

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – May 9, 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, Marianna Singer, Daniel Rhodus, Jeff Bright.

MEMBERS EXCUSED: Donald Mordas, Lowell Seyburn

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

APPROVAL OF THE MINUTES: Felicijan moved and Schimmel seconded a motion to approve the April 11, 2011 minutes as submitted. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA# 10-16, 10027 Oakland Drive: Staff summarized the request for a variance to establish a microbrewery with a 50 seat occupancy restaurant that provides lunch and dinner service in a B-3 General Business zone, where a minimum 100 seat occupancy restaurant is required with a microbrewery. Scot Smoker was present to answer questions. Linenger inquired what the practical difficulty was. The applicant stated he needed time to build up his brand and operate before financing an addition for a 100 seat restaurant. Staff added the 100-seat restaurant provision in the ordinance was intended to differentiate between uses of an industrial and general commercial character, and that the retail nature of the proposed use could be considered an 'exceptional circumstance'. Felicijan requested clarification where the seating would be provided. The applicant stated in the tap room. Felicijan inquired if the applicant had considered using the events/banquet hall area for seating. Mr. Smoker said the area could accommodate approximately 185, but would be shared jointly by the microbrewery and the wellness center businesses. Singer inquired of the applicant if they could provide at least 50 more seats in the events/banquet hall area, even if the use of the area for seating diners was not set up on a daily basis. The applicant stated there could be seats in the events area and they would be willing to provide however many were needed to satisfy city code requirements. Singer inquired if the events/banquet hall area were to be applied towards the restaurant occupancy requirement could it affect building or other code requirements. Staff responded it could affect fire suppression and parking requirements.

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

After additional discussion, a motion was made by Felicijan, supported by Singer, for an interpretation that a variance from Section 42-262(C)(8)(c) is not needed in this instance, as additional area for seating is available in the events/banquet hall. 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-Yes, Singer-Yes, Bunch-Yes, Rhodus-Yes, Bright-Yes, the motion carried 7-0.

STATEMENT OF CITIZENS:

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

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator