

Mt. Pleasant Zoning Board of Appeals  
Minutes of Regular Meeting  
May 26, 2010

Chairman Kulick called the meeting to order at 7:02 p.m.

**I. Roll Call:** Chairman Kulick called roll.

Members Present: Benison, Brockman, Ellertson, Kulick, Olivieri, White

Others Present: Kench, Murphy, Appellants

**II. Approval of Agenda:**

Chairman Kulick requested "Discussion on Draft Ethics Policy" be added to the agenda under "New Business."

Motion by Brockman, support by Benison to approve the agenda with the requested addition. Motion approved unanimously.

**III. Approval of Minutes from April 28, 2010:**

Motion by Brockman, support by Benison to approve the minutes from April 28, 2010, as written. Motion approved unanimously.

**IV. Communications:**

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

**V. Public Comments:**

Chairman Kulick opened the floor for public comments. There being no one who wished to address the Board, Chairman Kulick closed the public comment session.

**VI. Public Hearings:**

Chairman Kulick explained board proceedings and noted that a quorum was present.

**Case 05-2010-** A request to reinstate a non-conforming rear dwelling unit at 915 ½ W. Broadway.

Kench reminded the Board that they approved a request in September of 2009 for the rear dwelling unit to be converted to office use to establish a tutoring business. The conversion never took place and the grandmother, who resided in the home for a number of years, has asked that the ZBA reconsider the change in use to reestablish the residential use and allow her to move back into her home.

Kench explained that the property is zoned C-1; which does not permit a residential use in the District. Kench noted that there is mixture of both residential and commercial uses that are in the neighborhood at this time.

Chairman Kulick asked if the home is currently licensed as a rental. Kench stated it was not. Kench further stated that with the approval last year, the goal was to remove a non-conforming use, however, reiterated that the use was never actually changed and has essentially remained the same.

Opal Luce, owner of the property stated she lived in the larger home for many years and then moved into the smaller rear dwelling – in all, she has lived in one of the two homes for over 60 years. She explained that she gave up her home when her granddaughter moved back to the area to allow her and her husband to open up the tutoring business, however, now that they have again moved out of the area, she “just wants to go home.”

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

Kench reported the only communication we had received was from the Fire Department who indicated they had no concerns with the request.

Chairman Kulick commented that if the use reverts back to residential, all current licensing requirements would need to be met, such as egress windows, fire extinguishers, etc.

#### Board Discussion:

Chairman Kulick commented that this area has been residential forever, with the properties on each side residential and stated he doesn't see a problem with the request due to the fact that the use approved last year was never activated.

Motion by Ellertson, support by Benison to allow the former use to be reinstated in accordance with licensing requirements based on the fact that the use conforms with the character of the neighborhood and provided the property is licensed as a single-family dwelling.

Commissioner White questioned where the board stands on rear dwelling units – and further questioned whether the unit would remain residential if sold in the future. Board consensus was that each case stands on its own merits and this does not set precedence.

Commissioner Ellertson commented that the applicant was being generous in providing a place for her grandson's business and stated that what she is asking is not detrimental to the neighborhood.

Motion approved unanimously.

**Case 06-2010-** A request for a variance from **Sections 154.095 (C), 154.095(E), 154.120, and 154.018.** Applicant is requesting a variance to allow the demolition of the existing structures and the construction of two new rooming/boarding dwellings on a single lot, along with a reduction in the required side-yard setback. In addition, the applicant is requesting a variance to allow an increase in the allowable occupancy based on land area. If granted, the applicant is requesting a variance to allow a reduction in the required number of on-site parking spaces required per occupant.

Commissioner Ellertson excused himself due to a conflict of interest.

Kench stated that this particular request first came before the Board in February. In response to the Board concerns at the time, the applicant made a number of revisions to the project which included combining the parcels to create a conforming lot in the M-2, Multiple Family Residential District. As a result, Staff requested that a new site plan and new application be submitted for the case.

Kench stated that Mr. Jakeway is requesting a variance to allow two smaller buildings on the lot rather than one large building to maintain the character of the neighborhood. As a result, Kench explained that the ordinance restricts multiple residential units on a single lot to apartments, which are defined as two or more dwelling units. Kench also stated that the applicant moved the buildings back on the site, eliminating the need for a front setback variance from the February request; however, the ordinance requires an increase in the side-yard setback, where there are multiple principle buildings, equal to the height of the buildings. The applicant is therefore, requesting a side yard variance to allow a 6 ½ ft setback where 30.6 and 28.6 feet would be required.

Kench stated that with the new lot size, the applicant has enough land area for just over 11 occupants, and is requesting a variance to increase this number to 12. If approved, the applicant is also looking for a reduction in the on-site parking from 12 to 11 spaces to preserve the landscaping areas between the buildings. The applicant provided two site plans showing 11 parking spaces, and one with 12. Kench stated that the property is zoned M-2, which regulates the Rooming/Boarding dwelling use under a Special Use Permit approved by the Planning Commission.

Kench also provided information submitted by the applicant to demonstrate the project will comply with the 25% open landscaped areas called for under the zoning ordinance for rooming and boarding dwellings. Kench noted that the project can comply with either 11 or 12 parking spaces as shown on their submittal. Kench provided details of the original construction from February, along with photos of neighboring properties and the new, updated design now being proposed.

Jeff Jakeway, owner of the property, and applicant, addressed the Board. Mr. Jakeway explained that the existing homes were built in 1909 and 1925 and have seen better days. He stated that he has addressed the Boards concerns from the February meeting and would like to move forward with the improved housing.

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

Kench read the comments from the Department of Public Works, which will be included as part of the public record.

Board Discussion:

Chairman Kulick thanked Mr. Jakeway for working with the Board and commended him on the new plans. Chairman Kulick stated he felt that the requests were reasonable and a fair exchange for what we are getting. He further stated however, that he prefers 12 parking spaces as he feels it is important to provide a parking ratio of 1:1, and if the Board approves 12 occupants, then he feels 12 parking spaces are needed.

Commissioner Brockman also stated he feels 12 parking spaces are needed.

Commissioner Benison asked for clarification that the 25% green area will be met with the 12 spaces. Kench stated he would still meet the 25% requirement and referred the Board back to the slide of the calculation provided by the applicant.

Commissioner Olivieri questioned whether the applicant could reduce the width of the lane. Kench indicated this was a requirement and if reduced, would require a variance. Commissioner Olivieri asked the applicant if he preferred 11 or 12 parking spaces. Mr. Jakeway stated he prefers the ratio to be 1:1 and does not feel that a 12<sup>th</sup> car will pose a problem.

Chairman Kulick asked if Mr. Jakeway would be including any guardrails or bollards. Mr. Jakeway indicated he would put in curbs.

Commissioner Olivieri asked Mr. Jakeway if he had any language in the lease agreements stating how many parking spaces are provided. Mr. Jakeway stated that he did not, however, they allow only 1 vehicle per occupant and overnight guests are not allowed to have cars at his places. He further indicated that they monitor the parking very closely.

Chairman Kulick stated the Board has several requests to consider and further stated that he felt a good basis for approving the requests would include the fact that two smaller buildings are more compatible with the neighboring properties; the buildings meet the characteristics of the neighborhood. He further stated that one driveway is more compatible and the 6 ½ side yard setback is compatible with the existing setbacks in the neighborhood.

Commissioner Benison stated he did not feel the square foot per occupant variance request was an issue as the applicant only lacks a total of 64 square feet overall.

Chairman Kulick asked Commissioner Brockman, as the crossover member to the

Planning Commission, to mention to Jeff Gray that the Planning Commission may want to consider adding something in the ordinance, such as a density bonus for new developments that meet certain standards, as the Board has heard several requests recently. He further suggested the Planning Commission may wish to look at the ordinance language which specifies multiple “apartments” so that it does not exclude rooming/boarding dwellings. Commissioner Brockman stated that most of the requests have had several issues, not just density requests.

Mr. Jakeway was asked about solid waste. Mr. Jakeway indicated he provides one cart per dwelling unit, up to 6 occupants. If the house is licensed for over 6 occupants, then a second cart is provided or if the occupants need an additional cart, one is added, with the cost added to their rent.

Motion by White, support by Benison, to approve the variance requests to construct two rooming and boarding dwellings on the property with a reduction in the required side-yards to 6.5’ and an increase in the occupancy to allow twelve occupants (*six occupants in each dwelling unit*), contingent upon the project being constructed to meet both the design and use of building materials as illustrated on elevations submitted with the application. In addition, the Board requested that all landscaping shown on the elevations and site plan be provided, along with planting two 2-inch maple trees in the City right-of-way. The applicant is also to meet all DPW and DPS requirements.

The Board granted the requests on the basis the two rooming dwellings, size and scale, better reflect the character of the neighborhood, and noted that the reduction in the side-yard was consistent with existing setbacks in the immediate area.

Motion approved unanimously.

Commissioner Ellertson rejoined the Board.

Mr. Jakeway commented that it would be much easier for developers if preferred architectural details were outlined in the ordinance.

## **XII. Old Business:**

None

## **XIII. New Business:**

**Ethics Policy:** Discussion took place on the proposed draft ethics policy. Board consensus was the draft was fine as is.

## **XIV. Other Business:**

**Community Foundation, 306 S. University:** Kench reported to the Board that the motion approving the variance request for 306 S. University included a condition that if the

number of employees ever exceeds 6, then the property would be included in the special assessment district. It was brought to our attention that this property is already in the special assessment district and based on the change in use from residential to commercial, it will automatically be included. Kench asked for Board approval for staff to draft a letter to the Foundation clearing up this issue.

Motion by Benison, support by Ellertson to have staff draft a letter to the Community Foundation clarifying this issue. Motion approved unanimously.

**XV. Adjournment:**

Motion by Olivieri, support by Ellertson to adjourn. Motion approved.

Meeting adjourned at 8:15 p.m.

bam