

**CITY OF**  
**PORTAGE**  
*A Place for Opportunities to Grow*

**ZONING BOARD  
OF APPEALS**

**March 9, 2009**

# CITY OF PORTAGE ZONING BOARD OF APPEALS

**Monday, March 9, 2009**

**(7:00 pm)**

**Portage City Hall  
Council Chambers**

## **PLEDGE OF ALLEGIANCE**

## **APPROVAL OF MINUTES:**

\* February 9, 2009

## **OLD BUSINESS:**

## **NEW BUSINESS:**

\* ZBA# 08-18, Portage Soccer Club, 8201 Cox's Drive: Requesting a Temporary Use Permit a 12-month extension of a Temporary Use Permit granted on March 10, 2008 to operate six outdoor soccer practice fields during daylight hours at 8201 Cox's Drive between April and October 2009.

## **STATEMENT OF CITIZENS:**

## **ADJOURNMENT:**

## **MATERIALS TRANSMITTED**

Star (\*) indicates printed material within the agenda packet

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – February 9, 2009

DRAFT

The City of Portage Zoning Board of Appeals meeting was called to order by Chair Henry Kerr at 7:00 p.m. in the Council Chambers. Approximately 6 people were in the audience.

**MEMBERS PRESENT:** Robert Atkins, David Felicijan, Clyde Flora, Henry Kerr, H. Lincoln Lewis, Rob Linenger, Betty Schimmel, Lowell Seyburn, Wayne Stoffer.

**IN ATTENDANCE:** Vicki Georgeau, Deputy Director of Neighborhood Services, Charlie Bear, Assistant City Attorney

**PROCLAMATION:** A proclamation recognizing the service of Clyde Flora on the Board was read into the record.

**APPROVAL OF THE MINUTES:** Flora moved, and Linenger seconded a motion to approve the January 12, 2009 minutes. Upon voice vote, motion was approved 7-0.

**NEW BUSINESS:**

**ZBA# 08-16, Thomas Parish, on behalf of the Lord of Life Lutheran Church, 9420 Portage Road:** Staff summarized the request for a Temporary Use Permit to hold an annual community Arts and Craft Show with up to 50 vendors at 9420 Portage Road on May 30, 2009, and annually thereafter. Mr. Parish provided details on the event and requested flexibility regarding “No Smoking” signs. Stoffer inquired if the Police and Fire Departments reviewed the proposal. Staff indicated the Fire Marshall did and “No Smoking” signs are recommended for tents that exceed the typical 12’ x 12’ pop-up vendor canopies. Linenger inquired if no parking along South Shore Drive would be accomplished with signs similar to large neighborhood garage sales. Staff indicated yes. Seyburn inquired regarding the layout of the event and location of off-street parking. The applicant noted the sketch plan shows the general layout, there are 93 paved parking spaces and a field west of the church for overflow parking. In addition, vendors would be required to park off site so parking is available to customers.

A public hearing was opened. A letter of support from Myron and Helena Kollen, 1612 Bradenton Place was read into the record. As no other public comments were received, the public hearing was closed.

A motion was made by Felicijan, supported by Flora to approve a Temporary Use Permit to hold an annual community Arts and Craft Show with up to 50 vendors at 9420 Portage Road on May 30, 2009, and annually thereafter on a single Saturday in May, with the following conditions: 1) no capital improvements of a structural nature shall be erected, and all vendor areas and tents must be setback a minimum of 30 feet from the property lines; 2) a pedestrian safety barrier must be located directly east of all vendor areas and tents along the Portage Road frontage; 3) all tents must be flame resistant, no vendors may use open flames, and “No Smoking” signs must be posted on all tents; 4) no parking along South Shore Drive is permitted the day of the event; 5) subsequent annual events may be reviewed and approved administratively by the Department of Community Development provided no substantive complaints are received. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at the hearing are to be incorporated in the record and the action of the Board shall be final and effective immediately. Upon roll call vote: Linenger-Yes, Flora-Yes, Kerr-Yes, Stoffer-Yes, Schimmel-Yes, Atkins-Yes, Felicijan-Yes. Motion carried 7-0.

**ZBA #08-17, Richard Enos, 10615 Cora Drive:** Staff summarized the request for a seven foot variance from the required 10-foot side yard setback to retain an existing 352 square foot attached garage addition. Mr. Enos stated he no longer believes he needs a variance, and will attempt to reconstruct the garage addition to meet the Zoning Code and Building Code. In response to Stoffer, staff indicated that conforming alternatives include a smaller garage addition and/or a detached accessory building in the rear yard. Seyburn inquired if the entire slab would have to be removed to reconstruct the garage addition. Staff indicated only if removal was necessary to construct proper footings under the slab, and that the Building Inspector and other staff can work with the applicants on the details of reconstructing a conforming garage addition. Felicijan and Flora inquired if request should be postponed or denied. Staff and the City Attorney indicated that since the applicant has not prepared detailed plans as to how a conforming garage addition would be built, postponement may be a better option.

A motion was made by Linenger, supported by Flora to postpone action on the requested variance until the June 8<sup>th</sup> Board meeting. Upon roll call vote: Linenger-Yes, Flora-Yes, Kerr-Yes, Stoffer-Yes, Schimmel-Yes, Atkins-Yes, Felicijan-Yes. Motion carried 7-0.

**OTHER BUSINESS:** None.

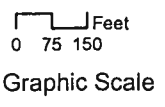
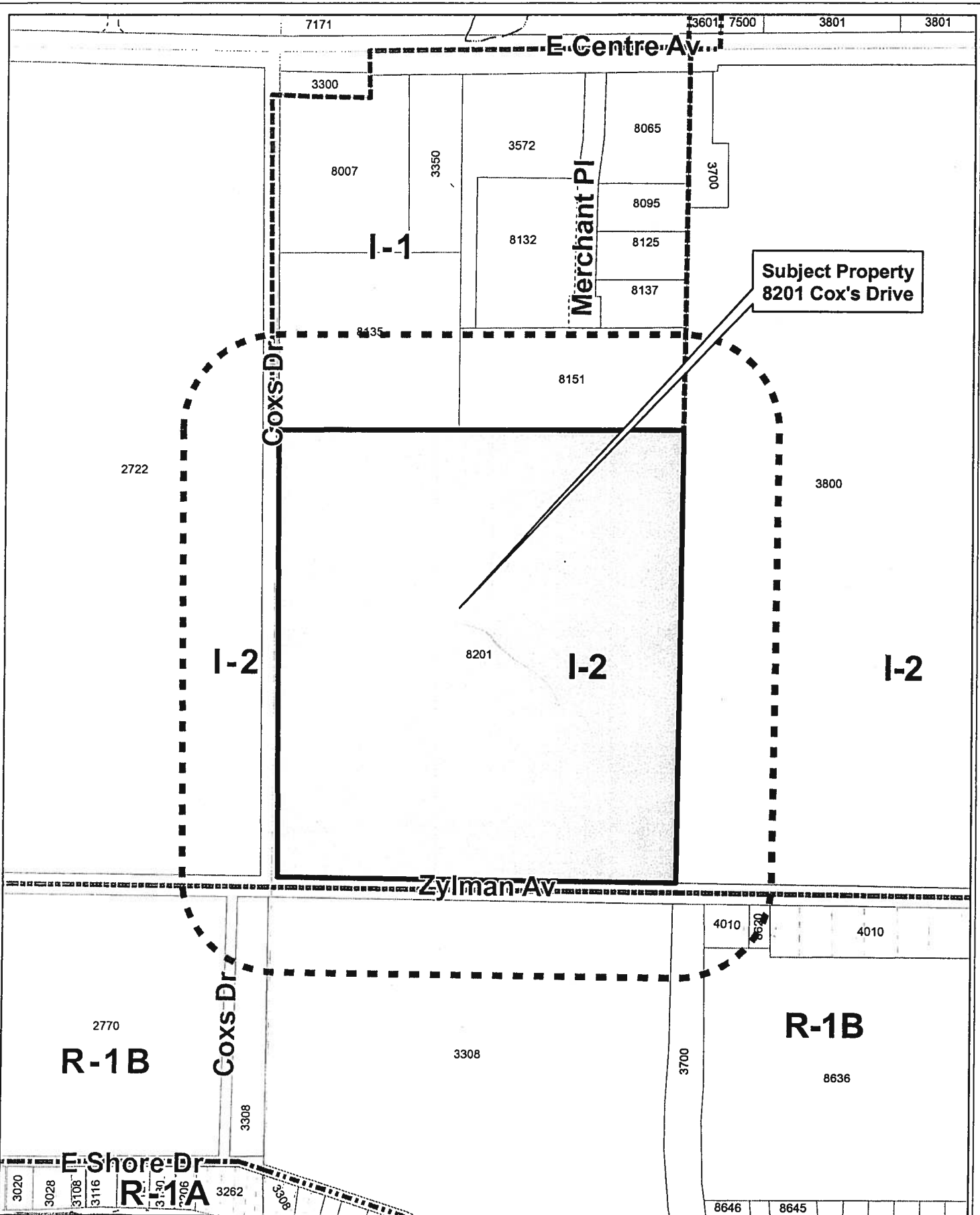
**STATEMENT OF CITIZENS:** James Pearson, 3004 East Shore Drive, recognized Clyde Flora for his many years of services on the Zoning Board of Appeals.

**ADJOURNMENT:** There being no further business, the meeting was adjourned at approximately 7:45 p.m.

Respectfully submitted,

Vicki Georgeau, AICP

Deputy Director of Neighborhood Services



ZBA 08-18  
8201 Cox's Drive





**Reason For Variance**

1. Please explain how the property has characteristics such as narrowness, shallowness, irregular shape, topography, or natural features that prevent compliance with the Zoning Ordinance. (Attach additional sheets if needed.)  
N/A

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2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)  
N/A

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3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)  
Yes

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4. Is the variance the minimum necessary to permit reasonable use of the land and buildings, or would a lesser variance be fair and equitable to the applicant as well as logical and just to other property owners in the area? (Attach additional sheets if needed.)  
Yes - see minutes from March 10, 2008 ZBA meeting

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5. Explain how the variance would not result in adverse affects on adjacent properties or alter the character of the area. (Attach additional sheets if needed.)  
See minutes from March 10, 2008 ZBA meeting

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6. Explain how the variance would not result in increased traffic congestion, noise, or other potential concerns, or in dangers from fire, flood or other hazards, that would be detrimental to the property or to the area. (Attach additional sheets if needed.)  
See minutes from March 10, 2008 meeting

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7. Is the reason for the request, the practical difficulty or the hardship created, due to an act of the applicant or due to an act by the previous property owner? (Attach additional sheets if needed.)  
See minutes from March 10, 2008 ZBA meeting

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8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)  
See minutes from March 10, 2008 ZBA meeting

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Signature of Applicant  
Portage Soccer Club

February 6, 2009

Date

## LEGAL DESCRIPTION

SEC 24-3-11 S 3/4 W 1/2 NW 1/4 SEC 24 EXC E 3 R ALSO EXC BEG AT NW COR  
OF S 3/4 W 1/2 NW 1/4 SEC 24 TH W IN SEC 23 ALG EXTENSION OF N LI OF S 3/4  
W 1/2 NW 1/4 SEC 24 22.21 FT TO CTR LI COXS DRIVE TH SLY ALG CTR LI SD  
DRIVE 567.3 FT TO PT WHICH IS 20.67 FT W OF W LI SEC 24 TH E IN SECS 23 &  
24 AS MEAS AT RT ANGLES FROM CTR LI COXS DRIVE 1304.12 FT TO WLY LI OF  
PENN RR TH NLY ALG WLY LI SD ROW 571.9 FT TO INT WITH N LI OF S 3/4 W 1/2  
NW 1/4 SEC 24 TH W ALG SD N LI 1291.1 FT TO PL OF BEG



## Portage Soccer Club

P.O. Box 1593  
Portage, MI 49081-1593  
[www.portagesoccer.com](http://www.portagesoccer.com)

February 6, 2009

Zoning Board of Appeals  
City of Portage  
7900 S. Westnedge Avenue  
Portage, MI 49002

RE: Renewal of Temporary Use Permit  
8201 Cox's Drive

Dear Zoning Board of Appeals:

Enclosed please find the following items pertaining to the Portage Soccer Club variance request:

- 1.) Application
- 2.) Check in the amount of \$330.00 for the application fee

We would appreciate if this request could be heard at the March 9, 2009 meeting. If you need additional information please contact me at 323-9484.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink that reads "David Rice". The signature is written in a cursive style with a large initial "D".

David Rice

meet the minimum front yard setback. Clayton Raifsnider was present to explain the variance request to add second story living space over the garage and a portion of the first floor and clarified the building footprint would not be enlarged. Atkins asked if this variance is similar to the prior request. Staff indicated yes, but the mass of the building will be increased with a second story addition and therefore requires a variance.

A public hearing was opened. As no other comments were received, the public hearing was closed.

A motion was made by Linenger, seconded by Stoffer, to approve a variance to construct a 30-foot by 22-foot second story addition to a legal nonconforming dwelling that does not meet the minimum front yard setback as the practical difficulty necessitating the variance was not caused by the applicant, additional practical difficulties are the location of the existing nonconforming dwelling and city park property to the east, and the variance would not be detrimental to adjacent property and the surrounding neighborhood, and the variance would not materially impair the intent and purpose of the zoning ordinance. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at the hearing are to be incorporated in the record and action of the Board be final and effective immediately. Upon roll call vote: Atkins-Yes, Felicijan-Yes, Flora-Yes, Kerr, Linenger-Yes, Schimmel-Yes, Seyburn-Yes, Stoffer-Yes Motion passed 7-0.

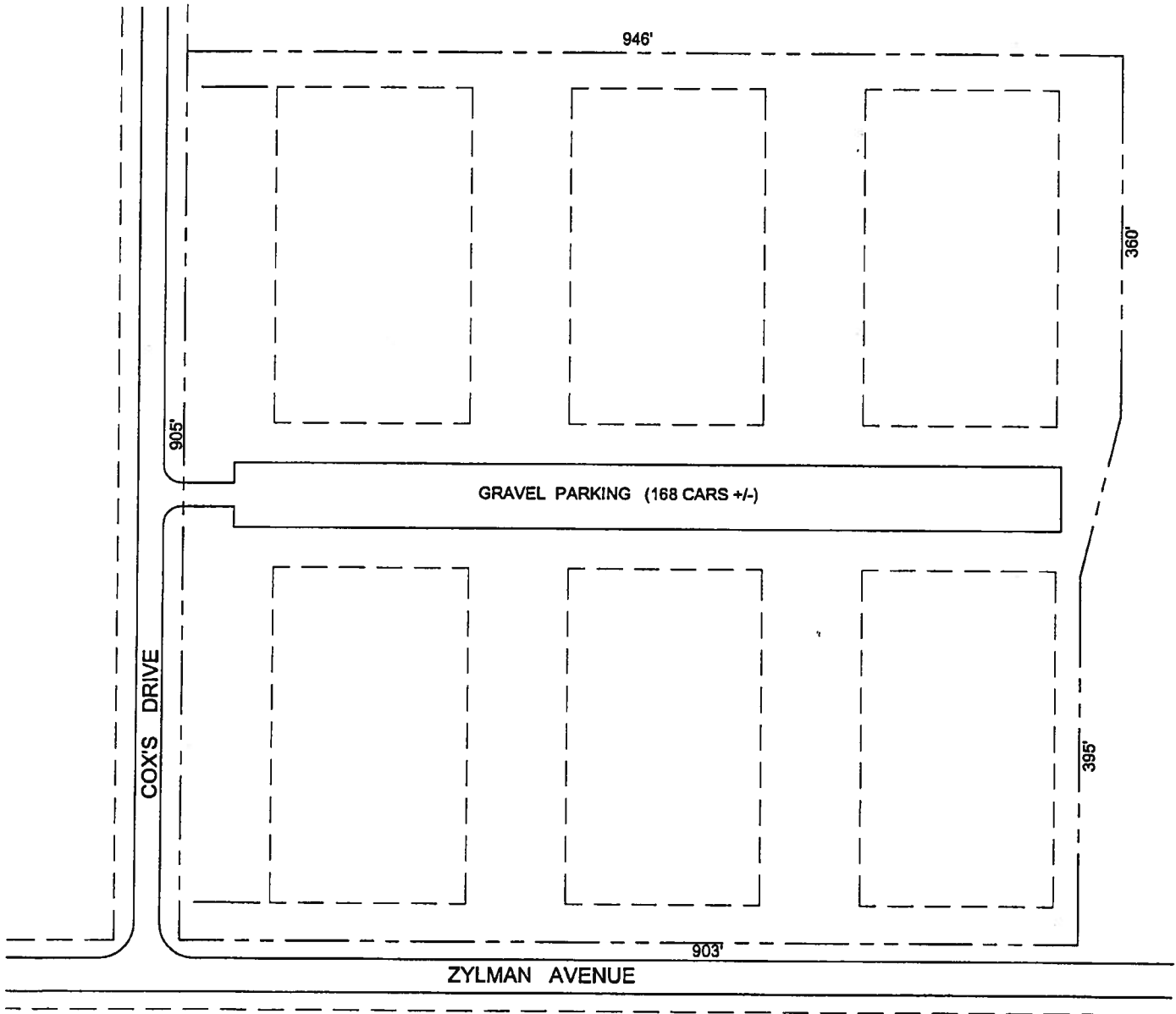
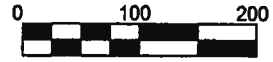
ZBA #07-31; Portage Soccer Club, 8201 Cox's Drive: Staff summarized the request for a Temporary Use Permit to establish outdoor soccer practice fields at 8201 Cox's Drive. David Rice was present to explain the request for a new Temporary Use Permit during 2008. Kerr asked why the soccer club was not paving the parking lot since there is now a longer lease and noted that Board cannot consider financial hardship. Mr. Rice explained while the soccer club has a longer lease, there is still a 90-day termination clause and the club will evaluate if they want to continue to use the facility and to expend money for paving the parking lot at a later date. Stoffer asked if after two years if the Planning Commission is to review the soccer field use as a special land use. Staff indicated yes, as the Board can only grant an initial temporary use permit and one 12-month extension. In addition, staff clarified that the standards for a temporary use permit differ from a variance and no structural improvements, such as the paving of a parking lot are permitted.

A public hearing was opened. As no comments were received, the public hearing was closed.

A motion was made by Stoffer seconded by Flora to grant a Temporary Use Permit to establish outdoor soccer practice fields at 8201 Cox's Drive for one year subject to the following conditions: 1) no capital improvements of a structural nature shall be erected on site, including artificial illumination, and 2) the applicant shall install and maintain in all vehicular areas a gravel base of not less than six inches in depth, and with the exception of a paved surface, shall conform in all other respects to the off-street parking standards set forth in Section 42-521. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at the hearing are to be incorporated in the record and action of the Board be final and effective immediately. Upon roll call vote: Atkins-Yes, Felicijan-Yes, Flora-Yes, Kerr-Yes, Linenger-Yes, Schimmel-Yes, Seyburn-Yes, Stoffer-Yes. Motion passed 7-0.

ZBA #07-32; Margaret Fening, 6528 Hampton Street: Staff summarized the request for a) a 340 square-foot variance from the lot coverage requirement to retain a 238 square-foot addition and a 102 square foot covered porch; b) a 34-foot variance from the 40-foot rear yard setback; and c) a five-foot variance along the north side property line where an eight-foot setback is required. Gary Tibble, attorney for Ms. Fening, was present to explain the variance request. Mr. Tibble explained that there was only one addition completed in 1999 by an unscrupulous builder. Mr. Tibble indicated that this application is different from the 2006 application because drainage problems that existed prior to the addition were not presented and considered by the Board. In addition, the property owner has a license agreement to use the Consumer's Energy property to the west, which has been fenced in and has been utilized for a number of years as additional rear yard area. Mr. Tibble noted that several other property owners in the vicinity received a variance to have sheds on the Consumer's Energy property. The applicant also indicated the addition meets the side yard setback and the only portion of the house that does not comply is the garage built in 1967. The applicant indicated there is a grade change on the property and together with clay soils resulted in serious basement water damage and mold after heavy rains. The alternative presented by staff to reconstruct the previously existing four-foot by 11-foot covered basement entryway is not feasible due to the drainage problems that previously existed under such conditions. Mr. Tibble presented options for the Board's consideration: 1) to grant the variance based on the existence of the Consumer's Energy parcel to the west which is different from a typical plat where over 400 feet of open land exists adjacent to the rear yard conditioned upon the continuation of an executed license agreement; 2) to defer action to further evaluate the application; 3) to not act on the request but allow for the city and applicant to settle the matter through Circuit Court

**PORTAGE SOCCER CLUB  
PRACTICE FACILITY  
8201 COX'S DRIVE**



**TO:** Zoning Board of Appeals **DATE:** February 27, 2009

**FROM:** Jeffrey M. Erickson, Director of Community Development

**SUBJECT:** ZBA #08-18; Portage Soccer Club, 8201 Cox's Drive, I-2, Heavy Industrial

**CODE SECTION:** 42-622(D), Temporary Uses, p. CD 42:140.3

**APPEAL:** Requesting a 12-month extension of a Temporary Use Permit granted on March 10, 2008 to operate six outdoor soccer practice fields during daylight hours at 8201 Cox's Drive between April and October 2009.

**STAFF RECOMMENDATION:**

The applicant is requesting the above 12-month Temporary Use Permit extension per the enclosed application, site sketch, and letter of explanation. The 40-acre property is zoned I-2, Heavy Industrial and is improved with a gravel drive/parking area and six outdoor soccer fields. The office/industrial park and indoor soccer facility to the north is zoned I-1, Light Industrial. The Stryker Corporation manufacturing facility to the east is zoned I-2, Heavy Industrial. The property to the south, across Zylman Avenue, is vacant and zoned R-1B, One Family Residential.

The Board initially granted a Temporary Use Permit on October 9, 2006 to re-establish six seasonal outdoor practice soccer fields utilized during daylight hours between April and October. However, existing property conditions prohibited the fields from being utilized during the approved 2007 Temporary Use Permit period as extensive restorative work was necessary. On March 10, 2008, the Board granted a new Temporary Use Permit due to lack of use during the 2007 season.

The Portage Soccer Club signed a seven year lease with a 90-day termination clause with Pfizer. Long-term use of the property is still under evaluation. The applicant requests the 12-month extension of the Temporary Use Permit as they evaluate continued property use and investments in permanent improvements. The applicant is aware that continued property use (after the 2009 season) will require Special Land Use approval from the Planning Commission and additional upgrades such as paved off-street parking or a variance from the paving requirements.

Staff recommends renewal of the Temporary Use Permit for April through October 2009 with the following conditions:

1. No capital improvements of a structural nature shall be erected on site, including artificial illumination.
2. The applicant shall maintain in all vehicular areas a gravel base of not less than six inches in depth, and with the exception of a paved surface, shall conform in all other respects to the off-street parking standards set forth in Section 42-521.

It is recommended the Board specify that the decision regarding the request is final and effective immediately.

**PRACTICAL DIFFICULTY:** Not applicable.