

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – May 10, 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 8 people were in the audience.

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

MEMBERS EXCUSED: Lowell Seyburn

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 Mordas seconded a motion to approve the April 14, 2010 minutes as submitted. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA# 09-20, 5419 Meredith Drive: Staff summarized the request for a variance to a) retain exterior light fixtures that are oriented in an unshielded position throughout the development; and a variance to b) exceed the light intensity level greater than 0.3 foot-candles along the north property line. Carol Bodnar, on behalf of Devonshire Meredith LLC, was present to explain the request which is to retain light fixtures that were recently repaired or replaced with similar pre-existing lights. Kerr noted it is regrettable their electrician did not work with the city to ensure code compliance. In response to Kerr, staff noted screening is not required between multiple-family and one-family developments, but the applicant and an adjacent neighbor on Hanover Street have discussed erecting a privacy fence.

A public hearing was opened. Mr. Blake Bancroft, 4709 Hanover Street, asked where the lighting exceeds maximum light levels, and the purpose of using unshielded fixtures. Staff responded the lighting exceeds intensity levels along the north property line. Bodnar explained the lighting is intended to address safety and crime prevention, and that since her ownership, police calls have been reduced. Bancroft cited a number of studies that indicate lighting does not prevent crime, has an adverse impact on humans, animals and vegetation, and consumes unnecessary energy. Bancroft objected to the variances and suggested standards to reduce glow and light trespass. Bancroft submitted letters of opposition from the following: Barb Lipsey, 4715 Hanover Street; Kelli Palmer, 4615 Hanover Street; Millie Newson, 5501 Meredith Street; Jason Barber, 4533 Hanover Street; David Strine, 4510 Hanover Street; Dan Hazell, 4633 Hanover Street. Carrie Richmond, 4624 Hanover Street recognized the efforts of Devonshire Meredith LLC, but noted the Neighborhood Watch group has been instrumental in reduce crime, and that she supports neighboring property owners adversely impacted by the bright lights. Bodnar clarified that other than the north property lines, all lights meet the Zoning Code intensity levels. There being no further comments, the public hearing was closed.

Singer asked if the lights can be shielded. Staff indicated yes or adjusted downward to meet the code. Linenger asked if there was a one-for-one replacement of exterior lights. Staff responded yes. Mordas asked if the lights were adjusted downward, would the applicant install additional new lights and would that increase the light intensity. Staff responded that it is likely additional wall and pole mounted lights would be needed to have the same amount of exterior lighting, but all new lights would have to meet code. Without a photometric light plan, staff indicated it is not possible to specify if the overall light intensity or “glow” would be reduced. Mordas asked if the lights on the south side of unit 9 were eliminated, would it resolve the neighbors concerns. Staff indicated that may helpful.

A motion was made by Linenger, supported by Mordas, to approve a variance to: a) retain exterior light fixtures that are oriented in an unshielded position throughout the development, and b) to exceed the light intensity level greater than 0.3 foot-candles along the north property line, conditioned upon: 1) all exterior lights remain located and positioned as now existing and the exterior lights along the west and south property lines remain fixed in position so as to meet the maximum light intensity and glare prevention requirements of the Zoning Code, except that the light fixtures on the following buildings be provided with additional custom shielding that meet the Zoning Code or replaced with conforming light fixtures: the south end of unit 9; east end of unit 11, west and south end of unit 12, south end of unit 13 and south end of unit 14; and 2) exterior lights on the north sides of the buildings along the north property line be replaced to meet the Zoning Code maximum light intensity and glare requirements if the property to the north develops with residential use(s) in the future. The variance is granted 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 age and location of existing multiple-family residential buildings, and the presence of legally non-conforming light fixtures based on a one-for-one light replacement that the applicant has performed; 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 or the 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, Kerr-Yes, Schimmel-Yes, Mordas- Yes, Singer-Yes, Bunch-Yes, Rhodus-Yes) the motion carried 7-0.

ZBA# 09-21, 716 West Van Hoesen Boulevard: Staff summarized the request for a variance to enlarge a non-conforming dwelling to construct an 81 square-foot covered porch 17 feet from the front (east) property line where a minimum 27-foot setback is required. Teresa Millar was present to explain that the request, and that she has used gutters, heat tape and other efforts to prevent ice build up on the ground in front of the main entry of the house. The proposed roof extension will resolve the existing safety hazard. Kerr indicated her house seemed closer to the road than others on the block. Millar responded the house across the street on Nevada is actually closer to the property line than her house. In response to Kerr, staff confirmed that building lot cover is not a problem for the property and proposed covered entryway.

A public hearing was opened. No one was present to speak for or against the request. A letter of support from Rod O'Brien, 623 West Van Hoesen Boulevard, was read into the record. There being no further comments, public hearing was closed.

A motion was made by Linenger, supported by Schimmel, to grant a variance to enlarge a non-conforming dwelling to construct an 81 square-foot covered porch 17 feet from the front (east) property line where a minimum 27-foot setback is required 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 location of the dwelling on the lot and location/design of the main front entry of the dwelling; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to improve the safety, functionality and appearance of the dwelling, 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 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 (Linenger-Yes, Kerr-Yes, Schimmel-Yes, Mordas-Yes, Singer-Yes, Mordas-Yes, Bunch-Yes, Rhodus-Yes.) motion carried 7-0.

STATEMENT OF CITIZENS: Kerr noted that Election of Officers will be included on the June 3, 2010 agenda.

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 8:20 p.m.

Respectfully submitted,

Vicki Georgeau, AICP
Deputy Director of Neighborhood Services