

Mt. Pleasant Zoning Board of Appeals
Minutes of Regular Meeting
January 26, 2011

Chairman Kulick called the meeting to order at 7:05 p.m.

I. Roll Call: Kench called roll.

Members Present: Benison (Vice-Chair), Brockman, Kulick (Chair), White.
Absent: Ellertson, Rowley, (Olivieri in attendance as applicant)
Others Present: Kench, Murphy

II. Approval of Agenda:

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

III. Approval of Minutes from November 23, 2010:

Motion by White, support by Brockman to approve the minutes from November 23, 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 reported that the cases the Board will be considering tonight went through the Public Hearing process last month and were postponed. Chairman Kulick asked for a motion to remove the cases from the table.

Motion by Brockman, support by Benison to remove Cases ZBA 13-2010 and ZBA 16-2010 from the Table. Motion approved.

Chairman Kulick explained board proceedings, noting that although a quorum was present, when only four members are in attendance, the applicant has the option of postponing until a full Board is present, as four positive votes are required to approve a variance request.

VII. Old Business:

Case ZBA 13-2010 - 1007 S. Main. Request to raze existing building and build new rooming dwelling for Registered Student Organization with 12 occupants.

Kench reiterated that this case was introduced in November and was postponed at the applicant's request. Since that time Mr. Olivieri has made several changes to the request. His original request was for 13 occupants, which he has reduced to 12. Kench reported that the site is located in a predominately student neighborhood and is zoned M-2 and is

surrounded by M-2 properties. He further commented that the requested use is regulated under a Special Use Permit (SUP) and if approved by the ZBA, the applicant will be required to apply to the Planning Commission for the SUP and for Site Plan Approval.

Kench explained that the applicant is seeking relief from the land area per occupant requirement. He further commented that with the proposed development, all setbacks will be met. In addition, the applicant has proposed dividing this site equally with the adjoining site, which is also under consideration tonight, making two equal conforming parcels. Parking requirements will be brought into compliance with 14 spaces provided, where there are currently only six spaces. In addition the plan will eliminate the drive access off Main Street, with the parking accessed off the alley. The site will also be brought into compliance with the 300 square feet of floor space per occupant and the open land area requirement will be met.

Kench provided a comparison of the land area per person ratios of the surrounding properties, noting that most fall below the 900 square ft. requirement. Kench explained that applicants are being challenged to make improvements to their proposed buildings and new developments and compared the renderings submitted in November with the new renderings the applicant has provided. Kench noted some of the revisions, such as a steeper roof pitch, building offsets, brickwork, etc., noting that the applicant has pulled from several features found on homes in the neighborhood.

Chairman Kulick asked if any communications had been received. Kench stated the Board received the communications from DPW and the Fire Department at the November meeting. Kench further noted that we had received two letters of opposition related to both cases being heard tonight. One from the Hinkleys and Davis' who own neighboring properties and one that was received with no signature.

Kench commented on the questions raised by the Board in November in regards to nuisance parties. The Police Department reported that although there were some parties cited at this location, it was more from outsiders coming into the area than from the tenants. Kench commented that the revisions Mr. Olivieri has noted in his lease agreements should help address that issue.

Kench stated he had also contacted Student Life at the Board's request and was told that there is a code of conduct for student organizations. Furthermore, it was noted that if we have issues with one of the student organizations we could contact Mr. Idema, Assistant Director of Student Life, or Mr. Voisin, Assistant Dean/Director of Student Life, and they would be willing to address the problem. Mr. Olivieri has also outlined his plan to increase policing of the area by his staff.

Kench addressed an additional question posed by the Board in November regarding whether the ZBA could place restrictions on a variance that would require an applicant to come back to the Board if there are ongoing problems, which they can.

At this time, Chairman Kulick asked the applicant if he wished to proceed with the request or postpone until a full Board was present. Mr. Olivieri indicated he wished to proceed.

Mr. Joe Olivieri, owner and applicant, addressed the Board, commenting that he has hopefully addressed the Board's concerns with his revised buildings and memo.

Commissioner Brockman asked if the group intending to lease the house was Delta Chi. Mr. Olivieri verified it was.

Chairman Kulick commented that the Building Safety/Code Enforcement Department has experienced a decrease in staffing and he is therefore pleased with the lease agreements that have been added, noting it gives him more confidence that things won't get out of hand. Chairman Kulick suggested that if the Board approves the request that they make the approval subject to the applicant having these lease agreements in place. Commissioner Benison asked if the lease agreements were newly adopted. Mr. Olivieri stated they have been made stiffer. He further commented that he is very proud of these buildings and wants to keep them nice. In addition, Mr. Olivieri commented that if the RSO's become a problem, he can convert the building into a duplex.

Commissioner Benison commented that he likes the statement addressing parties, and asked if the applicant would be open to additional limitations, such as times a party would need to break up. Mr. Olivieri stated he isn't sure how enforceable that would be.

Kench asked the applicant to speak about the changes he has made with the revisions submitted.

Mr. Olivieri stated that because the lots are wider than some of the earlier approvals he received, he was able to change the footprint of the building, making it appear more like a single-family home. He also commented that he would like to make additional improvements to the plan, with staff's approval. Commissioner Brockman commented that this is in line with what the Planning Commission is looking for – buildings that blend into the neighborhood.

Mr. Olivieri reiterated that he is proud of these buildings – he feels they are impressive and he has every intention of controlling the situation. He is making a big investment in these properties and wants to be proud of them.

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

Board Discussion:

Chairman Kulick commented that he is pleased with the accommodations and revisions the applicant has made. Chairman Kulick further commented that the proposal would bring the site from a non-conforming parcel to a conforming parcel, and would be bringing the parking into compliance as well as the building area per occupant requirement.

Commissioner Brockman commented that the Board may want to be careful as to how much they want to get into lease agreements. Commissioner White agreed.

Chairman Kulick commented that with the history of this RSO, he feels it is important that the lease agreements are there. He further stated that this could set a precedent to other

applicants that these are the standards that we expect. If the restrictions are included in the approval, this could help with enforcement.

Commissioner Brockman commented that CMU could help with code enforcement when a RSO is involved. He also commented that he doesn't feel that the actual litter problems are as much of an issue as how the litter got there, and stated that is actually more of a law enforcement issue.

Commissioner White stated that the applicant listened to the Board's concerns and brought back something addressing the concerns.

Mr. Olivieri reiterated that he doesn't have to put up with bad behavior, again commenting that if the RSO's become a problem he can put up a couple of walls and convert the buildings into a duplex with six occupants on each side.

Commissioner Benison asked if the property was converted to a duplex if it would still be leased to students. Mr. Olivieri stated it would.

Commissioner White commented that he feels enforcement is a larger item that needs to be looked at by the Boards. Commissioner Benison questioned whether there should be additional language in the Zoning Ordinance addressing RSO's. Chairman Kulick stated that would have to go the Planning Commission. He further stated that we have a developer who is willing to invest a lot of money in our community, with a significant increase in taxes and if we wait until there are changes in the ordinance, developers may lose interest.

Kench stated that the Planning Commission is looking at Code Enforcement issues and commented that the applicant has put things into his lease agreement that will help our staff. He also commented that the applicant is making a significant investment and wishes to protect it.

Motion by Brockman, support by White to approve the request to allow the demolition of the existing building, replacing it with a RSO for up to 12 occupants, granting relief from the 900 square feet of land area per occupant requirement. The Board is basing their approval on the fact that the parking will be brought into compliance, along with the lot size and square foot of building area per occupant, lessening the non-conformities. The Board also took into account the applicant's changes to his lease agreement. The Board recognizes that the rendering provided by the applicant is not the final rendering, as the applicant has indicated additional changes he wishes to make with staff approval and through the Site Plan Review process.

Motion Approved.

Case ZBA 16-2010 - 1005 S. Main. Request to raze existing building and build new rooming dwelling for Registered Student Organization with up to 12 occupants.

Kench explained that this request is very similar to the last case. The applicant is proposing a change in the lot width, which will add width to 1007 S. Main, making both lots conforming lots, identical in size. The properties share a common lot line. The footprint of the proposed building is similar to the previous case, and the applicant has made several revisions to this

building as well. Kench reported that all setbacks will be met, parking requirements will be met with hard-surfaced, drained parking spaces, and as in the previous case, the drive off Main Street will be eliminated. In addition, the open space area will be met. Kench commented that the applicant has revised his request and addressed code enforcement concerns.

Kench shared a comparison of the surrounding sites, noting that the land area per occupant being proposed is actually higher than many of the sites in the area. Kench commented that some of the revisions include masonry work on the front of the building.

Mr. Olivieri stated that he has 5 - 6 different exteriors that he has designed and again commented that he wants to put up a building that both he and the city can be proud of.

Chairman Kulick commented that if the Board approves this request for a variance in density, we will be reducing the amount of non-conformities on the property with the only non-conformity remaining being the land area per person.

Kench commented that with both requests, the applicant is getting rid of the dumpster and both sites will be using trash carts, eliminating a lot of the problems with illegal dumping, overflowing dumpsters, etc.

Commissioner Benison asked if the applicant would be putting a fence up between properties. Mr. Olivieri stated that he hadn't planned on one.

Commissioner White asked if the parking would be flat surfaced and if there would be any barriers. Mr. Olivieri stated there would be bumper blocks placed.

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

Kench stated that the letters received opposing the projects that were mentioned for the last case, applied to this case as well.

Motion by Brockman, support by Benison to approve the request to allow the demolition of the existing building, replacing it with a RSO for up to 12 occupants, granting relief from the 900 square feet of land area per occupant requirement, noting that the density is consistent with the surrounding area. The Board is basing their approval on the fact that the parking will be brought into compliance, along with the lot size and square foot of building area per occupant, lessening the non-conformities and also taking into account the applicant's changes to his lease agreement. The Board recognizes that the rendering provided by the applicant is not the final rendering, as the applicant has indicated additional changes he wishes to make with staff approval and through the Site Plan Review process.

Motion Approved.

Chairman Kulick thanked the applicant for bringing new quality development to the neighborhood.

VIII. New Business:

A. Approval of 2011 Meeting Schedule

Kench stated that the proposed meeting schedule continues with meetings held on the 4th Wednesday of the month.

Motion by Brockman, support by Benison to approve the 2011 meeting schedule as presented. Motion approved.

B. Recognition of outgoing Board member

Kench recognized and thanked Commissioner Benison for his work on the Board, noting that he has been a member of the Board since 2004, serving one year as Vice-Chairman. Commissioner Benison will be leaving due to term limitations.

Chairman Kulick commented on Charter provisions which limit appointed Board members to no more than two consecutive full terms.

IX. Other Business:

Commissioner White requested that staff look into the possibility of setting up a joint meeting with the Planning Commission to discuss RSO's, code enforcement issues, etc. Chairman Kulick added that it is helpful to look at a summary of the year's cases to identify any patterns that we may see to determine if there are areas of the Ordinance that may need to be revised. If the Ordinance is acceptable as is, then the ZBA needs to consider if they should be more critical. If there is an agreement that there could be improvements made, then the ZBA could continue allowing variances to encourage better developments.

Chairman Kulick stated the Board would be electing new officers next month.

X. Adjournment:

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

Meeting adjourned 8:11 p.m.

bam