

## CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – January 11, 2010

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. four people were in the audience.

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

**MEMBERS EXCUSED:** David Felicijan

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

**APPROVAL OF THE MINUTES:** Linenger moved, and Mordas seconded a motion to approve the December 14, 2009 minutes as submitted. Upon voice vote, motion was approved 7-0.

### **NEW BUSINESS:**

**ZBA# 09-13, 10950 East Shore Drive:** Staff summarized the request for a variance to retain two accessory buildings without an existing principal permitted use (one-family dwelling). Phil Woods was present on behalf of Tom Woods and stated they agreed with the conditions in the staff report. Kerr inquired if having building equipment and storage buildings on a site where a house is being built is an issue. Staff responded not normally but in this case the work had already begun without a building permit. Seyburn inquired what was being stored in the accessory buildings. Mr. Woods stated tools, building materials, a lawn tractor, chainsaws and other landscape equipment. Seyburn inquired if the applicant was intending to build the house himself and whose equipment was on site. Mr. Woods stated he owned the equipment and planned to do much of the work himself. Linenger expressed skepticism they could get the necessary approvals from the State by April 30, 2010. Mr. Woods stated he was confident they would.

A public hearing was opened. Shelly Miller and Arthur Gerth, 10711 East Shore Drive both expressed concern for the appearance of the property while being used to store construction equipment and no work was in progress. Ms. Miller inquired if the accessory buildings would be allowed to remain if the variance was approved. Staff responded yes, if they obtained the necessary permits, otherwise they would have to be removed. Ms. Miller inquired if the accessory buildings met the required setbacks. Staff responded they appeared to. Mr. Gerth stated he understood the applicant had submitted an engineering report and wondered if based on that report it appeared likely a building permit for the house would be approved. Staff responded based on the engineer's report it did not appear that the proposed house location was in a wetlands area but could not provide a definitive answer because the State ultimately made that determination. Mr. Gerth inquired if the Board had reviewed similar cases previously. Kerr responded yes. Seyburn inquired of staff if there was any concern with regard to the size of the accessory buildings. Staff explained the code requirements concerning size that building plans for a house would need to meet. An engineering report from Fishbeck, Thompson, Carr & Huber was read into the record. There being no more comment, the public hearing was closed.

After additional discussion concerning a practical difficulty and the presence of construction equipment on site, a motion was made by Linenger, supported by Singer, to deny a variance for two accessory buildings without a principal permitted use, for the following reasons: the variance would be detrimental to adjacent property and the surrounding neighborhood; the immediate practical difficulty causing the need for the variance request was created by the applicant. 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-No, Schimmel-No, Mordas- Yes, Singer-Yes, Bunch-No. Motion carried 4-3.

**STATEMENT OF CITIZENS:** None.

**ADJOURNMENT:** There being no further business, the meeting was adjourned at approximately 7:38 p.m.

Respectfully submitted,

Jeff Mais, Zoning & Codes Administrator