

Mt. Pleasant Zoning Board of Appeals
Minutes of Regular Meeting
October 26, 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, Palm, White (Chair)
Members Absent: one vacancy
Staff: Kench, Murphy

II. Approval of Agenda:

Kench stated that Case ZBA-14-2011 is being postponed as there was a mix up with the property description provided by the applicant. The case will be re-noticed and placed on the November agenda.

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

III. Approval of Minutes:

Motion by Kulick, support by Ellertson, to approve the minutes from the regular meeting of the Zoning Board of Appeals from September 28, 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.

A. Case ZBA-13-2011 – 437 S. Mission.

Kench introduced Case ZBA-13-2011, submitted by Bill and Cindy Walz, stating this was a request to reinstate a non-conforming residential use in a C-3 zoning district. Kench reported that the surrounding zoning is C-3 to the North, South and West, and R-3 to the east. Future land use calls for Commercial zoning.

Kench commented that the lower level of the building is currently the site of the Risk Restaurant. The upper level was licensed as an apartment until 2005, at which time the owners allowed the rental license to lapse and used the space as office space and storage. Kench explained that based on our Zoning Ordinance, when a legal non-conforming use has been discontinued for longer than a year, any subsequent use must conform to the provisions of the ordinance unless the ZBA approves a new nonconforming use.

Kench stated that the property is relatively small, and shares the property line with the east property, with no alley between.

Parking for the site includes 11 spaces, with one of those designated as barrier free. Kench reported that restaurants are required to provide one space for each (3) occupants, based on the occupancy established by the Fire Marshall. A single-family dwelling unit is required to provide two spaces. The applicant has indicated they will designate two spaces for the apartment use, bringing the number of available spaces for the restaurant to 9. Based on the restricted hours and the nature of the current business, Kench stated that the applicant is able to provide adequate parking.

Chairman White asked if the property has changed ownership. Cindy Walz, owner and applicant answered that the ownership has not changed; however the property was leased for a time to someone else.

Mrs Walz addressed the Board, commenting that she and her husband lived in the apartment several years ago and operated the Lemon Grass Restaurant. Because the apartment is small, they are looking to rent it to a single person or a couple, not a large family. Mrs. Walz stated that the current restaurant only seats 15 and therefore, even if they designate two parking spaces for the apartment, the parking is adequate for the site. She further commented that she was aware that when the property was leased, there were issues with people parking on the empty lot next door, and expressed that she never understood why they felt it necessary to do so.

Chairman White stated that by designating two spaces to the apartment, the parking for the restaurant will be reduced to 9 spaces, which would allow up to 27 people, yet the restaurant seating is limited to 15. He questioned how many employees there were - if the number was less than 10. Mrs. Walz stated the number was less than 10. Chairman White asked which spaces they anticipated reserving for the tenants. Mrs. Walz indicated it would likely be the two spots directly in back (south end of lot) of the building.

Chairman White asked if there was any directional signage provided on the site. Mrs. Walz stated there was - directing patrons to park in the rear.

Kench asked if the applicant would consider adding bollards or some sort of barrier to prevent people from parking on the vacant lot. Mrs. Walz stated they would.

Chairman White asked if the applicant would consider adding language in their lease agreements to assure the window treatments in the living quarters were compatible with the

lower level restaurant. Mrs. Walz stated she would be willing to place identical blinds in the upstairs windows as are in the downstairs. Tenants could still put up drapes/window treatments of their own choosing, but from the outside, the blinds would be visible. Mrs. Walz also commented that they are planning on painting the fence and doors etc., and possibly adding an awning.

Chairman White asked why the lease was allowed to expire in 2005. Mrs. Walz stated that they didn't need it at that time as they were using the space for office space. The current restaurant is only open for four days a week and is mainly family operated. Therefore, they are looking for some additional income by renting out the space.

Kench commented on the condition of the fence at the rear of the property, noting the panel that was in need of repair. Mrs. Walz indicated that they already have plans to fix the broken panel and will be painting the fence as well.

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

Kench indicated that the only correspondence was from the Fire Department, indicating that the property would need to meet current standards for rental units. Some of the things they will be looking at is whether there are adequate smoke detectors, egress windows, handrails, etc.

Commissioner Olivieri asked who keeps track of the occupancy. Kench indicated the Fire Department sets the occupancy and follows up on any concerns of over-occupied rentals. It was noted that, if the Board approves the request, it will be for a single-family unit.

Commissioner Olivieri asked for clarification on whether the applicant was asked to put something in place to prevent parking on the vacant lot. Kench commented that there was no easement agreement that would allow them to utilize parking on the vacant lot; and if that changed, or if they purchased the property, they would be required to go before the Planning Commission for Site Plan Review and approval to put in hard surface parking with proper drainage, etc. Because there is no such agreement, and based on past parking issues with a previous restaurant at this site, Kench stated that he asked the applicant to put some sort of barrier there. Chairman White suggested including something in the motion to that effect.

Chairman White commented that the Board had approved a similar request at the neighboring car wash and we have not received any complaints.

Commissioner Brockman questioned whether this site appeared before the ZBA when it was originally licensed. Kench stated that the apartment had been there for several years as a legal non-conforming use.

Kench commented that the applicant has indicated the limited seating and reduced hours for the restaurant, which the Board may want to consider in making their decision. He further

stated that if the business increases and grows, the applicant may have to come back to the ZBA.

Mrs. Walz stated that when people call for reservations, they always ask them to make sure they park in the back. She reiterated that they have had very few problems with the parking.

Motion by Kulick, support by Brockman that the Board find that the reduction in the restaurant hours and the reduction in the occupancy of the restaurant to less than 27 patrons and staff represents a marked decrease in the non-conformities. Also having the rental unit improves the character of the neighborhood and it is a decided benefit to the adjoining conforming uses that they have a successful business at this location. The applicant will be required to provide some type of barrier and/or signage, acceptable to staff, to restrict parking on the vacant lot to the north. All Fire Department requirements are to be met for the unit to be licensed as a single-family rental unit. Curtains on the front of the residential unit should be compliant with the restaurant below.

Motion approved.

VII. New Business

No new business.

IX. Adjournment

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

Meeting adjourned 7:27 p.m.

bam