

**December 10, 2019**  
**City of Erie, Pennsylvania**  
**ZONING HEARING BOARD**  
**1:00 P.M.**

The regular meeting of the Zoning Hearing Board was held Tuesday, December 10, 2019 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. 12,211 by Donald Crenshaw (5125-118; 5125-124)** concerning property located at the northeast corner of East 26<sup>th</sup> Street and Downing Avenue in an R-2 zoning district. The appellant is seeking a use variance to operate a contractor's yard on these parcels. Per Section 204.12 of the Erie City Zoning Ordinance, contractor's yards are not a permitted use in an R-2 zoning district.

**Findings of Fact**

1. The appellant Donald Crenshaw appeared on his own behalf at the hearing, and told the Board that he purchased the properties in question about twenty years ago, when they were located in an "M-2, Commercial" zoning district. He said that approximately fifteen years ago the area was re-zoned as an "R, Residential" district, with the hope of constructing affordable housing. According to the appellant, while the long term goal is still to develop the site for low income, affordable homes, funding has dried up, and much of the surrounding area is still vacant.
2. The appellant is the owner and operator of a contracting company, and is seeking a variance to store trailers and other construction-related materials on his properties; at least until the project to develop the surrounding area is back on track. He pointed out that since the area has been re-zoned, approximately 25 homes have been developed. It is only a matter of time, Mr. Crenshaw said, that the remaining vacant properties are similarly developed.
3. The Board was provided with photographs of the appellant's properties, containing cargo container-like trailers (similar to those hauled by semi-trucks), as well as an aerial view of the entire neighborhood, showing the appellant's lots and the adjacent undeveloped properties. The appellant said that his properties (where the trailers are stored) will itself

be developed eventually, pointing to the fact that the request to store the trailers is not an attempt to establish a full-time contractor's storage site.

4. The appellant said that the properties where the trailers are stored is well kept, and does not negatively affect the changing neighborhood. He reiterated that while there is no strict time period on the development project, the trailers will only be stored on the site until the equipment contained in the trailers is needed for constructing projects on the other nearby sites.
5. The Board discussed and the appellant agreed to a condition on the variance, where the storage of the trailers is only permitted until the equipment contained in those containers is needed for developing the surrounding properties.

### **Conclusions**

1. The appellant is proposing using his properties as a contractor's yard; specifically to store several cargo container type trailers on his lots. The trailers would contain equipment required for the development and construction of the nearby vacant properties into low income housing.
2. According to Section 204.12 of the Erie City Zoning Ordinance, contractor's yards are not a permitted use in an R-2 zoning district.
3. The appellant purchased the properties approximately twenty years ago, when the area was designated as an "M-2, Commercial" zoning district. The area has since been re-zoned as a residential district, making the presence of a contractor's yard a violation of the City Code.
4. The storing of the trailers is temporary, only until the equipment contained in them is required for the development of the nearby lots. The trailers presence does not negatively affect the character of the changing, surrounding area.

### **CONDITION:**

The Board proposed and unanimously approved a condition that if the variance is approved, the trailers would be permitted to stay on the property only until the equipment contained in those trailers is required for use in developing the nearby properties.

### **Decision**

With the condition attached, the Board unanimously approved the variance. Board members Mike Hornyak, Edward Dawson, Jeffrey Johnson and Selena King all voted to approve the variance.

Board member John Reitinger recused himself from the vote, citing a previous conflict of interest with the appellant.

**It is So Ordered.**

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**Appeal No. 12,212 by Greta Johnson (5015-113)** concerning property located at 337 East 25<sup>th</sup> Street, in an R-2 zoning district. The appellant is seeking a dimensional variance for a fence that exceeds the height allowance. Per Section 205.19 of the Erie City Zoning Ordinance, in a residential district any fence, hedge or enclosure within the required yard space shall not exceed a height of six (6) feet six (6) inches. An eight (8) foot fence is proposed.

### **Findings of Fact**

1. The appellant, Ms. Greta Johnson, appeared on her own behalf and explained to the Board that she is seeking a variance in order to keep an eight (8) foot, wooden slatted fence that surrounds much of her East 25<sup>th</sup> Street house. The purpose of the high fence, she said, was twofold: to keep her animal inside the property, and more importantly, to keep out a neighbor (the appellant's brother) with whom the appellant has had a difficult relationship in recent years.
2. The Board confirmed with the Erie Zoning Office that the Erie City Zoning Ordinance requires that in the appellant's R-2 residential zoning district an enclosed fence cannot exceed 6' 6". The zoning official also indicated that a fence like the appellant's can be constructed up to the property line, but not on the line.
3. The appellant provided both visual proof, in the form of several photographs of the fence, and an official surveyor's report, showing that the fence in question is on the appellant's property. The appellant further claimed that the neighbor's chain link fence is actually encroaching onto the appellant's property, over the property line.
4. The appellant told the Board that she must maintain the high fence in order to prevent further trouble. She alleges that the neighboring brother has been causing trouble since moving into the house approximately four to five years ago, and will continue to do so. The appellant showed that she has gone so far as to file a private criminal complaint against her brother at the district justice's office.

### **Conclusion**

1. The appellant is seeking a dimensional variance to allow her to keep the eight (8) foot wooden-slat fence that she presently has standing around her East 25<sup>th</sup> Street property.
2. According to Section 205.19 of the Erie City Zoning Ordinance, any fence or hedge enclosure around a property in an "R" district must not exceed 6' 6".
3. The appellant claims that the fence is necessary because of her animal, but also because she needs protection from a disruptive neighbor.

## Decision

By a unanimous decision, the Board voted to deny the request for a dimensional variance. Board members Edward Dawson, Selena King, Mike Hornyak, John Reitingger and Jeffrey Johnson all voted to reject the variance request.

## It is So Ordered.

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**Appeal No. 12,213 by Juan Garnica (1030-134, 1030-114)** concerning property located at the southeast corner of East 7<sup>th</sup> and Perry Streets in an R-2 district. The appellant is seeking a use variance to operate a contractor's yard on these two parcels. Per Section 204.12 of the Erie City Zoning Ordinance, contractor's yards are not a permitted use in an R-2 zoning district.

## Findings of Fact

1. The appellant Juan Garnica, with his son serving as a translator, appeared at the hearing and told the Board that he purchased the property in question about five years ago. The large corner vacant lot is directly next door to the appellant's house; as was shown in an aerial photograph of the corner that the appellants provided.
2. Mr. Garinca said that he is not a registered contractor, but he has a nice side business doing contracting-related jobs, and needs a place to park the vehicles that he needs for the business. He said that the vacant lot directly next to his house would be a good location to park the vehicles and trailer that he has to store his tools.
3. The appellant said that he has been parking his vehicles on the street, which takes up parking spots that are needed by his neighbors. The Board received several letters from neighbors that indicated support for the proposal, citing that if the appellant was able to use the vacant lot, there would be no parking problem on their street.
4. As of yet, the two lots have not been combined into one property. The appellant said that if the variance is approved, he plans to install a fence around the lot. He said that he does not intend to build neither a garage nor a shed on the lot. Even though the appellant is seeking the variance for a contractor's yard, he said that he would still build the fence no more than 6' 6"; remaining compliant with the City Code for residential districts.
5. The Board asked the appellant if he were willing to put up some type of shrubbery, or other screening, in addition to the fence, so that the character of the neighborhood is not changed. The appellant agreed to this condition.

### Conclusions

1. The appellant is seeking a variance to use the vacant lot next to his house as a contractor's yard, in order to park his vehicles and equipment trailer.
2. According to Section 204.12 of the Erie City Zoning Ordinance, contractor's yards are not a permitted use in an R-2 zoning district.
3. The appellant's neighbors approve of the proposal, as it would alleviate parking problems on their street.
4. The appellant plans to install a fence around the contractor's yard, if approved. The appellant agreed to a Board condition to include a shrubbery-type screening along with the fence, so as not to alter the character of the residential neighborhood.

### Decision

#### CONDITION:

The Board unanimously approved a condition to the proposal, that along with the fence that the appellant plans to install, a natural, shrubbery-like screening, not to exceed 6' 6" is also to be put up. .

With the condition attached, and by a unanimous decision the Board voted to approve the use variance. Board members Mike Hornyak, Edward Dawson, John Reiting, Selena King and Jeffrey Johnson all voted to approve the variance request.

### It is So Ordered.

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**Appeal No. 12,214 by Linda Graham (5212-320)** concerning property located at 3229 Pennsylvania Avenue in an R-1 zoning district. The appellant is seeking a dimensional variance to store/park a boat in the front yard space of a corner lot. Per Section 205.21 of the Erie City Zoning Ordinance, boats must be parked behind the principle structure, and at least three (3) feet from the property line.

### Findings of Fact

1. The appellants are Linda Graham and Thomas Foye. Ms. Graham addressed the Board and told them that she purchased the property 42 years ago, in 1977. The request for the variance is to keep her boat where it has been for the past several years, on her property along the side of her house.

2. The appellants provided an aerial view and two photographs of the house, showing where the boat is placed. The unique physical position of the house, the appellant said, is the reason for the violation. The violation that the appellants received stated that their corner lot has two front yards, two side yards, and a small area for the backyard.
3. The house is part of a sub-division, where each house is ten (10) feet apart from the next. Therefore, the appellant's home has a five (5) foot border from the neighboring property line.
4. The boat is parked in the side driveway, facing Hayes Street. The appellant said that she cannot change the location or position of the house, and it would be a great expense to move it to another location. Keeping the trailer and boat on either Pennsylvania Avenue or Hayes Street is also not an option, as it would create many problems with the parking situation on the public streets.
5. The appellants have installed a wooden privacy fence, which blocks the boat from view of their neighbors. If the variance is approved, the appellants can extend the fence to similarly block the view from neighbors facing the other direction. (The appellants indicated that they have a permit for the fence, but the trailer and boat are currently not registered.)
6. Several of the appellant's neighbors addressed the Board, either in person or via written correspondence. While one neighbor was opposed to the variance, most of them indicated that the appellants have taken care to park the trailer, and erect the fence, in a way that does not alter the character of the neighborhood, and is not objectionable to the neighbors.

### **Conclusions**

1. The appellants have a boat on a wheeled trailer parked on the side of their eastside residence. The appellant's home is a corner lot, and the configuration of the dwelling makes it so that there is very little room between their house and the neighboring property.
2. According to Section 205.21 of the Erie City Zoning Ordinance, boats must be parked behind the principle structure, and at least three (3) feet from the property line. With the narrow five (5) foot area between the property lots (the appellants purchased the property, which was part of a new development, in 1977), it would be impossible for the appellants to keep the boat in the space where it has been stored for the past several years, without violating the Code.
3. The appellants were not responsible for creating the violation, as City zoning officials determined that the house has two front yards, two side yards, and a very small area backyard.
4. Most of the appellant's neighbors do not object to the trailer remaining in its side yard position, as the appellants have erected a wooden slatted fence to keep the boat unobtrusively placed on the appellant's property.

## Decision

By a unanimous decision, the Board voted to approve the variance. Board members Mike Hornyak, John Reitingger, Selena King, Edward Dawson and Jeffrey Johnson all voted to approve the request.

## It is So Ordered.

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**Appeal No. 12,215 by Rachel McCreary (6009-104)** concerning property located at 1909 Chestnut Street in an M-1 zoning district, for a use variance to add mixed uses to the property. The proposed new uses are Commercial Recreation, Retail, and Eating & Drinking establishment. Per Section 204.19 of the Erie City Zoning Ordinance, these uses are not permitted in an M-1 Light Manufacturing zoning district.

## Findings of Fact

1. The appellants are Rachel and Patrick McCreary; Mr. McCreary appeared before the Board to explain the reason for the requested variance, and describe the transformation of the property from an old manufacturing site into a venue for local aspiring artists. The appellants included a large informational packet with their application, including several photographs of the property, a history of the site, and statements from many different parties who would be positively affected by the proposal.
2. The property sits at the southeast corner of West 19<sup>th</sup> and Chestnut Streets; it was one of the remaining unused structures from when the area was a manufacturing corridor, adjacent to the “19<sup>th</sup> Street” railroad tracks. The structure itself is over one hundred years old. It served as a nickel plating company for years, and then as McCreary Roofing Company. McCreary Roofing moved to an eastside location a decade ago, and the property has sat vacant ever since.
3. Recently the appellants donated part of the building to the Sisters of St. Joseph (hereafter SSJ), a neighborhood group that has been successful in rebuilding much of the old “Little Italy” section of Erie’s lower west side. SSJ has worked hard to refurbish the vacant manufacturing building into a studio-like venue.
4. The newly created site, now known as “The Shop”, presently houses four tenants, all of whom are artists or other craftsmen (e.g. wood workers, painters, etc...). The Shop recently sponsored a “gallery night,” where the public had an opportunity to see the new changes to the old, dilapidated structure. The event also provided the tenants and other local artists to display, and in some cases sell, their works.
5. The appellants were very pleased with the success of the gallery night, and believe that it led to more interest in the building. The appellants want to take the next step, and are seeking the

variance in order to expand the site. The long term proposal would include a variety of small businesses, including, for example, a coffee shop, an antique shop, a vintage furniture store, and potentially an art gallery for local artists to sell their works.

6. The appellants have a large, unused lot to the east of the building, and another lot to the north; the appellants claimed that these locations should satisfy the parking demands created by The Shop.
7. Several local residents and merchants addressed the Board, and all expressed a belief that the new enterprise will be a benefit to the ongoing re-development of the Little Italy area. Speaking on behalf of the SSJ, Ms. Gretchen Gallagher-Gurney told the Board that the SSJ has invested significantly in the neighborhood for the past twenty years, and sees this proposal as having many positive impacts for the community. Additionally, Mr. Patrick Fisher, director of Erie Arts & Culture, said that the recent success of the gallery night proved that a creative re-use of the old property could be a success, and may inspire and encourage other parties to pursue similar ventures in the old, manufacturing sites in the area.

### **Conclusions**

1. The appellants owned the building at the southeast corner of West 19<sup>th</sup> and Chestnut Streets. It was a manufacturing warehouse for decades, and then served as a roofing company. The roofing company moved to an east side location approximately ten years ago; the appellants donated part of the building to a neighborhood improvement group, the Sisters of St. Joseph.
2. The building has been converted into a studio-like venue for artists and other craftsmen (e.g. painters, wood workers, etc...). Recently the new facility, now known as “The Shop”, sponsored a successful “gallery night”, where several local artists displayed and sold their works. The appellants believe that the location could be expanded to include other similar type businesses, such as an antique store, a vintage furniture shop, and even a coffee shop.
3. According to Section 204.19 of the Erie City Zoning Ordinance, mixed uses, including the proposed commercial, recreation, retail, and eating & drinking establishments are not permitted in an M-1 Light Manufacturing zoning district.
4. The appellants have adequate parking spaces for the proposed facility if the variance is approved.

### **Decision**

By a unanimous decision, the Board voted to approve the variance for a mixed use of the appellant’s property. In commending the appellant’s efforts and vision for the neighborhood, and citing an area where change is much needed, Board members Mike Hornyak, John Reitingner, Selena King, Edward Dawson and Jeffrey Johnson all voted to approve the request.

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