

## CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – October 12, 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. Three people were in the audience.

**MEMBERS PRESENT:** Glenn Smith, Jeffrey Bright, Lowell Seyburn, Michael Robbe, John Byrnes, Phillip Schaefer, Chadwick Learned, Randall Schau, and Alexander Philipp.

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

**APPROVAL OF THE MINUTES:** Learned moved and Schaefer seconded a motion to approve the September 14, 2015 minutes as submitted. Upon voice vote, the motion was approved 7-0.

### **NEW BUSINESS:**

**ZBA #15-5, Jay Sharma, 5905 South Westnedge Avenue and 119 Colonial Avenue:** Mais summarized the requests for: a) a use variance to permit refuse dumpsters in the P-1 zoned portion of the site; and b) a dimensional variance to permit a 3-foot parking lot setback/greenstrip along South Westnedge Avenue where 10 feet is required; and c) dimensional variances to permit parking lot setback/greenstrip areas along Colonial Avenue as follows: 1) ranging from 2-9 feet in the B-3 zoned portion of the site where 10 feet is required; and ii) a 2-foot parking lot setback /greenstrip in the P-1 zoned portion of the site where 27 feet is required (as shown in sheet A2); or d) dimensional variances to permit parking lot setback/greenstrip areas along Colonial Avenue as follows: i) a 7-foot greenstrip in the B-3 zoned portion of the site where 10 feet is required; and ii) a 7-foot greenstrip in the P-1 zoned portion of the site where 27 feet is required (as shown in sheet A3). Jay Sharma and Matt Bastos were present to answer questions. Mr. Sharma recounted the history of how his business moved from the west side of South Westnedge Avenue to the east side in 2000 following a road improvement project, and has practical difficulties because the current site is smaller than his previous location. Mr. Sharma stated he moved the dumpster to its current location (in the B-3 zoned part of his property) at the city's request, but thought that it made more sense to place the dumpster at the north end of the rear parking lot out of view. Mr. Sharma stated he has high volume and quick turnaround for the party store customers and that because some customers enter the front parking lot's one-way traffic from the wrong direction, accidents are not uncommon. Mr. Sharma stated he thought one of the reasons more customers don't use the back parking lot is because the dumpster in its current location conceals it from view. Robbe and Learned both stated they had stopped at the store in the past and were unaware at that time that a back parking area existed.

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

Seyburn inquired how many parking spaces were required. Mr. Bastos replied 21. Robbe questioned if adding one-way traffic on the south side of the site might simply be shifting the current problems with the west parking lot to the south, but was convinced the connection was necessary or patrons would not know the rear parking lot exists. Robbe inquired if two-way traffic would be possible on the south side of the building. Mr. Bastos replied there wasn't enough space. Seyburn inquired if the Board were to grant a variance for request d) with the recommended staff conditions, did the applicant understand that they would need to install the new storm water drainage and landscaping improvements before the variance expired. Mr. Sharma responded he understood that. A motion was made by Schau, seconded by Learned, to grant a) a use variance to permit refuse dumpsters in the P-1 portion of the site for the following reasons; that the location or situation of the specific piece of property or of the intended use of the property is unique to that property which include split zoning of the property, reduced utility of the rear parking lot, and the dumpster will be located out of public view; that the building, structure or land cannot be reasonably used in a manner consistent with the uses allowed in the zoning district in which it is located, due to the dumpster being located in public view if placed in a conforming location; the use will not alter the essential character of the neighborhood or the intent of the comprehensive plan, nor be a detriment to adjacent properties; and the immediate unnecessary hardship causing the need for the variance request was not created by the applicant. Upon roll call vote: Smith-Yes, Seyburn-Yes, Robbe-Yes, Bright-Yes, Learned-Yes, Schau-Yes, Schaefer-Yes. The motion passed 7-0.

A motion was made by Schau, seconded by Smith to grant b) a dimensional variance to permit a 3-foot parking lot setback/greenstrip along South Westnedge Avenue where 10 feet is required; and d) dimensional variances to permit parking lot setback/greenstrip areas along Colonial Avenue as follows: i) a 7-foot greenstrip in the B-3 zoned portion of the site where 10 feet is required, and ii) a 7-foot greenstrip in the P-1 zoned portion of the site where 27 feet is required (as shown in Sheet A3) with the following conditions: the on-site storm water will need to be redesigned and placed underground, and that the parallel parking be relocated away from the building and adjacent to the Colonial Avenue greenstrip for accessibility purposes, for the following reasons: there are exceptional or extraordinary circumstances applying to the property that do not apply to other properties in the same zoning district which include the location of the existing building and limited parking/one-way traffic flow along the front of the building, and size/configuration of the property and location of parking; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to connect the parking areas in a reasonable manner, 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. In addition, the application and supporting material, 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, Seyburn-Yes, Robbe-Yes, Bright-Yes, Learned-Yes, Schau-Yes, Schaefer-Yes. The motion passed 7-0.

**OTHER BUSINESS:** None.

**STATEMENT OF CITIZENS:** None.

**ADJOURNMENT:** There being no further business, the meeting was adjourned at 7:55 p.m.

Respectfully submitted,

Jeff Mais  
Zoning & Codes Administrator