

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – June 14, 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 5 people were in the audience.

MEMBERS PRESENT: Henry Kerr, Rob Linenger, Betty Schimmel, Lowell Seyburn, Marianne Singer, Donald Mordas

MEMBERS EXCUSED: Timothy Bunch, Daniel Rhodus

MEMBERS ABSENT: David Felicijan

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

APPROVAL OF THE MINUTES: Linenger moved, and Schimmel seconded a motion to approve the May 10, 2010 minutes with one revision. Upon voice vote, motion was approved 6-0.

NEW BUSINESS:

ZBA# 09-22, 10095 South 12th Street: Staff summarized the request for a) approval for a private stable with one horse on 1.2 acres where a minimum two acres is required; b) a variance from the required 125 foot setback for manure to be located 45 feet from the north, south and east property lines; c) a variance to retain a 576 square foot detached accessory building and construct an attached 216 square foot lean-to structure, which exceeds the permitted accessory building area by 312 square feet; d) a variance to permit the raising of 10 chickens on a 1.2 acre parcel where 10 acres is required for general agriculture/farm; or e) a Temporary Use Permit to keep the chickens for a 12-month period (with the option to request one 12-month extension). Valerie Masasi was present to explain her request, and noted that she understood the pole barn met code when she purchased the property, and would like permission to have a horse, which will be partially pastured on the neighboring property to the south and wishes to retain 10 chickens with a coop adjacent to the rear of her home. The applicant indicates the neighbors are in full support of her request. Kerr inquired if a written agreement exists with the property owner to the south exists to allow the horse to pasture on the neighbors property. The applicant and property owner to the south indicated no, but both agreed a written agreement could be developed. Singer inquired regarding the purpose of storing manure on the property. The applicant indicated manure for one horse would not smell, would be used for garden soil and otherwise biodegrade. In response to Linenger, the applicant verified there is no horse on the property now, that the cement floor in the detached garage would be problematic for housing a horse, and that she has no plans to remove mature trees that screen her property from the neighbors and US 131. In response to Seyburn, the applicant verified the house is two-stories and is 1,056 square feet in area on the ground floor.

A public hearing was opened. Sandy Eldridge, 10105 South 12th Street, spoke in strong support of all the requested approvals and variances, and that a written agreement to allow the horse on her property would be no problem as she previously owned a horse for many years. There being no further comments, public hearing was closed.

A motion was made by Linenger, supported by Singer, to grant a) approval for a private stable with one horse on 1.2 acres where a minimum two acres is required; b) a variance from the required 125 foot setback for manure to be located 45 feet from the north, south and east property lines; c) a variance to retain a 576 square foot detached accessory building and construct an attached 216 square foot lean-to structure, which exceeds the permitted accessory building area by 312 square feet; d) a variance to permit the raising of 10 chickens on a 1.2 acre parcel where 10 acres is required for general agriculture/farm, with the following conditions: 1) no removal of mature trees that serve as a screen for the proposed lean to and pole barn and manure storage location, 2) a building permit is obtained for the pole barn and lean-to, and 3) upon withdrawal of permission from the neighbor to the south to allow the horse to pasture on the property, that the horse be removed. The practical difficulty for the above requests being: for the private stable and manure location - no interference with the rights and enjoyment of neighboring properties, the proximity of U.S. 131, the location of mature trees and rural character of vicinity, and the unusual shape/narrow width of the property, and the permission of adjacent property owner to the south to utilize their property for horse pasture area; for the accessory building and lean-to - the proximity of U.S. 131, and location of mature trees; and for

the chickens – the rural character of vicinity and existing location of screening and adjacency to the home. In addition, 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 rural character of the property; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to use the property for agricultural purposes, which is similar to that possessed by other properties in the same zoning district and vicinity; the immediate practical difficulty causing the need for the pole barn variance was not created by the applicant; the variances will not be detrimental to adjacent property and the surrounding neighborhood; and the variances will not materially impair the intent and purpose of the Zoning Ordinance, and adjacent property owners are in support of the request and the adjacent property owner to the south has granted permission to allow the horse to pasture on their property. 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, Schimmel-Yes, Mordas-Yes, Singer-Yes, Seyburn-Yes,) motion carried 6-0.

ELECTION OF OFFICERS: Linenger nominated Kerr for Chair, and Schimmel for Secretary. Schimmel nominated Linenger for Vice-Chair. Upon roll call vote, (Linenger-Yes, Kerr-Yes, Schimmel-Yes, Mordas-Yes, Singer-Yes, Seyburn-Yes,) the nominated slate of officers was approved 6-0.

STATEMENT OF CITIZENS: Staff indicated that Board member Rhodus inquired and expressed concern over the roof signs at the Shamrock Montessori School at 7508 Oakland Drive, noting that the shamrock was painted over into a circle shape and that a smaller shamrock was painted on the roof near the chimney. Staff further indicated that a letter has been provided to the property owner in an effort to resolve the matter. Kerr noted a concern regarding the for real estate signs at Milham Meadows Apartments on the corner of Oakland Drive and West Milham Avenue. Staff indicated it was understood that the sign meets code requirements, but that smaller signs have been erected periodically, and enforcement action has occurred in this regard.

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

Respectfully submitted,

Vicki Georgeau, AICP
Deputy Director of Neighborhood Services