

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – July 13, 2015

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. Nine people were in the audience.

MEMBERS PRESENT: Glenn Smith, Jeffrey Bright, Lowell Seyburn, Michael Robbe, John Byrnes, and Alexander Philipp.

MEMBERS EXCUSED: A motion was made by Robbe, seconded by Smith to excuse Randall Schau, Phillip Schaefer, and Chadwick Learned. Upon voice vote, motion was approved 6-0.

IN ATTENDANCE: Jeff Mais, Zoning & Codes Administrator and Randy Brown, City Attorney.

APPROVAL OF THE MINUTES: Byrnes moved and Robbe seconded a motion to approve the June 8, 2015 minutes as submitted. Upon voice vote, the motion was approved 5-0 (Seyburn abstained).

NEW BUSINESS:

ZBA #15-1, Great Lakes Self Storage 1, LLC, 800 Gladys Street, 6529 Naomi Street: Mais summarized the request for a variance from the conflicting land use screening requirements along the southwest portion of the site, between the Cross Creek Self Storage facility and the nonconforming single family residence at 6527 Naomi Street. Scott Carter agreed with staff's report and provided additional photographs of the site. Seyburn noted the razor wire referenced in the report appeared to be barbed wire. Mr. Carter stated it was necessary for security. Robbe inquired about the timing of the request, noting that the site plan had been approved in November, 2014. Pat Flanagan with Ingersoll, Watson & McMachen stated he did the plan and the timing was due to construction considerations imposed by the onset of winter. Robbe inquired if the existing chain link fence was part of the former automobile repair facility at 6529 Naomi Street. Mr. Carter said yes. Robbe inquired where the lights would be in relation to the nonconforming residence. Mr. Flanagan stated there would be two lights to the west of the new building and both will be directed downwards and not at the adjacent residence. Seyburn inquired where site access would be. Mais stated off Gladys Street.

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

A motion was made by Smith, seconded by Byrnes, to grant a variance from the conflicting land use screening requirements along the southwest portion of the site, between the Cross Creek Self Storage facility and the nonconforming single family residence at 6527 Naomi Street for the following reasons: there are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning district, which include the presence of existing fences and mature trees and the location and orientation of the new self-storage building; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to construct a storage facility that meets the spirit and intent of the Zoning Code; 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. Upon roll call vote: Smith-Yes, Phillip-Yes, Robbe-No, Bright-Yes, Seyburn-No, Byrnes-Yes. The motion passed 4-2.

ZBA #15-2, 7540 South Westnedge Avenue: Mais summarized the request for a Temporary Use Permit to operate a mobile food trailer at 7540 South Westnedge Avenue from July 14, 2015 through December 31, 2014. Nicholas Lambright stated he wanted to stay at the proposed location for a six month period so his customers would know where to find the business.

A public hearing was opened. A letter for support from Carrie Wesley, 8126 Shaver Road was read. Jim Schalenko spoke on behalf of Main Street Pub, 7509 South Westnedge Avenue. Mr. Schalenko supported the Temporary Use as he felt it will bring additional traffic to the area and that the trailer looked clean and attractive. Seyburn inquired how he would feel about Nick's Gyros customers using their bathrooms. Mr. Schalenko responded any time they can bring people into his restaurant it is an opportunity to attract new customers. Jeff Maddox, 781 Lenox Avenue, spoke in support of the request. The public hearing was closed.

Bright questioned staff's recommendation to limit the Temporary Use to 60 days, and limit the hours of operation, as he felt new businesses should get flexibility. Seyburn stated he was not clear why the Board was reviewing this application. Mais responded staff did not consider a mobile food trailer to be a restaurant, and Temporary Use Permits are intended for uses not otherwise permitted and that while staff could approve a Business Special Event for periods up to 28 days, the applicant was proposing to operate for almost six months. Attorney Brown added it also allowed the Board the opportunity to place whatever conditions on operations they felt appropriate. Seyburn noted in terms of the hours of operation lighting may become an issue later in the year as the daylight hours get shorter and that the lack of bathroom facilities could potentially burden surrounding businesses. The applicant stated his trailer is equipped with its own generator and external electrical receptacles and that he has portable LED lights available. The applicant added his impression was that his customers didn't typically linger like they might at a restaurant and were not there long enough to need to use the bathroom. Bright requested the applicant speak to the issue of hours of operation. Mr. Lambright stated he would like the flexibility to stay open later if there is a special need, such as after a high school football game that gets out at 10:00 p.m., but it has been his experience that business slows down by 8:00 p.m. Robbe stated he would not support a motion permitting hours of operation after 10:00 p.m. A motion was made by Robbe, seconded by Seyburn, to grant a Temporary Use Permit to operate a mobile food trailer at 7540 south Westnedge Avenue from July 14, 2015 through December 31, 2015 with the following conditions: 1. The food trailer be licensed by the Kalamazoo County Department of Health and Community Services; 2. The food trailer, tables, and off-street parking set-up be consistent with the submitted site sketch; 3. Hours of operation be limited to 10:00 a.m. to 9:00 p.m. Sunday through Saturday; 4. The site be kept free from trash and refuse; 5. Temporary signage be limited to one sign not exceeding 40 square feet; 6. There be no sound amplifying equipment; 7. The trailer must be setback 30 feet from the east (front) property line; 8. Any lighting provided must conform to the lighting ordinance. Upon roll call vote: Smith-Yes, Phillip-Yes, Robbe-Yes, Bright-Yes, Seyburn-Yes, Byrnes-Yes. The motion passed 6-0.

OTHER BUSINESS: None.

STATEMENT OF CITIZENS: None.

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:19 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator