

December 12, 2017
City of Erie, Pennsylvania
ZONING HEARING BOARD
1:00 P.M.

The regular meeting of the Zoning Hearing Board was held Tuesday, December 12, 2017 at 1:00 P.M. in City Council Chambers, City of Erie Municipal Building, 626 State Street.

- MINUTES -

THE FOLLOWING APPEALS WERE HEARD:

Appeal No. 12,176 by Richard and Ruby Lee Conner (5258-212) concerning the property located at 2116 East 41st Street in an R-1 district. The appellant is seeking a dimensional variance for the side yard setbacks for a 10'x20' carport. Per Section 205 of the Erie City Zoning Ordinance, the minimum side yard setbacks, the minimum side yard setbacks are 5 feet (least) and 15 feet (total); 0' feet (least) and 6 feet (total) is proposed.

Findings of Fact

1. The appellant Richard Conner appeared on his own behalf at the hearing. Mr. Conner and his wife, (co-appellant) Ruby Lee Conner, both reside at their home located at their home located at 2116 East 41st Street. Mr. Conner told the Board that the appellants are seeking the dimensional variance in order to install a 10'x20' overhead carport, that would be attached to their house.
2. Mr. Conner explained to the Board that the proposed carport is necessary in order to avoid having to clear snow off of his car. Both Mr. and Mrs. Conner have health issues, with Mr. Conner recently suffering a heart problem. The proposal is not just for convenience sake, he said, but has become a necessity; given his fragile health, Mr. Conner said that the difficulty he has clearing snow and ice from his car can become a dangerous activity.
3. The appellants provided a site plan drawing of the proposed addition, showing how the location of the new car port would fit on the west side of his property. In order to be large enough to be effective, the overhead port would extend right up to the neighbor's property line, violating the setback requirement from Section 205 of the Erie City Zoning Ordinance.
4. Mr. Conner indicated that the carport would leave no setback at all, but that this should not pose a problem as it would only be touching the neighbor's side yard, and not impede on another structure. His neighbor's house does not extend to the property line.

Conclusions

1. The appellants are proposing the construction of an overhead carport; the 10'x20' structure would be attached to the west side of the appellant's house.
2. The proposed carport is required because both of the appellants have health problems, and clearing the snow and ice from their car could result in a serious health hazard.
3. According to Section 205 of the Erie City Zoning Ordinance, the minimum side yard setbacks, the minimum side yard setback is 5 feet, with a total setback of no less than 15 feet.
4. The proposed 10'x20' structure would leave no side yard setback, with the appellant's neighbor; however, the property line is the neighbor's side yard; it would not impede on any structure, and the proposal would not alter the character of the neighborhood.

Decision

The Board unanimously approved the dimensional variance. Board members Mike Hornyak, Edward Dawson, Jeffrey Johnson and chairwoman Selena King all agreed that the proposal is necessary, and does not affect the character of the neighborhood; all voted to approve the variance request.

It is So Ordered.

Appeal No. 12,177 by Mary Euell (3129-206) concerning property located at 1256 West 20th Street in an M-1 district. The appellant is seeking a use variance for a Family Day Care Home. Per Section 204.19 of the Erie City Zoning Ordinance, a Family Day Care Home is not a permitted use in an M-1 district.

Findings of Fact

1. The appellant, Mary Euell, appeared on her own behalf, and told the Board that she is seeking a variance to operate a small day care facility out of her home.
2. Ms. Euell began by telling the Board that her proposal has widespread approval of the neighborhood. She had drafted a questionnaire that was sent to several of her neighbors; more than a half dozen favorable responses were attached to the appellant's variance application. According to Ms. Euell, there is a need in her neighborhood for a facility like the one she is proposing, with many of the neighbors themselves using it, especially those who work later shifts.
3. The hours of operation would be 6:00 a.m. until 6:00 p.m., unless specifically requested by one of the parents. Upon receiving the variance, Ms. Euell said she will go to the Department of Human Services to determine the rules and regulations of operating a day

care facility. She did indicate, however, that at no time will the number of children at the facility exceed six.

4. There were also several site plans and photographs of the appellant's house – showing both exterior and interior views - that were attached to the application. The house has two large rooms that would be used exclusively for the day care operation, in addition to a large basement area for children's activities. The house has an enclosed porch which could be used as a protected area for the children to play.
5. In addition to the completed questionnaires, one of the appellant's neighbors appeared in support of the proposal. Ms. Melissa Martin, told the Board that she has a disabled child who is cared for by the appellant, and said that she recommends the Board approve the variance for the day care home.

Conclusion

1. The appellant is seeking a use variance to operate a Family Day Care Home out of her house that will have up to six children.
2. According to Section 204.19 of the Erie City Zoning Ordinance, a Family Day Care Home is not a permitted use in an M-1 district.
3. The appellant has the support of many of her neighbors, who recognize the need for a day care facility in the area.

Decision

By a unanimous decision, the Board voted to approve the use variance. Board members Selena King and Mike Hornyak both indicated that they are familiar with the neighborhood, and recognize the need for the facility. Together with Board members Edward Dawson and Jeffrey Johnson, all four members voted to approve the variance request.

It is So Ordered.

Appeal No. 12,178 by The ANNA Shelter (2104-301) concerning property located at 1415 East 10th Street in an M-1 district. The appellant is seeking a use variance for an Animal Care Facility. Per Section 204.19 of the Erie City Zoning Ordinance, Animal Care is not a permitted use in an M-1 district.

Findings of Fact

1. Representing the appellants at the hearing was Ruth Thompson, owner and operator of the ANNA Shelter, presently Erie's only veterinary clinic. Ms. Thompson indicated that the variance is for the "wellness center" portion of the ANNA Shelter. This is the

veterinary service facility of the ANNA Shelter, not for overnight boarding of the animals. There would be no animals staying overnight at the proposed new location.

2. Ms. Thompson told the Board that there is a problem with renewing the lease for the location that presently houses the wellness center. However, the ANNA Shelter's wellness center has an opportunity to purchase and move into a nearby location – at 1415 East 10th Street. Ms. Thompson said that she would buy the property from the appellants, and then lease it back to the ANNA Shelter.
3. According to Ms. Thompson, the ANNA Shelter already runs the clinic at its present 1455 East 10th Street, but has outgrown the space. She said that the clinic is now vested in the Erie community, providing a much needed service to abandoned animals. By moving into the larger, corner building, the facility will be better equipped, providing an improved, larger staff to care for the animals, and better customer relations and parking for the pet owners.
4. Reiterating that the ANNA Shelter is now the only veterinary clinic in Erie, the new facility plans to have two full time veterinarians and a staff of nine employees; the clinic presently is open only four days per week. This, too, is expected to increase with the new facility.

Conclusions

1. The appellants are seeking a use variance to expand an existing animal shelter and veterinary facility – the ANNA Shelter - by moving into a larger, nearby building. Only the “wellness center,” or veterinary service part of the animal clinic will be moved; there will be no overnight boarding of animals at the proposed new location.
2. According to Section 204.19 of the Erie City Zoning Ordinance, an Animal Care Facility is not permitted in an M-1 district.
3. The owner and operator of the ANNA Shelter proposes to purchase the new building, and lease it to the shelter. The new location will be larger, and enable better service and facilities to local animal owners.

Decision

CONDITION:

The Board unanimously approved a condition to the proposal, that if the variance were granted, both parties must have signed a land contract, approved by the Erie Zoning Office.

With the condition attached, and by a unanimous decision the Board voted to approve the use variance. Board members Mike Hornyak, Edward Dawson, Jeffrey Johnson and Selena King all agreed that the ANNA Shelter has done good work for the community, and the proposed site is a good location for the expansion of the shelter's services. All four voted to approve the variance request.

It is So Ordered.

Appeal No. 12,179 by Paul & Lisa Galla (3133-106) concerning property located at 1565 West 12th Street in an IP district. The appellant is seeking a use variance for a Fitness Center. Per Section 206(B) of the Erie City Zoning Ordinance, a Fitness Center is not a permitted use in an IP district.

Findings of Fact

1. The appellants were represented at the hearing by Mr. Daryl Tarella, a property and real estate developer. Also appearing in support of the variance was Mr. Jack Sullivan, owner and operator of the Real Fitness Gym. The gym is presently located at West 38th Street and Greengarden Boulevard; they must move from that location, and are seeking to move into the vacant building on the corner of West 12th Street and Greengarden.
2. Mr. Tarella first addressed the Board and said that the building in question was the former LaMar billboard sign company. The building was no longer large enough for the former company, however, it is too large to be of use for most other commercial purposes. Mr. Tarella also pointed out that the West 12th Street area is in a period of transition, becoming a mixed-use business corridor in recent years; with several variances granted for nearby businesses.
3. The building is a good fit for Real Fitness, Mr. Tarella said. It is fortuitous that the gym is able to locate such a building so close to its recent location, from where it is being forced to move. The situation, he said, makes for a unique set of circumstances where both parties can benefit.
4. Mr. Sullivan next addressed the Board, indicating that he has been in business for five years now. He said that Real Fitness has approximately 700 customers presently, down from a high of 800, but added that with the proposed move they plan to be expanding, and adding from 20 to 25 new employees
5. Mr. Sullivan reiterated what Mr. Tarella had said: that Real Gym has to move, and that of the handful of locations that they viewed, this was the best. He added that he has made a serious investment that benefits the Erie Community; telling the Board that Real Fitness has the best equipment in the state to service any training need.
6. The only question from the Board regarded the plans for signage. Mr. Sullivan said that he has not definitively decided on what type of sign he plans to use for the new building, but doubts if he would have to install something bigger than the Code permits. Given the proximity of the building to West 12th Street and the traffic flow from I-79, he said that a reasonably-sized sign on the side of the building will probably be all that he will need to install.

Conclusions

1. The appellant's gymnasium is presently located on West 38th Street and Greengarden Boulevard; however, the lease for the business is due to expire, and the owner must relocate.

2. The appellants looked at a few possible alternative locations, but the best site is at the vacant building at the corner of West 12th Street and Greengarden, which is in an IP district.
3. According to Section 206(B) of the Erie City Zoning Ordinance, a Fitness Center is not a permitted use in an IP district.
4. The variance will not alter the character of the neighborhood, as the area is in a state of transition to a mixed-use, business and manufacturing region.

Decision

By a unanimous decision, the Board voted to approve the use variance. Board member Mike Hornyak said that he is pleased with the changes to the area so far, and thinks that this business is a good fit for the location. Board members Selena King and Edward Dawson both said that they encourage and appreciate the type of service that the appellant is providing to the community. Together with member Jeffrey Johnson, all five members voted to approve the request.

It is So Ordered.
