

# CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – March 9, 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, Phillip Schaefer, Jeffrey Bright, Lowell Seyburn, Chad Learned, Randall Schau, and Alexander Philipp

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

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

**APPROVAL OF THE MINUTES:** Schau moved and Schaefer seconded a motion to approve the January 12, 2015 minutes as submitted. Upon voice vote, motion was approved 7-0.

**OLD BUSINESS:**

**NEW BUSINESS:**

**ZBA 14-21; Justin Escher, 1412 Meadowbrook Lane:** Mais summarized the request for a use variance to allow an accessory building to remain with no principal use on a lot if lot 55 is split from lot 54. The applicant, Mr. Justin Escher, stated he has been trying to sell lots 54 and 55 together since last May but has not been successful. Mr. Escher stated he recently found a buyer willing to purchase lot 55, but it is only occupied by an accessory building. The buyers indicated they plan to build a retirement home on the property within the next 8-10 years and would like to retain the accessory building during this time period. Regardless of whether or not the variance is granted, the buyers stated they will move forward with purchasing the property. Mr. Escher stated the variance should be granted based on reduced expense for buyer and seller not having to demolish the structure, avoid wasting materials, and would be in the best interests of the neighborhood to preserve the structure intact instead of leaving the drive and foundation floor until the buyers construct their home. Mr. Mais stated a letter of opposition was received from Ray Sortman, 5110 Morningside Drive. The applicant stated they were only seeking a variance for an 8 -10 year period and that the buyers are willing to enter into an agreement to demolish the building if they do not construct a house within a certain timeframe. Seyburn inquired if there was already a signed sales agreement. Mr. Escher stated no. Schau inquired if the driveway and garage foundation would have to be removed if the sale goes through and a variance is not granted. Mais stated the structure needs to be removed but anything less than nine inches above grade is not considered a structure and does not have to be removed. Schau inquired if a temporary variance with an expiration could be approved by the Board. Attorney Bear stated no.

A public hearing was opened. Linda Campbell, 1405 Meadowbrook spoke in favor of the request. Harold Vandersalm, 1324 Meadowbrook, stated he originally sold lot 55 to Mr. Escher and felt the garage is an improvement to the neighborhood. The prospective buyer stated it seemed senseless to tear the garage down when they would be building in a few years. The public hearing was closed.

Smith stated he did not question anyone's good intentions in this case but thought there were too many unknowns about the future to approve the request. Seyburn inquired if Mr. Vandersalm could buy back lot 55 and then permit a lease agreement allowing the buyers to use the garage. Mais stated Mr. Vandersalm could buy back and recombine lot 55 and later split it off for sale again, but the use of the structure needed to be accessory to Mr. Vandersalm's dwelling. Learned suggested the applicant could build a house that met the minimum zoning requirements and in ten years when they were ready to retire either add on or rebuild as they saw fit. Bright stated he was sympathetic to the applicant's situation but that the Board could not grant a variance for a self-created hardship. A motion was made by Schau, seconded by Schaefer, to deny a use variance to allow an accessory building to remain with no principal use on a lot for the following reasons; the condition of the specific piece of property or the intended use of the property is not unique to that property and the zoning district in which it is located. The use variance may alter the essential character of the neighborhood and may be a detriment; the variance will materially impair the intent and purpose of this

article or the district which the property is located; the immediate unnecessary hardship causing the need for the variance request was created by the applicant. In addition, the application and supporting materials, staff report, and all comments and 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, Schaefer-Yes, Philipp-No, Bright-Yes, Learned-Yes, Schau-Yes. The motion passed 6-1.

ZBA #14-22, Jason Sibley on behalf of Stryker Corporation and 1901 Romence LLC, 1901 Romence Road Parkway: Mais summarized the request to 1) allow the installation of a new seven square-foot internal directional sign and 2) increase the sign area of an existing directional sign to seven square feet where a maximum four square feet is permitted. Mr. Sibley stated he agreed with the staff report and was available to answer any questions. Learned stated he would be abstaining on this item due to a potential conflict of interest.

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

A motion was made by Seyburn, seconded by Schau, to grant a variance to 1) allow the installation of a new seven square-foot internal directional sign and 2) increase the sign area of an existing directional sign to seven square feet where a maximum four square feet is permitted 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 size and nature of the campus, the sign is not readable from adjacent property or the public right-of-way and is needed for directional purposes; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to control traffic on site; 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 and 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, Schaefer-Yes, Philipp-Yes, Bright-Yes, Learned-Abstain, Schau-Yes. The motion passed 6-0.

**OTHER BUSINESS:** The Board accepted the resignation of Timothy Bunch.

**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