

Mt. Pleasant Zoning Board of Appeals
Minutes of Regular Meeting
November 27, 2013

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

I. Roll Call: Staff called roll.

Members Present: Berkshire, Fokens, Kulick, Lents, Orlik, Raisanen.

Members Absent: Palm.

Staff: Kench, Murphy

II. Approval of Agenda:

Motion by Kulick, support by Orlik, to approve the agenda.

Staff noted that item VI.B., ZBA-20-2013 for 916 E. Broomfield would be postponed and would likely appear on the January agenda. He also noted that Item VII.C., ZBA-15-2013 has been postponed again and noted that staff would be contacting the applicant to see what his plans are for this request.

Motion approved.

III. Approval of Minutes from the October 23, 2013, regular meeting:

A. October 23, 2013 Regular meeting.

Motion by Kulick, support by Orlik, to approve the minutes from the October 23, 2013 regular meeting as written.

Motion approved.

B. October 21, 2013 Joint Work Session.

Motion by Kulick, support by Berkshire, to approve the minutes from the October 21, 2013 Work session.

Motion approved.

IV. Communications:

Staff reported that no communications were received

V. Public Comments:

Chairman Fokens 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 Fokens explained board proceedings, noting that a quorum was present.

A. ZBA-12-2013 Revised - 1016 S. Main - Joe Olivieri.

Staff introduced the revised case ZBA-12-2013, submitted by Joseph Olivieri on behalf of the owners.

Staff noted that at the previous meeting, the Board took into account the number of non-conformities that would be eliminated with this request and took action on the non-conforming lot to approve the redevelopment of a new Registered Student Organization dwelling for 12 occupants, noting that it would be an improvement to the neighborhood. The Board noted, however, that they would like to see an updated site plan that included the two additional parking spaces that are required for a RSO, and also recommended that the applicant include a request for a side yard variance to allow a porch roof to extend into the required side setback, which was not included in the original request.

Staff reported that based on the Board's request, the applicant has revised his application to include a request for consideration to permit the parking to remain in the required front yard setback along Washington Street (as the lot is a through lot, there is no rear yard - the property has two front yards), along with a variance request to allow a porch roof to extend into the required side yard setback.

Staff reviewed the non-conformities that will be eliminated with the redevelopment as noted:

- 154.095 E Land area per person will increase with reduction in current occupancy by 10 people. (currently licensed for 22 - requesting 12)
- 154.095E Building Area per person will be brought into compliance.
- 154.095 Building Height will comply with current code of 35 feet.
- 154.095 Existing building constructed over south property line - Removed
- 154.121 Parking will be hard surfaced (lawn parking occurring).
- 154.121 Parking lot maneuvering lanes will be provided to comply with ordinance and fire code.
- 154.121 Stacked Parking will be eliminated.
- 154.054C Open landscape/yard areas will be created as required by ordinance. (25% Min).

Staff shared the updated site plan showing the additional two parking spaces and noted that the site plan shows a 36" decorative masonry wall to screen the parking lot along Washington Street, along with some street trees in lieu of the 10' o: greenbelt.

Staff also reiterated that the applicant is requesting relief from the side yard setback for a small porch, and shared the proposed elevations.

Staff further noted that because the Board previously took action on the finding, they only have to consider the request for the small setback and the parking in the front yard along Washington Street. Staff noted that the Board may have considered allowing the parking to remain within the front setback as part of the original request as noted in the report. Given however that the applicant needed a side yard variance for the porch, the parking was also included in the revised request.

Commissioner Orlik questioned whether the setback was just for the porch area - with the rest of the building meeting the required setback. Staff noted that was correct.

Joe Olivieri, applicant, addressed the Board, noting that he is not asking to *create* a non-conformity with the two additional parking spaces, just that he be allowed to continue the use and improve it so the parking ratio for a RSO could be met. He further noted that although the site plan screening shows a masonry wall, he would prefer to plant shrubbery if the Board would allow it. Mr. Olivieri further noted that the requested porch roofs will add some architectural detail and break up the elevation along that side of the building.

Commissioner Berkshire asked if there was enough room for shrubbery. Mr. Olivieri noted that there is 24", and also stated that he is more concerned with someone running into a masonry wall, noting that if they run over the shrubbery, they would simply plant more, adding that he feels that the shrubbery provides better screening as it would grow taller.

Staff shared photos of the site as it exists, showing the area for the additional two parking spaces.

Commissioner Berkshire asked about the dumpster location. Mr. Olivieri stated there would not be a dumpster, they would be relying on the use of trash carts.

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

Staff shared the communications from the Department of Public Works, and Department of Public Safety, noting that if the request is approved, the requirements of both departments would need to be met.

Board Discussion:

Commissioner Kulick commented that he doesn't feel that it is a big problem to change the masonry to shrubbery; however, noted he would like to see at least one substantial bollard or something that would prevent cars from driving through. He also noted that with only 2 feet, as trees grow up, they will also get wider and could overhang the sidewalk, causing problems for pedestrians. He noted that if shrubbery is allowed in lieu of the masonry wall, he would like to see the stipulation that it be kept pruned to prevent it from overhanging the sidewalks.

Commissioner Kulick noted that although one of the non-conformities is being restored (parking in the front yard setback), he feels this request more than meets the threshold of reducing non-conformities.

Commissioner Kulick referred to the copy of the lease provisions that were provided by the owner, noting that he was impressed with the language but would like to see the top of the lease note the allowed occupancy of the house.

Motion by Kulick, support by Berkshire, to approve the revisions to the site plan to allow two parking spaces to remain in the front yard on Washington Street and to allow the porch roofs to extend into the side yard setback and allow the use of shrubbery/greenery in lieu of the masonry wall for screening the parking lot. The approval is based on the finding made at the October 23, 2013 meeting, noting that the revised request is still a marked decrease in the degree of non-conformities. The approval is contingent on the applicant providing at least one substantial bollard or pipe, acceptable to staff, to be mixed in with the greenery, to prevent cars from driving through the shrubbery; the applicant is to maintain the shrubbery so as not to let it overhang the public sidewalk; and the applicant is to amend the front page of the lease document to specify the maximum number of tenants allowed in the house.

Discussion took place on the type of bollard/pipe that should be required. Mr. Olivieri suggested that he could place a 6" drill casing pipe, with blocks/stone around it and let the shrubs grow up around it.

Commissioner Raisanen noted that she is more in favor of waiving the two additional spaces, which she feels would encourage smaller occupancy. Commissioner Orlik noted that the occupancy would remain at 12, and noted that the Ordinance recognizes that RSOs likely will have extra company and by keeping the two additional spaces, it helps alleviate some problems.

Commissioner Lents also commented that she prefers greenspace over parking.

Staff noted that yard parking is something that code enforcement has dealt with on this site and commented that the additional parking will be used by commuting students who belong to the RSO.

Chairman Fokens called the question.

Motion approved 5:1.

VII. Old Business:

A. ZBA-14-2013 - 903 S. Main - William Marshall.

Staff provided information on the original request that was submitted by William Marshall in August to amend a variance that was approved in 1983, which required a screening fence at 903 S. Main. Staff noted that at the time of the original request in 1983, the zoning only required one parking space for every two occupants. At that time the applicant received a

variance to reduce the setback to the south property line with the stipulation that a fence be installed to help screen the parking area from the single-family residential home next door at 907 S. Main. The fence was installed, however, was not maintained.

Staff noted that since that time, the applicant has purchased 907 S. Main, which has also been converted into a student rental. The owner contacted the department to request permission to remove the fence, which had become run down, and was advised that he would need to request permission from the ZBA. As noted in August, the applicant later removed the fence prior to obtaining approval, and is therefore, asking for permission for the fence to remain down.

Staff reviewed the decision by the ZBA in August to postpone taking action on the case asking that the applicant look at possible ways to address the deficiencies in parking on both sites, noting that they would prefer to look at other variance requests that may be needed in order to bring the sites into compliance with parking ratios.

Staff referred to the revised site plan provided by the applicant noting that based on the information provided, the applicant has indicated that he has no desire to construct the parking lot over the property line as he feels this would have a detrimental effect on 907 S. Main. Based on this, the applicant has asked that the Board review the original request to amend the condition based on the 1983 case and allow the fence to remain down.

Staff shared photos of the site provided by the applicant and asked the applicant to speak to the Board regarding his request.

Commissioner Kulick asked what the distance is from the existing concrete to the building.

William Marshall, applicant and owner of the properties, addressed the Board, noting that there is currently 23 feet from the concrete to the wall. If they add the additional concrete it would leave only 13 ft. of green space.

