

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – December 12, 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. Five people were in the audience.

MEMBERS PRESENT: Mariana Singer, Daniel Douglas Rhodus, Timothy Bunch, Betty Schimmel, Rob Linenger, David Felicijan, and Jeffrey Bright.

MEMBERS EXCUSED: Lowell Seyburn

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

APPROVAL OF THE MINUTES: Felicijan moved and Singer seconded a motion to approve the November 14, 2011 minutes with one correction. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA #11-12, 3250 West Centre Avenue. Staff summarized the request for a) a variance to permit two non-accessory (off-premise) directional signs on 3200 West Centre Avenue; and b) a 34 square-foot variance to permit an 84 square-foot freestanding sign where a maximum 50 square-foot sign is permitted. Tom King, was present on behalf of the applicant. Mr. King stated that concerning the freestanding sign request, the variance should be granted because the property is unique along West Centre Avenue, as the site is several feet below the adjacent street grade which makes it difficult to see and that trees block visibility for west bound traffic. Mr. King added the request also represented a reduction in the degree of nonconformity, as the existing freestanding sign measured 140 square feet in area when the masonry support structure was taken into account. Mr. King said he differed with staff on two points: the applicant felt a larger sign would improve readability for westbound traffic, and secondly felt that moving the sign closer to the road would not improve sign visibility. Linenger inquired if the applicant had considered reducing the size of one or both freestanding sign panels. Mr. King responded corporate wanted each branch to have uniform signage, and that a different sized sign would have to be custom made. Felicijan stated he struggled with a practical difficulty and did not think that even a 100 square foot sign would be more readable as long as the obstructing trees remained. Singer stated she did not see why the applicant could not have a conforming sign, as the previous occupant, Prudential, had one and were readily identifiable. Bunch requested clarification whether the old sign was in fact larger than the proposed sign. Staff stated the code exempted the support structure from the sign area calculations, and while the old sign had a larger support structure the sign itself was smaller than the proposed sign. Rhodus inquired if a traffic light was going to be installed at the intersection of Cooley and West Centre. Staff responded they did not know. Rhodus inquired if the applicant was going to have multiple tenants. Mr. King said possibly.

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 Singer, supported by Schimmel to grant a) a variance to permit two non-accessory (off-premise) directional signs on 3200 West Centre Avenue for the following reasons: 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 no direct access to West Centre Avenue; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to identify the bank at the West Centre Avenue access; the immediate 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 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, Bunch-Yes, Rhodus-Yes, Bright-Yes, Felicijan-Yes. The motion carried 7-0.

A motion was made by Felicijan, supported by Bunch, to deny b) a 34 square-foot variance to permit an 84 square-foot freestanding sign where a maximum 50 square-foot sign is permitted, for the following reasons: there are no exceptional circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district; 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, because there are conforming alternatives available such as erecting a conforming sign and removing the vegetation or seeking a setback variance; the immediate practical difficulty causing the need for the variance request was created by the applicant; the variance would 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, Bunch-Yes, Rhodus-Yes, Bright-No, Felicijan-Yes. The motion carried 6-1.

ZBA #11-13, 6295 and 6355 South Westnedge Avenue. Staff summarized the request for a 30-foot variance to allow construction of an enclosed loading dock 45 feet from the rear (east) property line where a 75-foot minimum rear setback is required. Edward Wade stated Dick's Sporting Goods would be occupying the southern portion of the building at 6355 South Westnedge and the new tenant needed their own loading dock which is proposed on the east (back) side of the building. Mr. Wade stated they were mindful of the neighboring apartment complex to the east and proposed to place screening vegetation along the east property line in addition to entirely enclosing the proposed loading dock. Linenger inquired if they had considered placing the loading dock on the south side of the building. Mr. Wade stated that because they were redesigning the entire site in compliance with current code and adding landscaping islands they had to move additional parking to the south. Felicijan inquired what kind of screening vegetation was proposed. Mr. Wade stated another architecture firm is handling the landscape design and he did not know the specifics.

A public hearing was opened. A letter from Edward Rose and Sons, 6101 Newport Road was read. The public hearing was closed.

A motion was made by Felicijan, seconded by Singer to grant a 30-foot variance to allow construction of an enclosed loading dock 45 feet from the rear (east) property line where a 75-foot minimum rear setback is required, conditioned upon conflicting land use screening being installed along the east property line, for the following reasons: the variance is necessary for the preservation and enjoyment of a substantial property right, the right to multiple tenants, which is similar to that possessed by other properties in the same zoning district and vicinity; 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: Bunch-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 7:55 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator