

November 10, 2020
City of Erie, Pennsylvania
ZONING HEARING BOARD
1:00 P.M.

The regular meeting of the Zoning Hearing Board was held Tuesday, November 10, 2020 at 1:00 P.M.

As the result of both state and local government restrictions on public gatherings, the hearing was held via the on-line website *Zoom Webinar*, at the I.D. bearing no.: 830 3263 3331. Special instructions for the applicants were provided in advance. In addition, anybody wishing to provide public comment were also provided with instructions, provided at www.erie.pa.us, the official City of Erie homepage.

-- MINUTES --

THE FOLLOWING APPEALS WERE HEARD:

Appeal No. 12,233 by Delta Real Estate LLC (2102-324) concerning property located at 1320 East 11th Street in an R-2 zoning district. The appellant is seeking a dimensional variance to expand a nonconforming use that exceeds the permissible 50% maximum increase. Per Section 301.20 of the Erie City Zoning Ordinance, a lawful nonconforming use shall only be expanded if it does not exceed a 50% maximum increase, in aggregate, over the entire life of the nonconformity. The maximum permitted expansion would be 1,842 square feet, a 7,482 square feet expansion is proposed.

NOTE: Two of the three Board members, as well as their solicitor and Erie Zoning Office officials, were in visual and audio contact with one another throughout the hearing; the other Board member and the stenographer were in audio contact only during the hearing. The witnesses were also in audio contact with the Board throughout the hearing.

Findings of Fact

1. The appellants are Mr. Dean Tabich and his wife and business partner, Mrs. Nihada Tabich. In addition to Delta Real Estate, they also own and operate two tool and die businesses on the east side of Erie. The appellants are seeking a dimensional variance for one of those locations, on East 11th Street, in order to build a warehouse that would enable them to expand their operations.
2. Mr. Tabich addressed the Board and said that the appellants have been in business for approximately fifteen years, and recently purchased the subject properties on East 11th Street, with the hope of expanding their business operation.
3. The appellants wish to expand the buildings at the subject properties; most importantly one property is to be a 7,482 square foot warehouse, and the other property will serve as an office for the appellant's business.

4. The appellants have been operating only one shift, but with the expansions and additional warehouse space, they hope to expand to a 2nd and even 3rd shifts.
5. Presently the appellants tool and die operation employs six people. If they do add two additional shifts, they could expand their total number of employees to as many as twenty.
6. Although the property is not located in a traditional business district, the appellant told the Board that the dimensional variance to construct a warehouse will not negatively affect the nearby area. Mr. Tabich indicated that there are other businesses and a union hall in the surrounding blocks; therefore, the addition of a warehouse and office space will not disturb the character of the neighborhood.
7. If approved, the appellants will have up to twenty (20) off-street parking spaces for their additional employees.

Conclusions

1. The appellants are requesting a dimensional variance in order to transform property that they purchased several years ago into a warehouse and office. The property, located on East 11th Street, is in an R-2 zoning district.
2. According to Section 301.20 of the Erie City Zoning Ordinance, a lawful nonconforming use shall only be expanded if it does not exceed a 50% maximum increase, in aggregate, over the entire life of the nonconformity. Therefore, according to the City Code, the appellant's property expansion would be limited to 1,842 square feet.
3. In order for the warehouse to be built according to the appellant's need, it would have to be 7,482 square feet.
4. With the expanded warehouse the appellants will add a 2nd and 3rd shifts to their tool and die operation. This expanded work would increase their work force from six to approximately twenty.
5. The dimensional variance would not affect the character of the neighborhood, as there are already other businesses, in addition to a union hall and other offices in the nearby area.
6. The appellants would have up to twenty (20) off-street parking spaces for the additional employees; well within the number required by the Code.

Decision

By a unanimous decision, the Board approved the appellant's request for a dimensional variance to expand their building into a warehouse. Board members Edward Dawson, Selena King and Jeffrey Johnson all voted to approve the construction of a warehouse at the appellant's site.

It is So Ordered.

Appeal No. 12,234 by City of Erie School District (6201-100) concerning property located at 2300 Cranberry Street. The appellant is seeking a use variance to operate a Day Care Center in an R-2 zoning district. Per Section 204.12 of the Erie City Zoning Ordinance, Day Care Centers are not a permitted use in an R-2 district.

NOTE: Two of the three Board members, as well as their solicitor and Erie Zoning Office officials, were in visual and audio contact with one another throughout the hearing; the other Board member and the stenographer were in audio contact only during the hearing. The witnesses were also in audio contact with the Board throughout the hearing.

Findings of Fact

1. The case before the Board concerns the old Roosevelt Middle School, located on Cranberry Street near the intersection with Brown Avenue. In support of the proposal, the Board heard from Ms. Rena Irwin on behalf of the Child Development Center Inc., and from Mr. Randolph Pruchnicki on behalf of the Erie School District.
2. Mr. Pruchnicki told the Board that the sale of the property is contingent on the Child Development Center being able to build a day care center on the site.
3. If the variance is approved, the Child Development Center (hereafter referred to as the "CDC") would build a child education facility, including a parking lot and fenced in playground on the site. According to Ms. Irwin, the education school/building would be compliant with all Erie City building code and occupancy requirements.
4. The facility would primarily be for children in their pre-school years, including infants and preschoolers (ages 3-5). The CDC has already been given a variance in the past to operate a similar facility on East 10th Street.
5. Ms. Irwin said that although this proposal is not a traditional day care center, as people may think of it, they are nonetheless requesting a variance because the facility would require a child care license from the State of Pennsylvania to serve infants, toddlers and preschool children, and the CDC is not enrolled in the Head Start program. She added that this licensing requirement is a hardship that the Board should consider.
6. Ms. Irwin told the Board that there are several benefits to the community in having the CDC operate the proposed facility, including providing children with the skills they will need to transition into Kindergarten. The CDC employs full-time curriculum specialists, as well as teachers and support staff who are experienced and well qualified in the field of early childhood development.
7. The facility itself would be in operation from 6:00 a.m. to 6:00 p.m., Monday thru Friday. When completely operational, the CDC expects to employ about twenty people. If the variance is approved, they expect to break ground on the new facility next spring.
8. Given that the location housed a school for nearly a century, the proposed facility would not create traffic, parking or congestion problems that would alter the character of the surrounding area. Of the few number of neighboring residents that Ms. Irwin has spoken to, she indicated that none had expressed an objection to the proposed facility on the vacant and unused site.
9. The Center will comply with all zoning requirements with respect to parking, and will provide at least thirty-five (35) parking spaces on the premises.

10. Erie School District spokesman Randy Pruchnicki indicated the sale of the property is contingent on the CDC obtaining a variance to construct the day care center.
11. The area around the location is in need of such a facility, as presently many of the nearby residents whose children are not yet in Head Start have to bus their young children to Millcreek to get the services that the CDC will provide.
12. Mr. Pruchnicki added that the property has been unused for more than a decade, and that the School District has already complied with asbestos and hazardous materials removal from the site.

Conclusions

1. The appellants are seeking a use variance to construct a day care center at the location of the former Roosevelt Middle School, on Cranberry Street in an R-2 zoning district. The site has been unused for the past 14 years.
2. According to Section 204.12 of the Erie City Zoning Ordinance, Day Care Centers are not a permitted use in an R-2 district.
3. The facility would be operated by the Child Development Center Inc., an organization who previously received a variance to operate a day care center on East 10th Street in Erie.
4. There is a need for this facility in the area, as it would serve young children of pre-kindergarten age who presently must be bused to Millcreek. The hours of operation would be 6:00 a.m. to 6:00 p.m., Monday –Friday.
5. The fixed location of the property with adequate space, the need in the community for the service, and special state license requirements were all among the reasons and hardships that the appellants indicated to the Board.
6. All building code and occupancy requirements will be met. Additionally, the facility will provide up to 35 off-street parking spaces for patrons and employees; well above that which is required by the City Code.

Decision

By a unanimous decision, the Board approved the appellant's request for a use variance to build and operate a day care center. Board members Edward Dawson, Selena King and and Jeffrey Johnson all voted to approve the variance.

It is So Ordered.

Appeal No. 12,235 by Michael Simmons (2121-201) concerning property located at parcel number 2121-201. The appellant is seeking a dimensional variance to construct a single-family dwelling in an R-1 zoning district. Per Section 205 of the Erie City Zoning Ordinance, the minimum total width of side yards is 15 feet, with the minimum width of the least side yard being 5 feet. The proposed side yard total is 6 feet, with the width of the least side yard being 3

feet. Per Section 205 of the City Code, the maximum lot coverage in an R-1 zoning district is 35%; a 47% lot coverage is proposed.

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Findings of Fact

1. The appellant, Mr. Michael Simmons, addressed the Board on his own behalf, and said that he is requesting the dimensional variance so that he can build a house for himself and his family. The proposed dwelling will be built on property the appellant purchased near the area of Brooklyn Avenue and Thompson Street, between East 19th and 20th Streets on the east side of Erie.
2. Mr. Simmons told the Board that he is in the process of finding a suitable contractor (pending the approval of the variance), and will thereafter be applying for all the necessary building and occupancy permits.
3. The reason for the requested variance lies in the very narrow width of the property. The appellant did not create the hardship of the unique configuration of the lot.
4. The appellant is seeking variances for both the actual distance of the side yard setbacks, as well as the maximum percentage of lot coverage for a structure in the R-1, residential district.
5. The variances that the appellant is seeking are relatively minimal. Specifically he is proposing to have each side yard setback to be 3', where the minimum for compliance with the Code is 5'. The appellant is proposing that the house he hopes to build be 47% total lot coverage, where the Code limits the total coverage to 35%.. The appellant believes that the minor allowances will not alter the character of the residential area.

Conclusions

1. The appellant is proposing to build a single-family dwelling on property he owns on the east side of Erie, in an R-1 zoning district. The width of the lot is unusually narrow, requiring the appellant to seek dimensional variances for both side yard setbacks and for the total lot coverage of the dwelling.
2. According to Section 205 of the Erie City Zoning Ordinance, in an R-1 zoning district the minimum total width of side yards is 15 feet, with the minimum width of the least side yard being 5 feet. The appellant is proposing that both side yard setbacks be 3', for a total is 6'
3. Additionally according to Section 205 of the Code, the maximum total lot coverage in an R-1 district is 35%; the appellant is proposing the total lot coverage to be 47%
4. The variances are requested due to the unique, narrow shape of the property. This hardship was not created by the appellant.
5. The Board concluded that the requested variances are relatively minor, and would not negatively alter the character of the neighborhood.

Decision

By a unanimous decision, the Board approved both of the appellant's requests for dimensional variances to build a single-family house on his property that has a narrow lot. Board members Edward Dawson, Selena King and Jeffrey Johnson all voted to approve the variances.

It is So Ordered.

Appeal No. 12,236 by PE Real Estate Holdings, LLC (4038-114) concerning property located at 946 West 2nd Street in a WR zoning district. The appellant is seeking a dimensional variance to construct a 10-unit, three story multiple family dwelling. Per Section 205.11 of the Erie City Zoning Ordinance, the required front yard setback must be the average depth of the existing structures located between two intersecting streets, +/- five (5) feet. The front yard average is 7.5 feet, a 159 foot front yard setback is proposed.

NOTE: Two of the three Board members, as well as their solicitor and Erie Zoning Office officials, were in visual and audio contact with one another throughout the hearing; the other Board member and the stenographer were in audio contact only during the hearing. The witnesses were also in audio contact with the Board throughout the hearing.

Findings of Fact

1. The appellant is PE Real Estate Holdings LLC, a New York based real estate company that focuses on developing small to medium size projects primarily in New York and Pennsylvania. The appellants were represented at the hearing by Mr. Philip Gesue, a real estate developer.
2. The appellant's proposal is to build a ten (10)-unit, three story structure, with six (6) units (two on each of the three floors) facing north, with a view of the bay.
3. In both his written narrative application and his testimony, the appellants used the criteria of Section 508(9) of the Erie City Zoning Ordinance, governing variances, as a framework for their request.
4. The purpose of the variance request is the hardship created by the unusually long, narrow shape and contour of the property. These physical irregularities make it impossible to develop the property without creating a lopsided, incongruent structure.
5. The 12' front setback (the requirement in the City Code for a WR district) makes it impossible for the developer to provide spaces for parking for the residents of the dwelling. If the variance is approved, the appellants indicated that the longer (159') front setback would enable them to include the ten (10) parking spaces that the Code requires for a building of the size being proposed.
6. The hardship was not created by the appellant, and that the relief requested is the minimum modification possible given the regulations contained in the City Code. There is no possibility, the appellant asserts, to develop this property and still remain in strict compliance with the City Code.

7. The property has been unused for some time. The appellant has previously attempted to obtain a variance for a similar, although larger building, but was denied. This proposal is different in that it is somewhat smaller, and has addressed the concerns that some of the neighboring residents previously expressed. Therefore, the variance will not alter the essential character of the neighborhood, and will not have a negative effect on the surrounding area.
8. The appellants indicated that in order to develop the property as they wish, with as many of the units facing north and providing a view of the bay, the building will have to be set back from West 2nd Street significantly more than the City Code permits.
9. Without the ability to provide a majority of north-facing units, the appellant indicated that the project would not be economically feasible. If they do not receive the variance to develop the property as they indicated, the appellants will not purchase the property. (The present owner of the property, Mr. Mark Gusek, confirmed to the Board that sale of the property is contingent on the variance that would allow the appellants to develop the property.)

Conclusions

1. The Board concluded that the unique characteristics of this property, with its narrow width and close proximity to the bluff, is a hardship for the appellants. The appellants did not create the hardship. The requested variance is the least modification that would allow for the appellants to complete their proposal, and will not have a negative effect on the area.
2. According to Section 205.11 of the Erie City Zoning Ordinance, the required front yard setback must be the average depth of the existing structures located between two intersecting streets, +/- five (5) feet. The appellant's proposal is for a 159 foot front yard setback.
3. The requested variance will enable the appellants to construct their building with six (6) units facing the bay; two on each of the three floors. Additionally, the extended front yard setback will enable the appellants to provide the minimum of ten (10) parking spaces that the City Code requires in the WR district.
4. The appellants cannot build their proposed structure and still comply with the City Ordinance for the front yard setback requirement.

Decision

By a unanimous decision, the Board approved the appellant's requests for a dimensional variance to extend the front yard setback of the proposed 10-unit structure. Board members Edward Dawson, Selena King and Jeffrey Johnson all voted to approve the variance.

It is So Ordered.
