

## CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – June 13, 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 four people were in the audience.

**MEMBERS PRESENT:** John Byrnes, Jeffrey Bright, Chadwick Learned, Jay Eichstaedt, Alexander Philipp, Michael Robbe and Lowell Seyburn.

**MEMBERS EXCUSED:** Phillip Schaefer and Randall Schau.

**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 Byrnes seconded a motion to approve the May 9, 2016 minutes as submitted. Upon voice vote, the motion was approved 7-0.

### **NEW BUSINESS**

**ZBA #15-27, Chick-Fil-A, 6018, 6026, 6060, 6110, 6150, 6190, 6202, 6278, 6284, 6294 South Westledge Avenue & 200, 240 Mall Drive:** Robbe stated he had a conflict of interest and left the room for this item. Mais summarized the requested variances to retain a nonconforming 50 square-foot freestanding sign with an 18 square-foot changeable copy board after a substantial improvement has occurred, that is not permitted, and does not meet the minimum 300-foot sign separation requirement; or erect a new 55 square-foot freestanding sign with a 22 square-foot changeable copy board. Robbe excused himself from this item due to a conflict of interest. Cheryl Scales (Progressive AE) and Justin Bark (representative for Chick-Fil-A) stated they thought the variance is needed due to being part of the Southland Mall zoning lot and Chick-Fil-A does not have any rights to use the existing Southland Mall freestanding signs. Learned inquired when the applicant discovered there would be an issue with the existing sign. Mr. Bark responded before getting site plan approval. Learned stated the applicant was requesting to either keep the existing sign or erect a new one and inquired which the applicant preferred. Ms. Scales said erecting a new sign was preferred and noted the new sign would meet the 300-foot sign separation requirement. Seyburn acknowledged staff's recommendations to consolidate signage, but stated the Board has also granted sign variances when they resulted in a reduction in the degree of nonconformity. Bright stated he thought a separate freestanding sign would improve wayfinding.

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 Philipp, to grant a variance to construct a new 45 square foot free standing sign with an 18 square foot changeable copy board on the north end of the property (at least 300 feet from the central Southland Mall sign), with the condition that no banner signs be used in connection with Chick-Fil-A 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 non-standard buy-lease agreement and inclusion into a new zoning lot; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to erect a freestanding sign; 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-No, Seyburn-Yes, The motion passed 5-1.

ZBA #15-28, Pfizer, Inc., 7171 Portage Road: Mais summarized the variance requests to construct an approximate 98,000 square-foot building addition 65 feet in height where a maximum 60-foot building height is permitted. Mr. Patrick McAvoy was available to answer questions. Learned inquired if construction is still on schedule for the new warehouse. Mr. McAvoy stated it should be starting very soon.

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 Seyburn, seconded by Phillip, to grant a variance to construct a 98,000 square foot building addition with a height of 65 feet where a maximum of 60 feet is allowed 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 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, Robbe-yes, Seyburn-Yes. The motion passed 7-0.

ZBA #15-29, Nick's Gyros, 7206 South Westnedge Avenue: Eichstaedt stated he had a conflict of interest and left the room for this item. The applicant was not in attendance to present his case to the board. A motion to postpone the item until the July 11, 2016 meeting was made by Robbe, seconded by Learned. Upon voice vote the motion passed 6-0.

### **OTHER BUSINESS:**

Zoning Board of Appeals Rules of Procedure: Mr. Learned stated to the board that the subcommittee is continuing to work on the "Conflict of Interest" amendment and should be able to present their recommendation to the board for the July 11, 2016 meeting.

Election of Officers: Due to the absence of two members, the Board agreed that the election of officers be postponed until the July 11, 2016 meeting. Mr. Learned requested that if anyone is interested in a position as an officer, the board member should email Chairman Bright for consideration.

**ADJOURNMENT:** There being no further business, the meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Jeff Mais  
Zoning & Codes Administrator