

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – November 12, 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. Six people were in the audience.

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

MEMBERS EXCUSED: Mariana Singer and Lowell Seyburn

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

APPROVAL OF THE MINUTES: Schimmel moved and Rhodus seconded a motion to approve the October 8, 2012 and October 15, 2012 minutes as submitted. Upon voice vote, motion was approved 7-0.

OLD BUSINESS:

ZBA #12-10, 1622 Forest Drive: Mais summarized the request for a variance to construct a six-foot by ten-foot covered porch/second story deck 16 feet from the (east) front property line adjacent to Glenn Drive, and 20 feet from the (west) property line along Frederick Drive, where a minimum 27-foot setback is required. Ron Sheely and Jason VanDyke were present to answer questions. Linenger inquired how long the applicant anticipated the construction would take. Mr. VanDyke said no more than two weeks.

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

A motion was made by Bright, seconded by Robbe, to grant a variance to construct a six-foot by ten-foot covered porch/second story deck 16 feet from the (east) front property line adjacent to Glenn Drive, and 20 feet from the (west) property line along Frederick Drive, where a minimum 27-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 triangular shape of the property, multiple street frontages, and location of dwelling on the lot; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to have a protected place to sit outside, which is similar to that possessed by other properties in the same zoning district and in 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 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, Schimmel-Yes, Smith-Yes, Robbe-Yes, Linenger-Yes, Rhodus-Yes, Bright-Yes. Motion passed 7-0.

NEW BUSINESS:

ZBA #12-14, 3810 West Centre Avenue: Mais summarized the request for a variance to replace the sign panels on a nonconforming freestanding sign. Jerome Kamm was present to answer any questions.

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

Bright inquired if the Board incorporated staff's recommended condition to permit future tenant panel changes without additional Board review, would it apply to both tenant panels. Mais stated yes. A motion was made by Bunch, seconded by Robbe, to grant a variance to replace the sign panels on a nonconforming freestanding sign, conditioned that future sign panel replacements may be approved by the city administration, provided no structural changes are proposed and a sign permit is obtained. There are exceptional circumstances applying to the property which include the limited front lawn area, the location of the existing landscaping and sidewalk; the variance is necessary for the preservation and enjoyment of a

substantial property right, the right to adequately identify a business; 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 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, Robbe-Yes, Bright-Yes, Schimmel-Yes, Smith-Yes Linenger-Yes, Rhodus-Yes. Motion passed 7-0.

ZBA #12-15, 501 Mall Drive: Mais summarized the requests for: a) a variance for wall signs totaling 200 square feet in area where a maximum 100 square feet is permitted, and b) a 29 square-foot variance to exceed the maximum permitted 100 square feet of wall signage on the south elevation. Doug Trout was present on behalf of American Freight. Mr. Trout admitted the signs were erected before permits had been issued. He stated they needed a larger sign on the south elevation to help identify the business from Ring Road. Linenger stated he thought the applicant already had excessive signage when viewing the property from the northeast, and asked if the applicant would be willing to give up one of the other wall signs if the Board permitted them to retain the sign on the south elevation. Mr. Trout stated yes. Linenger noted he observed some rather large signs inside the window on the south elevation and inquired if the applicant still intended to make use of the window for advertising purposes. Mr. Trout stated yes. Bright inquired if American Freight intended to be located at 501 Mall Drive permanently. Mr. Trout responded yes.

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

Robbe inquired if the Board could incorporate both requests into one motion. Mais recommended two separate motions, but Attorney Bear stated the Board could incorporate both into one motion. A motion was made by Bunch, seconded by Schimmel, to grant a variance for wall signs totaling 179 square feet in area (which includes the 50 square-foot wall sign on the north elevation and the 129 square-foot sign on the south elevation) where a maximum 100 square feet is permitted, and a 29 square-foot variance to exceed the maximum permitted 100 square feet for the wall sign on the south elevation, conditioned upon the removal of the 21 square-foot awning sign. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district which include JC Penney Drive functions like a public street, and the sign conceals wall scarring on the south elevation caused by a previous sign in that location; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to identify the new business which is similar to that possessed by other properties in the same zoning district and 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 Code. 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: Upon roll call vote: Bunch-Yes, Schimmel-Yes, Robbe-Yes, Smith-Yes, Linenger-Yes, Rhodus-Yes, Bright-Yes. Motion passed 7-0.

ZBA #12-17, 723 Lakeview Drive: Mais summarized the request for a 20-foot variance from the minimum rear (north) yard setback, to construct a new 2,608 square-foot two-story dwelling. Alexander Hanchar, Linda Hanchar, and Bill Kozar were present to explain the request. Mr. Hanchar stated his request differed from his previous request, ZBA #11-08, in that the dwelling was smaller and would be closer to the rear lot line, but the current proposal would also result in the elimination of nonconformity with regard to the (east) side setback and a reduction in degree of nonconformity with the (north) rear setback from the existing dwelling. Mr. Hanchar stated the proposed variance also would keep the dwelling consistently in line with the rear setbacks of neighboring dwellings. Schimmel noted two neighbors did not sign the letter of support Mr. Hanchar brought with him. Mr. Hanchar stated one did not want to put their signature on any paper and the other address was an absentee landlord. Bunch inquired if they would be

willing to move their house three feet further south as recommended in the staff report. Mr. Hanchar stated that moving it back would make it out of line with the neighbor's houses. Schimmel noted the proposal was to place the dwelling 20 feet from the rear lot line and inquired how far the existing dwelling is from the rear lot line at the closest point. Mr. Kozar stated 11 feet from the northeast corner of the dwelling. Rhodus inquired who put the hand written note on 'Exhibit D' indicating the old house line. Mr. Kozar stated he did. Linenger inquired if the proposed second story deck would be covered/enclosed. Mr. Kozar stated it would.

The public hearing was opened. No one spoke for or against the request. A letter stating no objection to the request was read into the record signed by: Lori Carlson-Slater and Greg Slater, 714 Lakeview; Martha Irons, 808 Lakeview; Jackie and Jeff Drake, 707 Lakeview; Jill Liby, 809 Lakeview; Chad and Anna Keim, 653 South Shore Drive; and Darilee and Terence Scheible, 726 Lakeview. The public hearing was closed.

A motion was made by Bright, seconded by Robbe to grant a variance for a 20-foot variance from the minimum rear (north) yard setback, to construct a new 2,608 square-foot two-story dwelling. There are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district which include the variance will result in a reduction in the degree of nonconformity, the existence of the private walkway along the shoreline, and the shape and size of the lot; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to a new home similar to those in the surrounding neighborhood; 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 Code. 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: Upon roll call vote: Bunch-Yes, Schimmel-Yes, Smith-Yes, Robbe-Yes, Linenger-Yes, Rhodus-No, Bright-Yes. Motion passed 6-1.

OTHER BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at approximately 8:20 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator