

**June 13, 2017**  
**City of Erie, Pennsylvania**  
**ZONING HEARING BOARD**  
**1:00 P.M.**

The regular meeting of the Zoning Hearing Board was held Tuesday, June 13, 2017 at 1:00 P.M. in City Council Chambers, Municipal Building, 626 State Street.

**-- MINUTES --**

**THE FOLLOWING APPEALS WERE HEARD:**

**Appeal No. 12,157 by Janet Ferguson (4039-209)** concerning the property located at 107 Plum Street in a WR district. The appellant is seeking a dimensional variance for a three-story 29'x30' addition which includes garage doors facing the street. Per Section 205.23 of the Erie City Zoning Ordinance, garage doors facing the street must be a minimum of 20 feet from the street property line; 4' is proposed.

The Board did not convene a quorum. The appellant agreed to have Board member Selena King serve as hearing officer.

**Findings of Fact**

1. The appellant, Janet Ferguson, appeared along with the architect to the proposal, Michael Grab, and presented the hearing officer with photographs and a comprehensive site plan of the residence and proposed changes. Ms. Ferguson said that she is taking an old, dilapidated structure and renovating it to contemporary standards, including a new garage and driveway that will conform to similar structures in the house's bayfront neighborhood.
2. The appellant indicated that her house is located on a narrow lot on Plum Street. The only access to the house is from Plum Street, which dead ends onto Front Street. She indicated that she is concerned about safety, given that there have been several criminal incidents in the area recently; Ms. Ferguson is therefore building an enclosed garage to enter her house safely.
3. Using the photographs and site plan, the appellant showed how she plans to replace the existing siding with stone and wood veneer. The proposed renovations include a three-story 29'x30' addition including the garage that the appellant described. The garage doors will not be twenty feet from front yard property line, as required by the City Code.
4. One of the appellant's neighbors, Ms. Laurie Edwards, appeared to testify with concerns about the proposed garage. She told the hearing officer that the appellant's father previously built a porch/deck that was in violation of the City Code, and she fears that the new proposal will encroach onto her property now.

5. Mr. Grab, the architect of the proposal, told the hearing officer that the new garage, while not being twenty feet away, will not encroach upon the neighboring property. Again referring to the site plan, Mr. Grab indicated that neither the garage, nor any other part of the new construction will affect any of the other properties in the area.

### **Conclusions**

1. The appellant is renovating her residence that faces Plum Street. The only access to the house is onto Plum Street.
2. The proposed modern renovation includes a 29'x30' addition to the house, including an enclosed garage, which the appellant is building for safety reasons.
3. According to Section 205.23 of the Erie City Zoning Ordinance, garage doors facing the street must be a minimum of twenty feet from the street property line.
4. The appellant's architect indicated that while the proposed garage will not be twenty feet, it will not encroach upon any of the neighboring properties.

### **Decision**

The hearing officer Selena King voted to approve the dimensional variance, indicating that the appellant provided good reasons for the proposed renovation, and the architect showed that any encroachment will be minimal, and not affect the neighboring properties.

### **It is So Ordered.**

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**Appeal No. 12,158 by the Erie Civic Theatre Association (3004-212)** concerning property located at 13, 15 West 10<sup>th</sup> Street in a C-3 district. The appellant is seeking a dimensional variance for using 214 square feet of signage. Per Section 303.14 of the Erie City Zoning Ordinance, signs shall not exceed in square feet 2 times the lineal feet of frontage of the lot. The maximum square feet of signage for this lot is 106 square feet; a total of 214 square feet is proposed.

The Board did not convene a quorum. The appellants agreed to have Board member Mike Hornyak serve as hearing officer

### **Findings of Fact**

1. The appellant was represented by Ms. Almitra Clerkin, the Executive Director of the Erie Playhouse (hereafter referred to as the "Playhouse"). Ms. Clerkin explained to the hearing officer that the Playhouse is located on the site of the former Strand Theater, a 1940's-style movie theater. These older theater houses tended to be more narrow than standard modern theaters, she said, and as a result the Playhouse is only 53' wide.

2. Ms. Clerkin explained that for the last ten years the Playhouse and its Board has embarked on a renovation program, and has already completed a million dollars in improvements. When the Playhouse undertook the renovation program, in 2006, it received a variance from the Erie Zoning Hearing Board to increase the signage to 230 square feet. The new variance request will actually be less than that which was granted in 2006.
3. The variance is requested to enable for the reasonable use of the Playhouse property, the appellant said. Interior and exterior improvements to the facility, necessary to improve production and customer experiences, will total approximately \$1.4 million, Ms. Clerkin added. The Playhouse has raised this amount from major donors - including one \$500,000 gift from an as yet anonymous donor. Along with this large donation, the Playhouse has given the donor naming rights for the Playhouse; this includes new façade signage.
4. The current variance requested for the new donor is actually 16 square feet less than the variance that was approved by the Board in 2006. Both the donor sign and Playhouse identification will be above the marquee, and will not alter the essential character of the neighborhood. The hardship to the appellant is in the fact that the Playhouse must be able to recognize properly the significant gifts they expect to receive in the future. By denying the variance, the appellant believes that they will not be able to acknowledge such gifts in the years to come, making large donations more difficult to obtain.
5. Several witnesses also appeared along with the Playhouse Director to demonstrate their support for the requested variance. Attorney Matthew Fuchs from law firm of McDonald, Illig, Jones & Britton, told the hearing officer that the sign is necessary for the Playhouse to move forward into its second hundred years. He reiterated that the current sign is less than the appellants received in 2006, and that there is no good reason for the Zoning Board to rule differently this time.
6. Also appearing were Ms. Amanda Brown Sissem, Executive Director for the Erie Arts and Cultural Center, and Attorney Tim Wachter, solicitor for the Erie Downtown Partnership; both also addressed the hearing officer in support of the variance request, indicating that their respective organizations support the proposal. Ms. Sissem adding that she believes the proposal is necessary to enhance the thriving arts community in Erie, which presently represents over \$42 million in revenue for the local economy.

### **Conclusions**

1. The appellant proposes to install a total of 214 square foot sign for the property at the Erie Playhouse (formerly the Strand Theatre). The sign would recognize the name of a major donor, whose recent gift enabled the Playhouse to undertake necessary interior and exterior renovations to the building.
2. According to Section 303.14 of the Erie City Zoning Ordinance, signs shall not exceed in square feet two times the lineal feet of frontage of the lot; in this case it would be 106 square feet.

3. The Zoning Hearing Board previously granted a similar variance to the Playhouse for an even larger sign in 2006. Therefore the variance would not change the character of the area.

### **Decision**

Hearing officer Mike Hornyak voted to approve the variance request. He said that he thinks this is a good idea that enables the appellant to approach large donors to fund projects like this in the future. He added that the proposed sign is not changing the “footprint” of the building, only adding the name of the donor by changing the name on an existing sign.

### **It is So Ordered.**

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**Appeal No. 12,159 by Multi-Cultural Community Resource Center (2026-101)** concerning property located at the SW corner of East 9<sup>th</sup> and Ash Streets in an R-2 district. The appellant is seeking a variance for a 20’x30’ pavilion. Per Section 205.18 of the Erie City Zoning Ordinance, accessory buildings shall be located in the side or rear yard of the principal building; the proposed location is on a vacant lot without a principal building.

The Board did not convene a quorum. The appellant agreed to have Board member Selena King serve as hearing officer.

### **Findings of Fact**

1. The appellant, the Multi-Cultural Community Resource Center, was represented by Mr. Greg Sikora, who told the hearing officer that the Center has a day care program that constantly uses the facility’s back lot during the warm weather months. In order to comply with a state law, the facility with children must have a shaded cover over the outside area. Presently the Center uses a tent, which has become tattered and must be replaced.
2. The appellants propose to replace the tent with a more permanent, 20’x30’ structure, so they do not have to face similar condition issue problems in the future.
3. The pavilion cover would be located on the appellant’s property, which is otherwise a vacant lot. The Cultural Center owns this lot which is separated by an alley.

### **Conclusions**

1. The appellant runs a day care program that uses the back lot area of the main facility during the warm weather months. To comply with a state law, the appellants must keep a shaded cover over the area where the children play.

2. Presently the appellants have a tent covering the area. However, the tent has become tattered, and the appellants want to construct a more permanent, 20'x30' pavilion. The new structure would be on the vacant lot behind the appellant's main facility.
3. According to Section 205.18 of the Erie City Zoning Ordinance, accessory buildings, like the proposed pavilion, shall be located in the side or rear yard of the principal building; the proposed location is on a vacant lot without a principal building.

### **Decision**

The hearing officer approved the variance request. Ms. King said that this is an affirmative project that looks to the future of the Cultural Center, which she added has been a great resource facility for the community.

### **It is So Ordered.**

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**Appeal No. 12,160 by Moxie Three Real Estate Inc. (3045-200)** concerning property located at 901 West 12<sup>th</sup> Street in an M-2 district. The appellant is seeking a use variance for a retail business. Per Section 204.20 of the Erie City Zoning Ordinance, a retail business is not permitted in an M-2 district.

The Board did not convene a quorum. The appellant agreed to have Board member Mike Hornyak serve as hearing officer

### **Findings of Fact**

1. The appellant, James Kozan, appeared together with the realtor of the property, Sherry Bauer, who told the hearing officer that she was representing both Mr. Kozan as well as being the realtor who is selling the property. The appellant began by presenting the hearing officer with photographs of the interior and exterior of the property, as well as an aerial view of the two to three block area near the corners of West 12<sup>th</sup> and Liberty Streets.
2. Ms. Bauer, whose realty office specializes in commercial properties, told the hearing officer that commercial brokers like her have found it increasingly difficult to rent or sell properties in manufacturing districts. She used the aerial photograph of the immediate 12<sup>th</sup> Street area to highlight that the adjacent blocks has become a mixed use area – including an animal day care, an auto service garage and a district justice office - in recent years. Therefore, the appellant's furniture business will not alter the character of the neighborhood if the variance were granted.
3. The appellant Mr. Kozan told the hearing officer that he operates a furniture, upholstery and mattress business, presently located at the six hundred block of West 26<sup>th</sup> Street. He said that this move will enable him to expand his business in a more suitable

location; in a building with sprinklers all other safety features that are not at the present location.

### **Conclusions**

1. The appellant operates a furniture and upholstery business, presently located in a building that is smaller than he would prefer. He has the opportunity to move into a more suitable location that would enable him to expand the business, and upgrade the safety features.
2. The proposed new building is located on West 12<sup>th</sup> Street, in an M-2 district. According to Section 204.20 of the Erie City Zoning Ordinance, retail businesses like the appellant's are not permitted in an M-2 district.
3. The proposed location is in an area where many other mixed use businesses and offices are located; therefore the appellant's proposed business would not alter the character of the neighborhood.

### **Decision**

Hearing officer Mike Hornyak voted to approve the proposed use variance. He said that after the appellant clarified his business, and showed the number of other mixed use businesses and offices in the immediate area, he agrees that the proposal is a good idea that will fit well into the neighborhood and benefit the local economy.

**It is So Ordered.**

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