

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – July 8, 2013

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

MEMBERS PRESENT: Doug Rhodus, Glenn Smith, Tim Bunch, Michael Robbe, and Mariana Singer.

MEMBERS EXCUSED:

Jeffrey Bright, Lowell Seyburn, James White

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

APPROVAL OF THE MINUTES: Robbe moved and Bunch seconded a motion to approve the June 10, 2013 minutes as submitted. Upon voice vote, motion was approved 5-0.

OLD BUSINESS:

None

NEW BUSINESS:

ZBA #12-27, 1115 Forest Drive: Mr. Mais summarized the variance requests from: a) rear yard requirement for coop/pen; and b) maximum six-foot high fence height and 80 square-foot requirement for coop/pen. Mr. Schubkegel stated the outbuilding being used to house chickens was built in the 1940's and has been used since that time to house a variety of farm animals. The applicant stated placing a coop in a conforming location would impact neighbors more than it does in the existing location. Singer inquired when the eight foot fence was constructed. Mr Schubkegel said in 1996. The applicant provided the Board with a petition in support of the request signed by: Erin Rich, 1122 Forest Drive; Linda Kaminski, 1116 Forest Drive; Debby Taylor, 1106 Forest Drive; Barbara & David Sneath, 1102 Forest Drive; David Akiyama, 971 Forest Drive; Marie Gleesing 912 Forest Drive; Amy & Rod Green, 908 Forest Drive, Judy Vliek, 820 Forest Drive; Susan Thompson, 1202 Forest Drive; Elisabeth Smith, 1110 Forest Drive; and Pete Everts, 1103 Forest Drive.

A public hearing was opened. Letters of opposition from Carol Hogg, 1217 Forest Drive and Richard Voci, 1202 Orchard were read. Mr. Schwencer, 1114 Orchard Drive stated he did not want any chickens near his property and did not think Mr. Schubkegel needed a pen larger than 80 square feet. Bunch observed that the applicant could construct a coop in a conforming location that would actually be closer to properties on Orchard Drive than the existing location where the variance was being requested for. The public hearing was closed.

A motion was made by Bunch, seconded by Robbe to grant a variance from: a) rear yard requirement for coop/pen; and b) maximum six-foot high fence height and 80 square-foot requirement for coop/pen, conditioned upon: the applicant formally making application for a chicken permit pursuant to Section 42-121(D), the mature trees and vegetation between Forest Drive and the pen and lattice fence be maintained to provide additional screening, and no roosters be permitted. There are exceptional circumstances applying to the property that do not apply generally to other properties in the zoning district which include the existing site conditions, location and design of barn used to house farm animals, size of property and distance from neighboring residences, and orientation of nearby lake houses along the south side of Forest Drive; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to house chickens; the immediate practical difficulty 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: Robbe-Yes, Singer-Yes, Bunch-Yes, Rhodus-Yes, Smith-Yes. Motion passed 5-0.

ZBA #12-30, 10719 Portage Road: Mais summarized the request for variances to construct a 32-foot by 30-foot detached accessory building that would result in the accessory building area exceeding: a) 20 percent of the required rear yard area by eight square feet; and b) the ground floor living area of the dwelling by 330 square feet. The applicant, Ray Schneider, stated the existing garage was old, in poor repair, and was not adequate for his storage needs. Mr. Schneider stated there was a fence along the north property line that would partially screen the proposed garage and that he had already spoken to many of his neighbors about the request and no one had an objection. Bunch inquired why the applicant did not reduce size of the garage by eight square feet so he did not need two variances. The applicant stated he would end up having to remove more than eight square feet because garage packages come in regular dimensions and not fractions of feet. Singer inquired how large a garage could the applicant have without a variance. Mais stated 633 square feet. Bunch stated he liked how the applicant's proposal upgraded appearances, but was concerned about setting a precedent in granting a variance. Singer stated she too was concerned about setting a precedent for properties with lake access wanting more accessory building area. Rhodus inquired if the applicant could store his boats on a vacant lot. Mais said no.

A public hearing was opened. Letters of support were read from Molly & Wayne VanSweden, 10743 Portage Road, and Jeff & Robin Bertolissi, 10748 Portage Road. Shannon Butler, 10726 Portage Road stated she would like to see the accessory building be smaller. No one was present to speak for or against the request. The public hearing was closed.

A motion was made by Robbe, seconded by Bunch to deny variances to construct a 32-foot by 30-foot detached accessory building that would result in the accessory building area exceeding: a) 20 percent of the required rear yard area by eight square feet; and b) the ground floor living area of the dwelling by 330 square feet. There are no exceptional circumstances applying to the property that do not apply generally to other properties in the 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 in the vicinity because there are conforming alternatives available such as building a smaller structure; the immediate practical difficulty causing the need for the variance was created by the applicant; the variance would be detrimental to adjacent property and the surrounding neighborhood. 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: Robbe-Yes, Singer-Yes, Bunch-Yes, Rhodus-Yes, Smith-Yes. Motion passed 5-0.

ZBA #12-31; 1103 & 1023 Forest Drive: Mais summarized the request for a variance to construct a 24-foot by 30-foot (720 square feet) detached accessory building that would result in the combined accessory building area exceeding the ground floor area of the dwelling by 164 square feet. Peter Everts stated the request was small and that he'd spoken to his neighbors and none objected to the request. Bunch inquired why the applicant did not simply build a smaller building or increase their living area. Mr. Everts stated he needed the storage space and did not have the money to add on to the house.

A public hearing was opened. David Akiyama, 971 Forest Drive stated the applicant's property was heavily wooded and the proposed garage would be screened from view of Forest Drive and he felt having to add living area to the dwelling constituted a practical difficulty.

A motion was made by Smith, seconded by Robbe to deny a variance to construct a 24-foot by 30-foot (720 square feet) detached accessory building that would result in the combined accessory building area exceeding the ground floor area of the dwelling by 164 square feet. There are no exceptional circumstances

applying to the property that do not apply generally to other properties in the 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 in the vicinity because there are conforming alternatives available such as building a smaller accessory building; the immediate practical difficulty causing the need for the variance was created by the applicant; the variance would be detrimental to adjacent property and the surrounding neighborhood. 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: Robbe-Yes, Singer-Yes, Bunch-No, Rhodus-Yes, Smith-Yes. Motion passed 4-1.

OTHER BUSINESS:

A communication from Bob Soltis was read advising of his resignation from the Board.

STATEMENT OF CITIZENS:

None

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:10 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator