

Mt. Pleasant Zoning Board of Appeals
Minutes of Regular Meeting
August 24, 2011

Chairman White called the meeting to order at 7:25 p.m.

I. Roll Call: Kench called roll.

Members Present: Brockman, Ellertson, Kulick (Vice-Chair), Palm, White (Chair)
Members Absent: Olivieri, one vacancy
Staff: Kench, Murphy

II. Approval of Agenda:

Kench commented that Case ZBA-07-11 has been postponed at the applicant's request and Case ZBA-10-2011 has been withdrawn so suggested both cases be removed from the agenda. In addition, Kench asked that the approval of the revised Joint Meeting minutes be added to the agenda.

Motion by Kulick, support by Brockman, to approve the agenda as amended. Motion approved unanimously.

III. Approval of Minutes:

Motion by Kulick, support by Brockman, to approve the revised minutes from the Joint meeting on August 8, 2011 as written. Motion approved unanimously.

Motion by Kulick, support by Brockman, to approve the minutes from the regular meeting of the Zoning Board of Appeals on July 27, 2011 as written. Motion approved unanimously.

IV. Communications:

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

V. Public Comments:

Chairman White opened the floor for public comments.

There being no one who wished to address the Board, the Public Comments session was closed.

VI. Public Hearings:

Chairman White explained board proceedings, noting that a quorum was present, and asked Kench to introduce the first case.

A. Case ZBA-06-2011 – 1018 S. Main. Kench explained that this was a request submitted by Joe Olivieri on behalf of Marla Hoag for a finding on a non-conforming use under Section 154.007 to allow a redevelopment of a rooming dwelling. Kench commented

that the Board has seen several requests for this type of redevelopment recently, and stated that, as discussed in the Joint meeting, the Boards have indicated they are supportive of allowing reasonable increases in the density in exchange for better developments and reductions in non-conformities. Kench stated that this request calls for razing the existing building and replacing it with a new two-unit rooming dwelling. Kench outlined the requests that the Board would need to consider, which includes 1018 S. Main a variance to allow construct a regulated use on a non-conforming lot that lacks the required lot width; a variance to reduce the land area per person to allow an increase in occupancy from 11 to 14 and a variance to permit parking in the required front yard (the lot is a double frontage lot, with frontage on both Main and Washington Streets).

Kench reported that the current building is licensed for five occupants and is a small structure in scale to the neighboring properties. The property is zoned M-2 and is surrounded by all M-2 properties. It currently provides stacked parking for up to six vehicles that are located in the required front yard along Washington Street. Kench explained that the current setbacks comply with the ordinance with the exception to the setback along the north property line and the distance between the buildings with the home to the North. In addition, while the lot exceeds the minimum area requirements for the district, it is only 50' in width where 66' is required for a special regulated use which will require approval by the Board for a variance. Kench noted that all the lots along the West side of the 1000 block of Main Street have lot widths of 50'.

Kench explained the need for the parking variance is due to the lot having double frontage. The applicant has proposed 14 parking spaces, with the last two parking spaces encroaching into the required front yard setback along Washington Street. To offset this, the applicant has proposed decorative screening from Washington Street. Vice-Chairman Kulick asked if the cars would be facing South. Kench confirmed this to be the case.

Kench stated that the applicant has indicated the 25% required green space can be met. The proposed structure is being designed as a duplex and will increase the side yard setback to meet the required setbacks and distances required between neighboring buildings. Kench stated that although the building is currently licensed for five occupants, the land area allows for 11. The applicant is requesting a variance to allow 14 occupants, with a land area of 716 square feet per occupant, where 900 square feet per occupant is required by ordinance. Kench shared information on the density of surrounding properties. In addition, Kench stated that the current building provides 151 square feet of building area per tenant, where the ordinance requires 300 sq. ft. per tenant. The proposed new dwelling would provide 342.85 square feet per tenant.

Kench reminded the Board that the ZBA may allow a nonconforming use to be changed to a new non-conforming use, under section 154.007, provided the new use markedly decreases the degree of nonconformity and enhances the desirability of the adjacent conforming uses. The Board will need to make the determination if the proposed redevelopment meets that requirement.

Joe Olivieri, applicant, addressed the Board, commenting that he didn't have much to add to staff's report, but offered to answer questions from the Board. He commented that he is trying to do the same type of thing that he did across the street.

Commissioner Palm asked for clarification on how many occupants the existing property was licensed for. Mr. Olivieri stated it was currently licensed for five.

Chairman White asked about access from the parking lot to the front unit. Mr. Olivieri stated that his original design had sidewalks on both sides; however, that plan couldn't meet the 25% required greenspace (open landscape areas). He stated however that he believes he can place a sidewalk on the north side and still meet the greenspace (open landscape areas) requirement. He also stated it may be possible to reconfigure the parking area to allow four parallel spots, provided there was enough maneuverability room to satisfy the Fire Department, which would also increase the greenspace (open landscape areas).

Chairman White asked about the non-conformities. Mr. Olivieri commented that he is asking for the increase in the occupancy, but will be decreasing the non-conformities in other areas; *i.e., distance between neighboring buildings, # of parking spaces, hard surface parking, and square footage of building per tenant*. Mr. Olivieri stated the buildings are built larger to accommodate the occupancy, with no more than two occupants sharing a bathroom. He further stated that they would be considering the use of trash carts over a dumpster.

Vice-Chairman Kulick asked if the owner was willing to include the lease restrictions that Mr. Olivieri included in his leases for his new developments. Mr. Olivieri stated she would be. He further stated that he has staff that goes by every day (other main street properties) to check on the conditions and stated that with the students in the process of moving in, there were some boxes, etc. on the properties right now; however, he is confident that they will be removed promptly.

Commissioner Palm commented that with the other recent developments, Mr. Olivieri was the owner; however, with this property, he is not the owner and feels the Board should have something more formal from the actual owner in regards to the lease agreements.

Mr. Olivieri stated he could provide a copy of the lease with the submission of building permit applications.

Vice-Chairman Kulick stated that it doesn't appear that this particular property has a lot of code violations; however, further commented that the item of most concern to him was increasing the occupancy from 11, which is allowed by Ordinance, to 14. He further commented that losing the front yard along Washington Street is a concern for him.

Chairman White questioned the 14 parking spaces; stating that based on the conversation, it appears that this will be a continuation of a non-conformity as the site currently has only 3 legal spaces, although there is currently stacked parking for six vehicles.

Vice-Chairman Kulick commented that it appears the 25% of required green space is really tight, and questioned if adding the sidewalk would reduce that to the point of needing an additional variance.

Mr. Olivieri stated he could take the sidewalk up halfway and move the door off the front unit.

Commissioner Palm stated she feels that increasing the occupancy to 14 is very dense.

Mr. Olivieri stated that occupancy is consistent with the surrounding area.

Commissioner Ellertson stated that he is supportive of the request as the site will allow for parking for all occupants. He further commented that he believes overall the redevelopment reduces the degree of non-conformity and feels these projects are commendable; they add a significant increase in the tax base and acknowledged the cost to the developer in making these buildings nicer.

Chairman White asked how the applicant settled on 14 and suggested that if he reduced the occupancy, he would eliminate the need for some of the other variances, such as parking.

Mr. Olivieri stated he starts the planning process with the # of parking spaces, and then plans the house and occupancy from that. He commented that the parking is the key. He suggested that if a 22' lane would be acceptable, he could eliminate the variance request for the Washington Street front yard and could also pick up additional greenspace.

Motion by Kulick, support by Brockman to postpone Case #ZBA-06-2011, and asked that the applicant bring a new site plan, showing a re-configured parking lot design; calculations showing the percentage of greenspace; and a letter from the owner agreeing to the lease agreement consistent with previous cases.

Motion to postpone approved unanimously.

B. Case ZBA-08-2011-821 & 821 ½ Crosslanes.

Kench explained that this case, submitted by Cheryl Hall, is to allow the non-conforming status of a residential duplex in a C-3 Zoning district to be reinstated. Kench explained that Ms. Hall recently purchased this property which had been on the market for over a year. The property had been used as a duplex in the past; however, because the use had been discontinued for more than a year; it has lost its legal non-conforming status. Based on our Ordinance, if a non-conforming use has lost its legal non-conforming status, any new use needs to comply with the Zoning Ordinance, unless the ZBA finds that the new

use would enhance the desirability of the adjacent conforming uses. Kench stated that the property to the east is single-family residential and the property to the west is a legal non-conforming residential property. Kench stated the site appears to have sufficient parking to accommodate two vehicles per unit. Ordinance requires duplexes to provide three spaces per unit.

Kench stated the Board is being asked to make a finding that there is a basis for reinstating the non-conforming use.

Vice-Chairman Kulick asked if the property was re-zoned if it would have sufficient land area for a duplex. Kench stated that it would. He commented that although the property has lost its status, it is unclear whether there was ever any intent to discontinue this use.

Chairman White asked about the water meter – if there was one or two. Kench stated that he believes they the units are under separate services.

Commissioner Palm asked if the non-conformity was that it is a duplex in a C-3. Chairman White verified this was true and the applicant is just requesting it be allowed to go back to its original status.

Commissioner Ellertson asked if the request is for two single-family units.

Cheryl Hall, owner and applicant, addressed the Board, verifying the request is for two single-family units. There are three bedrooms per unit, two downstairs, and one up. Ms. Hall stated she has recently replaced the roof and has done extensive painting. In addition, the electrical has all been redone. She stated she has already checked with the Fire Department to see what updates would be required and has been working on the units.

Chairman White asked if there would be room to accommodate three vehicles per unit. Ms. Hall stated it would be really close – she may have to widen the driveway but would be willing to do so.

Commissioner Ellertson commented that this is a relatively small and modest request and is comfortable with the request.

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

Kench stated that only correspondence was from Dale Rumph, who indicated he supported the request. Kench further stated that if approved, the applicant would be required to meet the Fire Department licensing requirements.

Motion by Kulick, support by Palm to approve the reestablishment of a non-conforming residential duplex in a C-3 zoning district, as it is unknown if the intent was ever to discontinue the use, with the following stipulations:

1. The units be limited to single-family units.
2. The applicant is to expand the outside parking area to accommodate 4 vehicles, bringing the total number of on-site parking spaces to 6 (two in the existing garage) to comply with the ordinance. The applicant complies with the requirements of the Department of Public Works and the Department of Public Safety.

Motion approved unanimously.

C. Case ZBA-09-2011 – 210-222 S. Mission. Kench stated this request was submitted by D & D Developments, on behalf of Dairy Queen. The site is the former home of the Isabella Community Credit Union. A portion of the building is currently occupied by Biggby Coffee. The applicant is requesting a variance to allow an increase in the allowed signage for the site. Kench commented that when Biggby Coffee went in they essentially used up the allowed sign area. He further commented that the site is somewhat unique in that it is fairly large, with 264' of frontage along Mission Street. The applicant would like to update the pylon sign, along with some signage on the building. In addition, they would like to add the drive-thru sign to the pylon, which would reduce the clearance from the bottom of the sign to grade to 7 ft, where 8 ft. is required by Ordinance. The request would increase the total signage for the site to 280 square feet. Kench explained how the signage is calculated for shopping centers and strip malls.

Don Hamilton, Lapham and Associates, addressed the Board as the applicant's representative. Mr. Hamilton commented that this is a new business that is re-using an existing property. He further stated that the applicant spent a lot of time looking at possibilities for signage, including ground signs. The use of the existing pylon appeared to be their best option. Mr. Hamilton reported that the DDA Board has recently approved providing a portion of the funds for the applicant to place decorative fencing on the property. The applicant has proposed including some of these details on the pylon sign as well.

Vice-Chairman Kulick commented that in theory, the owner could divide the property into two parcels, which would allow them to increase the signage.

Chairman White opened the Public Hearing. There being no one who wished to speak, the Public Hearing was closed.

Kench stated there was no correspondence to share and the Fire Department had no objections to the request.

Vice-Chairman Kulick commented that this is a unique property in that it includes an entire block face, with only two commercial sites and does not feel that it is over-signed.

Commissioner Brockman commented that the owner has done a nice job with the updates on this property.

Chairman White commented that he is in favor of the new development on this property; is pleased with the professional signage proposed and the pylon foundation which would match the new fence; however, he is very sensitive to signage. He further stated that this is a sensitive area, leading to the downtown and feels that with the street light and the proximity of the building to the intersection the site gets good visibility. He stated he would prefer that the current tenant, Biggby Coffee, reduce their signage to accommodate Dairy Queen.

Commissioner Ellertson commented that he likes the building and the proposed signage and does not feel the site is oversigned.

Motion by Ellertson, support by Brockman to approve the variance as requested, based on the uniqueness of the site.

Ayes- Palm, Ellertson, Brockman, Kulick; Nays – White. Motion carried 4:1.

D. ZBA-11-2011 – 815 W. Broadway.

Vice-Chairman Kulick commented that although he was very involved with the Rivers Bluff Phase I project as the Planning Director at the time that project was underway; he has no professional relationship with the applicant and does not have a conflict of interest and will therefore be participating in the discussion and voting on this case.

Kench reported that this request was filed by P & K Seybert Holdings for the redevelopment of the site located at 815 W. Broadway. The request involves the razing of the existing single-family home and the construction of a four-unit townhouse. The applicant is looking for a variance to reduce the land area per dwelling unit requirement of the ordinance. The site has enough land area to accommodate 3.75 units. Kench further stated the applicant is looking for a variance to allow a slight reduction in the parking requirements and is also looking for a variance to allow the patios to extend into the side yard setback. Kench commented that, if approved, the applicant would be required to go through site plan review before the Planning Commission. Kench reported that the site is zoned M-1, which allows this type of use.

Kench shared the proposed site plan requiring consideration on three variances requests. Kench indicated the buildings are being placed along the west property line to accommodate parking. Kench noted that all setbacks to the building itself can be met; however, a variance is needed to construct concrete patios within the required side yard setback.

Kench further stated that the applicant is requesting the ZBA to consider a reduction in the on-site parking based on the available parking on the adjacent Rivers Bluff site. Kench noted that the zoning ordinance requires 2 ½ parking spaces per dwelling unit for a total of 10 spaces. Kench referred to section 154.123 of the Ordinance, which allows the Board to approve a site plan with fewer spaces if it is demonstrated that the required

spaces exceeds the number of automobiles parking on the premises during an average day. The applicant is proposing 8 spaces.

Kench stated the applicant is designing the project as an extension of the Rivers Bluff project, incorporating some of the key architectural features that include stonework, shutters, etc. As a result, the applicant has asked the Board to consider the entire land area of both developments as a basis for granting a variance to permit an increase in the number of dwelling units on the site from 3.75 to 4 units. The land area in combination would permit 17.5 units.

Phil Seybert, applicant for the project, addressed the Board. Mr. Seybert stated he acquired the property a couple of years ago and it has been a rental unit up until a couple of months ago. He commented that architecturally, he is looking to construct a building similar to Rivers Bluff.

Mr. Seybert further reported that Rivers Bluff Phase I was developed as housing for the elderly, whereas this phase will be a conventional development. Mr. Seybert commented that following construction of Rivers Bluff, Phase I, he has countless people coming in wanting to rent one of the units, but who don't qualify for the program.

Vice-Chairman Kulick commented that the proposed development shows carports close to the property line and asked if the applicant would be open to putting in some arborvitae to help screen the property from the properties to the west. Mr. Seybert said he would be willing to do that.

Mr. Seybert addressed the parking, commenting that the front parking lot at the Phase I development is virtually empty on a day to day basis. His request to utilize a part of this parking for the proposed development would allow more green space and also possibly a garden spot for the residents.

Chairman White asked if the development would reduce the parking for Rivers Bluff. Mr. Seybert stated that they would probably lose the spot next to the dumpster, which is rarely used anyway.

Chairman White questioned the placement of the proposed building, which, with the patios, requires a variance. Mr. Seybert stated that he didn't realize that the cement patios were subject to the setback requirements; however indicated that is why he will be installing the privacy fence.

Commissioner Palm asked if all the patios would be 3 ft. from the property line. Mr. Seybert stated that only on two units – the other two would be 6 ft. from the property line, lacking only 6 inches from the required setback.

Commissioner Palm asked what the dimensions of the patios would be. Mr. Seybert stated they would be 6' deep and go the width of the units.

Chairman White asked what type of privacy fence Mr. Seybert was proposing. Mr. Seybert stated it would be white vinyl privacy fence and the color palette for the proposed units would be the same as Rivers Bluff Phase I. The privacy fence that currently exists along the west line of Rivers Bluff is to be removed and placed along the west line of the subject parcel.

Chairman White opened the Public Hearing. There being no one who wished to speak, the Public Hearing was closed.

Kench reported that the correspondence from the Fire Department referred to access roads.

Board Discussion:

Chairman White commented that he likes the clean look of the privacy fence. He questioned the parking issue and questioned whether there should be spaces unofficially designated on the Phase I project. Commissioner Palm agreed.

Commissioner Ellertson commented that he feels it is a great project. Commissioner Palm stated that the landscaping on the Phase I project is beautiful and enhances the area.

Vice-Chairman Kulick suggested that if approved, a stipulation be included where if in the future, it appears the parking is inadequate, that two more spaces be put on site.

Chairman White asked if anyone had any comments regarding land area.

Vice-Chairman Kulick commented that if you considered the two parcels together, there is enough land area and further suggested that possibly a stipulation could be placed that the two parcels could not be sold separately.

Chairman White gave a re-cap of the variances the Board needs to consider.

Motion by Kulick, support by Ellertson, to approve a variance to consider both parcels as one in regards to the land area to allow the construction of a four unit townhouse, with shared parking on the adjoining property, with the stipulation that if it is determined that additional parking is needed in the future, that the applicant will install two more parking spaces. In addition, grant the variance to allow the patios to extend into the side yard setback provided the applicant move the solid white privacy fence from the east line to the west line as screening and in addition, place arborvitae screening behind the carports to minimize the impact to the house on the adjoining property.

Mr. Seybert asked to address the Board to clarify that although the parcels are being considered together for density calculations, the properties must remain as two separate parcels. Rivers Bluff I is a limited partnership, and P&K Holdings owns 815 W. Broadway and they cannot be joined, but must remain as separate properties.

Vice-Chairman Kulick stated that was not his intention with the motion – and that although the motion is based on the density of both parcels, he acknowledged that the parcels will remain separate.

Ayes- Palm, Ellertson, Brockman, Kulick; Nays – White. Motion carried 4:1.

The Board based their decision on the uniqueness of this development in this area; adding that the redevelopment will add a significant tax base to the city and will have a low impact on the surrounding properties.

E. ZBA-12-2011 – Jockey Alley. Kench reported that this request is from the City's Community Services Division, requesting a variance to allow the use of alternative materials for a pilot dumpster enclosure in Parking Lot 2. Kench explained that this is part of the City's Capital Improvement Plan, which includes the reconstruction of this lot in 2012. Kench stated the reconstruction is in the design phase right now and showed an overview of the area. Kench explained that the goal is to try and consolidate and reduce the number of dumpsters in the lot. Section 154.025 gives specific requirements stating that dumpsters be placed on concrete slabs and have masonry enclosures. Kench stated that the city is looking at alternative materials as a test pilot to determine if there are other options out there that offer comparable durability but would enhance the appearance and allow flexibility to move them. Kench stated that he has conducted some research into alternative materials and stated that we are really asking for a temporary variance to allow the testing of the material. Following the monitoring period, if staff determines the alternative materials to be durable, then staff will determine whether to request an amendment to the Zoning Ordinance.

Vice-Chairman Kulick commented that his concern is that traditionally, the companies that empty the dumpsters are not always careful and asked if bollards could be placed inside the enclosure to prevent damage. Kench stated that there will be bollards on the outside and a series of rails along the inside to protect the unit. He further stated that this is going to be a pilot unit – used as a test to see if they have enough durability. He further stated he has spoken with Waste Management and they have assured him there would be no problem with the units.

Commissioner Ellertson asked if there were other communities using this type of enclosure. Kench indicated that there is virtually everything being used.

Chairman White asked what type of time frame the city is looking at. Kench stated that ideally we would like to do one this year.

Chairman White opened the Public Hearing. There being no one who wished to speak, the public hearing was closed.

Kench stated that the Fire Department has requested they be involved in coordinating the placement.

Motion by Kulick, support by Brockman to approve the variance to allow alternative materials to be used for the pilot dumpster enclosure, provided there is some protection placed inside the enclosure to prevent damage during the emptying, for a period not to exceed one year, with staff to give periodic reports to the Board evaluating the enclosure.

Motion approved.

VII. New Business

1. September Meeting: Kench stated we would be hearing two requests in September; Joe Olivieri's case will be back, along with a request from the Malt Shop, requesting a parking variance. Deadline for submittals is September 6th, 2011.

IX. Adjournment

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

Meeting adjourned 9:33 p.m.

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