

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – February 13, 2012

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. Approximately four people were in the audience.

MEMBERS PRESENT: Mariana Singer, Doug Rhodus, Timothy Bunch, Betty Schimmel, Rob Linenger, Lowell Seyburn, Glenn Smith, and Jeffrey Bright.

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

APPROVAL OF THE MINUTES: Schimmel moved and Bunch seconded a motion to approve the January 9, 2012 minutes as submitted. Upon voice vote, motion was approved 7-0.

NEW BUSINESS:

ZBA #11-15, 7141 South Westledge Avenue: Staff summarized the request for a variance to allow moving messages and images on an Electronic Message Display (EMD). Lowell Seyburn abstained due to a conflict of interest. Beth Reinholt stated she disagreed with staff's position that mounting the EMD to the freestanding sign structure was a conforming alternative and that the EMD was intentionally placed on the wall instead of the freestanding sign because some trees on the adjacent properties block the view of their freestanding sign. Staff stated they experienced no difficulty seeing the freestanding sign. Ms. Reinholt stated visibility is more problematic during the months when leaves are out and felt that asking for a variance for moving images on their EMD was a lesser variance than asking to remove their neighbor's trees. Ms. Reinholt stated their unique circumstances also included the low traffic counts in front of their business and the number of vacant properties in the immediate vicinity, such as the old PCOC building and the property south of Culvers. Staff responded the circumstances were not unique; that businesses in other areas with much lower traffic counts than the applicant's property successfully operate and that businesses coming and going frequently occur in commercial areas. Staff stated that both examples of vacant properties cited by applicant were either already recently approved for redevelopment or pending sale. Bright stated he thought the city should try to help businesses any way they could and inquired if the applicant thought signs with moving images endangered safety. The applicant stated they had observed no accidents in front of their property during the short time their EMD has displayed moving images. Staff explained sign legibility and stated a moving image that required an observer's attention for a four second long video posed a greater potential safety issue than a static image displayed for the same interval. The applicant noted that some schools in the area had moving images on their EMD's and must therefore think them safe. Linenger noted schools were not subject to the Zoning Code. Linenger inquired if the applicant had tried displaying static images for four seconds. Ms. Reinholt said no. Singer stated she never noticed the sign on the wall either with or without the moving images.

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 Rhodus, to deny a variance to allow moving messages and images on an EMD sign, as the immediate practical difficulty causing the need for the variance request was created by the applicant; and the variance would 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 this hearing be incorporated in the record of this

hearing and the findings of the Board, and that the action of the Board be final and effective immediately. Upon roll call vote: Schimmel–Yes, Singer–Yes, Linenger–Yes, Bunch-Yes, Rhodus-Yes, Bright-No, Smith-No. The motion carried 5-2.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 7:59 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator