

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – November 10, 2014

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

MEMBERS PRESENT: Michael Robbe, Timothy Bunch, Chadwick Learned, Doug Rhodus, Glenn Smith, Phillip Schaefer, Jeffrey Bright, and Randall Schau.

MEMBERS EXCUSED: A motion was made by Schaefer, seconded by Robbe to excuse Lowell Seyburn. Upon voice vote motion passed 7-0.

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

APPROVAL OF THE MINUTES: Robbe moved and Smith seconded a motion to approve the October 13, 2014 minutes as submitted. Upon voice vote, motion was approved 7-0.

OLD BUSINESS:

ZBA #14-01, 6800 and 6820 Lovers Lane: Mais summarized the request for: a) an interpretation that a non-heated 192 square-foot storage room addition with a connecting entrance attached to the back of the garage at 6820 Lovers Lane is considered a garage addition; and b) a variance from the conflicting land use screening requirements between Lovers Lane Storage & U-Haul business (6800 Lovers Lane) and the nonconforming single family residence (6820 Lovers Lane). Adela Strautkalns was present to answer questions. Learned inquired if the Board could place a condition on a variance dependent upon ownership of a property. Mais stated variances go with the land. Attorney Bear clarified the Board could place conditions they feel are necessary to ensure compliance with the zoning ordinance.

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

A motion was made by Robbe, seconded by Smith to make a favorable interpretation that the non-heated 192 square-foot storage room addition with a connecting entrance attached to the back of the garage at 6820 Lovers Lane is considered a garage addition, and a variance is therefore not necessary. Upon roll call vote: Smith-Yes, Schaefer-Yes, Bunch-Yes, Bright-Yes, Learned-Yes, Robbe-Yes, Rhodus-Yes. The motion passed 7-0.

A motion was made by Smith, seconded by Robbe to grant a variance from the conflicting land use screening requirements between Lovers Lane Storage & U-Haul business (6800 Lovers Lane) and the nonconforming single family residence (6820 Lovers Lane). There are exceptional circumstances which include the applicant owns both the residence and the business; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to maintain a small office on the same lot as the residence which is similar to that possessed by other properties in the same zoning district in the vicinity, the immediate practical difficulty was not caused by the applicant; the variance will not be detrimental to the surrounding neighborhood, and 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: Smith-Yes, Schaefer-Yes, Bunch-Yes, Bright-Yes, Learned-Yes, Robbe-Yes, Rhodus-Yes. The motion passed 7-0.

ZBA #14-04, David Schram, 710 East Osterhout Avenue: Mais summarized the variance request to construct an 18.5-foot high accessory building where a maximum 14-foot height is permitted. Mr. Schram showed photos of the area where he intended to build and stated he reconsidered his application and decided he could get by with a 5:1 pitch roof, which reduced the height from 20 feet to 18.5 feet. He stated his practical difficulties were the heavily wooded lot which created maintenance problems with tree debris, and that because the lot was over 6 acres and the nearest neighboring residence is 170 feet away any negative impacts would be mitigated. Mr. Schram stated there was also precedence for the Board approving a similar request several years ago (ZBA #11-05). Learned noted the accessory building height

could be lowered even more if they went with standard eight-foot sidewalls and centered the garage door. Robbe stated that alternative may run into problems with the trusses given the ceiling height.

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

A motion was made by Bunch, seconded by Smith, to grant a variance to construct an 18.5-foot high accessory building where a maximum 14-foot height is permitted. There are exceptional circumstances which include the size of the parcel, number of mature trees, and the distance from other residences; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to a protective structure to accommodate an RV which is similar to that possessed by other properties in the same zoning district in the vicinity, the immediate practical difficulty was not caused by the applicant; the variance will not be detrimental to the surrounding neighborhood, and 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: Smith-Yes, Schaefer-Yes, Bunch-Yes, Bright-Yes, Learned-Yes, Robbe-Yes, Rhodus-Yes. The motion passed 7-0.

ZBA #14-09, Janine Chicoine, 3620 East Shore Drive: Mais summarized the request for variances to construct a 24-foot by 24-foot attached garage: a) 20 feet from the front property line where a minimum 27-foot front setback is required; and b) three feet from the side property line where a minimum five-foot side yard setback is required; c) exceed the maximum permitted building lot coverage by 201 square feet; and d) construct a second story addition three feet from the side property lines where a minimum five-foot side yard setback is required. Bruce Arnsman spoke on behalf of the applicant and stated the house was built in the 1950's on a substandard lot and it had a flat roof. The new owners want to update the dwelling, install a second story addition with a gable roof and replace the carport with a 24-foot by 24-foot garage which would be setback several feet further from the front property line than the existing carport. Bright inquired if the applicant had received any input from neighbors. Mr. Arnsman said no. Schau asked what the applicant's reaction to the recommendation that the garage be moved over two feet. Mr. Arnsman said the lot was already substandard and the additional space was needed for storage. Schau inquired if it would be possible to inset the upper story two feet further from the property line. Mr. Arnsman stated yes but the first story would still be setback within the required side yards. Learned inquired if engineering had evaluated whether the existing walls could support a second story. Mr. Arnsman replied yes. Bright stated staff has recommended the garage be moved over two feet to meet the side yard setbacks and inquired if that is that something the owner can live with. Mr. Arnsman stated it was the owner's intention to build in line with the existing house. Robbe questioned if the application should be tabled. Bright explained that it was possible that the Board could grant some of the four variances and wanted assurance the owner could live with alternatives to their request, because if the Board granted a variance the applicant could not revisit the request for another year. Learned inquired if the intention was to proceed with interior remodel items during the winter and move on to exterior items in the spring and would a month delay be acceptable. Mr. Arnsman said he guessed so. Mr. Arnsman offered to call the owner if the Board would wait. Mais suggested the Board could table the item until later in the meeting to allow Mr. Arnsman to call the owner while the Board deliberated on other items. Learned stated that based on Mr. Arnsman's responses he was not comfortable without something in writing authorizing the agent to make a decision on the owner's behalf.

