

## CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – April 11, 2011

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

**MEMBERS PRESENT:** Timothy Bunch, David Felicijan, Rob Linenger, Betty Schimmel, Donald Mordas, Lowell Seyburn, Daniel Rhodus, Jeff Bright

**MEMBERS EXCUSED:** Marianna Singer

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

**APPROVAL OF THE MINUTES:** Felicijan moved and Mordas seconded a motion to approve the March 14, 2011 minutes as submitted. Upon voice vote, motion was approved 7-0.

### **NEW BUSINESS:**

**ZBA# 10-15, 710 East Milham Avenue:** Staff summarized the request for a variance to replace an existing 61 square-foot Walnut Trail nonconforming non-accessory sign with a new 29 square-foot sign. Jim Hall was present on behalf of the applicant, and explained the history of the Walnut Trail development and indicated the original zoning lot consisted of the Walnut Trail and Newport Village Apartments, and also the office developments at what is now 6070 Newport Road, 636 and 710 East Milham Avenue. Mr. Hall stated that while the office properties along East Milham were subsequently sold off, they continue to identify their business location in relation to the Walnut Trail sign. Seyburn observed the proposed replacement sign would be significantly smaller. Felicijan requested clarification on whose property the subject sign was located. Mr. Hall stated the sign was on property now owned by Yeo & Yeo, but the applicant had a perpetual easement to maintain the sign. Rhodus inquired if the city could do more to prevent the creation of nonconformities in situations like this. Staff responded the city had no say in this matter, as zoning lots are determined by property owners and developers. The applicant sold the property at 710 East Milham to Yeo & Yeo, and as new owners/developers they subsequently applied for their own freestanding sign permit, and made their own determination they were a separate zoning lot. Felicijan inquired what the largest sign Walnut Trail could have. Staff clarified that the code permitted no off-premise sign of any size at this location, but the matter before the Board was to decide whether the proposal to replace the existing nonconforming sign with a sign less than half its size was a reduction in nonconformity and in keeping with the spirit and intent of the ordinance.

A public hearing was opened. Susan Wright of Michigan Commerce Bank, 800 East Milham Avenue, spoke in favor of the request. The public hearing was closed.

A motion was made by Seyburn, supported by Bright, to grant a variance to replace an existing 61 square-foot Walnut Trail nonconforming non-accessory sign with a new 29 square-foot sign for the following reasons: there are exceptional circumstances applying to the property which include the sign proposed is half its current size and is necessary for identification; the variance will not be detrimental to adjacent property; 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, Felicijan-No, Mordas-Yes, Bunch-Yes, Seyburn-Yes, Bright-Yes, the motion carried 6-1.

### **STATEMENT OF CITIZENS:**

**ADJOURNMENT:** There being no further business, the meeting was adjourned at approximately 7:24 p.m.

Respectfully submitted,

Jeff Mais  
Zoning & Codes Administrator