

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – December 14, 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. Six people were in the audience.

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

MEMBERS EXCUSED: Donald Mordas (alt.)

IN ATTENDANCE: Jeff Mais, Zoning & Codes Administrator, Charlie Bear, Assistant City Attorney

APPROVAL OF THE MINUTES: Felicijan moved, and Linenger seconded a motion to approve the October 12, 2009 minutes with two modifications. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA# 09-11, 6026, South Westnedge Avenue: Staff summarized the request for a 75 square-foot variance from the maximum permitted 100 square-foot wall sign size for a portion of the building that will be occupied by ABC Warehouse. Steve VanderSloot, Jim Meinershagen, and Tim Timmons were present on behalf of Sign Art, ABC Warehouse, and Southland Acquisitions, LLC respectively. VanderSloot acknowledged the sign code was amended in 2003, but explained that ABC Warehouse had exceptional circumstances in that it is a larger retailer with 27,000 square feet of leased space, 140 feet of lineal wall length, and because the tenant space was a little short of the 200-foot wall length, additional sign area is not permitted, resulting in a situation where the adjacent tenant with only 48 feet of lineal wall length gets the same size wall sign. VanderSloot noted the previous tenant, Circuit City received a wall sign variance based on setback and visibility, and during the ensuing decade more building pad sites had been developed in front of the mall, and the trees obscuring site visibility had grown larger. Kerr indicated the 2003 amendment was developed to eventually achieve consistency with sign size. VanderSloot indicated the proposed sign is in proportion with the size of the wall area for the tenant space and other existing signs in Southland Mall. Schimmel and Linenger noted the text on the bottom portion of the proposed sign was too small to be legible, and store identification could be improved if the business name was increased and the small text was eliminated. VanderSloot responded that ABC Warehouse was a national chain and seeks to maintain uniform branding at all locations, including the text on the bottom of the wall sign. Linenger observed that several chains appeared to have block lettering on the freestanding signs that did not match the styles found on their wall signs. Timmons clarified the property owner tries to maintain uniformity on the freestanding signs, whereas the tenants wall signs can be consistent with tenant branding. Felicijan inquired regarding the size of the existing ABC Warehouse wall sign and how many other stores have signs at or under 100 square feet in size. Meinershagen indicated the existing ABC Warehouse wall sign is roughly 150 to 170 square feet in size, and he knows of only two other stores with smaller wall sign sizes.

A public hearing was opened. Tim Timmons, Southland Acquisitions, spoke in favor of the request and noted the same practical difficulty still exists when Circuit City was granted a variance. As no further public comments were received, the public hearing was closed. Seyburn noted the proposed sign is proportional to the size of the wall area and that the building setback has always been an issue for Southland Mall.

A motion was made by Felicijan, supported by Singer, to deny a 75 square-foot variance from the maximum permitted 100 square-foot wall sign size for a portion of the building that will be occupied by ABC Warehouse for the following reasons: there are no exceptional circumstances applying to the property that do not generally apply to others in the same zoning district; 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: Linenger-Yes, Kerr-Yes, Seyburn-No, Schimmel-Yes, Felicijan-Yes, Singer-Yes, Bunch-Yes. Motion carried 6-1.

Kerr inquired if the Board wanted to make an alternative motion. A motion was made by Seyburn to grant a 50 square-foot variance from the maximum permitted 100 square-foot wall sign for a portion of the building that will be occupied by ABC Warehouse for the following reasons: 1) there is a significant reduction in the nonconformity of the existing sign; 2) the existing space which was designed for a sign façade will be out of proportion for the sign permitted; 3) the applicant's region-wide logo would have to be drastically altered from all of its other signs in order to fit the required 100 square foot space; 4) the spirit of the ordinance which deals with buildings 300 feet back from the road would not be infringed upon as this building is 460 feet back, and because of that there are exceptional circumstances applying to the property that do not generally apply to others in the same zoning district; the variance is necessary for the preservation and enjoyment of a

substantial property right, the right for the property to be identified from the road; the immediate practical difficulty causing the need for the variance request was not created by the applicant; the variance would not be detrimental to adjacent property and surrounding neighborhood; and the variance would not materially impair the intent and purpose of the 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. As no support for the motion was offered, the motion failed.

ZBA# 09-12, 665 Mall Drive: Staff summarized the request for a variance to erect two 288 square-foot wall signs where a maximum 175 square feet is permitted. Justin VanderArk of the Home Builders Association of Greater Kalamazoo was present to explain the request and the history of the Home Expo event. The building at 665 Mall Drive is larger than the last venue and over 15,000 visitors are anticipated. However, 80% of guests come from outside Portage and outside the Kalamazoo County area, and wall signs are proposed to ensure the event can be easily located. In response to Kerr, the applicant indicated the signs would be removed no later than March 22, 2010. In response to Singer, VanderArk clarified the location of the proposed signs. Felicijan inquired if the sign on the north wall of the building will be illuminated and visible from the residential area. VanderArk indicated they would not illuminate the sign on the north wall, and staff indicated it would be visible from the multi-family developments to the north. Felicijan inquired how the Home Expo event advertised changes in venue in the past. VanderArk indicated large signs were placed close to the road. In response to Felicijan, staff clarified if signs are illuminated, lighting would have to be accomplished so as not to create glare. Schimmel inquired if temporary directional signs are allowed. Staff indicated yes, on-site directional signs are permitted. Linenger asked if the existing pylon sign would be used. VanderArk indicated specific plans have not yet been developed for the freestanding sign. While the use is temporary, Linenger indicated a concern with the requested 576 square feet of wall signs.

A public hearing was opened. Tim Timmons, Southland Acquisitions, and Bard Overlander, Don's Card Hut both spoke in favor of the request for a short-term use that will generate significant traffic in the area. Faith Cervin, 678 Edgefield, also spoke in favor of the request. Letters of support from the following individuals were also read into the record: Tim Timmons, Southland Acquisitions; Don Bloomand, World of Floors; Cindy Schur, Hannapel Home Center. There being no further comments, the public hearing was closed. Felicijan indicated a desire to assist with the request, but noted a need to be in keeping with the ordinance. Linenger suggested a lesser variance to permit two 8 foot by 12 foot signs. VanderArk indicated such signs would be too small. Dale Shugars, Home Builders Association, noted the project and location are unique, the temporary event will create jobs and activity in the area, and recommended the Board vote in accordance with the staff recommendation.

A motion was made by Linenger, supported by Felicijan, to approve a variance for two 128 square-foot signs, which would be 8 foot by 16 foot and located as indicated on the elevations shown in the agenda, for the following reasons: there are exceptional circumstances or conditions applying to the property that do not generally apply to others in the same zoning district; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to advertise temporarily for a regional event; the variance would not be detrimental to adjacent property and surrounding neighborhood; and because it is temporary, 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 the action of the Board shall be final and effective immediately. Linenger-Yes, Kerr-Yes, Seyburn-Yes, Schimmel-No, Felicijan-Yes, Singer-Yes, Bunch-Yes. Motion carried 6-1.

STATEMENT OF CITIZENS: None.

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 8:10 p.m.

Respectfully submitted,

Jeff Mais, Zoning & Codes Administrator