

Mt. Pleasant Zoning Board of Appeals
Minutes of Regular Meeting
November 23, 2011

Chairman White called the meeting to order at 7:00 p.m.

I. Roll Call: Kench called roll.

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

II. Approval of Agenda:

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

III. Approval of Minutes:

Motion by Kulick, support by Olivieri, to approve the minutes from the regular meeting of the Zoning Board of Appeals from October 26, 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.

Karen Zavodsky, 805 W. Broadway, spoke regarding the roundabout on Bellows Street, stating she feels it is a menace and is hazardous to bikers and pedestrians. She spoke of the cost to the City to put the roundabout in place, and the cost that will be associated with removing it. Ms. Zavodsky commented that the entire project was senseless and a waste of money and asked if there was anything on the agenda in regards to removing it. Chairman White responded that the ZBA would only be looking at the cases appearing on the agenda; however, indicated that staff would pass her concerns and question on to the Department of Public Works.

There being no one else 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 that the Board would be hearing three cases.

A. Case ZBA-18-2011 - 711 E. Bellows. Kench introduced Case ZBA-18-2011, submitted by Samuel Haddad, owner of the property and Pastor Gideon Daspan, on behalf of the Redeemed Christian Church of God, who would like to establish a church at this address. Kench explained that the request is for a variance from the requirement that a church be at

least 40 feet from the property line in an M-2 zoning district. The building is 17' from the building on the neighboring site.

Kench commented that this property has appeared before the Zoning Board several times in the past to allow a change in use. The property is a legal non-conforming lot, which has had several non-conforming uses in the past. Each time the property changed uses, it was required to come back to the ZBA. Kench further commented that this is the first conforming use that has been requested for this property in recent years; however the site lacks the 40 ft. separation requirement and does not provide the minimum requirements for parking in regards to maneuvering space, dimensions and greenbelt.

Kench stated the future land use for the property is designated as Urban Residential, which allows the use by right.

Kench reported that the ordinance requires one parking space for every three occupants, which, based on the available on-site parking (11 spaces), the occupancy would be limited to 33. Kench also noted that the City recently installed metered parking along Bellows, a short distance from this site, which the Board may wish to consider to allow an increase in the building occupancy. Kench pointed out this is assuming that all other requirements of the building code regarding minimum number of exits, bathroom fixture counts, etc. can be met.

Commissioner Kulick commented that there appears to only be one unisex restroom for the building and asked if the code limits the number of occupants that may occupy the building or if the building will need to be updated. Kench stated that the plumbing code permits a single unisex bathroom for a particular use, provided the occupant load does not exceed 15; otherwise, the building will need to be updated to provide additional facilities based on the increase in occupancy.

Chairman White asked how many parking spaces were available on the street. Kench replied there were several (+20) west of the site, on Bellows Street, which were underutilized,

Pastor Gideon Daspan, addressed the Board as applicant for the case. Pastor Daspan stated that the Church would like to use this space as a "take-off" point. As their attendance increases, they would move to a larger building. Pastor Daspan also commented that the services do not take place during business hours; therefore, parking would not interfere with neighboring businesses.

Chairman White asked how many were in their average congregation. Pastor Daspan stated there is an average of 15-20 adults in attendance, along with some children. He again stated this was a short term solution to allow them to grow a following.

Commissioner Kulick asked what type of signage would be proposed. Pastor Daspan indicated they would only have a sign on the building.

Commissioner Olivieri asked if there were other activities that take place on the site. Pastor Daspan stated there are occasionally meetings once a week.

Chairman White asked if they would be willing to make the required updates to the building to meet building codes. Pastor Daspan indicated they would be willing to do so. Pastor Daspan stated they like this location as it is close to campus and a good place to build a following.

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

Kench stated the only correspondence received was from the Department of Public Works, who indicated they had no concerns with the request.

Board Discussion.

Commissioner Olivieri commented that no matter what use was proposed for the site, parking would be an issue and stated the occupancy could be limited to match the available parking. Kench commented that they could also consider the spaces along Bellows Street as available parking to determine occupancy; however, they could not exceed occupancy allowed by Building Code.

Commissioner Kulick questioned whether, based on the lot size and building size, if the property wouldn't be better used as a rooming dwelling for 4 occupants. Kench indicated that a rooming dwelling is a regulated use and therefore would still require approval before the ZBA based on the non-conforming lot.

Commissioner Olivieri asked if the house to the west met the required side yard setbacks. Kench stated that based on the ordinance language, we would actually be looking at the back yard of the lot, and it does not meet the requirement of a 25 ft. rear yard setback; therefore, this lot would also be considered a legal non-conforming lot.

Commissioner Kulick questioned staff on whether the variance should be granted for a limited time as alluded to in the staff report. Kench commented that what the staff report alluded to was that any future nonconforming use would be required to come back to the Board, as any discontinued non-conforming use would lose its legal status after being discontinued for more than a year.

Commissioner Kulick commented that even though this was being sought as a short-term solution, there is the chance that the congregation won't grow as quickly as they hope and is there longer and asked if anyone had any concerns with that scenario. Commissioner Ellertson suggested that if they don't grow at the rate they hope, then they will probably not be there anyway.

Motion by Olivieri, support by Kulick to grant a variance to the 40 foot separation requirements, based on the practical difficulty created when the building was constructed with the current setbacks and its placement on the lot, which does not support any reasonable use. The Board took into consideration the available on-street parking. The occupancy will be determined by the requirements of the Building Code. In addition, any new use will be required to come back to the Zoning Board of Appeals for approval.

Motion approved unanimously.

B. ZBA-19-2011 - 600 W. Pickard - Sign Image. Kench introduced Case ZBA-19-2011, submitted by John Eggers, representative for Sign Image, on behalf of Chuck McGuirk, seeking a variance to increase the height of a new ground sign.

Kench reminded the Board that they recently approved a front yard setback variance to allow an addition to be built on the front of the building, which is currently under construction. The applicant is now looking to update the signage for the building and has proposed a 20 ft. ground sign. Kench commented that based on our ordinance definitions, the proposed sign does not meet the requirements for a ground or pylon sign; however, best fits the description for a ground sign. Kench also commented that the property recently was conditionally rezoned therefore we will be applying C-3 standards for sign calculations. The surrounding property is zoned I-1.

Kench stated that the site is somewhat unique as the sidewalk actually sits on the owner's property. If the request is granted, the applicant will be eliminating the other three signs on the property.

Kench commented that the visibility exiting from the site will not be an issue based on the distance from the sign.

Commissioner Kulick asked if the site would be considered a shopping center for purposes of calculating sign allowances. Kench stated that it would be.

Commissioner Olivieri questioned whether the proposed sign would be considered a pylon sign if the bottom portion was eliminated. Kench stated that was correct.

Chairman White questioned what the distance would be from the sign to the exits/entrances to the site. Staff stated it was approximately 100 ft. from the exits.

John Eggers, Sign Image, addressed the Board. Mr. Eggers stated that when they first looked at the site, there were three separate pylon signs, along with the railroad to the west. He stated that by placing the sign in the center of the property, they were not only able to clean up the signage, improving the aesthetics; but were also able to allow plenty of room to allow for clear sight. In addition, they chose this type of sign, rather than a pylon sign, to keep the sign lower and not interfere with overhead lines.

Commissioner Olivieri asked if all the businesses would have signs on the building as well. Mr. Eggers indicated they would, but they would be small signs, which you wouldn't be able to see until after entering the parking lot. Mr. Eggers stated that they designed this sign to provide signage for all the tenants, and to do it in a way that people can easily see it.

Chairman White asked for clarification on the rendering of the proposed sign, which shows two spaces that appear larger than the others. Mr. Eggers indicated that if a particular tenant takes on a larger suite, they would be allowed additional space. The sign is designed in a way that would allow that option, as well as equal spaces.

Commissioner Kulick stated that he would like to see the street addresses put on the sign - either on the base of the sign or at the top, as it is currently difficult to determine which block you are in. Mr. McGuirk stated that they plan on putting the addresses on the base of the sign and will likely use a range of numbers.

Commissioner Brockman asked if this request will include everything for the site, or if the applicant will be back 6 months down the road asking for another variance. Mr. Eggers stated that this will be all-inclusive - that they want a clean appearance.

Chairman White asked if the top panel would be used for one of the businesses. Mr. Eggers stated the top panel would be used as an electronic message center.

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

Kench indicated the only correspondence received was from the Department of Public Works, who went on record as having no concerns with the request.

Board Discussion:

Commissioner Kulick commented that he likes the fact that they will be eliminating multiple signs and replacing them with one sign. He also commented that adding the street addresses is good. Commissioner Kulick spoke of the uniqueness of the site, as it is in a low area and commented that he does not see any negative site connotations with the request.

Chairman White commented that he is a minimalist in regards to signage. He commented that he prefers ground signs over pylon signs; however, has an issue with the 20' high proposed sign.

Commissioner Olivieri commented that he feels the request is an improvement over a pylon sign.

Chairman White commented that if approved, the Board may want to stipulate that the street addresses be prominently displayed.

Motion by Ellertson, support by Brockman to grant the applicant's request for a variance based on the strategic location to allow for safe and appropriate sight lines and because it will eliminate the other signs (3-Twenty Foot Pylon Signs) on the site and the proposed sign is less than the 30' height that is allowed in the C-3 district. The motion is contingent on the applicant including street addresses on the sign.

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

C. ZBA-20-2011 - 1011 E. High. Kench introduced the case, which was submitted by homeowners Jan and Paula Karssiens, seeking a side-yard setback variance to allow a garage addition within the 10 foot side street setback. The proposed addition would maintain the existing setback of 4'.

Kench stated that the property is zoned R-3 as are all surrounding properties. The R-3 zone permits the use by right, provided the addition meets the setbacks for the district. Kench explained that the property is located on the corner of a cul-de-sac. The typical street right-of-way is 60', whereas this site is at 80', creating a narrower lot. Kench explained that the existing garage is on the back side of the home along the side street yard. Because the site is on a corner, the side street setback is required to be 1/2 the width of the front yard setback of 20', which would be 10'. Kench commented that the Board may need to ask about the driveway configuration and noted that any work within the right-of-way will require a permit through the Department of Public Works.

Commission Ellertson questioned why the right-of-way was so wide. Commissioner Kulick suggested that the increase in width was due to the width of the cul-de-sac at the end.

Commissioner Olivieri commented that the house across the street appears to have the same setback and stated the addition would appear to be consistent with what is on the other side of the street. Commissioner Olivieri questioned whether the applicant would be moving the existing driveway and making a new curb cut.

Chairman White asked if there would be issues with buried utilities. Kench explained that with any permit, the applicant needs to contact Miss DIG to assure there are no problems with buried utilities.

Jan (Chris) Karssiens, addressed the Board, noting that they moved here last January and were not aware at the time they purchased the property that the right-of-way was so wide. Mr. Karssiens commented that with the narrow lot it would cause a problem to move the proposed addition farther into the yard. He reiterated that the addition would match the existing setback.

Commissioner Kulick asked what the applicant's plan was for the existing garage. Mr. Karssiens indicated that once the addition was built, they would be converting the existing garage into living space. He further indicated that he would likely need to widen the curb cut. Commissioner Kulick stated that ordinance limits the width of a curb cut to 24 feet. Mr. Karssiens indicated that he would be willing to do what he needs to do to stay within ordinance requirements for the driveway.

Chairman White asked about the timeframe for converting the existing garage into living space. Mr. Karssiens stated that as soon as they could get the garage constructed and things transferred over, the conversion would take place. He further commented that they would be matching the siding/roofing, etc. to the existing home and garage.

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

Kench stated that correspondence was received from DPW, who have indicated no concerns; however their requirements would need to be met if the project was approved. In addition, our office received comments from R. Felter at 1103 East High, supporting the request, as well as from Eric & Keryn Anderson, 1016 E. High, also supporting the request.

Board Discussion:

Commissioner Kulick commented that this is a unique situation with the width of the right-of-way and further commented that if the right-of-way was of the usual width, the addition would meet setback requirements. Chairman White concurred. In addition, Commissioner Kulick commented that there are no sidewalks at this site, as generally cul-de-sacs do not have sidewalks, so cars parking in front of the garage will not be an issue.

Chairman White asked if the street was a no parking zone. Mrs. Karssiens stated that cars can park there in the daytime, but the overnight parking restrictions are in place.

Commissioner Olivieri commented that the owners are making improvements to the property and he sees no problem with the request. He also commented that the addition will not appear too close to the street due to the wide right-of-way.

Motion by Kulick, support by Brockman to approve the variance request based on the practical difficulty created by the excessive right-of-way on Eastlawn and the fact that the new setback line will match the existing setback.

Motion approved unanimously.

VII. Other/New Business

- A. December Meeting: Kench reported that there may be 2-3 cases for the December meeting.
- B. Dickens Christmas: Chairman White announced the Dickens Christmas event will be taking place on December 2-3 and encouraged residents to join in the festivities. A list of events can be found on the Downtown website.
- C. Planning & Zoning News: Commissioner Kulick commented on a workshop that was announced in a recent copy of Planning & Zoning News regarding sign regulations, and commented that he would like to see someone on City staff attend and take the information back to the Planning Commission.
- D. Chairman White encouraged residents to shop local on Black Friday.

Adjournment

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

Meeting adjourned 8:11 p.m.

bam