose to build a 22' x 44' addition, which would encompass 58% of the total property.
3. The appellants have been a member of the eastside community for over a century, and are doing their best to remain at the location. The hardship is that the appellants have no choice but to expand the existing building where it is already located. If the extension were built so as to comply with the Code, it would not meet the appellant's needs; the new lot is compliant, it is only when they combine the two lots that they exceed the lot coverage.

Decision

By a unanimous decision, the Board approved the appellant's request for the dimensional variance. Board members Edward Dawson, Mike Hornyak, Jaqueline Spry and Jeffrey Johnson all indicated that they thought that the appellants made a very good presentation, answered all the questions satisfactorily, and demonstrated a hardship; Mr. Johnson adding that Holy Trinity has had and continues to have a positive influence in the troubled neighborhood. Together with Board Chairwoman Selena King, all five members voted to approve the variance request.

It is So Ordered.

Appeal No. 12,153 by Robert Purzycki (1111-124) concerning property located at 1836 East Lake Road in an R-1A district. The appellant is seeking a dimensional variance for a 24' x 30' detached garage. Per Section 205 of the Erie City Zoning Ordinance, the minimum side yard for a detached accessory structure is 3 feet; 1.5 feet is proposed. Per Section 205.23 of the Erie City Zoning Ordinance, the minimum distance for garage doors facing the street is 20 feet; 1.5 feet is proposed.

Findings of Fact

1. The appellant, Robert Purzycki, appeared on his own behalf, and informed the Board that he is seeking a variance that would enable him to demolish the current deteriorated garage (which was originally built with the house in 1917), and build a detached garage in its place. As a result of the unusual configuration of the lot, the proposed garage would not be compliant with the City's setback requirements; but the appellant indicated to the Board that there is really no alternative given the location of his property, and its proximity to the busy East Lake Road.
2. Mr. Purzycki provided the Board with a land lot map to explain how the garage would appear upon completion. Using the lot plan, he showed the Board the unusual contour of his property, and how this irregularly shaped parcel (it is narrow near the garage, and becomes wider as you move to the south toward the house) is in the area where the garage would be built. The hardship is in the unusual contour, and the fact that there is no other location for the garage to be built on the appellant's property
3. The appellant has four cars. His house sits on a corner lot, bordering East Lake Road to the south. He cannot park all of his vehicles on East Lake Road; he requires a modern garage for parking, but also for storage. Mr. Purzycki indicated that he has no space for storage in his house; so the new, efficient garage will help remedy both the parking and storage situations.
4. The proposed structure would be 12' wider than the present structure – 6' on each side. This is the size that the new garage must be in order to meet the appellant's needs, but is also what is creating the violation. The appellant told the Board that the new structure will be well built, including the construction of a new cement foundation for the garage.
5. The appellant presented two affidavits from neighbors in support of the proposal; both commented on being impressed with the survey that the appellant had drafted by Laird Associates architects, and indicated that the new proposed garage will be an improvement to the neighborhood.

Conclusions

1. The appellant owns a corner property on East Lake Road, making parking a problem for his vehicles. He is proposing to replace his hundred year old garage with a modern, 24' x 30' detached structure that would accommodate his parking problem, as well as providing a place for storage.
2. The appellant is seeking a dimensional variance because his proposal would violate Section 205 of the Erie City Zoning Ordinance. The minimum side yard setback for a detached accessory structure is 3 feet, where the appellant's proposal leaves a 1.5' setback. Additionally, Section 205.23 of the Erie Code requires a minimum distance for garage doors facing the street of 20 feet; again the appellant's proposal would have only a 1.5' distance for the garage door from the right of way.
3. The appellant's hardship is in the unusual contour of the property, which narrows as it goes from the house to the existing garage. The proposed location is the only place on the appellant's property where the new garage can sit.

Decision

By a unanimous decision, the Board voted to approve the variance request. Board member Mike Hornyak, Edward Dawson and Jaqueline Spry all indicated that they understand that the unusual shape of the appellant's property is the hardship, and that the original construction did not set the structure back in order to satisfy the modern Code requirements. Board members Selena King and Jeffrey Johnson agreed, and all five members voted to approve the variance request.

It is So Ordered.

Appeal No. 12,154 by Mercyhurst College (5372-207, 208) concerning property located at 3907-4009 Briggs Avenue, in an R-3 district. The appellant is seeking a special exception approval for a dormitory. Per Section 204.13 of the Erie City Zoning Ordinance, dormitories are a special exception use in an R-3 district and must meet the condition of Section 305.16.

Findings of Fact

1. The appellants were represented at the hearing by Mr. Mike Redlawsk, managing partner of The Westminster Group, real estate developers, and by Mr. Mike Sanford, whose surveying and engineering company drafted the site plan for the proposed building project.
2. Mr. Redlawsk told the Board that his real estate development group was hired by Mercyhurst to identify and update the older housing structures, replacing them with newer, more modern student housing sites. Referring to the site plan drafted by the

Sanford Surveying and Engineering Co., Mr. Redlawsk told the Board that the proposal meets all the requirements for a special exception in the Erie City Code, and that the neighbors on surrounding three sides of the proposed dormitories have expressed overwhelming support for the project.

3. Mr. Sanford, whose engineering and surveying company drafted the site plan for the project, also told the Board that the proposal meets all of the criteria for a special exception under the Erie City Zoning Ordinance. Using the conditions of Section 305.16 of the City Code as a check-list, Mr. Sanford delineated how the proposed dormitory was drafted specifically with the requirements for a special exception in mind.
4. The size of the lot housing the dormitory will exceed the minimum square footage, and the building, which will face three city streets, meets all of the front yard and side yard setback requirements. Additionally, the property will provide the required number of off-street parking spots for the maximum number of beds that the dormitories will contain, when fully housed.
5. Indicating that the appellants realize that this is just the first step in a process that involves obtaining various permits from the City Engineer's Office, Mr. Sanford went on to say that throughout the planning process, the drafters of the project recognize the requirements of the City Code. For example, wherever the dormitories will face other residential dwellings, there will be tree and shrub screen plantings, there will be no outdoor loudspeakers or annoying sound systems, and dumpsters will be placed in required places on the property.

Conclusions

1. The appellants, Mercyhurst University, are proposing the building of a new dormitory, meant to replace aging, insufficient student housing. Dormitories are a special exception in an R-3 district, according to Section 204.13 of the Erie City Zoning Ordinance
2. The appellants have hired an engineering and surveying company to draft a site plan for the new dormitory. The proposed building will have three sides facing city streets.
3. The conditions for a special exception for dormitories are listed in Section 305.16 of the Erie City Zoning Ordinance.
4. The appellant's proposal address and satisfy the requirements for the special exception, as specified in Section 305.16 of the Code.

Decision

By a unanimous decision (with one abstention) the Board approved the special exception for the appellants to build a new dormitory. Board members Selena King and Edward Dawson both indicated that they support efforts to attract new students to Erie's colleges. This proposal, they said, is well drafted and should attract new students. Board members Mike Hornyak and Jeffrey Johnson agreed, and all four voted to approve the special exception.

Board member Jaqueline Spry abstained from the vote, as her current employer is Mercyhurst University.

It is So Ordered.