

Mt. Pleasant Zoning Board of Appeals
Minutes of Regular Meeting
January 23, 2013

Vice-Chairman Ellertson called the meeting to order at 7:02 p.m.

I. Roll Call: Vice-Chairman Ellertson called roll.

Members Present: Berkshire, Ellertson (Vice-Chair), Kulick, Palm, Quast.

Absent: Fokens, White (Chair).

Staff: Kench, Murphy

II. Approval of Agenda:

Staff reported that the applicant for Case #ZBA-02-2013 has requested a postponement to allow them time to make some changes to their site plan.

Motion by Kulick, support by Quast to approve agenda as amended by staff.

Motion approved.

III. Approval of Minutes from December 19, 2012:

Motion by Kulick, support by Palm, to approve the minutes from the December 19, 2012 regular meeting as submitted. Motion approved.

Motion by Kulick, support by Berkshire to approve the minutes from the December 19, 2012 work session as submitted. Motion approved.

IV. Communications:

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

V. Public Comments:

Vice-Chairman Ellertson 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:

Vice-Chairman Ellertson explained board proceedings, noting that a quorum was present.

A. Case ZBA-19-2012-1020 & 1002 (1006) S. Washington; ZBA-20-2012-1008 S. Washington; & ZBA-21-2012-1010 S. Washington.

Staff introduced cases ZBA-19-2012, ZBA-20-2012 and ZBA-21-2012, submitted by Joe Olivieri, on behalf of United Investments, noting that these cases were submitted as a package and will therefore be presented at the same time. Staff also reminded the Board that these cases first appeared before them in November, at which time the cases were postponed to allow the applicant to bring back revised elevation drawings more

consistent with updates shown on the 1020 S. Washington project, and the recent project approved at 1003 Douglas, as requested by the Board.

Staff explained that the address of 1006 S. Washington will be referred to as 1002 S. Washington for this discussion, as that is what is currently recognized in City records. Staff further commented that if approval is granted, it is likely the address will be officially changed to 1006 S. Washington.

Staff reported that the applicant is proposing a series of redevelopments along the 1000 block of South Washington Street.

Staff explained that the property located at 1020 S. Washington was developed in 2001 as a multi-unit building for 52 occupants. At the time of the approval, the Planning Commission allowed the applicant to consider the land area at 1002 S. Washington, roughly 130 feet from the site, to gain the additional land area needed for 52 occupants. The property at 1020 S. Washington has enough land area to meet Ordinance requirements for 43 occupants, with the land area of 1002 S. Washington providing the additional land area for 8 occupants. The site plan shows that 55 parking spaces are provided on the 1020 site. The property at 1002 S. Washington has been used as an overflow/commuter parking lot for tenants of other United Apartment Complexes outside the City since that time. The applicant has asked that the Board consider a variance to allow the property at 1020 S. Washington to be considered a standalone property, maintaining the current occupancy level of 52; and allow construction of a new rooming dwelling on 1002 S. Washington. Staff noted that the Board will be considering a reduction in the land area per person requirement of section 154.095 of the Ordinance for the property located at 1020 S. Washington. In addition, the Board is being asked to consider a reduction in the required green space on 1020 S. Washington from the required 25% down to 11%, per section 154.054 C2(c).

Staff reported that the property is zoned M-2 as are the surrounding properties. Future land use is designated as multiple family medium. Staff noted that the use is an allowed use in the M-2 district and is regulated by a Special Use Permit. If approved, the applicant will need to appear before the Planning Commission for a modification of the current Special Use Permit on 1020 S. Washington, along with Special Use Permits and Site Plan Reviews for the other three properties as well.

Staff reviewed the definition of a lot vs. a zoning lot as provided for and used in the zoning ordinance. It was noted that based on the definition, buildings are typically permitted to be constructed on one or the other. The review and approval in 2001 allowed a lot which is more than 100 feet away, separated by two other rooming dwellings, to be considered in the density calculation for the new apartment building that was planned on 1020 S. Washington Street.

Staff reported the current occupancy of the sites as follows:

- 1020 S. Washington - currently licensed for 11 units, with a total occupancy of 52.
- 1010 S. Washington - currently licensed for 6.
- 1008 S. Washington - currently licensed for 5.

Staff shared the revised site plan submitted by the applicant that shows the green space calculations and the required parking for each site. Staff noted that although the 1020 S. Washington site lacks the required 25% of green space, the other three lots are able to provide the required amount.

Staff noted that all properties comply with the setback requirements.

Staff reported that the applicant has proposed facade improvements to the existing building at 1020 S. Washington and has provided upgrades to the proposed buildings at the other three sites, as requested by the Board at the November hearing, in exchange for allowing a reduction in the land area per person at 1008 and 1010 S. Washington.

In addition, Staff referred to the letter submitted by the owner of the property, proposing covering the cost of repaving the alley from 1010 S. Washington to Clayton Street if the Board would consider an increase in the occupancy at 1008 and 1010 S. Washington.

Staff reported that 1008 S. Washington is currently licensed for 5 occupants. 1010 S. Washington is licensed for 6 occupants. Both sites provide enough parking for their tenants, with a combination of hard surface parking and gravel, with some stacked parking. The redevelopments would consolidate the parking in the back off the alley and would all be hard surfaced.

Staff noted that although the M-2 redevelopment standards adopted by the ZBA and the PC allow consideration for density increases as part of redevelopment, the applicant is required to demonstrate that there are “marked decreases in the degree of nonconformities” The applicant is expected to demonstrate how the redevelopment will reduce the nonconforming conditions on the property that include:

- *Increased number of on-site parking spaces*
- *Replacement of gravel parking areas with paved spaces*
- *Improved setback between buildings on neighboring properties*
- *Increased the square footage of living area in the dwelling per resident*
- *Elimination of rear dwellings*
- *Reconfiguration of nonconforming lots*

Staff noted that in these particular cases, there are very few non-conformities to eliminate; and therefore, the Board will need to look at these cases as more conventional variance requests.

Staff also reported that with recent developments, the code violations have been greatly reduced in regards to parking violations, solid waste, etc. In addition, more responsibility has been placed on the property owners, requiring stricter lease agreements, etc.

Commissioner Berkshire asked if we allow the lot at 1002 to be developed, would it affect other properties in regards to the parking, questioning where the people who are currently using the lot would park. Staff responded that each of these developments, if approved, would provide adequate parking for their tenants. Commuters who may be currently using the lot would have options of finding available on-street parking; meter parking; or may need to purchase a CMU parking permit. The applicant has shown 55

parking spaces on the 1020 site for the 52 occupants, nine on 1008 and 1010 and eight on 1002 to provide the required number of spaces for the proposed occupancy.

Joe Olivieri, applicant, addressed the Board. Mr. Olivieri commented that the property at 1020 S. Washington has had 52 occupants for the past 11 years and there have not been any problems. He further commented that the parking lot at 1002 is a courtesy lot, not designated for anyone in particular. Mr. Olivieri asked the Board to look at the entire package being offered by the owner, and noted that the only other property on that side of the 1000 Washington Street block recently received approval for redevelopment (1028 S. Washington), and, after seeing the updated renderings, the owner has expressed interest in updating the elevations for his project as well. Mr. Olivieri commented that this would be the entire side of that city block that would be undergoing redevelopment.

Commissioner Quast noted that with the increased density, students need somewhere to go and questioned if there would be something the applicant could do to encourage them to use the front outdoor space. Mr. Olivieri stated he could; however, cautioned that if too much is done, it would encourage outdoor parties, horseshoe pits, etc.

Commissioner Quast asked if there was something planned for lighting in the parking area. Mr. Olivieri commented that there will be lights mounted on the outside of the buildings towards the parking area and further noted that they may be able to add some lighting along the sidewalks between the units.

Commissioner Berkshire questioned whether they could do something regarding lighting along the sidewalks in front of the buildings. Rick McGuirk, one of the owners of the property, addressed the Board, stating they are interested in working with the city to create a special assessment district to work on a lighting solution similar to the lighting along Main Street. Mr. Olivieri added that they are not in a position to put that type of lighting in right now, but are interested in pursuing this.

Commissioner Kulick questioned staff on what the cost of each light pole/light along Main Street was. Staff responded that the cost per light was approximately \$4500-\$5000 per unit.

