

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – May 09, 2016

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. Approximately six people were in the audience.

MEMBERS PRESENT: John Byrnes, Phillip Schaefer, Jeffrey Bright, Chadwick Learned, Randall Schau, Jay Eichstaedt, and Alexander Philipp.

MEMBERS EXCUSED: Michael Robbe and Lowell Seyburn.

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

APPROVAL OF THE MINUTES: Learned moved and Schau seconded a motion to approve the April 11, 2016 minutes as submitted. Upon voice vote, the motion was approved 7-0.

OLD BUSINESS:

ZBA #15-11, Christine Pelletier, 4415 Raborn Court: Mais summarized the request to retain a partially constructed 58-foot by 19-foot (1,102 sq. ft.) two-story accessory building in the rear (south) yard that is 19.5 feet in height where a maximum 14-foot height is permitted. Ms. Christine Pelletier provided cost estimates to either complete construction of the barn or demolish it. Schau stated he inspected the property and noted the barn in question could not be seen from the roadway.

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

A motion was made by Learned, seconded by Schaefer, to approve a variance to retain the partially constructed 58-foot by 19-foot two-story accessory building in the rear (south) yard that is 19.5 feet in height, conditioned upon the applicant obtaining a building permit within 21 days and completing construction no later than November 30, 2016, 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 significant grade differences along the southern portion of the site and the surrounding zoning/land use pattern; the immediate practical difficulty causing the need for the variance was not caused 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 action of the Board be final and effective immediately. Upon roll call vote: Philipp-Yes, Learned-Yes, Eichstaedt-Yes, Bright-Yes, Byrnes-Yes, Schau-Yes, Schaefer-Yes. The motion passed 7-0.

NEW BUSINESS

ZBA #15-24; David Keyte, 6039, 6043 South Westnedge Avenue: Mais summarized the request for a variance from the parking requirements to provide 23 off-street parking spaces where a minimum 44 spaces are required. Mr. Keyte cited other similar sized Starbucks locations in Michigan that have parking comparable to the proposed variance. Mr. Keyte stated Starbucks conducts on average 60-70% of their business through the drive-thru window. Mr. Schau asked staff if there are currently other stand-alone drive-through coffee shops in Portage with reduced parking. Mais replied no. Learned inquired if another variance would be needed if the use of the proposed development changed in the future. Mais stated variances generally go with the land, but in this case the Board would be granting a variance allowing 23 spaces where

44 spaces are required, and depending on the parking requirements of any future change of use, it was possible another variance may be needed.

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

A motion was made by Philipp, seconded by Eichstaedt, to grant a variance from the parking requirements to provide 23 off-street parking spaces where a minimum of 44 spaces 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 unique business operational characteristics and parking demand with similar stores; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to develop property with reasonable off-street parking; the immediate practical difficulty causing the need for the variance was not caused 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 action of the Board be final and effective immediately. Upon roll call vote: Philipp-Yes, Learned-Yes, Eichstaedt-Yes, Bright-Yes, Byrnes-Yes, Schau-Yes, Schaefer-Yes. The motion passed 7-0.

ZBA #15-25; Kathleen Kline, 4622 Deep Point Drive: Mais summarized the variance requests to: a) construct a second story addition above the existing garage located two feet from the front (west) property line where a 25-foot front setback is required; b) retain the existing dwelling and attached garage that have 26% lot coverage where a maximum 25% is permitted; and c) construct a 10-foot by 7-foot master bathroom addition that will result in 27% lot coverage where a maximum 25% lot coverage is permitted. Ms. Kline stated she mostly agreed with the staff report but stated variance c) was due to an occupant's medical condition requiring access to the bathroom from the bedroom very quickly. A letter to this effect from Dr. Petra Toutanji was read into the record.

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

A motion was made by Eichstaedt, seconded by Phillip, to grant variances to: a) construct a second story addition above the existing garage located two feet from the front (west) property line where a 25-foot front setback is required; b) retain the existing dwelling and attached garage that have 26% lot coverage where a maximum 25% is permitted; and c) construct a 10-foot by 7-foot master bathroom addition that will result in 27% lot coverage where a maximum 25% lot coverage is permitted, conditioned upon removal of the 75 square-foot shed, 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 size and shape of the substandard lot; the variance is necessary for the preservation of a substantial property right, the right to develop the property in manner similar to other properties in the vicinity; 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. 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 action of the Board be final and effective immediately. Upon roll call vote: Philipp-yes, Learned-yes, Eichstaedt-Yes, Bright-Yes, Byrnes-yes, Schau-yes, Schaefer-Yes. The motion passed 7-0.

OTHER BUSINESS:

Zoning Board of Appeals Rules of Procedure: Mais stated revising the Rules of Procedure concerning conflicts of interest was appropriate and recommended the Board consider adopting the same language/rules used by the Planning Commission and City Council. Attorney Bear stated it is important for Boards to avoid even the appearance of impropriety. Learned stated he largely agreed, but at the same time wanted to preserve the right of Board members to speak as citizens if there were a request which directly impacted their property. After additional discussion, Mr. Schaefer, Mr. Learned and Mr. Schau volunteered to form a sub-committee to explore revisions to the proposed Rules of Procedure with the recommendation that city staff be involved with the committee as well. The subcommittee will report back to the Board at the June 13, 2016 meeting with an update.

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:30 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator