

April 10, 2018
City of Erie, Pennsylvania
ZONING HEARING BOARD
1:00 P.M.

The regular meeting of the Zoning Hearing Board was held Tuesday, April 10, 2018 at 1:00 P.M. in City Council Chambers, City of Erie Municipal Building, 626 State Street, Erie, PA.

-- MINUTES --

THE FOLLOWING APPEALS WERE HEARD:

Appeal No. 12,184 by Timothy Zieziula (1103-103) concerning property located at 1540 East Lake Road. The appellant is seeking a use variance for Professional Services and Medical and Dental Clinics. Per Section 204.20 of the Erie City Zoning Ordinance, professional services and medical and dental clinics are not permitted uses in an M-2 district.

Findings of Fact

1. Attorney Timothy Zieziula appeared before the Board representing the appellant, SB3, LLC (hereafter SB3). The appellants are seeking a use variance to operate the old office building formerly used by Hammermill / International Paper. SB3 is proposing to convert the now vacant building into medical and dental clinics; the clinics are not a permitted use in the M-2 district.
2. The 75,000 square foot building dates to the 1950's-60's era, and was the corporate headquarters of the old Hammermill/I.P. paper company. The area is zoned M-2 largely because of the location of Hammermill and companies like it, according to Attorney Zieziula; and remains "M-2", he said, even though it is highly unlikely that any future manufacturing company like Hammermill will ever occupy the site again.
3. SB3 purchased the property in 2007, and only uses a small portion of the large building for its offices. The appellant's hardship is that it is unfeasible to renovate the building in such a way that it could be used in conformity with the City Ordinance. Without the variance, the majority of the building will remain vacant and unused. Attorney Zieziula also pointed out that there are many other community-related professional services that are located in the area near the site.
4. What the appellants propose is to rent much of the unused part of the building to Primary Health Network (hereafter "PRN") for use as medical and dental clinics. PRN presently operates out of the basement of the old Wayne School, and has to move in order to

continue operations. The agency services low income residents, and they want to stay in the lower eastside area. The facility at the old Hammermill site would be ideal for PRN's needs. If they were to move elsewhere, it could have the effect of denying services to many of their low-income patients.

5. Ms. Laura Guncheon of the Erie Management Group, an affiliate of SB3, also addressed the Board. She said that PRN, the proposed tenants, already has its own transportation system in place for its patients. If the variance is approved, the hours of operation at the new facility would be 9:00-5:00, Monday thru Friday, and possibly from 6:00-7:00 p.m. one evening a week.

Conclusions

1. The appellants own the former corporate headquarters of the old Hammermill/International Paper Company. The building is in a district still zoned M-2, even though Hammermill and many other manufacturing companies have left the area.
2. The appellants wish to rent the largely unused part of the building to a community-based health provider, who is looking to move their medical and dental clinics to a new location, preferably in the lower eastside area.
3. According to Section 204.20 of the Erie City Zoning Ordinance, professional services and medical and dental clinics are not permitted uses in an M-2 district.
4. The hardship is that it is unfeasible to renovate the building to conform to the present zoning requirements. Also, an additional hardship is that the low income community being served by the clinic would be denied access to the health care it currently receives. If the variance is approved they would still be able to receive the care at the new facility.

Decision

By a unanimous vote the Board approved the use variance. Board member Mike Hornyak said that the appellants provided very good reasons for the variance, and it will prevent future problems when the health care provider must leave the old Wayne School site. Member Jaqueline Spry said that the proposal makes sense, especially as there are likely to be many changes to the former manufacturing area in the future. Along with member Jeffrey Johnson, all three voted to approve the variance.

It is So Ordered.

Appeal No. 12,185 by Elaine Harris)2012-238) concerning property located at 236 East 11th Street. The appellant is seeking a use variance for a Day Care Center. Per Section 204.12 of the Erie City Zoning Ordinance, a Day Care Center is not a permitted use in an R-2 district. Additionally, per Section 204 only one principle use per lot in any “R” district will be allowed.

Findings of Fact

1. The appellants were represented at the hearing jointly by Pastor Dale Snyder and Ms. Elaine Harris, both of the St. James A.M.E. Church. The Church, which has been active in the community for over one hundred years, is located on East 11th Street near Holland, and is directly across the street from Pfeiffer-Burleigh grade school.
2. Pastor Snyder told the Board that the appellant’s goal is to use the services of the Church to help what he referred to as the crisis of at risk children in the community. Having a day care facility in the Church would offer help to parents who have issues with varied shifts at work, transportation and week-end care; it would also alleviate some of the worry the parents have about what their children are doing when the parents are at work. Pastor Snyder added that the Church’s proximity to Pfeiffer-Burleigh makes it uniquely situated to not only provide day care to the school’s children, but also allows access to the school’s playground and expanded parking areas.
3. Ms. Harris, who has been a teacher and staff member for a day care center for years, explained that the appellants want to expand the day care services into the Church itself, where they have the ability and opportunity to offer a 24-hour day care facility. The facility would have at least six staff members, with at least two on duty during the overnight hours of operation.
4. The facility would not only provide day care for children up to the age of 13, Ms. Harris said, but would help the youth achieve self-confidence and respect in themselves and others. The facility stresses the development of the children’s educational, social and emotional needs; this development, she said, benefits the entire community, as it helps the children to understand their accountability and responsibility that they have to themselves and to society.
5. Also appearing in support of the proposal was Ms. Kathleen Schaaf, a teacher of 35 years who has taught at a day care facility for the past ten years. She said that she is familiar with other local day care facilities similar to that which is being proposed, where the facility combines church functions with day care schooling services. She told the Board that she believes this is a good approach toward addressing the increasing problem of at risk children in our community.
6. Answering specific questions from Board members, Pastor Snyder, using the site plan the appellants included with the proposal, indicated that there would not be a problem with parking, as the facility would be able to use parking areas that could hold up to 150 cars,

and the lots have two separate entrances. He added that the lot is well lit, and the facility would always have at least two staff members on duty during the nighttime hours.

Conclusions

1. The appellant is proposing to add a day care facility into the St. James A.M.E. Church itself.
2. The Church has the space and ability to operate a 24-hour facility for children up to age 13, thereby addressing the issue of the increasing number of at risk children in the community. The day care facility would be staffed by at least six employees, with at least two present during the overnight hours.
3. According to Section 204.12 of the Erie City Zoning Ordinance, day care centers are not a permitted use in an R-2 district. Additionally, per Section 204 only one principle use per lot is permitted in any "R" district.
4. The proposed facility is uniquely located across the street from Pfeiffer-Burleigh school. The facility would have adequate parking, and be permitted to use the playground area of the school.

Decision

The Board unanimously approved the use variance for the appellants to operate the day care facility. Board member Mike Hornyak said that given the proximity with Pfeiffer-Burleigh school, and the existing church facilities, he thinks that it is a good marriage of the services, and will benefit the community. Likewise member Jaqueline Spry agreed that there is a necessity for day care facilities, and combining it with the educational component that the appellants propose is a good idea. Along with member Jeffrey Johnson, all three Board members voted to approve the proposal.

It is So Ordered.

Appeal No. 12,186 by Patrick and Nicole Whaling (5309-300) concerning property located at 3954 Wood Street. The appellant is seeking a dimensional variance for a swimming pool and deck. Per Section 205.18 of the Erie City Zoning Ordinance, swimming pools shall be located in the side or rear yard of the principle building. Additionally, per Section 205.11, in an R-1 district, the required depth of the front yard for the proposed structure shall be the average depth of the existing structures located between two intersecting streets within a tolerance of +/- five (5) feet.

Findings of Fact

1. The appellant Patrick Whaling appeared in his own behalf and told the Board that he owns a corner lot at West 40th and Wood Streets, and wants to install a swimming pool. He said that the proposed pool would face the 40th Street side of his property, where there is already an existing patio.
2. Using photographs of the property, together with two site plans showing the layout of the corner lot, the appellant explained that due to the layout of the property, they consider the area facing West 40th Street as their side yard. He also showed how the topography and landscaping of the rear yard area makes that space unsuitable for a swimming pool.
3. The front of the appellant's house faces Wood Street. If approved, the pool would be built on the side yard area of the property (facing 40th Street). Mr. Whaling said that he will have a fence around the pool area, but not around the entire property. He also pointed out that there are several other houses in the neighborhood that have similar above-ground pools.

Conclusions

1. The appellant owns a corner lot, where the side yard of his property faces a street. He proposes to install a pool on the side yard, near where a patio already exists.
2. According to Section 205.18 of the Erie City Zoning Ordinance, in an R-1 district swimming pools shall be located in the side or rear yard of the principle building.
3. The physical contour and landscaping of the appellant's property makes installing the pool in the rear yard area impossible.
4. The neighborhood would not be negatively affected by the proposed pool, as there are several other homes in the area with swimming pools.

Decision

The Board unanimously approved the variance for the installation of a pool in the appellant's side yard area. Board member Mike Hornyak said that given the location of the appellant's house – with essentially two front yards – it would be nearly impossible to meet all the zoning requirements. Board members Jaqueline Spry and Jeffrey Johnson agreed, and all three voted to approve the variance request.

It is So Ordered.

THE FOLLOWING VOTES WERE MADE BY THE BOARD:

The Board also voted on proposals to the Zoning Hearing Board's By-Laws; these changes were proposed at the Board's March 13, 2018 hearing. All of the following changes to the By-Laws were unanimously approved by Board members Mike Hornyak, Jaqueline Spry, Jeffrey Johnson and Selena King (whose votes were announced by Board member Jeffrey Johnson, acting as Ms. King's proxy).

The Board approved changes to the language of the following sections of the Z.H.B. By-Laws:

1. Article 3, Sub-Section 1
2. Article 3, Sub-Section 4(1)
3. Article 6, Sub-Section 13(c)
4. Article 7, Sub-Section 1

The Board approved removing the following sections of the Z.H.B. By-Laws.

(NOTE: these changes have been repealed from the Municipalities Planning Commission):

1. Article 5, Sub-Section 1
2. Article 5, Sub-Section 2
3. Article 5, Sub-Section 2(A)
4. Article 5, Sub-Section 2(B)
5. Article 5, Sub-Section 2(B)(1)
6. Article 5, Sub-Section 2(B)(2)
7. Article 7, Sub-Section 1

It is So Ordered.