Mr. Marshall referred to the photos of the site noting where the fence had been removed. Mr. Marshall explained that in 1983 the fence was required to screen the parking from the single-family home, commenting that based on the fact that 907 S. Main is now a student rental, also owned by him, he felt that the fence is no longer necessary. He commented that it was 30 years old and was a maintenance issue, and so he removed it even though he had not received the necessary approval.

Mr. Marshall noted that he isn't sure how the request went from taking down a fence to inadequate parking; noting that when the sites were established as student rentals the parking was to code. Mr. Marshall stated that he currently has parking for 5-6 vehicles at 903 S. Main for 7 occupants, and 7 spaces available at 907 S. Main for 8 occupants.

Staff commented that when the request was first brought to the Board in August, the representatives for the case at that time indicated they would be open to exploring options to expand the parking and felt the additional parking would be useful.

Mr. Marshall stated that he feels adding an additional 10' of concrete would take approximately 600 square feet of green area from 907 S. Main and would create a nonconforming lot. He reiterated that his request is to just take the fence down.

Commissioner Orlik asked if the garage on the property could be used for parking. Mr. Marshall stated it was used primarily for storage not parking.

Commissioner Berkshire asked for clarification that Mr. Marshall was asking that the fence be allowed to remain down with no changes in the parking. Mr. Marshall verified that this was his request. Mr. Marshall noted that the garage could be torn down to create one more space; however, he wouldn't have any place for storage.

Commissioner Raisanen asked if his preference would be to tear down the garage. Mr. Marshall stated no, he is only asking for approval to leave the fence down. He further noted that he does not feel that increasing the concrete would give a significant enough increase to warrant the loss of greenspace and feels it would impair the appearance of the property. In addition, he noted that there is a mature tree that may need to be removed if he is required to add parking.

Chairman Fokens asked if the posts that were left in the ground are doing any good. Mr. Marshall stated they were left there to prevent people from driving in the yard. Commissioner Orlik commented that the posts are pretty low and if there is any significant snowfall, they will not be visible. Mr. Marshall stated they were left there because of the ZBA issue and stated they could be removed if the ZBA would prefer that.

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

Staff noted there was no correspondence to share.

Board Discussion.

Commissioner Raisanen commented that the applicant is asking for permission to remove a fence that is already gone and if the ZBA allows this, they need to be very clear so as not to set a precedence of asking forgiveness rather than permission. She further noted that she would like to see the tree remain if possible and noted that although she is a big proponent of greenspace, acknowledged that the parking ratios that are required by Ordinance have changed.

Commissioner Kulick commented that the revised plan would allow two additional parking spaces. Staff commented that the Board should also bear in mind that the parking spaces shown on the site plan do not meet the minimum size requirements.

Commissioner Berkshire commented that if the Board allows the fence to remain down, they would not be addressing any existing non-conformities.

Commissioner Kulick commented that if the properties were sold separately, there would need to be a recorded easement for the parking to overlap lot lines. Chairman Fokens agreed that to proceed without a recorded document could create future problems.

Commissioner Raisanen commented that there needs to be something more attractive and visible than the yellow posts that are currently on the site.

Motion by Kulick, support by Orlik to allow the removal of the fence that was required by the ZBA in 1983 with the following stipulations:

- 1) The applicant increase the parking based on the dimensions shown on the site plan;
- 2) The applicant record an easement agreement showing that parking is permitted on the 907 S. Main site;
- 3) The south line of the new parking area have a barrier, approved by the Building Official, to prevent cars from driving onto the property.

Commissioner Lents asked about future ramifications of this approval if one of the properties were to be sold. Staff noted that any changes would need to be agreed upon by both parties.

Commissioner Lents commented that thought needs to be given to how the board's action may affect any future developments on the site, noting she has a hard time supporting the additional concrete.

Commissioner Raisanen asked if there have been complaints on the parking for these sites. Staff noted there have not. Commissioner Lents questioned whether the Board is trying to solve a problem that doesn't exist.

Commissioner Kulick ~~amended the~~ *modified his* motion, with support from Orlik, that the recorded easement only runs as long as 903 needs the additional parking. In the event that 903 is torn down for redevelopment, the easement would be void.

Commissioner Lents reviewed conditions necessary for granting approval. It was noted that the lot is basically a 1/2 lot based on the size of others in the immediate area; creating a burden for the owner. In addition, it was noted that the adjoining property is no longer a single-family residence, but is student housing.

Motion passed.

Commissioner Kulick commented that the applicant has a year after the approval to pave the area.

Chairman Fokens called a five minute recess at 8:00 p.m. at the request of Commissioner Raisanen.

Board reconvened at 8:05 p.m.

B. ZBA-19-2013 - 1014 S. Main - Joseph Olivieri.

Staff reported that this case, submitted by Joe Olivieri, on behalf of LaBelle Properties LLC, was first considered at last month's meeting. The request was for a finding on a non-conforming use to allow the building to be razed and replaced with a new rooming dwelling. Staff noted that the Board postponed taking action on the request, asking that the applicant provide plans illustrating how the existing building could be rehabilitated.

Staff noted that the applicant has provided the information; however, has noted that based on associated costs, the owner is not interested in pursuing a rehabilitation project. Staff noted that the Board will need to determine if further review on the original request is warranted.

Staff reported that the site is located in the M-2 area and is surrounded by M-2 properties consisting primarily of rooming dwellings and Registered Student Organizations. Staff noted that the use is a permitted use in the district, and if approved, the request will move on to the Planning Commission for a Special Use Permit and Site Plan approval.

Staff asked the applicant to address the Board.

Mr. Olivieri addressed the Board, explaining that as requested, he has drawn up floor plans showing the existing and modified versions of each level of the home, showing the number of bedrooms and bathrooms that could be fit into the existing space. In addition, he has also provided details on what it would cost to remodel the home. Mr. Olivieri also noted that you would not spend the kind of money required to remodel the home without replacing the water/sewer lines etc., and has therefore, included those costs as well.

Mr. Olivieri noted that based on his findings, the costs to remodel the home are not feasible for the owner and the owner has indicated that if the Board rules to not allow the building to be torn down, he will simply leave it as it is.

Commissioner Lents asked if Mr. Olivieri had considered an addition to the original home. Mr. Olivieri commented that if he adds on to the home in its existing location, then there is not room for the required parking, noting that the lot needs an entirely new configuration.

Commissioner Raisanen commented that if someone purchases one of these older homes to use as a student rental, they need to realize that older homes are expensive to maintain. She further commented that she is not sure with this one as she sits on the Historic District Commission and feels it is important to preserve some of these older homes.

Mr. Olivieri commented that we aren't discussing maintenance, we are talking about the cost of remodeling, noting that it is currently licensed and can stay as it is.

Commissioner Berkshire asked if the cost of remodeling was more than the cost of building new. Mr. Olivieri stated that building new would be more; however, they would be going from 7 occupants to 11.

Staff explained that the increase in occupancy is based on land area. The lot has land area for 10, and the applicant is asking for an additional occupant for a total of 11 based on the number of nonconformities that would be eliminated.

Mr. Olivieri stated that if they were to remodel, the only thing left would be four walls.

Commissioner Kulick asked staff if a three story house were to be built now if it would require sprinklers. Staff noted that the residential code would allow three stories; however, the Fire Department would require aerial access and they prefer 1 and 2 floors for rescue.

Commissioner Kulick noted he feels that a new building would be safer.

Commissioner Berkshire asked if the new building could look similar to the existing. Mr. Olivieri indicated it could, depending on what part of the facade they like.

Staff shared the proposed elevations submitted for review along with photos of the existing building.

Commissioner Kulick commented that it appears that the front facade of the existing building has been changed over the years, based on the awkward window placement.

Commissioner Raisanen commented that we don't need more cookie cutter homes which results in losing the neighborhood feel. She further commented that she feels the facade should reflect architecture in line with what we are losing. Commissioner Berkshire commented that the new developments are starting to look the same.

Staff noted that this lot has narrower frontage and the proposed building would be turned to allow some variations.

Commissioner Raisanen commented that the quality of the building materials is not the same as 100 years ago.

Commissioner Orlik asked if the third floor of the existing home was being used as tenant space. Mr. Olivieri stated it was.

Commissioner Kulick commented that the existing home is in rougher shape than the picture shows and realizes that there may be some local historic significance based on previous ownership. He further noted however, that the Master Plan calls for the higher density in this area and would like to see the area be not only inviting, but safe. He acknowledged this one is a hard one for him. Mr. Olivieri questioned why this one was hard.

Commissioner Kulick responded that he feels we have lost a lot of historic links to early CMU and spoke of historic preservation. He commented that 1016 was easier for him as it eliminated an encroachment onto the neighboring property.

Discussion took place on this area being an area that students want to live, based simply on its location and proximity to campus and if the request is denied, the home will remain a student rental in its current state.

Chairman Fokens commented that although this particular house may have some historic significance, he feels this is a golden opportunity to improve the neighborhood and the City of Mt. Pleasant, noting he is in favor of a new and safer house.

Motion by Berkshire, support by Orlik to approve Case Number ZBA 19-2013 filed by Joe Olivieri, Olivieri Homes on behalf of LaBelle Properties, LLC, seeking a finding on a nonconforming use under section 154.007, to allow redevelopment for a two unit rooming dwelling at 1014 S. Main Street on a parcel having 50 feet of lot width. The Board finds that the lot width is consistent with similar uses and lot widths found in the immediate area to grant a variance.

The Board finds that the redevelopment will reduce the manner and degree in nonconformities based on:

- Parking will be removed from the front yard along Washington Street
- Parking will be brought into compliance with one space for each tenant
- Maneuvering space will be provided in the new parking lot in compliance with current standards.
- All parking will be hard surfaced, drained and laid out to provide organized parking for tenants. The new updates in parking should eliminate the need for yard parking.
- All setbacks will be brought into compliance with the M-2 District standards, w/exception to the entrance porch at the north of the site. The porch will provide weather protection and serve as an architectural feature to break up the elevation. The Board recognizes that the entire building will be setback 8 feet from the current 4 foot setback at the north property line, to grant a setback variance to allow the entrance porch. The porch will need to be provided with consistent detailing from those found on the front and rear porches of the new building.
- Applicant can meet the provisions governing rooming dwellings under section 154.054.
- Update in the site design and building design are consistent with the guidelines adopted by the Planning Commission and Zoning Board of Appeals for considering redevelopments of nonconforming uses.

The Board finds that the redevelopment will be an improvement to the neighborhood and that the conditions agreed upon in the M-2 Redevelopment guidelines have been met to grant the request to increase the occupancy by one additional occupant from 10 (10.89) to 11 occupants.

Commissioner Lents asked Commissioner Kulick if he had any information on how the Historic District Commission made their determinations in their report. Commissioner Kulick stated he got on the commission as the report was finished and spoke of how the neighborhood has changed and why the Zoning Ordinance is now in place.

Commissioner Orlik commented that he does not like the 3rd floor apartment in this home and commented that from the Historical standpoint, he isn't sure this is the property to make a stand on as it is not a particularly appealing house.

Commissioner Raisanen commented that this area has been taken over by student rentals largely at the city's fault as they didn't plan or zone for it and it has changed the feel of the community. She further commented that the new developments don't architecturally look like the era in which the original homes were built.

Commissioner Lents commented that she wishes they had more information from the Historic District Commission on why this particular property is on their list.

Commissioner Kulick stated that the applicant has provided what has been asked with these redevelopments and that is to replicate features found in the neighborhood.

Discussion took place on various architectural features.

Chairman Fokens stated that the Board is here to address the Ordinance issues and the developer has brought us a plan.

Chairman Fokens called the question, noting that allowing the decrease in land area per person is part of the finding to allow 11 occupants per the M-2 review standards.

Motion approved 6:0.

VIII. New Business:

None

IX. Other Business:

A. December ZBA Meeting - Anticipated Agenda Items

Staff reported that we have not received any new applications, nor have we received any new information from the postponed cases so there will likely not be a December meeting.

B. Proposed 2014 Meeting Schedule

Staff referred to the proposed 2014 meeting schedule that was included in packets, noting that the December meeting has been moved up a week to December 17, 2014 due to the 4th Wednesday falling on December 24th. In addition, it was suggested that the Board may wish to move the November meeting as well to avoid the night before Thanksgiving, which would place the November meeting on November 19, 2014.

Motion by Lents, support by Kulick to approve the 2014 meeting schedule with the changes noted for November and December.

Motion approved.

C. Other:

Chairman Fokens wished everyone a Happy Thanksgiving.

Chairman Fokens expressed his good wishes to Commissioner Kulick as he will be leaving the Zoning Board of Appeals to serve as a City Commissioner.

Commissioner Kulick commented that because it doesn't appear there will be a December ZBA meeting, this is his last meeting as a member of the ZBA. Commissioner Kulick commented that it has been his pleasure to serve and feels that the Boards are working together to make Mt. Pleasant a better place. He further noted that he would take office on January 13, 2014 and would be resigning from the other Boards that he currently is serving on.

X. Adjournment:

Motion by Lents, support by Raisanen to adjourn.

Meeting adjourned at 8:47 p.m.

bam