

Mt. Pleasant Zoning Board of Appeals
Minutes of Regular Meeting
October 28, 2009

Chairman Curtiss called the meeting to order at 7:18 p.m.

I. Roll Call: Board Secretary Kench called roll.

Members Present: Benison, Curtiss, Ellertson, Kulick, White

Absent: Rowley, Olivieri (Olivieri was present as an applicant for Case 06-2009, but not as a voting Board member)

Others Present: Kench, Murphy, Appellants, and community members

II. Approval of Agenda:

Kench asked that Case 09-2009 be removed from the agenda at the applicant's request.

Motion by Kulick, support by Benison, to approve the agenda with noted change. Motion approved unanimously.

III. Approval of Minutes from September 23, 2009:

Motion by Kulick, support by White, to approve the minutes from September 23, 2009, as written. Motion approved unanimously.

IV. Communications:

Kench reported that there were no communications to share at this time.

V. Public Comments:

Chairman Curtiss opened the floor for public comments.

Mr. Jeff Jakeway, 625 E. Cherry addressed the Board. Mr. Jakeway referred to the upcoming election for City Commissioners next week and spoke on the issue of student housing. Mr. Jakeway stated he feels like cases similar to the one before the board tonight will be coming up again and again, due to a number of reasons. He spoke of the growth of the university community and the desire of the students to live within walking distance of both campus and downtown. As a landlord himself, Mr. Jakeway stated that by mid-October, his rentals are filled and he is turning students away. Mr. Jakeway stated the city's Zoning Ordinance is contrary to becoming a walkable community as it forces students out of the city into the township, which he feels also adds to the problem with the congestion on Mission Street. By finding housing closer to campus for students, Mr. Jakeway feels this problem could be easily corrected. Mr. Jakeway also spoke about the financial challenges facing the city, with SEV values declining and State-Shared revenue being cut. He suggested that by being creative and fixing up or tearing down older antiquated homes, we have an opportunity to correct some of the problems we are facing by increasing the equalized value. He further commented that the ZBA will be seeing more of these cases being brought before them and

sees a need to build some of these issues into the Zoning Ordinance to allow the city to move forward. Mr. Jakeway further stated that the Board has some tough decisions to make tonight and suggested the Boards start looking at the Zoning Ordinances to help solve some of these issues.

There being no one else who wished to speak, the public hearing was closed.

VI. New Business:

No new business.

VII. Old Business

Board secretary Kench explained board proceedings and noted that a quorum was present.

Motion by Kulick, support by Benison to remove **Case 06-2009** from the table.

Kench re-introduced **Case 06-2009**, which was postponed from last month, reminding the Board that this was a request for consideration on several variances to allow the redevelopment of the site located at 802 S. Main Street. The applicant has proposed razing the existing building, which is currently licensed for 11 occupants, and constructing a new building to be occupied by a Sorority Group (Registered Student Organization). The applicant is requesting a variance to allow an additional occupant to bring the occupancy from 11 to 12. Kench stated that the property is zoned M-2, which allows this use with a Special Use Permit.

Kench reported that although the applicant received approval from the ZBA in 2002 to redevelop the site for 12 occupants, the approval expired prior to the commencement of the construction. The developer is now looking to resurrect the project. Kench shared photos of the existing structure, along with photos of the plan that was approved in 2002. The applicant has worked extensively with staff to improve the design and significantly upgrade the building materials, resulting in a building that has a brick façade, architectural details such as dormers, shutters, and a projected front porch with pillars and a mock balcony. In addition, fencing that incorporates brick pillars to blend in with the façade of the building will be installed to act as screening from the proposed parking area. Many of the design features that the applicant has included in his proposed project were pulled from other homes in the area and reflect the character of the neighborhood.

Kench stated that the ordinance requires parking at a ratio of 1:1 for rooming/boarded dwellings, however; requires 1:1 plus two extra spaces for a Registered Student Organization. The applicant is proposing 12 parking spaces (1:1) and is requesting a variance for the two extra spaces. The site currently only has six parking spaces.

Kench reviewed the request as it came before the Board last month, and stated that based on the Boards discussion and concerns with the requested variance on the front-yard setback, the Board postponed making a decision to allow the applicant to revise the site plan, moving the

building back on the lot to increase the proposed setback. The revised site plan is showing a setback of 18 ft., whereas the first request was for a set-back of 14 feet. The parking is still at 12 spaces and the greenbelt at 7 feet. Based on concerns with visibility, the fence was lowered to four feet and the applicant has incorporated masonry walls. Kench summarized that the applicant is seeking an increase in the occupancy from 11 to 12; asking for a front yard setback from 20 ft. to 18 ft, and would be eliminating an access drive on Main Street, which will move all the parking to the rear of the property. In addition, the applicant is seeking a variance on the parking spaces from 14 – 12 (currently has 6); and is requesting a variance to reduce the greenbelt along the parking area on High Street from 10 ft. to 7 ft. The applicant has eliminated a need for a side-yard setback by reducing the footprint of the building.

Kench also reminded the Board that at their September 3, 2009 meeting, the Planning Commission supported the concept of allowing reasonable increases in occupancy to encourage better redevelopment of obsolete rooming and boarding dwellings that are located in the M-2, Multifamily District.

Joe Olivieri, applicant for Case 06-2009, addressed the Board, stating he didn't have anything to add, but would be happy to answer any questions from the Board.

Commissioner Kulick stated he appreciates the efforts of the applicant to reduce the number of variances for the Board to consider.

Chairman Curtiss opened the Public Hearing.

Joneil Cook, 819 S. Doe Trail, and owner of the neighboring property to the South, expressed continuing concerns with the proposed project. Ms. Cook stated that her home has a setback of 27 feet. She further indicated that there are no other homes along Main Street that do not meet the 20 ft. setback. Ms. Cook indicated she thought the whole reason for postponing the case last month was for the applicant to design a site plan that meets the front setback. Ms. Cook indicated she feels maintaining setbacks is important to keep the city looking good and to protect neighboring property owners and streetscapes. Ms. Cook also expressed concerns with the number of occupants on the site and stated she feels the site is too small for that many occupants based on the Zoning Ordinances that are established. Ms. Cook urged the ZBA to hold firm and keep the occupancy at 11. Ms. Cook referred to a comment made by one of the Board members at the September meeting, which indicated this wasn't a unique request – there have been several redevelopments of older homes in the past few years which have come before the Board. She stated that she feels there is a reason for these ordinances, and allowing these variances is adding to the existing problem of sites that have been "grandfathered" in that do not meet ordinance requirements. Ms. Cook indicated she has some concerns with the process for hearing variance requests and stated that if the city has a different vision of what they want, then perhaps it is time to change the ordinances. Ms. Cook also posed the question to the Board that if they grant this variance, are they prepared to grant a similar request to other property owners.

There being no one else who wished to address the Board, the Public Hearing was closed.

Kench shared the correspondence received regarding Case 06-2009 as follows:

- Jeff Jakeway – is in support of the project.
- Letter from Betty Tyler, against the project.
- Information request received from Jerome Porter
- E-mail from Mike Murray, owner of 121 W. High, in support of the project.
- E-mail from Nancy McGuirk in favor of the project.
- Phone call from Carl Breyer, owner of 805 S. Main, in support of the project.
- Request for information from Joneil Cook – against the project.
- DPW – stating requirements if project is approved.

Board Discussion:

Commissioner Kulick asked for clarification on the square footage of the building as the site plan indicated only enough square footage for 10 occupants. Mr. Olivieri clarified that the basement was also being finished into livable space, therefore making up the required square footage.

Commissioner Kulick made some observations that the applicant could possibly move the building back further by eliminating all of the greenspace between the building and the parking area. In addition, he stated it would be possible to place a parking pad on the southeast corner of the property, however you would be trading off aesthetics to meet ordinance requirements, and this would also result in not being able to eliminate the curb cut on Main Street.

Discussion took place on the history behind the change in the Zoning Ordinance that increased the parking requirements for Registered Student Organizations. In addition, there was discussion on how some of these older homes are licensed for more occupants than would be allowed under today's standards. Commissioner Kulick wondered if Ms. Cook had a valid point in stating that granting a variance to allow additional occupants was creating future problems.

Commissioner Ellertson commented that he feels this project IS unique, compared to others that have been proposed. Commissioner Ellertson referred to the brick siding, the pillars, shakes, gable ends, gable windows, mock balcony, etc. He feels that a lot of thought has gone into this project to make it unique. He further stated that he likes this project; however, if the Board consensus was that it is not unique, then maybe they shouldn't be considering the request. Commissioner Ellertson reiterated that in his opinion this is a unique project and is willing to address the variances because of its uniqueness. Commissioner Ellertson further stated that staff has worked diligently with the applicant and the applicant has made some significant compromises. He also stated that this type of project, with the architectural features and upgraded building materials, is what the city is promoting.

Chairman Curtiss also indicated he could support a project like this and also feels it is unique.

Commissioner White stated that on a personal level he would question why the applicant hasn't broken ground – it's a great project; however, as a Board member he feels he needs to uphold the ordinances, which were put in place to protect the neighborhoods. He stated that he doesn't have a problem addressing the parking and greenbelt variance requests, but feels the occupancy and front yard setback are bigger issues.

Commissioner Kulick referred to Section 154.123 of the Zoning Ordinance that allows some flexibility in the parking requirements provided an open landscaped area meeting the required area for parking is reserved if an increase in parking needs occurs in the future.

Board consensus was to keep the parking in back, eliminating parking off Main Street, which would eliminate "stacked" parking and clean up the area, which would be a huge improvement.

Kench stated the Board may want to consider having the applicant reduce the aisle width to 18 ft. and the parking spaces by a few inches to gain the extra space to move the building back to meet the front setback.

Commissioner Kulick agreed – stating the parking area was not going to be a busy parking lot and reducing the width should not pose a problem.

Kench further indicated that in the City's endeavors to make a more walkable community, we may see more attention given to on-street parking. There has been recent discussion on lifting the overnight on-street parking restrictions. Kench further stated that this site was approved in 2002 for 12 occupants, and because it was not done, it has given us an opportunity to revisit the request and make significant improvements to the design, which makes this unique. He also stated that this is a highly visible corner, which also is unique.

Commissioner White agreed that this is a unique situation, which could be good for the developer, the city and the Zoning Board, and he would like to see the project move forward.

Commissioner Ellertson commented that the Board's charge is not necessarily to uphold the ordinance as stated by Commissioner White, but to evaluate each request on its own merit. He referred to Ms. Cook's question on whether the ZBA would be prepared to grant similar variances to other developers and indicated that if other developers were willing to propose this type of project, using similar materials, etc., then as a Board member, he would be more than willing to consider the request. Commissioner Benison agreed, stating each case would be evaluated on its own worth.

Chairman Curtiss stated he did not have a problem granting the extra occupant considering what the applicant is giving in return.

Kench referred to a couple other cases that were granted variances for redevelopment, indicating each case eliminated a non-conforming building, improved parking and improved building safety.

Motion by Kulick, support by Ellertson, to approve the requests on the redevelopment that will allow an increase in the occupancy from 11 to 12, consistent with the original approval from 2002; to allow a reduction in the parking from 14 to 12 for a sorority, provided an area large enough to accommodate two parking spaces is reserved in the front lawn for future use if needed; allow a reduction in the 10 foot greenbelt along High Street to 7 feet, with the owner to incorporate a screening fence and landscaping as shown on the amended plans. The owner will be required to provide routine maintenance on the landscape and screening fence to maintain vegetation in a healthy condition. In addition, the Board will allow the applicant to reduce the aisle access width to the parking area by 2 ft., and/or to reduce the width of the parking spaces to allow him to meet the 20 ft. front yard setback. The approval of the redevelopment is being granted on the basis the new building design and site layout are being designed to enhance the neighborhood, which will eliminate an outdated rooming and boarding dwelling on a highly visible intersection of the City. The new building will be required to meet current building and fire codes and provides a much safer layout of the site to accommodate parking and ingress/egress from the site.

Commissioner White asked to make a friendly amendment to the motion stating the changes in the parking area need to meet the approval of the Department of Fire Safety.

Roll Call Vote: Ayes: Benison, Curtiss, Ellertson, Kulick, White. Nays: None. Motion carried.

Case 08-2009, 915 W. Broadway.

Motion by Kulick, support by Benison to remove **Case 08-2009** from the table. Motion approved.