A motion was made by Learned, seconded by Smith to postpone the item until the December 8, 2014 meeting. Upon roll call vote: Smith-Yes, Schaeffer-Yes, Bunch-Yes, Bright-Yes, Learned-Yes, Robbe-Yes, Rhodus-Yes. The motion passed 7-0.

NEW BUSINESS:

ZBA 14-12; Doris Perry, 4323 Stratford Drive: Mais summarized the request to permit an attached garage three feet from the (west) side property line and 38 feet from the (south) rear property line where minimum eight-foot side yard and 40-foot rear yard setbacks are required. Ms. Perry stated her house caught on fire ten years ago and her insurance company hired a contractor who did not get a building permit for the addition and she needed to keep the addition connecting the house to the garage because she needed the living space for her many children. Robbe inquired if there was a door connecting the addition to the garage. Ms. Perry said yes. Learned inquired if Ms. Perry had spoken to her insurance company about the contractor who did not get a permit. Ms. Perry said yes. Learned stated bringing the garage and addition up to building code could be expensive and inquired if the resources were available to complete the required upgrades within six months. Mark Vanderson of Southridge Reformed Church stated assistance may be available for Ms. Perry but did not think six months was enough time. Learned stated the applicant should understand that even if the Board granted the variance to keep the addition they would still have to bring the structure up to building code. Schau stated the Board had authority over zoning issues and did not think the Board had authority over enforcing building code issues. Mais stated that under Section 42-623(C), a variance was valid for six months. Attorney Bear clarified that enforcement of the building code issues was a separate matter.

A public hearing was opened. A letter of opposition from Barbara Deming, 4331 Stratford was read. Schau stated it appeared Ms. Deming may have misunderstood the request, as the garage was not moving any closer to the property line.

A motion was made by Smith, seconded by Bright, to grant a variance for an attached garage three feet from the (west) side property line and 38 feet from the (south) rear property line where minimum eight-foot side yard and 40-foot rear yard setbacks are required for the following reasons: There are exceptional circumstances which include the addition has existed since 2003 and the garage since 1967 with no reported problems; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to retain living area as it has existed since 2003, which is similar to that possessed by other properties in the same zoning district in the vicinity, the immediate practical difficulty was not caused by the applicant, as it was created by a contractor; the variance will not be detrimental to the surrounding neighborhood, and 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: Smith-Yes, Schaefer-Yes, Bunch-No, Bright-Yes, Learned-Yes, Robbe-No, Rhodus-Yes. The motion passed 5-2.

ZBA #14-13, Austin Brancheau, 4129 Long Lake Drive: Mais summarized the request to permit a 64 square-foot accessory building six inches from the (south) side property line where a minimum 10-foot side yard setback is required. Mr. Brancheau stated placing the shed in a conforming location would obstruct his view of the lake and added he had the property surveyed and found the fence was erected one foot inside his property, so while the shed was six inches from the fence it was 18 inches from the property line. Schau inquired if the shed orientation could be altered. Mr. Brancheau stated no, because a tree interfered. Mr. Brancheau provided a letter of support from the owner of 4203 Long Lake Drive.

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

A motion was made by Bunch, seconded by Robbe, to permit a 64 square-foot accessory building six inches from the (south) side property line where a minimum 10-foot side yard setback is required. There are exceptional circumstances that apply to the property that include the width and depth of the lot and the shed's distance from the lake; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to have accessory storage; the immediate practical difficulty causing the need for the variance was not created by the applicant as the lot had its current dimension when the applicant

purchased it, 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. Mais requested clarification if the intent of the motion was to allow the shed to remain in its current location. Bunch stated yes. 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: Smith-Yes, Schaeffer-Yes, Bunch-Yes, Bright-Yes, Learned-Yes, Robbe-Yes, Rhodus-Yes. The motion passed 7-0.

OTHER BUSINESS: None.

STATEMENT OF CITIZENS: None.

ADJOURNMENT: There being no further business, the meeting was adjourned at 9:15 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator