

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – October 14, 2013

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

MEMBERS PRESENT: Jeffrey Bright, Lowell Seyburn, Tim Bunch, Glenn Smith, Michael Robbe, and Philip Schaefer.

MEMBERS EXCUSED: Marianna Singer, Doug Rhodus, James White

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

APPROVAL OF THE MINUTES: Robbe moved and Bunch seconded a motion to approve the September 9, 2013 minutes as submitted. Upon voice vote, motion was approved 6-0.

OLD BUSINESS:

NEW BUSINESS:

ZBA #13-5, 9625 Woodlawn Drive: Mais summarized the request for a 2.5 foot side yard setback to construct a new dwelling 2.5 feet from the (north) side property line where a minimum five-foot side yard is required. James Deters stated the 2.5 foot setback was requested for only the garage portion of the dwelling and that the remainder of the dwelling would only need a six inch variance. He stated there was strong neighborhood support for the request and that granting the variance would result in an aesthetically appealing addition to the neighborhood. Mr. Deters stated when the property was surveyed he found the lot was parallelogram shaped, making it slightly narrower than he realized. Mr. Deters inquired that if the Board did not grant his request, could they consider as an alternative granting a six inch variance allowing the garage to be flush with the rest of the dwelling. Mais replied the Board could consider lesser variances. Seyburn inquired if the applicant had attempted to negotiate an easement with the neighbor to the north. Mr. Deters stated he had already asked if the neighbor would be willing to sell additional land to avoid the need for a variance but the neighbor was not agreeable.

A public hearing was opened. Robert Keech, 2523 Stanley Avenue stated he did not understand why someone would buy property without knowing whether the house they wanted to build would be permitted. Mr. Keech stated there were already enough access problems with lakefront properties caused by people wanting to build larger homes on narrow lots and was therefore opposed to the variance. John Seelman, 9613 Woodlawn, stated he owned the adjacent property to the north and was in favor of the variance as the proposed dwelling would be obscured from his view due to the detached garage at the south end of his property. Arthur Roberts, 9614 Woodlawn, and Dan Buskirk, 9602 Woodlawn, both stated they were in favor of the variance. The public hearing was closed.

Schaefer requested clarification whether the subject property was a buildable lot without needing a variance, and if a new dwelling could be constructed in a conforming location. Mais stated both were the case. Bunch stated he appreciated the challenges narrow lots present, but observed the Board could not cite financial considerations as a reason to grant a variance. A motion was made by Robbe, seconded by Bunch to grant a variance for a new dwelling to be constructed 4.5 feet from the (north) side property line where a minimum five-foot side yard is required. There are exceptional circumstances applying to the property that do not apply to other properties in the zoning district, which include the substandard size and width of the lot, the variance is necessary for the preservation and enjoyment of a substantial property right, the right to use a limited width property which is similar to that possessed by other properties in the vicinity; the immediate practical difficulty causing the need for the variance request was not created by the applicant, 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 and 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: Bright-Yes, Robbe-Yes, Schaefer-No, Seyburn-Yes, Bunch-Yes, and Smith-Yes. Motion passed 5-1.

ZBA #13-06, 6295 & 6355 South Westnedge Avenue: Mais summarized the request for a variance to erect 172 square feet of wall signs where a maximum 100 square feet is permitted. David Kapusansky stated the practical difficulties stemmed from the building being setback almost 600 feet and that the view of the building was partly obstructed by other buildings in front. Smith inquired if Aldi had gotten sign variances at their other locations in Kalamazoo County and if the wall signs were comparable. Mr. Kapusansky stated they did not need sign variances but also did not face the same visibility issues at the other locations, and that the signage was similar.

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 Bunch to grant a variance to erect 172 square feet of wall signs where a maximum 100 square feet is permitted. There are exceptional circumstances applying to the property that do not apply to other properties in the zoning district which include the significant building setback and partially obstructed view, the variance is necessary for the preservation and enjoyment of a substantial property right, the right to identify a business which is similar to that possessed by other properties in the vicinity; the immediate practical difficulty causing the need for the variance request was not created by the applicant, 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 and 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: Bright-Yes, Robbe-Yes, Schaefer-Yes, Seyburn-Yes, Bunch-Yes, and Smith-Yes. Motion passed 6-0.

OTHER BUSINESS:

The Board welcomed Philip Schaefer as the new alternate.

Seyburn stated he recently became aware that he had helped prepare a land division many years earlier involving the property at 9033 West End Drive, which the Board recently granted a variance for (ZBA 13-03) but did not at the time of deliberations recall the connection. He stated even in the event that he would have made the connection at the time of deliberations, it would have made no difference in his findings or vote, nor would he consider it a conflict of interest.

STATEMENT OF CITIZENS:

None

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:11 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator