

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – April 10, 2017

The City of Portage Zoning Board of Appeals meeting was called to order by Vice Chair Schau at 7:00 p.m. in the Council Chambers. Six people were in the audience.

MEMBERS PRESENT: John Byrnes, Alexander Philipp, Jay Eichstaedt, Randall Schau, Scott Chu, Veronica Demaio, Natalie Rowe.

MEMBERS EXCUSED: Lowell Seyburn

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

APPROVAL OF THE MINUTES: Byrnes moved and Eichstaedt seconded a motion to approve the March 13, 2017 minutes as submitted. Upon voice vote, the motion was approved 7-0.

NEW BUSINESS:

ZBA #16-18, Jeff Kraft, 813 Lakeview Drive: Mais summarized the request for a height variance to construct a 616 square-foot detached garage up to 19 feet in height where the maximum permitted accessory building height is 14 feet. Mr. Kraft was present to answer questions. Schau inquired what would be located in the lower level of the garage. Mr. Kraft responded storage area. In response to an inquiry from Byrnes, Mais clarified how building height is calculated using average grade on all four sides to the mid-roof.

The public hearing was opened. Dave Vandyk, 1725 Lakeview Drive, spoke in support. A letter of support from Barry and Jen Williams, 821 Lakeview was read into the record. The public hearing was closed.

Demaio inquired if the proposed garage would be the same height as the garage on the neighboring property to the west. Mr. Kraft stated it would be very close. A motion was made by Eichstaedt, seconded by Rowe, to grant a variance construct a 616 square-foot detached garage up to 19 feet in height where the maximum permitted accessory building height is 14 feet 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 topography; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to construct a detached accessory building; 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 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, discussion and materials presented at the hearing be incorporated into the record of this hearing and that action of the Board be final and effective immediately. Upon roll call vote: Byrnes-Yes, Philipp-Yes, Schau-Yes, Chu-Yes, Rowe-Yes, Eichstaedt-Yes, Demaio-Yes. The motion passed 7-0.

ZBA #16-19, Adrienne Wiltzer, 6000 Oakland Drive: Mais summarized the request for a variance to allow an additional freestanding sign near the southwest corner of the intersection of Oakland Drive and West Milham Avenue, where one sign per vehicular entrance is permitted. Ms. Wiltzer was present to answer questions. Demaio requested clarification of who owned the current signs on the zoning lot. Mais explained the history of the zoning lot's development and that currently Milham Meadows Apartments had a sign at each of the vehicular entrances and owned both the land and the signs. The sign currently near the southwest corner of West Milham and Oakland Drive with Oakland Drive Apartments name on it (now Mallard Cove Apartments) is a real estate sign, not a freestanding identification sign. Ms Wiltzer confirmed they are willing to remove the real estate sign if the variance is approved.

A public hearing was opened. A letter from Elizabeth Edgerton, on behalf of Zhang Financial, 5931 Oakland Drive, was read into the record. Ms. Edgerton stated they did not object to a new sign being erected so long as it was understood the sign would be replacing the existing real estate sign and met all other code requirements. The public hearing was closed.

A motion was made by Byrnes, seconded by Demaio to allow an additional freestanding sign near the southwest corner of Oakland Drive and West Milham Avnue, where one sign is permitted, conditioned upon the three-faced real estate sign be removed, and any future real estate sign be limited to one double-faced sign not to exceed 64 square feet, 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 there being two separate apartments on the zoning lot and one had no rights to signage; the variance is necessary for the preservation and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district in the vicinity, right to advertise the facility; the immediate practical difficulty causing the need for the variance request was not created by the applicant; the variance would not materially impair the intent and purpose of the Zoning Ordinance. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at the hearing be incorporated into the record of this hearing and that action of the Board be final and effective immediately. Upon roll call vote: Byrnes-Yes, Philipp-Yes, Schau-Yes, Demaio-Yes, Rowe-Yes, Eichstaedt-Yes, Chu-Yes. The motion passed 7-0.

ZBA #16-17, Jolene Vadyk, 1725 Lakeview Drive: Mais summarized the request to replace a nonconforming 80 square-foot accessory structure located a) six feet from the front (south) property line where a minimum 27-foot front yard setback is required; b) six inches from the side (east) property line where a minimum five-foot setback is required; and c) exceeds the maximum permitted 25% lot coverage by 42 square feet. Mr. Dave Vandyk noted the neighbor at 1729 Lakeview Drive used to have a shed in a similar location but the city made them remove it. Mr. Vandyk stated there were a number of other properties around the lakes that had sheds close to the street and felt that because lakefront residents usually consider the street side of their property to be the 'rear' yard, felt the lakefront property zoning standards should be revisited. Mr. Vandyk added building in a conforming location in the lakeside yard was not preferred by several of his neighbors. Eichstaedt inquired if the attached garage was a one-stall or two stall. Mr. Vandyk stated it was a one stall and the area east of the garage was a rec room. Rowe inquired if the shed could be moved further north to meet the front setback. Mais responded if the shed was moved further north it could meet the front setback requirement but would then not meet the required 10-foot building separation, which was important for emergency access on narrow lakefront lot situations. Mais stated the applicant had a conforming alternative and that the current accessory building standards had been changed specifically for lakefront lots a number of years ago.

A public hearing was opened. Letters of support were read into the record from Esther Jurgenson, 1709 Lakeview Drive; Dave & Judy Smith, 1811 Lakeview Drive; Dania VanderMeer, 1803 Lakeview Drive Steve & Margaret VanderWoude; 1721 Lakeview Drive, and Tamara Kilburn, 1729 Lakeview Drive. A letter of opposition from Dan & Christy Ohman, 1807 Lakeview Drive was read into the record. The public hearing was closed.

Chu inquired if a statute of limitations applied to the subject shed and if the variance was denied would the shed have to be removed. Attorney Bear stated the city had some prosecutorial discretion when to proceed with enforcement but could not authorize the shed to remain if the variance was denied, given this is not a legal nonconforming structure. Eichstaedt noted there were a lot of sheds in front yard in various areas around the lakes and did not feel the shed was out of character with the neighborhood. Eichstaedt stated he understood why lake property owners valued their lakeside viewshed, and therefore supported the variance. A motion was made by Eichstaedt, seconded by Rowe, to grant a variance to replace a nonconforming 80 square-foot accessory structure located a) six feet from the front (south) property line where a minimum 27-foot front yard setback is required; b) six inches from the side (east) property line where a minimum five-foot setback is required; and c) exceeds the maximum permitted 25% lot coverage by 42 square feet 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 there being the lack of aesthetically pleasing locations to put a shed, and the narrowness of the lakefront lot; the variance is necessary for the preservation

and enjoyment of a substantial property right similar to that possessed by other properties in the same zoning district in the vicinity, the right to have storage; the immediate practical difficulty causing the need for the variance request was not created by the applicant; the variance would not materially impair the intent and purpose of the Zoning Ordinance. In addition, the application and supporting materials, staff report, and all comments, discussion and materials presented at the hearing be incorporated into the record of this hearing and that action of the Board be final and effective immediately. Upon roll call vote: Byrnes-No, Philipp-Yes, Schau-Yes, Demaio-Yes, Rowe-Yes, Eichstaedt-Yes, Chu-Yes. The motion passed 6-1.

OTHER BUSINESS:

STATEMENT OF CITIZENS:

ADJOURNMENT: There being no further business, the meeting was adjourned at 8:25 p.m.

Respectfully submitted,

Jeff Mais
Zoning & Codes Administrator