Kench introduced Case 08-2009, indicating this is a request for a finding under section 154.007 to establish that converting the rear dwelling unit that is located on the property, to an office use would be a decrease in the non-conformity. The property is zoned C-1.

Kench explained that the lot has a rear dwelling unit that was licensed as a rental unit through the city's Housing Licensing Program for some time. The applicant is proposing converting this unit into an office to conduct a tutoring business. Office use is a permitted use in a C-1 zone. The primary structure on the lot is residential. The Board is being asked to determine if this use would have less of an impact on the C-1 zoning district. Kench further indicated that the owner, who has a life lease on the property, has submitted a signed statement approving of the use.

Ted Orwig, 915 W. Broadway, and Dennis Egan, 915 W. Broadway addressed the Board.

Mr. Egan explained that he would like to convert this smaller dwelling into an office to use for a tutoring business he is developing. He explained that the majority of the time (95%) he would be the only one there, as the business is designed as an "on-line" tutoring business, with remote desktop. He will also be offering some off site tutoring and, on occasion, may offer on-site tutoring to a limited number of students. He is currently networking with one of

the local superintendents in an attempt to get an after-school program set up, but this would also be off-site. He explained that this isn't something he can do out of the family home.

Mr. Orwig stated that his mother-in-law, who has a life lease on the home, has agreed to the changes.

Commissioner Kulick asked if the applicant would have a problem with the Board limiting the number of on-site children to 4. Mr. Egan indicated this would not be a problem.

Commissioner Kulick asked if the applicant would have a problem with the Board limiting the hours of operation (times he would be open to the public) from 7:00 a.m. to 9:00 p.m.

Mr. Egan agreed that would be acceptable.

Commissioner Kulick asked if the applicant anticipated having other employees, as typically, home occupations limit employees to dwelling occupants.

Mr. Egan stated that initially this would not be an issue. He did say, however, he would like to possibly include one extra person if the business grows. He anticipated possibly having a college student help out for a few hours a week if needed. Commissioner Kulick stated that if the business grows to that point, the applicant would need to come back to the Board and ask for that condition to be re-evaluated.

Chairman Curtiss opened the public hearing. There being no one there who wished to speak, the public hearing was closed.

Kench shared the correspondence received regarding Case 08-2009 as follows:

- Kim, 915 W. Michigan – Request for information – no concerns.
- Lori Gillis, W. Michigan – Request for information.
- DPW
- Opal Luce (Life Lease on Property) – Support

Board Discussion:

Commissioner White suggested placing restrictions on the future use if the request is approved. Commissioner Kulick added that the motion should limit the use to tutorial type services. Kench also reminded the Board that they would be eliminating a rear dwelling unit. Commissioner Benison indicated he felt that was a decrease in the non-conformity.

Motion by White, support by Kulick to approve the change in use, with the limitation that future usage be in accordance with the tutoring style proposed by the applicant. Applicant will be required to follow the regulations/restrictions found in the definition for Home Occupations in the Zoning Ordinance. The finding was based on the elimination of the rear dwelling unit, which is a marked decrease in the degree of non-conformity.

All ayes: Motion approved.

Mr. Egan thanked the Board and asked for clarification that the tutoring would not be limited to mathematics, but may include other subject matter. The Board concurred.

VIII. Other Business:

- Commissioner Kulick referred to the article from the September issue of Planning & Zoning News entitled “Integrating Information Technology into Planning and Zoning”, indicating a couple of items he felt would be beneficial to the Board. In particular, he expressed interest in having the motion for a case typed in from a laptop, which would be projected on the screen for Board members to review to assure the motion accurately reflects the action they want to take. He suggested staff could have a generic motion in place, with possible wording, which would be revised to fit the Board’s wishes. He suggested the Board give the idea some thought and discuss it further at the next meeting.
- Commissioner Ellertson stated he was pleased with the process on the variance request for Main Street and impressed with the time and effort by staff and Board members willing to work with the applicant to improve on the original request.

Commissioner Kulick agreed, stating these can be complicated issues and can take time to come up with an acceptable design.

IX. Adjournment

Motion by Kulick, support by White to adjourn. Motion carried unanimously. Meeting adjourned at 9:02 p.m.