

CITY OF
PORTAGE
A Place for Opportunities to Grow

ZONING BOARD OF APPEALS

September 20, 2010

CITY OF PORTAGE ZONING BOARD OF APPEALS

Monday, September 20, 2010

(7:00 pm)

**Portage City Hall
Council Chambers**

PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES:

- * August 9, 2010

OLD BUSINESS:

NEW BUSINESS:

- * ZBA #10-05, Lorri Hutchins, 1716 Charles Street: Requesting a 51 square-foot variance from the maximum permitted 25% building lot cover to construct an 80 square-foot shed.

STATEMENT OF CITIZENS:

ADJOURNMENT:

MATERIALS TRANSMITTED

Star (*) indicates printed material within the agenda packet

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – August 9, 2010

DRAFT

The City of Portage Zoning Board of Appeals meeting was called to order by Vice Chair Rob Linenger at 7:00 p.m. in the Council Chambers. Approximately 5 people were in the audience.

MEMBERS PRESENT: Timothy Bunch, Rob Linenger, Betty Schimmel, Lowell Seyburn, Marianne Singer, Donald Mordas

MEMBERS EXCUSED: Henry Kerr, David Felicijan, Daniel Rhodus

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

APPROVAL OF THE MINUTES: Schimmel moved and Singer seconded a motion to approve the July 12, 2010 minutes as submitted. Upon voice vote, motion was approved 6-0.

NEW BUSINESS:

ZBA# 10-03; 8037 Portage Road: Staff summarized the request for an outdoor 2,731 square-foot fenced animal/patient enclosure area for veterinary hospital animals/patients where the Zoning Code requires all activities to be conducted within a totally enclosed building. Dr. Cynthia Lunney and Dr. Andrew Helmholdt were present on behalf of Portage Animal Hospital. Dr. Lunney agreed with the conditions set forth in the staff report, but stated they needed more than 900 square feet to accommodate more animals at a time, as they anticipated treating more patients when the new facility is completed. Dr. Lunney explained they were also prepared to go with a smaller 1,575 square-foot enclosure that would otherwise meet staff's recommended setbacks and conditions, but would allow more animals to go out at a time than their current enclosure. Seyburn inquired if it was practical for dogs not to have a fence, and what other veterinarians in town do for this purpose. Dr. Lunney stated the fence is essential for the safety of both patients and staff, and that other veterinarians walk their dogs inside enclosures if they have them, or outside if they don't, but having the enclosure was safer. Bunch inquired if the only reason they were requesting the outdoor enclosure was to provide an area for dogs to eliminate. Dr. Lunney stated yes. Linenger inquired what their practical difficulties were. Dr. Lunney stated patient and staff safety.

A public hearing was opened. A letter of support from Treystar Holdings, LLC was read into the record. Seyburn inquired if a new veterinary clinic was established would they be told they couldn't have an outdoor area for dog elimination. Staff responded yes. There being no further comments the public hearing was closed.

A motion was made by Seyburn, supported by Singer, to grant a variance allowing a 1,650 square-foot fenced animal/patient enclosure area for veterinary hospital animals/patients where the Zoning Code requires all activities to be conducted within a totally enclosed building, conditioned upon: 1) the area not extend closer to the south property line than the building; 2) security lighting for the area be mounted on the building only; 3) hospital staff be present any time an animal is in the area; 4) no cages/runs be established in this area. 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 safety of staff and patients based on the hours they may be there, and the proximity to two major streets, Portage Road and East Centre Avenue; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to adequate use relating to normally accepted standards for animal hospitals, which is similar to that possessed by other properties in the same zoning district; the immediate practical difficulty causing the need for the variance request was not created by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood inasmuch as the owners of the surrounding properties support the variance; 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, Schimmel-Yes, Singer-Yes, Seyburn-Yes, Bunch-Yes, Mordas-Yes) motion carried 6-0.

ZBA# 10-04; 9303 Portage Road: Staff summarized the requests for a) a 114 square-foot variance to construct a 686 square-foot first floor of a two-story dwelling, where 800 square feet is required; and b) a four-foot south side yard setback variance where eight feet is required. The applicant, Alex Gwiazdowski, was present to answer questions. Linenger noted that it seemed like the applicant had pretty much settled on a specific house plan and wondered if they had considered alternative floor plans or possibly re-orienting the dwelling to meet setbacks. The applicant

stated he had looked at over 20 different plans but thought this proposal was the best option. Mr. Gwiazdowski stated he thought it preferable to keep the foundation away from the channel and by obtaining a four foot side setback variance, he would be allowed to construct a standard two-stall garage instead of having cars always parked in the driveway, which could potentially cause traffic visibility issues. Seyburn noted there was a split rail fence to the south of the property and inquired if it would in any way impede emergency access to the rear yard. Mr. Gwiazdowski stated the fence belonged to the city and was 8 to 12 feet south of the property line. Seyburn noted moving the dwelling to a more conforming location closer to the channel might actually impede emergency access on the north side of the dwelling, whereas there did not appear to be access issues to the south even if the dwelling were constructed four feet from the south side property line. Mordas expressed concern over vehicles backing out of the driveway onto Portage Road and thought a turnaround should be provided.

A public hearing was opened. As no written or verbal comments were received, the public hearing was closed.

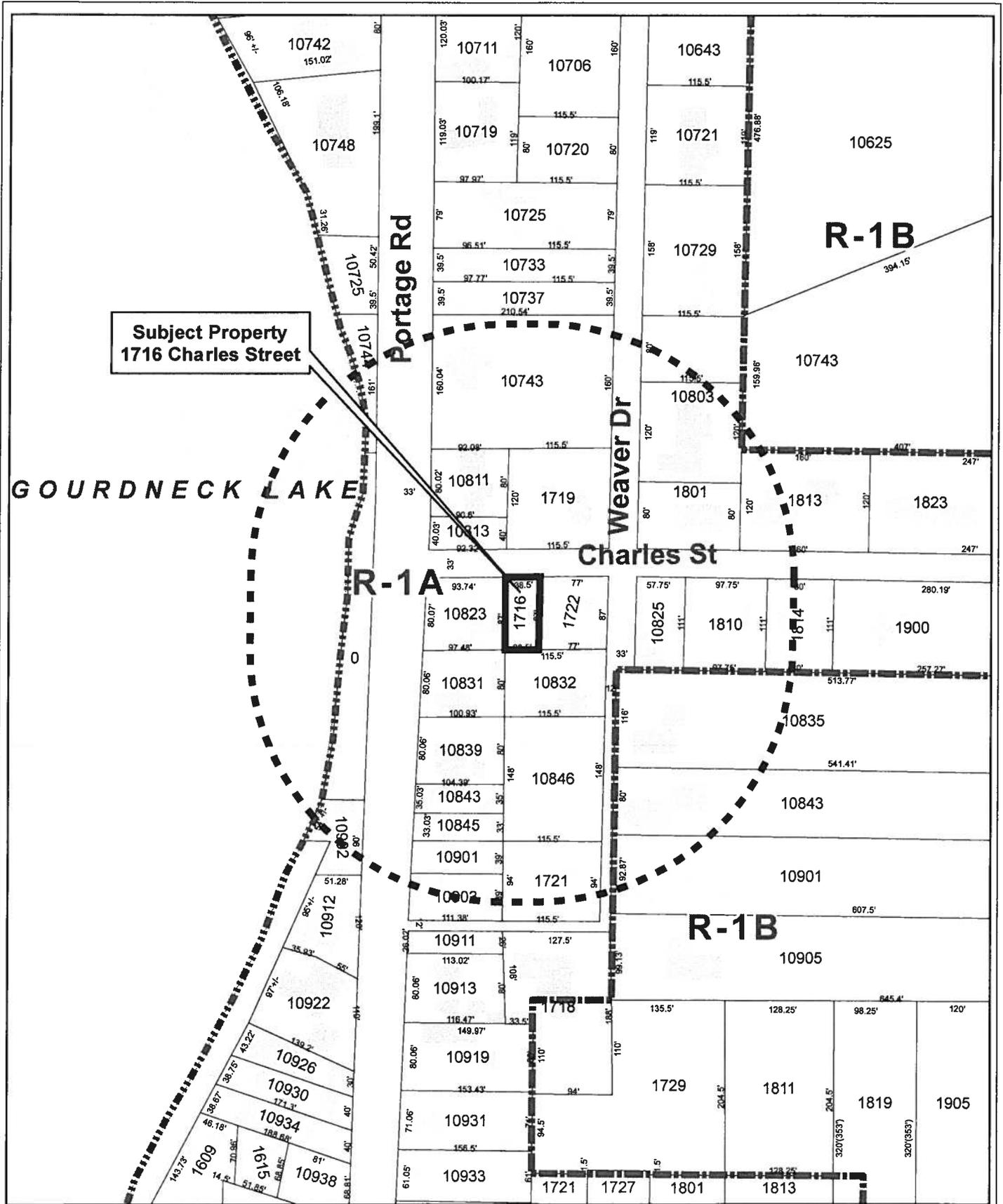
A motion was made by Seyburn, supported by Mordas, to approve: a) a 114 square-foot variance to construct a 686 square-foot first floor of a two-story dwelling, where 800 square feet is required; and b) a four-foot south side yard setback variance where eight feet is required, conditioned upon a suitable turnaround be provided to the south side of the proposed driveway. 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 that 40% of the lot is taken up by a channel and floodplain, and the property is of limited size and as indoor parking is desirable a side yard setback is needed; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to develop the property which is similar to that possessed by other properties in the same zoning district and in the vicinity; the immediate practical difficulty causing the need for the variance request 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. Upon roll call vote (Linenger-Yes, Schimmel-Yes, Singer-Yes, Mordas-Yes, Seyburn-Yes, Bunch-no) motion carried 5-1.

STATEMENT OF CITIZENS: None

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 7:55 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator



Subject Property
1716 Charles Street

GOURDNECK LAKE

Portage Rd

Weaver Dr

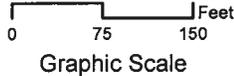
Charles St

R-1B

R-1A

R-1B

1716 Charles Street
ZBA 10-05



RECEIVED

AUG 13 2010

COMMUNITY DEVELOPMENT

CITY OF PORTAGE A Place for Opportunities to Grow

Department of Community Development

ZONING BOARD OF APPEALS APPLICATION

FOR COMPLETION BY APPLICANT

Application Date 8/13/10
Name of Applicant Lorri Hutchins
Applicant's Address 1716 CHARLES ST
Name of Property Owner
Address
Phone No.

Address of the Property that is the subject of this Application:
Street Address 1716 CHARLES ST
For Platted Property: Lot of Plat

[If The Property Is Unplatted, the Legal Description is needed. Please attach on a separate sheet.]
Applicant's interest in Property that is the subject of this Application:

Application Fee \$135- (Residential Uses) (All Other Uses)

Type of Appeal (Please check one of the following bold choices and provide the requested information):
Variance from Zoning Ordinance: Article Section Paragraph
Regarding: Use Area Yards
Setbacks Parking Other

Reason for Request (Also complete page 2 of application):

Appeal of Administrative Decision: Article Section Paragraph
Reason for Request:

Interpretation of the Zoning Ordinance: Article Section Paragraph
Reason for Request:

A Temporary Permit for: Building Use Other Approval
Article Section Paragraph
Reason for Request:

FOR STAFF USE

Table with 2 rows and 3 columns: Application Number, Filing Date, Tentative Hearing Date, Previous Application Filed Regarding This Property.

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COMMUNITY DEVELOPMENT

Reason For Variance

1. Please explain how the property has characteristics such as narrowness, shallowness, irregular shape, topography, or natural features that prevent compliance with the Zoning Ordinance. (Attach additional sheets if needed.)

see attached

2. Are the physical characteristics you explained above unique and not shared by neighboring properties? (Attach additional sheets if needed.)

'' ''

3. Can the property be reasonably used for the uses permitted in the zoning district without granting the variance? (Attach additional sheets if needed.)

'' ''

4. Is the variance the minimum necessary to permit reasonable use of the land and buildings, or would a lesser variance be fair and equitable to the applicant as well as logical and just to other property owners in the area? (Attach additional sheets if needed.)

'' ''

5. Explain how the variance would not result in adverse affects on adjacent properties or alter the character of the area. (Attach additional sheets if needed.)

'' ''

6. Explain how the variance would not result in increased traffic congestion, noise, or other potential concerns, or in dangers from fire, flood or other hazards, that would be detrimental to the property or to the area. (Attach additional sheets if needed.)

'' ''

7. Is the reason for the request, the practical difficulty or the hardship created, due to an act of the applicant or due to an act by the previous property owner? (Attach additional sheets if needed.)

'' ''

8. Explain how the variance would fulfill the spirit and intent of the Zoning Ordinance. (Attach additional sheets if needed.)

'' ''

Signature of Applicant

Date

RECEIVED

AUG 13 2018

- 1) Our property is 38x87 we do not have a garage.
- 2) Yes they are unique; we are 1 of 2 lots that don't have a garage. COMMUNITY DEVELOPMENT
- 3) No! There is no storage at all.
- 4) Yes, 8x10 aluminum shed should be big enough to put lawn mower, snow blower, and lawn furniture in- with no obstruction to neighbors.
- 5) It would improve the look of the property, it would look cleaner, because we could put away all of our outdoor equipment (gas can, lawn mower, bike etc.)
- 6) The shed would be in our back yard away from road, for our own belongings & would get lawn equipment off the deck.
- 7) No
- 8) The variance would allow us to store our property & improve the appearance.

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AUG 13 2010

COMMUNITY DEVELOPMENT

80.06

80.07

93.74'

10823

97.48'

10831

80'

48'

38.5'

1716

38.5'

3.5'

87'

1722

115.5'

10832

80'

77'

77'

12'

40.03'

92.32'

40'

115.5'

Charles St

1716 Charles St

Weaver Dr

Weaver Dr

33'

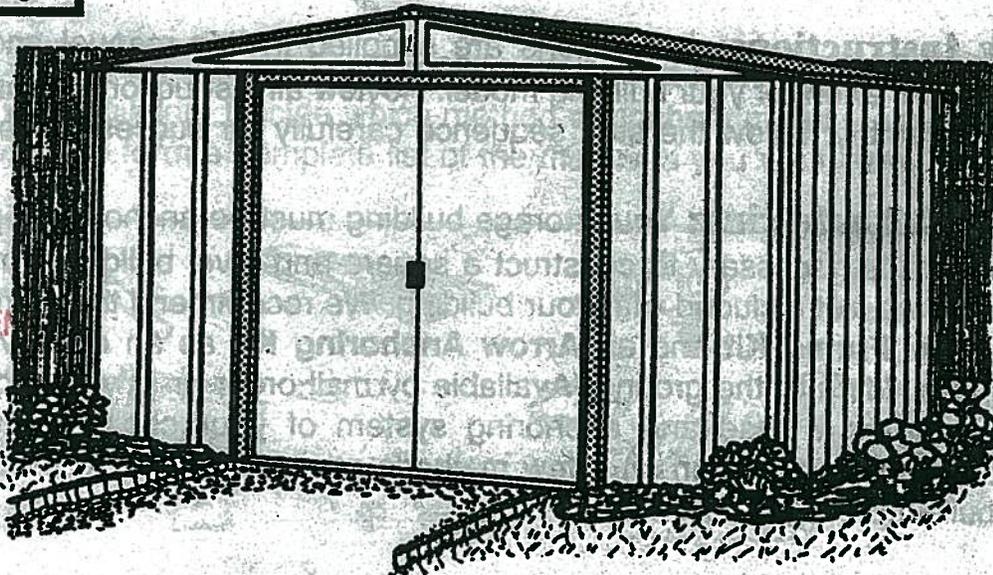
This map is neither a legally recorded map nor a survey and is not intended to be used as one. This map is a compilation of records, information and data located in various city, county, state and federal offices and other sources regarding the area shown, and is to be used for reference purposes only. Please contact the City/County for current property assessment information. The user of this map acknowledges that the City/County shall not be liable for any damages, and expressly waives all claims, and agrees to defend, indemnify, and hold harmless the City/County from any and all claims brought by the User, its employees or agents, or third parties which arise out of the Users access or use of data provided. IN OTHER WORDS, USE AT YOUR OWN RISK !!!

1716 Charles St

Owner's Manual & Assembly Instructions

A01

- Model No. EN108-A HM108-A MN108-A
 NP108 NW108-A PD108-A
 SA108-A VN108-A 697.68538-A



RECEIVED

APR 16 2010

COMMUNITY DEVELOPMENT

Missing Parts, Questions on Assembly?
Call: 1-800-851-1085
Do not return to dealer, they are not equipped to handle your requests.

709290410

Storage Area: 74 Sq. Ft. 401 Cu. Ft.
 6,9 m² 11,4 m³



CAUTION: SOME PARTS HAVE SHARP EDGES. CARE MUST BE TAKEN WHEN HANDLING THE VARIOUS PIECES TO AVOID A MISHAP. FOR SAFETY SAKE, PLEASE READ SAFETY INFORMATION PROVIDED IN THIS MANUAL BEFORE BEGINNING CONSTRUCTION. WEAR GLOVES, WHEN HANDLING METAL PARTS.

BUILDING DIMENSIONS * Size rounded off to the nearest foot

*Approx. Size	Base Size	Exterior Dimensions (Roof Edge to Roof Edge)			Interior Dimensions (Wall to Wall)			Door Opening	
		Width	Depth	Height	Width	Depth	Height	Width	Height
10' x 6'	121" x 92 3/4"	123 1/4"	95 1/4"	70 7/8"	118 1/4"	90"	69 5/8"	55 1/2"	58"
3,0 m x 2,3 m	307,3 cm x 235,6 cm	313,1 cm	241,9 cm	180,0 cm	300,4 cm	228,6 cm	176,8 cm	141,0 cm	147,3 cm

TO: Zoning Board of Appeals **DATE:** September 3, 2010
FROM: Jeffrey M. Erickson, Director of Community Development
SUBJECT: ZBA #10-05; Lorri Hutchins, 1716 Charles Street; R-1A One Family Residential
CODE SECTION: 42-350(A), Schedule of Regulations, p. CD42:84.
APPEAL: Requesting a 51 square foot variance from the maximum permitted 25% building lot cover to construct an 80 square foot shed.

STAFF RECOMMENDATION:

The applicant is requesting the above variance per the enclosed application, site sketch and shed details. The 3,349 square-foot lot is 38.5 feet wide and 87 feet deep, and is nonconforming. The property is improved with a nonconforming 680 square-foot dwelling and 128 square foot enclosed porch. The dwelling was constructed in 1926, with an addition built in 1975. A detached garage was also razed in 1975 to make room for the house addition. With regard to the lot size, the area is 4,451 square-feet below the required minimum 7,800 square feet, and the width is 26.5 feet less than the required minimum of 65 feet. The dwelling is also 440 square feet less than the required residential floor area.

The applicant proposes to construct the 80 square-foot rear yard shed in the southeast corner of the lot for storage. The small lot has no accessory buildings and no basement for storage. The applicant indicates the requested variance is the minimum necessary to house lawn equipment and other household items. The proposed shed, when combined with the dwelling and enclosed porch, will exceed the maximum permitted building lot cover by 51 square feet, resulting in 26.5% of building lot cover. All other zoning requirements, including setbacks, will be met.

As information for the Board, in 2006 the previous property owner requested several variances to retain a 200 square foot shed and deck that exceeded the building lot cover, and also did not meet the required setbacks. The shed and deck were both constructed prior to the issuance of a variance or a building permit. Both requests were denied by the Board (minutes attached), and the shed was removed and deck was modified to comply with the Zoning Code.

The need for storage on property is acknowledged and the size of the property severely limits conforming alternatives. In addition, the nonconforming dwelling, which does not meet the minimum size requirement, could not be expanded beyond 29 square feet without also obtaining a variance from the maximum building lot cover. Staff can recommend approval of this minimal variance request based on the practical difficulties noted below.

PRACTICAL DIFFICULTY:

Legally nonconforming lot size; Legally nonconforming dwelling size; Lack of storage on site.

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – January 8, 2007

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 3 people were in the audience.

MEMBERS PRESENT: Fred Bindemann, Robert Linenger, Clyde Flora, Henry Kerr, Wayne Stoffer, Chad Vliek, Betty Schimmel, Robert Atkins (alternate)

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

APPROVAL OF THE MINUTES: The December 11, 2006 minutes were approved upon voice vote 7-0.

NEW BUSINESS:

ZBA #06-17; James DeRyke, 1716 Charles Street: Mr. DeRyke was present to explain the request for a) a 174 square-foot variance to exceed the 25% maximum lot coverage and b) a four foot side yard setback variance to retain a 192 square-foot shed and open deck. He stated the nonconforming house was under 700 square feet, had a lack of storage space, and the dirt crawl space beneath it was not fit for storage. He replaced a dilapidated metal shed in 2002 with the existing 192 square-foot shed to accommodate storage and had no complaints until now. Kerr inquired if a building permit had been issued for the shed or deck. Mr. DeRyke stated he didn't realize a building permit was required. Staff confirmed no permit had been issued. Kerr stated if the applicant had first applied for a building permit, the setback and lot coverage issues would have been identified and the applicant could have spared himself some inconvenience. Atkins inquired if the original shed had been legally nonconforming or if a building permit had been issued. The applicant stated he didn't know exactly when the original shed was erected but his father acquired the property in 1964 and guessed his father placed it several years later. Staff stated no building permit was on file for the original shed. Schimmel inquired if the applicant still lived there. Mr. DeRyke responded he moved out recently. Stoffer stated he understood the applicant's need for more storage space, but concerning the setback saw no reason why the deck and shed couldn't be shifted east to a conforming location. Mr. DeRyke responded he wished to retain the saltbox style roof.

A public hearing was opened. Diane Orr, 10823 Portage Road stated she felt the property was overdeveloped, the shed blocked the view from her rear window, and did not support the variance. Mr. DeRyke stated he would be willing to move the shed to a conforming location. The public hearing was closed.

A motion was made by Linenger, seconded by Stoffer to grant a 174 square-foot variance to exceed the 25% maximum building lot coverage standard, conditioned upon all structures meeting required side yard setbacks. The practical difficulties are the nonconforming size of the lot and dwelling, and lack of conforming alternatives. The decision of the Board is to be final and effective immediately. Kerr and Flora stated they would not be supporting the motion, thought the lot was overdeveloped, and while the lot was admittedly small, the owner should have been aware of this fact prior to starting construction. Upon roll call vote: Vliek – Yes, Flora – No, Kerr – No, Stoffer – Yes, Bindemann – No, Linenger – Yes, Schimmel - No. Motion failed 3-4.

ZBA #06-18; Ron Nelson, 2117 Byrd Drive: Mr. Nelson was present to explain the request for a) a 468 square-foot variance to retain a 1,188 square-foot detached garage where the permitted accessory building area is 720 square feet and b) a 63 square-foot variance to exceed the maximum size of 1,125 square-feet for a detached accessory building in the rear yard; and c) a one-foot variance from the required three-foot rear yard setback. Mr. Nelson stated the garage was damaged and he started to do repairs and was now seeking a variance to keep the garage that was already constructed. Kerr inquired if any building permits had ever been issued for the garage. Staff responded a building permit was issued for a 12-foot by 24-foot garage addition back in 1973. Stoffer inquired if such building permit had been issued prior to the applicant acquiring the property. Mr. Nelson stated the garage had already been added on to when he bought the house. Staff clarified that the 1973 permit was issued to Ron Nelson. Kerr inquired how large of a garage could be built on the property if he had a conforming house. Staff responded if the house had the minimum required 1,040 square feet of living area it could have up to 1,040 of combined accessory building area. Kerr stated the applicant had the option of increasing the living area on the house and thereby making a variance unnecessary for the garage. He added that in any event he didn't find a practical difficulty in this situation. Mr. Nelson responded he needed the variance because he has a boat, trailer, golf cart, and a lot of other things to store. Schimmel inquired if a permit was obtained for the garage addition constructed in the 1980's. Staff responded no. Atkins inquired if the lean-

SUGGESTED NON-USE VARIANCE MOTION FORM

Mr. Chairman:

I move, in regard to ZBA # _____, the application by _____

for a variance from _____

be:

a. granted for all of the following reasons:

- 1a. 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 _____;
- 2a. The variance is necessary for the preservation and enjoyment of a substantial property right, the right to _____, which is similar to that possessed by other properties in the same zoning district and in the vicinity;
- 3a. The immediate practical difficulty causing the need for the variance request was not created by the applicant;
- 4a. The variance will not be detrimental to adjacent property and the surrounding neighborhood, and;
- 5a. The variance will not materially impair the intent and purpose of the zoning ordinance.

-Or-

b. denied for one of more of the following reasons:

- 1b. There are no exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district;
- 2b. The variance is not necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district in the vicinity because there are conforming alternatives available such as _____;
- 3b. The immediate practical difficulty causing the need for the variance request was created by the applicant;
- 4b. The variance would be detrimental to adjacent property and the surrounding neighborhood, and;
- 5b. The variance would materially impair the intent and purpose of the zoning ordinance.

c. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, **and that action of the Board be final and effective immediately.**