Commissioner Palm asked if bike racks would be placed on each site. Mr. Olivieri stated each site would have a bike rack. They aren't shown on the site plan as he indicated that it is more advantageous to keep the location options open until the site is developed to determine the best location.

Mr. Olivieri reported that the owners have offered to pave the alley if allowed an additional occupant on 1008 and 1010 S. Washington. Mr. McGuirk clarified that the offer was to pave a *portion* of the alley from behind 1010 S. Washington to Clayton Street with an additional occupant to bring the total occupancy of both 1008 and 1010 S. Washington up to **10** for each site.

Staff reminded the Board that the application and the public hearing notices for these cases indicated that the request was for 9 occupants for the 1008 and 1010 properties. If the applicant wishes the Board to consider a higher density of 10 occupants, the Board would need to postpone to allow the applicant to amend the application and then we would need to republish.

Vice-Chairman Ellertson stated for clarification purposes that if the case is not postponed, the Board can only consider increasing the occupancy to 9 for these sites.

Commissioner Ellertson indicated he would be interested in hearing the applicant's thoughts. After consulting with another owner, Mr. McGuirk indicated they would like to continue with the original request for consideration for 9 occupants.

Commissioner Quast commented that upgrading the alley makes this a unique request.

Vice-Chairman Ellertson opened the public hearing. There being no one who wished to speak, the public hearing was closed.

Staff reported that the only correspondence received was from the Fire Department, who indicated no objections; however they have reserved the right to make final comments during site plan review. The Fire Department also encourages the use of trash bins over dumpsters. In addition to the Fire Department's comments, an e-mail was received from Tim Driessnack, owner of 1028 S. Washington, supporting the request and indicating an interest in doing similar updates on his property.

Commissioner Berkshire asked if Mr. Driessnack would be required to come back to the ZBA if he makes those changes. Staff indicated he would not need to come back to the Boards or Commission, the findings made by the ZBA would remain the same. The updates would be more in line with architectural detailing, bracketing details, trim work, upgrades in materials, etc.

Commissioner Berkshire asked for clarification on the Fire Department's recommendation of sprinklers, questioning whether this would be required. Staff responded that the Fire Department is making a *recommendation only*; the building codes do not require sprinklers for the proposed use.

Commissioner Kulick commented that he has no problem with the requests for 1008 and 1010 as he feels they are consistent with the M-2 redevelopment guidelines; however commented that the request for 1020/1002 bothers him as he feels that would be increasing the density on 1020 by 8-9, and with the additional development on 1002, it would be a total of 17 additional occupants. Commissioner Kulick further commented that if the Planning Commission and City Commission feels that the 900 square ft. of area per person is too much, then the Ordinance should be changed to decrease that requirement. He commented that he sees no problem with 700 sq. ft. per occupant, however the Ordinance requires 900.

Commissioner Quast and Commissioner Palm questioned Commissioner Kulick's reasoning. Commissioner Palm noted that 1020 S. Washington Street already has 52 occupants and has been operating that way for several years based on the approval granted in 2001; and therefore feels that the only increase with this request is the 8 occupants on the overflow parking lot at 1002 S. Washington located on the corner.

Commissioner Quast noted she doesn't necessarily agree that density is a bad thing, and commented that until the Planning Commission has a chance to review the Ordinance

language, we have put together some guidelines to work within our current Ordinance for redevelopments

Commissioner Berkshire agreed that allowing 52 occupants on the 1020 S. Washington Street site has not been a problem and he isn't bothered by the request to allow construction on the overflow lot.

Vice-Chairman Ellertson stated that he is a supporter of these projects and feels they are good for the community. He further commented that although he understands Commissioner Kulick's reasoning, he is not troubled by the density and feels this is a great project. He noted that this area of the city is not very attractive in its current state and feels this will be a great improvement to this area and the city in general. He again commented that he doesn't believe the additional density will be detrimental to the area.

Mr. Olivieri noted that it has been proven on the previous developments that the sites can handle an increase in density if they are done correctly. He further commented that the increased density is not unusual for that area; but what is unusual is for the site to provide the infrastructure and parking, etc. to handle the density, which this development would do.

Motion by Kulick, support by Berkshire, to find that the proposed redevelopment of 1008 and 1010 S. Washington to allow an occupancy of 9 per site, is a marked decrease in non-conformity as they will be eliminating stacked and gravel parking.

Commissioner Quast read back the types of non-conformities we are typically looking for, and questioned whether eliminating parking in the front and having all entry points off the alley could be considered.

Commissioner Palm noted she feels there are not very many non-conformities being eliminated with this request, commenting that the only ones she sees is gravel/stacked parking.

Staff commented that the reason the requests were being offered as a package was because there were not a lot of non-conformities that were being eliminated. He noted that the Board should look at this as a conventional variance request and tie it back to the entire redevelopment. The uniqueness of this request is that they are proposing development of an entire block that includes the approval to allow an increase in density on one parcel from a parcel which is more than 100 feet away. In addition, the Board may also wish to note this is an opportunity to take a commuter lot and put it back on the tax roll.

Staff further commented that the sites at 1008 and 1010 have enough land area for 8.95 occupants and if the sites had an additional two feet, they would meet the requirements for 9 occupants.

Commissioner Palm noted that they would be granting the individual variances on very little and she is more favorable with granting them as an entire package. She also noted that if they were not planning on updating the existing apartment she would not be comfortable with the request.

Staff noted that the Board could vote on each case individually, but with the same finding of fact.

Commissioner Kulick amended his motion to state that he moves to approve case ZBA-20-2012 involving a property located at 1008 S. Washington Street and case ZBA-21-2012 for a property located at 1010 S. Washington to allow an increase in the occupancy from 8 to 9, based on the small amount of land area that the parcels lack to allow the additional occupant. The land area per person is consistent with other rental properties found in the area. The updated renderings provided by the applicant that are consistent with similar projects approved under the M-2 Redevelopment standards, will enhance the neighborhood, and will not be detrimental. The approval is contingent upon the property owner providing the stricter lease language.

Support to amend the motion by Berkshire.

Commissioner Ellertson asked for a vote on the amendment to the motion.

All ayes. Motion to consider the amended motion carried.

Commissioner Ellertson called the question.

Roll Call Vote: All ayes. Motion carried.

Discussion ensued on the request for 1020/1002 S. Washington. The Board reviewed the applicant's responses to the questions on the original application.

Commissioner Kulick again voiced his objections to the proposal, noting that in 2001 the applicant received approval for the apartment by considering the land area at 1002 in the request. Now they are asking for more. Commissioner Kulick again commented that he would like to see a change in the Ordinance as we are consistently landing on the 700 square ft. per person request.

Commissioner Quast asked staff if it would be beneficial to send a letter to the Planning Commission requesting they look at this section of the Ordinance.

Staff reminded the Board that a request has already been made. The Planning Commission has already agreed to look at this and other sections of the Ordinance following the completion of the Master Plan update at the end of the year.

Staff shared the information again from the staff presentation related to how the zoning ordinance defines a lot versus a zoning lot and suggested that the Board consider how the project was approved in 2001, given the two lots are separated by more than 130 feet. The lot at 1002 is serving as a commuter lot for individuals that live outside the City. All the properties are able to accommodate the parking based on the occupancy for each site to meet the zoning requirements. Staff reminded the Board, given there are no reductions in non-conformities; the request should be considered under a conventional variance request.

Commissioner Palm asked if something could be included in the motion to encourage the applicant to continue conversations with the city to provide street lighting in the area as discussed.

Commissioner Kulick suggested the Board may want to provide language in the motion to indicate that if the "applicant is not able to work with the City to install the pedestrian lighting, consistent with the units installed along Main Street within two years from the approval, the applicant will provide on-site lighting along Washington Street on their side of the property.

Vice-Chairman Ellertson noted that he would like to see this project work and suggested putting something in the motion to require the re-paving of the alley as the property owners offered to do as part of the project.

A five minute recess was called by the Vice-Chair.

Meeting reconvened.

The Board discussed the applicant's responses to the questions on the application and noted that the proposed updates are consistent with the area; and the project includes the redevelopment of 8 city lots.

Motion by Quast, support by Kulick to approve Case ZBA-19-2012 filed by Joe Olivieri, on behalf of United Investments for a variance from section 154.095 to allow the reduction in the land area per person for an existing development located at 1020 S. Washington Street. The reduction in land area will allow the construction of a new rooming dwelling on the parcel of land located 1002 S. Washington, which was included in the density calculation for an eleven unit multiple family apartment building housing 52 occupants in 2001. The approval will allow the reduction in the land area to 753 square feet per person, consistent with other properties found in the immediate area. The approval is contingent on the applicant continuing talks with the City to create a special assessment district to install city street lights along that portion of Washington Street. If after two years, there has been no agreement, the property owner will install pedestrian lighting on their side of the sites. In addition, the applicant is to maintain the strict lease agreements provided by the owner; will use trash containers instead of dumpsters; will install bike racks on the sites; and will re-pave the portion of the alley running behind 1010 S. Washington to Clayton Street as they suggested.

In addition, the Board approves the variance from Section 154.054(C) to allow the reduction in the required green space on 1020 S. Washington from 25% as required by Ordinance to 11%.

Roll Call Vote:

Ayes: Ellertson, Berkshire, Quast, Palm.

Nays: Kulick

Motion approved 4:1

B. Case ZBA-01-2013 - 1204 Ward Street.

Staff introduced Case ZBA-01-2013, explaining that this was a request submitted by Gary Ramsower, for a variance from Section 154.095 to allow the construction of two additions within the required 10 foot side street setback and the 20 foot front setback. Staff reported that the property is zoned R-4 and is surrounded by R-4 properties. Staff shared the site plan, noting that the home is 50 - 75 years old and sits relatively close to the east property line. The current front yard setback is 18'6" and the current side street setback to Adams Street is 3'0". There is an existing bump-out on the front of the building that extends into the established front setback along Ward Street. The applicant is proposing to square off the footprint of the home, adding 150 square foot of living area to the home, while maintaining the existing setbacks.

Staff noted the property is a corner lot, located at the northwest corner of Ward and Adams Street. There are currently no sidewalks along the west side of Adams Street at the east property line.

Staff reported that the use as a rental unit is a permitted use for the district.

Gary Ramsower, applicant and owner of the property, addressed the Board. Mr. Ramsower stated the home is fairly small, with one bedroom/one bathroom. He would like to add some additional living area to the home and would be bringing the building out to match the existing setbacks.

Mr. Ramsower commented that even with the bump-out and addition, the property still encroaches less than many others on surrounding properties.

Commissioner Kulick asked if the home would remain as a one bedroom home. Mr. Ramsower stated it would.

Commissioner Kulick asked if the home had a basement. Mr. Ramsower stated it did not.

Vice-Chairman Ellertson opened the public hearing. There being no one who wished to address the Board, the public hearing was closed.

Staff reported that the only correspondence received, from the Department of Public Works, indicated no concerns.

Commissioner Palm stated she has no problem with the request and feels this would improve the appearance of the home.

Motion by Kulick, support by Berkshire to approve ZBA-01-2013, filed by Gary Ramsower, owner of 1204 Ward Street, for a variance from Section 154.095 to construct two additions that will reduce the front setback from the required 20 feet to 18'6" and reduce the required 10-ft side street setback to 3'3", provided that the property remains as a single-family unit, noting that there is sufficient right of way to allow a sidewalk in the future so as not to restrict a walkable community. The Board recognized that the updates will maintain the established setbacks and will enhance the property.

Motion approved.

VII. Old Business:

A. M-2 Redevelopment Procedures

Staff reminded the Board that they had reviewed the standards at the December work session and asked if there were any changes to the document, if not, would ask that the Vice-Chairman entertain a motion to approve.

Motion by Kulick, support by Palm to endorse the revised M-2 Redevelopment Standards and Procedures.

Motion approved.

VII. New Business

None

VIII. Other Business

A. February Meeting - Staff noted that the postponed 2013 S. Mission Street case may be back on the agenda.

IX. Adjournment

Motion by Kulick, support by Quast to adjourn.

Motion approved.

Meeting adjourned 8:55 p.m.

bam