

CITY OF PORTAGE ZONING BOARD OF APPEALS

Minutes of Meeting – October 9, 2017

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

MEMBERS PRESENT: Randall Schau, Veronica Demaio, John Byrnes, Jay Eichstaedt, Linda Finch

IN ATTENDANCE: Kyle Mucha, Zoning & Codes Administrator, Charlie Bear, Assistant City Attorney.

MEMBERS EXCUSED: Alexander Philipp, Natalie Rowe

MEMBER RESIGNATION:

APPROVAL OF THE MINUTES: Eichstaedt moved and Demaio seconded a motion to approve the September 11, 2017 minutes as submitted. Upon voice vote, the motion was approved 5-0.

OLD BUSINESS:

ZBA #17-10; 10650 South Westnedge Avenue: Mr. Mucha summarized the request for a variance from the public street frontage requirement to obtain a building permit at property located at 10650 South Westnedge Avenue. The applicant's representative, Jim Roberts, was present to speak on behalf of the property owners. Chairman Schau informed the applicant that due to the limited board members present, an affirmative vote from four of the five board members would be needed in order for the variance to be granted. The applicant wished to proceed with the request. Mr. Roberts provided a plot plan indicating the proposed dwelling would be located over 100 feet from the east property line. Chairman Schau asked if the location of the proposed dwelling would allow the property to be split in the future. Attorney Bear informed the Board that any such parcel split would require approval from the Zoning Board.

The public hearing was opened. Cheryl Butler, 10717 South Westnedge Avenue, spoke in favor of the variance request. Lowell Seyburn, 10546 South Westnedge Avenue, also spoke in favor of the variance but requested the Board impose a minimum 40-foot side yard setback from the east property line to help promote the privacy of adjacent neighbors. The public hearing was closed. Discussion followed.

A motion was made by Demaio, seconded by Finch, to grant a variance from the public street frontage requirement in order to obtain a building permit with a condition that no structure be placed within twenty feet of the east property line, 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 includes the modification of 10712 South Westnedge Avenue to provide a continuous shared ownership of a parcel directly abutting a street; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to develop the property with a single family residence, 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 request was not caused by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood; 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 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: Eichstadt – Yes, Byrnes – Yes, Schau – Yes, Finch – Yes, Demaio – Yes. Motion passed 5-0.

ZBA #17-13; 9244 Chapel Street: Mr. Mucha noted the applicant is requesting variances to construct a 30-foot by 30-foot accessory building that: a) exceeds the ground floor living area by 178 square feet; and b) is 18.3 feet high where a maximum 14-foot height is permitted. The applicant was present and requested the

item be postponed to the next regularly scheduled meeting on November 13, 2017. Eichstaedt moved, Demaio seconded a motion to postpone until the next scheduled meeting. Motion passed 5-0.

NEW BUSINESS:

ZBA #17-11, 3205 Woodhams Avenue: Mr. Mucha summarized the applicant's request for: a) a variance to construct a dwelling 29.6-foot in height where a maximum building height of 25 feet is permitted, and b) a variance to exceed the maximum permitted 25% lot coverage by 4.9% (522 square-feet). The applicant, Kevin Hoekzema, was present and wished to proceed with the variance requests. The applicant provided rationale for the variances and stated the variances would allow the new dwelling to align with adjacent properties and better address current issues related to storm water drainage. Chairman Schau asked the applicant why he needs to construct a dwelling that has footprint greater than 25% lot coverage. The applicant responded by stating a larger building footprint and building height will require the existing grade be altered thereby reducing the severity of the existing grade change. Discussion followed.

A public hearing was opened. No one spoke for or against the variance requests. The public hearing was closed.

Schau inquired of staff what the dimensions of the property are, and why there is a discrepancy between the applicant's numbers and the online map. Mr. Mucha stated that the online Geographical Information System on the City's webpage is not survey accurate and does have a disclaimer informing the user that such numbers should not be used for survey purposes. A motion was made by Eichstadt, seconded by Finch to grant a variance to allow 1) a building height up to 27.6 feet where the maximum permitted building height is 25 feet and permit and 2) building lot coverage up to 27% where the maximum permitted lot coverage is 25% 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 a narrow lot and inconsistencies between the survey provided by the applicant and the City of Portage online Geographic Information System; the variance is necessary for the preservation and enjoyment of a substantial property right, the right to develop the property in accordance with neighboring properties; the immediate practical difficulty causing the need for the variance request was not caused by the applicant; the variance will not be detrimental to adjacent property and the surrounding neighborhood; 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 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: Eichstadt – Yes, Byrnes – Yes, Schau – Yes, Finch – Yes, Demaio – Yes. Motion passed 5-0.

STATEMENT OF CITIZENS:

Donna Debault, 2527 Vanderbilt Road, inquired about the criteria the Zoning Board of Appeals uses to grant or deny variance requests. Attorney Bear informed Mrs. Debault that the Board determines if there is practical difficulty, exceptional or extraordinary circumstances that would prevent applicants from complying with the Zoning Ordinance. Ms. Debault further inquired about the keeping of chickens on property and what the requirements are. Schau informed the citizen that the Department of Community Development handles chicken permits and would be happy to assist her further during regular business hours. Discussion followed.

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

Respectfully submitted,

Kyle Mucha
Zoning & Codes Administrator