

## CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – July 13, 2009

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. Fifteen people were in the audience.

**MEMBERS PRESENT:** Timothy Bunch (alt.), David Felicijan, Henry Kerr, Rob Linenger, Betty Schimmel, Lowell Seyburn, Marianna Singer, Donald Mordas (alt.)

**MEMBERS EXCUSED:** David Atkins

**IN ATTENDANCE:** Jeff Mais, Zoning & Codes Administrator, Vicki Georgeau, Deputy Director of Neighborhood Services, Charlie Bear, Assistant City Attorney

**APPROVAL OF THE MINUTES:** Linenger moved, and Felicijan seconded a motion to approve the June 8, 2009 and June 22, 2009 minutes as submitted. Upon voice vote, motion was approved 7-0.

### **NEW BUSINESS:**

**ZBA# 09-01, 2500 Vincent Avenue:** Staff summarized the request for variances to erect a 106 square-foot freestanding sign and 173 square-foot wall sign where a maximum 32 square feet is permitted; and a 20-foot tall sign where a maximum 10-foot height is permitted. Dan Tewey from A2Z Sign & Design and Aaron Johnson were present on behalf of Kalamazoo Valley Family Church, and explained the wall sign would feature 'halo lighting' not visible to neighbors and the freestanding sign was necessary for improved way-finding. Mr. Tewey stated a 32 square-foot sign would not be visible from the street due to the building set back. Kerr inquired why they did not use the existing walls at the entrance for signs. Mr. Tewey stated that was not desirable from an architectural and scale standpoint. Schimmel inquired if halo lighting would be on all night. Mr. Tewey stated yes, but the light would not be visible to neighbors. Felicijan stated he did not see a hardship with respect to the freestanding sign. Seyburn inquired what the size of signs were for other 'mega-churches' in the area, such as Calvary Baptist or the 3<sup>rd</sup> Reformed in Kalamazoo. Mr. Johnson stated those were different circumstances, as the churches were close to the road on high traffic streets. Schimmel inquired why the church did not know about the signage earlier and how big the sign is at their current site. Mr. Tewey stated signage was the final part of the design and development process. Staff stated the church had a 32 square foot sign at their Romence Road location. Seyburn stated the Cathedral building is easily recognizable as a church and noted that several churches on Oakland Drive could argue they need bigger signs to differentiate themselves from each other. Mordas stated that west-bound highway would not see the sign until they passed the exit and eastbound traffic could easily see the church building. Bunch inquired if the wall sign was intended to be visible from I-94. Mr. Tewey stated only from Vincent Avenue. Felicijan inquired if the applicant would object to removing the message board. Mr. Tewey stated no, there would be no objection.

A public hearing was opened. Steve Stamos, 2918 Brynmawr, did not object to the wall sign but was concerned about the light and glare from the freestanding sign. Mr. Tewey responded they would be willing to move the sign further east. Stacy Stamos, 2918 Brynmawr, inquired if other churches requested sign variances. Staff stated yes, about a half dozen since the sign code was adopted in 1978. Marina McKinley, 2917 Brynmawr, stated she would not object to a small directional sign near the Oakland, but felt the freestanding sign was intended to advertise the church, not to facilitate way-finding. Mark Rozek, 2954 Brynmawr requested if the item could be tabled. Staff indicated the agenda was available on the city website, and the notice provides a phone number citizens can call for questions. Letters of opposition from James Stone, 2963 Brynmawr, and Judson McKinley, 2917 Brynmawr were read into the record. The public hearing was closed.

A motion was made by Felicijan, supported by Linenger, to deny the request for a 106 square-foot freestanding sign because there are no exceptional conditions applying to the property that do not generally apply to other properties in the same zoning district; the variance is not necessary for the preservation and enjoyment of a substantial property right similar to other properties in the same zoning district and vicinity; the variance would be detrimental to adjacent property and surrounding neighborhood. 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. Staff clarified that by denying the request they were denying any freestanding sign unless the Board granted a lesser variance specifically for the freestanding sign. After further discussion and upon roll call vote: Linenger-Yes, Kerr-Yes, Seyburn-Yes, Schimmel-Yes, Felicijan-Yes, Singer – Yes, Mordas – Yes. Motion carried 7-0.

A motion was made by Felicijan, supported by Linenger to grant a variance to allow a 173 square-foot wall sign where a maximum 32 square feet total sign area is permitted for the following reasons: There are exceptional circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district which include the size and location of the building on the lot; the variance is necessary for the enjoyment of a substantial

property right which is similar to that possessed by other properties in the same zoning district; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and the variance will 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 the action of the Board shall be final and effective immediately. After further discussion and upon roll call vote: Linenger-Yes, Kerr-Yes, Seyburn-No, Schimmel-No, Felicijan-Yes, Singer – Yes, Mordas – Yes. Motion carried 5-2.

A motion was made by Felicijan, supported by Linenger, to deny the request for a 20-foot tall freestanding sign where a maximum 10-foot height is permitted because there are no exceptional conditions applying to the property that do not generally apply to other properties in the same zoning district; the variance is not necessary for the preservation and enjoyment of a substantial property right similar to other properties in the same zoning district and vicinity; the variance would be detrimental to adjacent property and surrounding neighborhood; and the variance would 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 the action of the Board shall be final and effective immediately. Upon roll call vote: Linenger-Yes, Kerr-Yes, Seyburn-Yes, Schimmel-Yes, Felicijan-Yes, Singer – Yes, Mordas– Yes. Motion carried 7-0.

ZBA# 09-02, 5210 Bennett: Staff summarized the request for a 106 square-foot variance from the maximum 25 percent building lot cover to expand the nonconforming building area to construct a detached shed in the south rear yard. Mr. Kragt stated that he made the property less nonconforming by removing a deck. Linenger inquired about the height of the fence. Mr. Kragt stated it was six-foot tall and the shed would be screened by a tree and neighboring garage.

A public hearing was opened. No comments were received. The public hearing was closed.

A motion was made by Linenger, supported by Schimmel, to approve a 106 square-foot variance from the maximum 25 percent building lot cover to expand the nonconforming building area to construct a detached shed in the south rear yard for the following reasons: There are exceptional circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district which include the substandard lot size; the variance is necessary for the enjoyment of a substantial property right which is similar to that possessed by other properties in the same zoning district; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and the variance will 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 the action of the Board shall be final and effective immediately. Upon roll call vote: Linenger-Yes, Singer-Yes, Kerr-Yes, Seyburn-Yes, Schimmel-Yes, Felicijan-Yes, Mordas-Yes. Motion carried 7-0.

ZBA# 09-03, 4517 and 4519 Nash Avenue: Staff summarized the requests for a Temporary Use permit to hold two fundraiser events for the HOPE RANCH on July 25, 2009 and August 29, 2009; and a variance from the paving requirement for the access drive and off-street parking area for the HOPE RANCH facility. Kerr abstained from discussion and voting due to a conflict of interest. Vicki Rafferty-Polk explained that the fundraisers were to benefit two collaborating community agencies that support HOPE RANCH. Overflow parking would be provided at the Lakeland Reformed Church parking lot and shuttle service to the events would be provided. A designated person would be on site coordinating traffic and all games would occur away from the parking lot. Horses would be present to pet but no riding would occur. Seyburn stated there was a wire fence with a gap that allowed people to cut through across East Shore Drive. Ms. Rafferty-Polk stated the trail has been there for years and they allowed it to stay open for the benefit of the neighbors who use that path. Seyburn inquired if the gap could be closed off temporarily during the fundraisers. The applicant stated yes. Felicijan inquired if the gap could be blocked off permanently. Ms. Rafferty-Polk stated yes.

A public hearing was opened. Chris and Jeanine Morris, 9830 East Shore Drive, stated no neighbors use or want the path on East Shore Drive and the path has been used to drop kids off during a previous fundraiser. In addition, Mr. Morris was concerned that no city staff would be available for the events and that during the last event, there were problems with littering and traffic. Mr. Morris stated he did not believe the applicant was willing to follow any conditions the Board imposed. Felicijan inquired if Mr. Morris would object if they closed off the fence gap. Mr. Morris responded no. Felicijan inquired if there had been any approvals for the previous fundraiser events. Staff responded the applicant had advised staff on short notice, but it was not possible to get necessary information in a timely manner for review and no previous event received approval. Mr. Bear stated that the request was for a Temporary Use Permit, and enforcement issues pertaining to the Special Land Use Permit were not relevant. A letter of opposition from Chris and Jeannine Morris, 9830 East Shore Drive was read into the record. As no additional comments were received, the public hearing was closed.

A motion was made by Seyburn, supported by Felicijan, to approve a Temporary Use Permit to hold two fundraiser events for the HOPE RANCH on July 25, 2009 and August 29, 2009 with the following conditions: 1) no capital improvements of a structural nature be erected; 2) no parking along Nash Avenue or East Shore Drive be allowed during the events; 3) the fence gap along East Shore Drive be temporarily blocked during the events; 4) shuttle service be provided between Lakeland Reformed Church and the event; 5) the event hours limited to 10:00 a.m. and 3:00 p.m. and completely over by 3:30 p.m.; 6) a representative from HOPE RANCH be present at the events at all times. 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, Singer-Yes, Bunch-Yes, Seyburn-Yes, Schimmel-Yes, Felicijan-Yes, Mordas-Yes. Motion carried 7-0.

A motion was made by Seyburn, supported by Felicijan, to grant a variance from the paving requirement for the access drive and off-street parking area for the HOPE RANCH conditioned upon: 1) immediately and permanently closing the fence gap along East Shore Drive; 2) the gravel access drive be widened to 22 feet with an appropriate turnaround and access drive be reconstructed to provide a driving surface capable of supporting fire apparatus weighing at least 75,000 pounds for the following reasons: there are exceptional circumstances applying to the property which do not apply generally to other properties in the same zoning district which include: the paving requirement imposes an unnecessary burden given the length of the access driveway and the relatively low intensity of the use; the variance is necessary for the enjoyment of a substantial property right which is similar to that possessed by other properties in the same zoning district; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and the variance will 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 the action of the Board shall be final and effective immediately. Upon roll call vote: Linenger-Yes, Singer-Yes, Bunch-Yes, Seyburn-Yes, Schimmel-Yes, Felicijan-Yes, Mordas-Yes. Motion carried 7-0.

ZBA 09-04, 6327 South 12<sup>th</sup> Street: Staff summarized the request for a variance from the conflicting land use screening requirements to facilitate a parking lot expansion. Jerry Hoekstra was present to speak on behalf of Portage Church of Christ. Kerr inquired why they were changing the parking lot location to one foot from the south property line. Mr. Hoekstra indicated to facilitate two traffic lanes. Linenger inquired what measures they take to prevent parallel parking along the south property line. Mr. Hoekstra stated there is a "lip" or grade change with tall grass at the south property line.

A public hearing was opened. No additional comments were received. The public hearing was closed.

A motion was made by Linenger, supported by Felicijan to grant a variance from the conflicting land use screening requirements to facilitate a parking lot expansion, conditioned upon the planting of eight six-foot tall evergreen trees along the north property line to supplement existing trees and provide additional screening for the parking lot for the following reasons: There are exceptional circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district which include location of adjacent Consumer's Energy property to the south; existing parking lot location and previous 1982 site plan approval; the variance is necessary for the enjoyment of a substantial property right which is similar to that possessed by other properties in the same zoning district; the variance will not be detrimental to adjacent property and the surrounding neighborhood; and the variance will 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 the action of the Board shall be final and effective immediately. Upon roll call vote: Linenger-Yes, Singer-Yes, Kerr-Yes, Seyburn-Yes, Schimmel-Yes, Felicijan-Yes, Bunch-Yes. Motion carried 7-0

Election of Officers: Election of Officers took place with the following results: Henry Kerr – Chair; Robert Linenger – Vice Chair; David Felicijan - Secretary.

Proclamation for Wayne Stoffer: Kerr read the proclamation of recognition for former Board member Wayne Stoffer.

STATEMENT OF CITIZENS: None.

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 9:30 p.m.

Respectfully submitted,

Jeff Mais, Zoning & Codes Administrator