

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – May 11, 2020

The City of Portage Zoning Board of Appeals virtual meeting was called to order by acting Chair Eichstaedt at 7:00 p.m. online.

MEMBERS PRESENT: Alexander Philipp, Linda Fry, Randall Schau, Lena Jomaa, Jeff Wettig, and Linda Finch, Jay Eichstaedt.

MEMBERS EXCUSED: Dan Thornton

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

APPROVAL OF THE MINUTES: Finch moved and Fry seconded a motion to approve the January 13, 2020 minutes as submitted. Upon voice vote, the motion was approved 6-0.

NEW BUSINESS:

ZBA #19-13; 6841 South Westnedge Avenue: Fry stated the landlord of the subject property happens to do her taxes but she did not think this fact would influence her objectivity. Attorney Bear clarified it is important to avoid appearances of impropriety, but if she did not have a financial interest involved she could vote if other Board members did not object. Mais summarized the request for a variance from the requirement that a ten-foot greenstrip be provided between the right-of-way and parking lot along Admiral Avenue. Josh Thompson was online to answer questions. Several board members noted the applicant had spoken to city staff prior to entering their lease and inquired if the city gave them permission to modify the parking lot. Mais responded the city had advised the applicant of their options, which included getting a variance, but did not authorize any modifications to the parking lot. Eichstaedt inquired if it was the applicant that had modified the site. Mr. Thompson responded he did not personally, but the landlord did so as it was a condition of the lease he had signed. Schau inquired if any modifications would be required for drainage if the applicant is to allowed to complete the asphalt parking lot. Mais directed the Board's attention to the staff report and noted the first recommended condition is to have a professional engineer/landscape architect prepare plans for staff to review and that would certainly be something staff would want to evaluate. Schau noted that if he were to support the variance it would be with the understanding that any drainage issues would have to be dealt with by the applicant.

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

After additional discussion, a motion was made by Schau, seconded by Finch, to grant a variance from the requirement that a ten-foot greenstrip be provided between the right-of-way and parking lot along Admiral Avenue with the conditions 1) a drainage and landscape plan be submitted by a professional engineer/landscape architect for staff review no later than June 30, 2020; 2) completion of the parking lot addition along Admiral Avenue consistent with site development requirements including replacing millings with a proper asphalt surface be completed by no later than September 30, 2020; and 3) the landscape improvements must meet all other code requirements and be completed no later than September 30, 2020, 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 small size of the corner lot and limited parking available; the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by others in the same zoning district in the vicinity, the ability to operate a business with adequate parking; 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 materials, staff report, and all comments, discussions 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. 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: Wettig-Yes, Schau-Yes, Finch-Yes, Philipp-Yes, Jomaa-Yes, Eichstaedt-Yes. Motion passed 6-0.

ZBA #19-14; 8836 East Shore Drive: Mais summarized the requests for: a) a variance to retain a dwelling that is located four feet eight inches from the (north) side property line where a minimum eight-foot setback is required; and b) a variance to construct a second story addition that would extend to within four feet eight inches of the (north) side property line where a minimum eight-foot side yard setback is required. Richard Wielopolski stated he did not know how the dwelling came to be located within the required (north) side setback but that it was in its current location when he purchased the property 21 years ago. Mr. Wielopolski stated they have experienced problems with the roof leaking as long as they've lived there and proposed to reconstruct the upper level to address the problems with the roof over the master bedroom and were also adding additional living area over the existing garage. Schau inquired if the applicant had spoken to his neighbors about the request and if they were opposed or supported it. Mr. Wielopolski responded he had spoken to the neighbors on both sides and neither was opposed to the proposal.

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

After additional discussion, a motion was made by Finch, seconded by Wettig, to grant: a) a variance to retain a dwelling that is located four feet eight inches from the (north) side property line where a minimum eight-foot setback is required; and b) a variance to construct a second story addition that would extend to within four feet eight inches of the (north) side property line where a minimum eight-foot side yard setback is required 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 location of the dwelling on the lot; the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by others in the same zoning district in the vicinity, the ability to repair their roof and add additional living space; 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 materials, staff report, and all comments, discussions 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. 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: Fry-Yes, Wettig-Yes, Schau-Yes, Finch-Yes, Philipp-Yes, Jomaa-Yes, Eichstaedt-Yes. Motion passed 7-0.

ZBA #19-15; 5811, 5817 South Westnedge Avenue, 122 Boston: Mais summarized the request for a use variance to locate a refuse container enclosure on property zoned P-1, vehicular parking. Mike McPherson was present to answer questions. Jomaa inquired if moving the utility pole was possible. Mais responded that would be up to Consumers Energy. Mr. McPherson stated moving the pole would be very problematic. Jomaa inquired if the applicant had a cross access agreement with the neighbor to the south. Mr. McPherson responded yes. Schau inquired when the applicant hoped to open for business. Mr. McPherson stated they hoped to complete construction in four to five months.

A public hearing was opened. Mais read a letter of opposition from Raj Sharma and an attached Affidavit of Ownership into the record. Mais noted this was the same Affidavit the Board saw in January. Eichstaedt inquired if anything had changed since then as to how the Board should treat Mr. Sharma's claim of ownership. Attorney Bear responded nothing has changed since January and advised the Board to proceed.

After brief discussion a motion was made by Finch, seconded by Fry, to grant a use variance to locate a refuse container enclosure on property zoned P-1, vehicular parking for the following reasons: that the condition,

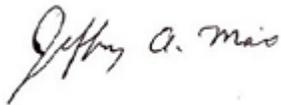
location, or situation of the specific piece of property or of the intended use of the property is unique to that property and the zoning district in which it is located, which include the location of a utility pole and the split zoning; the building, structure or land cannot be reasonably used in a manner consistent with the uses allowed in the zoning district in which it is located, due the utility pole altering the access drive location; the use variance will not alter the essential character of the neighborhood or the intent of the comprehensive plan, nor be a detriment to adjacent properties. The variance will not materially impair the intent and purpose of this article or the district in which the property is located; and the immediate unnecessary hardship causing the need for the variance request was not created by the applicant. Upon roll call vote: Fry-Yes, Wettig-Yes, Schau-Yes, Finch-Yes, Philipp-Yes, Jomaa-Yes, Eichstaedt-Yes. Motion passed 7-0.

OTHER BUSINESS:

STATEMENT OF CITIZENS: None.

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:27 p.m.

Respectfully submitted,

A handwritten signature in black ink that reads "Jeff A. Mais". The signature is written in a cursive style.

Jeff Mais
Zoning & Codes Administrator