

## CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – December 8, 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. Five people were in the audience.

**MEMBERS PRESENT:** Timothy Bunch, Chadwick Learned, Glenn Smith, Phillip Schaefer, Jeffrey Bright, Lowell Seyburn, and Randall Schau.

**MEMBERS EXCUSED:** A motion was made by Bunch, seconded by Schaefer to excuse Michael Robbe and Doug Rhodus. Upon voice vote motion passed 7-0.

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

**APPROVAL OF THE MINUTES:** Bunch moved and Schaefer seconded a motion to approve the November 10, 2014 minutes as submitted. Upon voice vote, motion was approved 7-0.

### **OLD BUSINESS:**

**ZBA #14-09, Janine Chicoine, 3620 East Shore Drive:** No applicant was present. A motion was made by Bunch, seconded by Smith to postpone the matter until the January 12, 2015 meeting. Upon voice vote the motion passed 7-0.

### **NEW BUSINESS:**

**ZBA 14-14; Gaspare Matranga, 2804 East Shore Drive:** Mais summarized the requests for a) a finding that there has been a change in circumstance since the October 23, 2014 Board decision; b) a variance to construct a 19-foot by 24-foot garage addition that would extend to within 21 feet of the front property line where a minimum 27 foot front yard setback is required; and c) a two-foot side yard setback variance to construct a 21-foot by 5.5-foot addition. Tina Kuchenbuch, Kira Sackley, and Gaspare Matranga were present on behalf of the applicant. Ms. Kuchenbuch stated Mr. Matranga has changed the request from the October 23, 2014 and was now asking for a lesser variance of 21 feet from the front property line as opposed to the 19 foot setback requested previously. Ms. Kuchenbuch stated the practical difficulty was the steep driveway slope, and the applicant's proposal for a side oriented garage that provides a level area in front of the garage door for vehicles to park and not have to worry about them sliding into the street during the winter months, which has happened on the existing driveway. Ms. Kuchenbuch stated the request will therefore help protect property and improve traffic safety. Ms. Kuchenbuch added the applicant did not create the practical difficulty with respect to the topography, and noted the request would not be detrimental to the neighborhood, as there are many dwellings along East Shore Drive that do not meet the minimum front setback. Learned inquired what the Board should be considering in determining if there has been a change in circumstances. Mais stated the Board should consider if there has been a significant change in the request itself and/or if the conditions surrounding the property have changed. Ms. Kuchenbuch stated the applicant has reduced the requested front setback by two feet and explained the difficulties in performing a turning maneuver from a stall in close proximity to the dwelling's front wall. Seyburn requested clarification if the applicant was intending to construct a third garage stall or not. Ms. Sackley stated the existing garage would be used primarily for storage by the applicant but there would be a third garage door close to the front of the dwelling that could be used for a small car by future owners. Bright inquired if the applicant had considered constructing a conforming 3.5 foot bump-out on the east side of the dwelling and using a vertically stacked washer/dryer. Mr. Matranga said his wife's arthritis made that option problematic. Seyburn inquired how close to the travelled portion of the street the garage would be. The applicant stated 29 feet.

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

Learned inquired if the Board should take into consideration just the two foot difference in the request or could other factors, such as a possible language barrier, be considered. Attorney Bear stated communication issues are regrettable but did not believe it is an issue that should be considered in this

situation. The Board must consider the application itself in determining if there has been a change in circumstances. In addition to the two foot front setback difference, Seyburn noted the applicant modified the design to incorporate additional building areas along the east side of the dwelling. A motion was made by Seyburn, seconded by Bunch, that the Board make a finding there has been a change of circumstances since the October 23, 2014 Board decision. Schau stated the applicant has modified the request slightly and raised new arguments but the facts before the Board are essentially the same as before and did not find there to be a change in circumstances. Upon roll call vote: Bunch-Yes, Schaefer-No, Schau-No, Seyburn-Yes, Learned-No, Bright-Yes, Smith-Yes. Motion passed 4-3.

Learned inquired if the applicant would consider a lesser variance for request b). The applicant responded no. A motion was made by Seyburn, seconded by Bunch, to grant a variance to construct a 19-foot by 24-foot garage addition that would extend to within 21 feet of the front property line where a minimum 27 foot front yard setback is required for the following reasons: there are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include the topography, and the side-oriented garage requires adequate space to allow safe turning in close proximity to the front of the dwelling. Moreover, that one of the purposes of a driveway is to park vehicles in front of the garage which the proposed design would allow to occur safely; 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. Upon roll call vote: Smith-Yes, Seyburn-Yes, Schaefer-No, Bunch-Yes, Bright-Yes, Learned-Yes, Schau-No. The motion passed 5-2.

A motion was made by Seyburn, seconded by Learned to deny c) a two-foot side yard setback variance to construct a 21-foot by 5.5-foot addition for the following reasons: There are no exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same 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 constructing a 3.5 foot wide addition; the variance would be detrimental to adjacent property and the surrounding neighborhood; and would materially impair the intent and purpose of the Zoning Ordinance. Upon roll call vote: Smith-Yes, Seyburn-Yes, Schaefer-Yes, Bunch-Yes, Bright-No, Learned-Yes, Schau-Yes. The motion passed 6-1.

ZBA #14-15, Philip Tullis, 2908 Kalarama Avenue: Mais summarized the request to construct a 23-foot by 13-foot garage addition seven feet from the (east) side property line where a minimum 10-foot setback is required. Mr. Tullis was present to answer questions. Bright asked the applicant to explain the practical difficulty. Mr. Tullis stated the conforming alternative of shifting the garage doors further west and constructing a narrower third stall did not look aesthetically appealing and left little room to open doors. Mr. Tullis added constructing a detached accessory building in the rear yard would have more negative impacts on adjacent property than the requested variance. Seyburn suggested the applicant might make the garage deeper as opposed to wider. Schau inquired if the applicant had three vehicles. Mr. Tullis stated yes. Mr. Tullis provided the Board letters of support from: Clark Bennett, 6320 Liteolier Street; George Amar, 6333 Liteolier Street; George Balog, 6275 Liteolier Street; Thomas McGee, 6230 Liteolier Street; Rudy Ruterbusch, 6345 Liteolier Street; Shahed Ahmed, 6290 Liteolier Street; Amelia Burch, 6324 Applewood Street; and Kathleen Aleman, 6248 Applewood Street.

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

Bright stated he agreed with the applicant that there were no appealing conforming alternatives. Schau stated most houses in the city do not have a three stall garage and most likely could not have one without a variance, and it appeared the practical difficulty in this case was simply that the applicant wants a three stall garage. A motion was made by Schau, seconded by Learned to deny the request to construct a 23-foot by 13-foot garage addition seven feet from the (east) side property line where a minimum 10-foot setback is required for the following reasons: There are no exceptional or extraordinary circumstances or

conditions applying to the property that do not apply generally to other properties in the same 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 constructing a narrower garage or detached garage; the variance would be detrimental to adjacent property and the surrounding neighborhood; and would materially impair the intent and purpose of the Zoning Ordinance. Upon roll call vote: Smith-No, Schaeffer-Yes, Bunch-Yes, Bright-No, Learned-Yes, Schau-Yes, Seyburn-Yes. The motion passed 5-2.

ZBA 14-16, Carole Meier, 1416 West Milham Avenue: Mais summarized the request to erect a freestanding sign six feet from the (south) front property line where a minimum 10-foot setback is required. Ms. Meier stated she was not changing the sign location or setback from the previous sign. Ms. Meier stated it was discovered during installation a sign permit had been issued in error, but she had the contractor finish erecting the sign due to having a short window of time to open her business.

A public hearing was open no one spoke for or against the request. The public hearing was closed.

A motion was made by Learned, seconded by Seyburn, to grant a variance to erect a freestanding sign six feet from the (south) front property line where a minimum 10-foot setback is required for the following reasons: there are exceptional circumstances applying to the property that do not apply generally to other properties in the same zoning district, which include the location and width of maneuvering lane and off-street parking spaces, the narrow, depth of the green strip available for sign location, that a permit had been issued, and the Board had previously granted a variance for a sign in the same location; 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. Upon roll call vote: Smith-Yes, Seyburn-Yes, Schaefer-Yes, Bunch-Yes, Bright-Yes, Learned-Yes, Schau-Yes. The motion passed 7-0.

**OTHER BUSINESS:** Mais stated the Michigan Association of Planning was offering training workshops in early 2015 and that Board members interested in attending should contact staff.

**STATEMENT OF CITIZENS:** None.

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

Respectfully submitted,

Jeff Mais  
Zoning & Codes Administrator