

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – April 12, 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. Approximately 6 people were in the audience.

MEMBERS PRESENT: David Felicijan, Henry Kerr, Rob Linenger, Betty Schimmel, Lowell Seyburn, Marianne Singer, Donald Mordas, Daniel Rhodus (alt.), Timothy Bunch (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 March 8, 2010 minutes as submitted. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA# 09-17, 879 Mall Drive: Staff summarized the request for a Temporary Use Permit to erect a 24-foot by 48-foot demountable greenhouse in the parking lot, and approval to store/display merchandise along the east side of the building from April 15th to October 15th, 2010, and annually thereafter. Gary Syvertsen was present on behalf of Menards and explained that the Mall Drive store is smaller than most other Menard's stores and unable to offer seasonal live plant sales indoors as they could at other locations and were therefore requesting a Temporary Use Permit for a temporary greenhouse in the parking lot. Kerr and Felicijan inquired how the greenhouse would be anchored, as the February 18, 2010 letter from the property management company indicated they did not want holes drilled in the parking lot. Mr. Syvertsen stated the property owner was originally concerned that they would be cutting large holes in the asphalt to accommodate the anchoring and fence posts, but after learning they only proposed a series of less than one inch diameter holes as shown in the application materials, withdrew their objection. Linenger inquired if the applicant had any objection if the Board were to grant a Temporary Use Permit for a finite number of years, and review the Temporary Use at a later date. Mr. Syvertsen stated no. Seyburn inquired how long Menards had left on their lease and did they intend to remove the structure during the winter months. Mr. Syvertsen stated two years, and that they would remove the greenhouse each fall.

A public hearing was opened. A letter of support dated March 30, 2010, from Meyer C. Weiner Company was read. There being no more comments, the public hearing was closed.

A motion was made by Linenger, supported by Felicijan to approve a Temporary Use Permit to erect a 24-foot by 48-foot demountable greenhouse in the parking lot, and approval to store/display merchandise along the east side of the building, annually from April 15th through October 15th, for a three year period ending October 15, 2013, conditioned upon: no storage/display of bagged goods; annual administrative review and approval of the permit by city staff; and that the greenhouse and fence anchoring system be erected as shown in the application materials. 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: Felicijan-Yes, Linenger-Yes, Kerr-Yes, Seyburn-Yes, Schimmel-Yes, Mordas- Yes, Singer-Yes. the motion carried 7-0

ZBA# 09-18, 269 Tuscany Drive: Staff summarized the request for a six-foot variance to construct a 233 square-foot kitchen addition 34 feet from the rear (south) property line. Jud Hoff was present to explain the request and stated their dwelling was set back quite a bit further than the other homes along the street when it was built by the original owner and that their rear yard was screened to the west by the neighbor's evergreen trees. Kerr stated it could be argued that if the Board were to grant the variance it might be encroaching closer to the neighboring condominium's 'nature preserve' area a few feet, but ultimately thought the location of the dwelling on the lot constituted a practical difficulty. Felicijan inquired if the applicant intended to extend the rear deck also. Mr. Hoff stated no.

A public hearing was opened. No one was present to speak for or against the request. The public hearing was closed.

A motion was made by Felicijan, supported by Linenger, to grant a six-foot variance to construct a 233 square-foot kitchen addition 34 feet from the rear (south) property line for the following reasons: there are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include the dwelling being setback 20 feet further than neighboring properties; the immediate practical difficulty causing the need for the variance was not created by the applicant; 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: Felicijan-Yes, Linenger-Yes, Kerr-Yes, Seyburn-Yes, Schimmel-Yes, Mordas-Yes, Singer-Yes., the motion carried 7-0.

ZBA #09-19, 6018, 6026, 6060, 6110, 6150, 6190, 6278, 6294 South Westnedge Avenue & 200, 240 Mall Drive: Staff summarized the request for a 48 square-foot variance to replace a nonconforming 148 square-foot wall sign. John Carrol of Araneae Inc. and Talia Reynolds of Old Navy were present to explain the request. Mr. Carroll stated they would be changing the color of the letters from blue to white as part of an upgrade to the store's image, but would also be changing the lighting from neon to more energy efficient LED lighting. No change in size is proposed. Mr. Carroll disagreed with staff that Old Navy had good visibility from West Milham Avenue and South Westnedge Avenue, and showed several photographs of the wall sign blocked from various angles by trees and buildings. Ms. Reynolds added the existing wall sign that got the variance in 1997 is proportional to the rest of the building and any reduction in size would look odd in her opinion. Felicijan inquired what the energy savings would be using an LED sign over the existing neon. Mr. Carroll stated about a 70% reduction. Bunch inquired if the LED sign would be brighter than the existing sign. Mr. Carroll stated it would be comparable.

A public hearing was opened. A letter of support from Meyer C. Weiner Company was read. There being no more comment the public hearing was closed.

After additional discussion, a motion was made by Linenger, supported by Singer to deny the request for a 48 square-foot variance to replace a nonconforming 148 square-foot wall sign for the following reasons: there are no exceptional circumstances applying to the property that do not apply generally 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 that possessed by others in the same zoning district in the vicinity because there are conforming alternatives; and the variance would materially impair the intent and purpose of the Zoning Ordinance. After additional discussion and upon roll call vote: Felicijan-No, Linenger-Yes, Kerr-Yes, Seyburn-No, Schimmel-No, Mordas-No, Singer-Yes., the motion failed 3-4.

A motion was made by Seyburn, supported by Felicijan to grant a 48 square-foot variance to replace a nonconforming 148 square-foot wall sign for the following reasons: the practical difficulty is that the store wants to update their image; that there will be a 70% savings in energy costs; the proposed sign will not give off more lumens; the immediate practical difficulty causing the need for the variance was not created by the applicant; 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. Upon roll call vote: Felicijan-Yes, Linenger-No, Kerr-No, Seyburn-Yes, Schimmel-Yes, Mordas-Yes, Singer-No., the motion passed 4-3.

STATEMENT OF CITIZENS: Linenger remarked on the recent Letter to the Editor in the Kalamazoo Gazette and took exception to the writer's claim the Board did not do its job properly regarding the recent Shamrock Montessori sign request. Felicijan stated the Board did not decide requests beforehand and that he never made his final decision until hearing all the facts.

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 7:40 p.m.

Respectfully submitted,

Jeff Mais, Zoning & Codes Administrator