

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – November 14, 2011

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

MEMBERS PRESENT: Mariana Singer, Lowell Seyburn, Daniel Rhodus, Betty Schimmel, Rob Linenger, David Felicijan, and Jeff Bright.

MEMBERS EXCUSED: Timothy Bunch

MEMBERS ABSENT: Donald Mordas

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

APPROVAL OF THE MINUTES: Felicijan moved and Seyburn seconded a motion to approve the October 10, 2011 minutes with one correction. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA #11-8, 723 Lakeview Drive. Staff summarized the request for 12-foot variance from the 40-foot minimum rear (north) yard setback, to construct a new 3,427 square-foot two-story dwelling. Bill Kozar and Alexander Hanchar were present to answer questions. Bright inquired if the applicant had spoken to any of his neighbors about the request. Mr. Hanchar stated he had and that none had any objection to the request.

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

A motion was made by Felicijan, supported by Singer, to grant a 12-foot variance from the 40-foot minimum rear yard setback to construct a new 3,427 square-foot two-story dwelling. There are exceptional or extraordinary circumstances or conditions applying to the property that do not generally apply to other properties in the zoning district which include a 10-foot private walkway between the rear property line and water's edge, 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 will not materially impair the intent and purpose of the zoning ordinance. In addition, the application and related materials, staff report and all discussion and additional materials presented at this hearing shall be incorporated into the record of this hearing and the findings of the Board, and action of the Board shall be final and effective immediately. Upon roll call vote: Schimmel–Yes, Singer–Yes, Linenger–Yes, Seyburn–Yes, Rhodus–Yes, Bright–Yes, Felicijan–Yes. The motion carried 7-0.

ZBA #11-05, 7324 Oakland Drive. Staff summarized the request for a 3.5 foot variance from the 14-foot maximum building height requirement to construct a 17.5-foot high detached accessory building. Charlie Glas and Michael Chen were present to answer questions. Linenger asked the applicant to explain the practical difficulty. Mr. Glas stated the size of the lot and the proposed 30 foot north side setback. Seyburn noted the practical difficulty appeared to be necessary for the 10-foot door height required to accommodate a boat. Felicijan inquired why the applicant didn't locate the building further south or east. Mr. Glas stated moving it further east would put it closer

to neighboring residences and moving it south would create a more intrusive driveway. Mr. Chen stated he could not construct the accessory building at all and could simply store the boat outside but felt that would be an eyesore. Mr. Chen stated one other reason the building was proposed in this location was for security reasons, and with a 30-foot setback and the proposed vegetation the accessory building would hardly be visible to neighbors.

A public hearing was opened. Letters of opposition from John & Jayne Vander Veen, 7278 Oakland Drive, and Alan Wuosmaa & Nora Berrah, 7260 Oakland Drive were read. The public hearing was closed.

A motion was made by Felicijan, seconded by Seyburn to grant a 3.5 foot variance from the 14-foot maximum building height requirement to construct a 17.5-foot high detached accessory building, conditioned upon installation of a minimum of eight 16-foot to 20-foot tall spruce trees on the north side of the accessory building. There are exceptional circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district which include the size and layout of the lot; 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 related materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated into the record of this hearing and the findings of the Board, and that action of the Board shall be final and effective immediately. Singer stated she had a conflict of interest and would abstain from voting. Upon roll call vote: Seyburn-Yes, Rhodus-No, Schimmel-No, Felicijan-Yes, Linenger-Yes, Singer-Abstained, Bright-Yes, the motion carried 4-2-1.

ZBA #11-10, 801 East Centre Avenue Staff summarized the request for a 10-foot front yard setback variance to construct a wheelchair ramp to within seven feet of the front property line, where a 17-foot front setback is required. Thomas Rogers stated he purchased the house and found a tenant who was willing to lease but needed a wheelchair ramp. Mr. Rogers said the ramp would project nine feet in front of the house and would extend about as close to the front property line as the neighbors' front steps.

A public hearing was opened. No one spoke for or against the request. The public hearing was closed.

A motion was made by Felicijan, seconded by Schimmel to grant a 10-foot front yard setback variance to construct a wheelchair ramp to within seven feet of the front property line, where a 17-foot front setback is required. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include the age of the dwelling and existing front setback; 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 related materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated into the record of this hearing and the findings of the Board, and that action of the Board shall be final and effective immediately. Upon roll call vote: Seyburn-Yes, Rhodus-Yes, Schimmel-Yes, Felicijan-Yes, Linenger-Yes, Singer-Yes, Bright-Yes, the motion carried 7-0.

ZBA #11-11, 6020 Lovers Lane: Staff summarized the request for a variance to erect a freestanding sign at the front property line, where a minimum ten-foot setback is required. Shannon Glascock was present to answer questions. Linenger inquired if the applicant had spoken to the property owner to the north about cutting back the vegetation. Ms. Glascock stated she had and was told they were unwilling as it was not required by code. She sent a follow-up letter again requesting removal, but has received no reply.

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

A motion was made by Felicijan, seconded by Seyburn, to grant a 10-foot variance to erect a freestanding sign at the front property line, where a minimum ten-foot setback is required. There are exceptional circumstances applying to the property which do not apply generally to other properties in the same zoning district, which include the excessive right-of-way, and the obstructed visibility to southbound traffic due to the existing vegetation on the neighboring property to the north; 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 related materials, staff report, and all comments, discussion and materials presented at this hearing be incorporated into the record of this hearing and the findings of the Board, and that action of the Board shall be final and effective immediately. Upon roll call vote: Seyburn-Yes, Rhodus-Yes, Schimmel-Yes, Felicijan-Yes, Linenger-Yes, Singer-Yes, Bright-Yes, the motion carried 7-0.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 8:15 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator