

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – July 11, 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, Jeffrey Bright, Chadwick Learned, Jay Eichstaedt, Alexander Philipp, Lowell Seyburn, Phillip Schaefer and Randall Schau

MEMBERS EXCUSED: Michael Robbe.

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

APPROVAL OF THE MINUTES: Byrnes moved and Schaefer seconded a motion to approve the June 13, 2016 minutes as submitted. Upon voice vote, the motion was approved 7-0.

OLD BUSINESS

ZBA #15-29, Nick's Gyros, 7206 S. Westnedge Avenue: Eichstaedt stated he had a conflict of interest and left the room for this item. Mais summarized the request for a Temporary Use Permit to operate a mobile food trailer at 7206 South Westnedge Avenue from June 14, 2016 through December 14, 2016. Nick Lambright stated the typical timeline for his operation is Monday thru Friday, with some Saturdays. The applicant stated Sundays are typically not utilized in this location due to other special events his business takes part in.

A public hearing was opened. No one spoke for or against this request and the public hearing was closed. A motion was made by Seyburn and seconded by Learned, to approve a Temporary Use Permit to operate a mobile food trailer at 7206 South Westnedge Avenue from June 14, 2016 through December 14, 2016 with the following conditions: 1) The temporary use be approved from June 14 – December 14, 2016; 2) The food trailer be licensed by the Kalamazoo County Department of Health and Community Services; 3) Food trailer tables and off-street parking set-up be consistent with the submitted site sketch; 4) Hours of operation be limited to 9:00 a.m. to 8:30 p.m. seven days a week; 5) The site be kept free from trash and refuse; 6) Temporary signage be limited to one sign not exceeding 40 square feet; 7) There be no sound amplifying equipment with the exception of a portable generator which must meet the requirements of Chapter 24, Article 4 (Noise); and 8) The trailer must meet B-3 setback requirements (30 feet from the front property line). Upon roll call vote: Philipp-Yes, Learned-Yes, Byrnes-Yes, Bright-Yes, Seyburn-Yes, Schau –Yes, Schaffer-Yes. Motion passed 7-0.

NEW BUSINESS

ZBA #16-1, Meyer C. Weiner, 251 and 325 Mall Drive: Mais summarized the request for: a) a 36 foot setback variance to construct an 8,996 square-foot commercial building 39 feet from the front (north) property line where a minimum 75-foot setback is required; and b) a variance to provide an off-street loading area in the required front yard and west side yard, where a rear yard loading area is required. Josh Weiner, and Tim Timmons were present to answer questions. Learned inquired if a smaller sized building could be utilized to meet the demands of a plasma center. Mr. Weiner stated the proposed 8,996 square-feet was the smallest to accommodate the needs of the tenant and if the building was to be reduced any further the tenant would no longer pursue this location.

A public hearing was opened, no one spoke for or against the request and the hearing was closed.

Schau asked the applicant if there was a plan to install a maneuvering lane along the north side of the proposed building. Mr. Weiner stated the intention was to preserve that area as a green-space. A motion was made by Learned, seconded by Philipp, to grant a variance to construct an 8,996 square-foot commercial building 39 feet from the front (north) property line where a minimum 75-foot setback is required; and b) a variance to provide an off-street loading area in the required front yard and west side yard, where a rear yard loading area is required with the conditions that 1) the building height be limited to 26 feet 9-inches as shown in the elevation drawings; 2) the building design and materials be consistent with the building elevations submitted with the application; and 3) the north 39 feet is to remain a landscaped area, and no maneuvering lane, parking or drive through is permitted in front of the building without Board approval. The Board determined 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 narrow, buildable area; the pre-existing lease; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to develop a buildable space, which is similar to that possessed by other properties in the same zoning district and in the vicinity; 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, Seyburn-Yes, Schau –Yes, Schaffer-Yes. Motion passed 7-0.

ZBA #16-2, Gary Gifford, 6328 Surrey Street: Mais summarized the request for a variance to retain a 10-foot by 14-foot three season porch, a small portion of which is located 38 feet from the rear (west) property line where a minimum 40-foot setback is required. Mr. Gifford was present to answer questions.

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 Eichstaedt, to grant a variance to retain a 10-foot by 14-foot three season porch, a small portion of which is located 38 feet from the rear (west) property line where a minimum 40-foot 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 irregular shape of the lot and orientation of the dwelling; 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, Schaffer-yes, Schau-yes, Seyburn-Yes. The motion passed 7-0.

OTHER BUSINESS:

Zoning Board of Appeals Rules of Procedure: Mr. Learned provided an update on the proposed amendment to the rules and procedures of the Zoning Board with regards to Conflict of Interest. Discussion followed. A motion to amend the Rules of Procedure by adopting sections 11 and 12 as submitted was made by Schau and seconded by Learned. Upon roll call vote: Seyburn-Abstain, Learned-Yes, Eichstaedt-No, Schaffer-Yes, Schau-Yes, Bright-Yes, Phillip-Yes. Motion passed 5-1-1.

Election of Officers: Learned was elected Secretary, Schaffer - Vice-Chair, and Bright - Chair.

STATEMENT OF CITIZENS: Seyburn suggested that due to changes in statutes the Board may wish to amend section 10 of the Rules of Procedure as it currently requires a vote of five members to suspend its bylaws, while a quorum of four is the minimum necessary to transact business.

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:45 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator