

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – May 14, 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. Eight people were in the audience.

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

MEMBERS EXCUSED: Mariana Singer

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

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

OLD BUSINESS:

ZBA #11-16, 5602 Lovers Lane: Staff summarized the variance requests for a) a single face 672 square-foot non-accessory sign that exceeds the maximum allowed 300 square-foot sign area; b) a 99 foot variance to erect a sign two feet from the (north) property line where a maximum 101 foot setback is required; and c) a 43-foot variance to erect a sign seven feet from the (east) property line where a minimum 50 foot setback is required. Kevin Green was present on behalf of Adams Outdoor Advertising and stated the proposed billboard would be located over 350 feet from the westbound lane. Mr. Green stated that 672 square-foot billboards were an industry standard size sign found throughout the state and country, and while a maximum permitted 300 square-foot sign may be a reasonable standard for the billboards found along surface roads in town, the higher traffic speeds on highways necessitated larger signs for improved legibility. Mr. Green stated the MDOT sound wall erected in 2010 reduced visibility of the existing sign for east bound traffic and because they were proposing to eliminate the west face of the sign they were also reducing the degree of nonconformity. Linenger noted the city issued a permit for a 300 square-foot sign in 1994 and inquired how it came to pass that a 672 square-foot sign was erected. Mr. Green noted the State of Michigan issued a permit for a 672 square-foot sign, but could not otherwise account for the actions of his predecessor 18 years ago. Smith inquired if there were any other 'standard' size signs produced in between the 378 square-foot sign referenced in the staff report and the proposed 672 square-foot sign. Mr. Green stated there was also a 504 square-foot 'substandard-sized' sign available. Robbe inquired why detuning equipment was needed now. Mr. Green said Midwest Communications, owner of the broadcast towers to the east, suggested they should equip their sign with the device to eliminate electrical interference and Adams has already agreed to install the equipment. Seyburn inquired how large the billboard on the other side of I-94 was. Staff stated the sign was 378 square feet and its size was the result of a Settlement Agreement between the city and the sign owner. Seyburn inquired if there was a "me too" clause in that Agreement. Staff and Mr. Bear both stated no.

A public hearing was opened. A communication from Kevin Green to staff was read into the record and a maintenance agreement between the property owner of 5602 Lovers Lane and Adams Outdoor Advertising was also entered into the record. Mr. Peter Tanz, Midwest Communications, stated he was present to answer any other questions the Board may have about the detuning equipment. There were no further questions or comments. The public hearing was closed.

A motion was made by Seyburn, seconded by Schimmel, to grant a) a variance for a one-sided 504 square foot (12' x 42') sign conditioned upon the installation of a de-tuner, and painting the back side

of the billboard to minimize potential aesthetic impacts to properties to the south and west, the practical difficulties include giving up rights to have a two-sided sign is a reduction in the degree of nonconformity and the significant distance of the sign from the westbound lane of I-94 (which is much further than the sign on the opposite side of the highway); the variance is necessary for the preservation of a substantial property right, the right to have a freestanding sign that can be seen from the highway which is similar to that possessed by other properties in the same zoning district and the vicinity; the immediate practical difficulty causing the need for the variance was not created by the applicant; 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, discussions and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Bunch-Yes, Linenger-Yes, Rhodus-Yes, Schimmel-Yes, Seyburn-Yes, Smith-Yes, Bright-Yes. Motion passed 7-0.

A motion was made Smith, seconded by Bright, to grant variances allowing the sign to be setback b) two feet from the north property line and c) seven feet from the east property line. The practical difficulty is the significant distance of the sign from the westbound lane of I-94; the variance is necessary for the preservation of a substantial property right, the right to have a freestanding sign that can be seen from the highway which is similar to that possessed by other properties in the same zoning district and the vicinity; the immediate practical difficulty causing the need for the variance 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 supporting materials, staff report, and all comments, discussions and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Bunch-Yes, Linenger-Yes, Rhodus-Yes, Schimmel-Yes, Seyburn-Yes, Smith-Yes, Bright-Yes. Motion passed 7-0.

NEW BUSINESS:

ZBA #11-20, 7634 Hampton Oaks: Staff summarized the request for a) a four-foot variance to retain an existing garage six feet from the (north) side property line; and b) a four-foot variance to construct a 12-foot by 14-foot three season porch six feet from the north property line where a 10-foot setback is required. Mr. Donald Kitchin was present to answer any questions.

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

A motion was made by Smith, seconded by Seyburn, to grant a) a four-foot variance to retain an existing garage six feet from the (north) side property line; and b) a four-foot variance to construct a 12-foot by 14-foot three season porch six feet from the north property line where a 10-foot 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 narrow corner lot, the existing floor plan (split level design) and orientation of existing dwelling on the lot. The variance is necessary for the preservation of a substantial property right, the right to have a screened-in porch which is similar to that possessed by other properties in the same zoning district and the vicinity; the immediate practical difficulty causing the need for the variance 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 supporting materials, staff report, and all comments, discussions and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of

the Board be final and effective immediately. Upon roll call vote: Bunch-Yes, Linenger-Yes, Rhodus-Yes, Schimmel-Yes, Seyburn-Yes, Smith-Yes, Bright-Yes. Motion passed 7-0.

ZBA #11-21, 6430 South Westnedge Avenue: Staff summarized the request for a 10 square-foot variance to replace a nonconforming 96 square-foot sign, with a 75 square-foot sign for Harding's Market, where 65 square feet is the maximum allowed. Steve Vandersloot, Sign Art, was present on behalf of the applicant to answer questions. Robbe inquired if the applicant had looked into different sign configurations to possibly erect a conforming sign. Mr. Vandersloot stated they had but felt the proposed sign represented the best sign design based on both aesthetic and functional characteristics.

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

A motion was made by Seyburn, seconded by Smith, to grant a 10 square-foot variance to replace a nonconforming 96 square-foot sign with a 75 square-foot sign for Harding's Market, where 65 square feet is the maximum allowed, as the proposed sign represents an appreciable reduction in the degree of nonconformity consistent with Section 42-544(C)(2) and (3); 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 this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board be final and effective immediately. Upon roll call vote: Bunch-Yes, Linenger-Yes, Rhodus-Yes, Schimmel-Yes, Seyburn-Yes, Singer-Yes, Bright-Yes. Motion passed 7-0.

ZBA #11-22, 6605 Lovers Lane: Staff summarized the request for a variance to modify a nonconforming freestanding sign. Bunch abstained from participation due to a conflict of interest. Mr. Locey explained he received a variance in 1984 that allowed him to have the sign and did not understand why he needed another variance. Staff responded that the Zoning Code did not allow staff to issue sign permits for tenant panel changes to nonconforming signs without Board approval. Smith noted it appeared there were two freestanding signs in close proximity that looked nearly identical. Staff clarified the 1984 variance included two signs but that ownership of the two adjacent properties had subsequently changed along with the zoning lots. Seyburn and Smith observed it would look strange if one of the signs were moved to a conforming location and that the view of one sign would be partially blocked by the other sign.

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

After additional discussion, a motion was made by Bright, seconded by Smith, to grant a variance to modify a nonconforming freestanding sign, with the condition that the owner be permitted to change sign panels without additional review and approval by the Board, provided the sign is not structurally altered or increased in size and a sign permit is obtained, and that no more than four tenant panels be permitted on each sign face. 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 that the two freestanding signs are located approximately equal distance (one foot) from the road and that moving the sign to a conforming location would block the view of one sign and cause them not to line up; the variance is necessary for the preservation of a substantial property right, the right to identify tenants which is similar to that possessed by other properties in the same zoning district and the vicinity; the immediate practical difficulty causing the need for the variance was not created by the applicant; 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, discussions and materials presented at this hearing be incorporated in the record of this hearing and the findings of the Board, and that action of the Board

be final and effective immediately. Upon roll call vote: Robbe-Yes, Linenger-Yes, Rhodus-Yes, Schimmel-Yes, Seyburn-Yes, Smith-Yes, Bright-Yes. Motion passed 7-0.

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 8:55 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator