

Mt. Pleasant Zoning Board of Appeals
Minutes of Regular Meeting
July 24, 2013

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

I. Roll Call: Staff called roll.

Members Present: Berkshire, Fokens, Kulick, Palm, Quast, Raisanen, one vacancy.

Staff: Kench, Murphy

II. Approval of Agenda:

Staff reported that following publication of Case ZBA-04-2013, the applicant withdrew their request so item VI. A. should be removed from the agenda.

Motion by Kulick, support by Berkshire, to approve the agenda with the noted change.

Motion approved.

III. Approval of Minutes from the June 26, 2013 regular meeting:

Motion by Kulick, support by Raisanen, to approve the minutes from the June 26, 2013 regular meeting as submitted. Motion approved.

IV. Communications:

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

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.

B. ZBA-08-2013 - 102 & 116 N. Mission - Graff Buick GMC Cadillac.

Staff introduced case ZBA-08-2013, noting that this site was before the Board in 2012 under different ownership. The site is now owned by Graff Buick GMC Cadillac and they are looking to do a series of updates required under the GM marketing campaign.

Staff reported that as part of the upgrades, the applicant is requesting a variance from Section 154.064(C)(1)(b) to reduce the required 10' greenbelt and also requesting a variance from section 154.095 to reduce the required front setback. The current setback is at 32' and the proposed new entrance feature will reduce the setback to 25'.

Staff noted that the use is a permitted use in the C-3 zoning district, regulated under a Special Use Permit through the Planning Commission.

Staff reported that the applicant is also requesting a reduction in the greenbelt to allow the existing display area to remain in its current configuration, which runs from the back side of the sidewalk and lacks the required 10 ft. greenbelt. In addition, staff reported that the applicant would like to extend their operations onto the former Sweet Onion restaurant site. Staff noted that with the elimination of the old Sweet Onion building, the applicant will also be able to eliminate two driveway openings, which will bring the site closer to the Access Management Standards. In addition, the applicant is proposing a reduction in the width of another of the drives.

Staff shared the proposed site plan, noting that the new service bay will be used more as a vehicle drop off rather than the actual servicing of vehicles.

Staff noted that in lieu of the greenbelt, the applicant is proposing a raised display area at the corner of Broadway and Mission and is proposing landscaping and the replication of the masonry streetscape feature across the street.

Jim Messick, applicant, addressed the Board, noting that the Service Bay would be a one-way entry rather than two way and verified that it would be used for service drop offs, consistent with GM requirements.

Mr. Messick reiterated that they plan to take down the Sweet Onion Building and put in a raised parking lot, graded to the east. He also noted that the closing of the two entrances to the Sweet Onion property were subject to MDOT approval.

Commissioner Berkshire asked what type of landscaping was planned. Mr. Messick responded that they will contract with Green Scene, the same company used for the other streetscape feature and the same brick layer to replicate what is across the street.

Commissioner Berkshire asked if they had any plans to add any decorative fencing along the front of the property, similar to other recent developments along Mission Street. Mr. Messick stated they had no plans for fencing; however the brick streetscape feature will be 2 feet tall and will extend 4-5 feet from each corner.

Commissioner Quast noted that the request from 2012 included some stamped concrete and asked if the applicant had considered this. Staff commented that the current request involves minimal excavating in the front.

Commissioner Raisanen commented that the corner across the street has several trees in the immediate area, which enhances the Streetscape feature and noted that this particular corner doesn't have the trees and she expressed some concern that the feature may not have the same effect.

Vice-Chairman Palm referred to the residential use to the east and asked if there was any fencing separating those properties. Mr. Messick indicated that there are several trees

separating the properties and they could consider a fence; however noted that there have not been any complaints from those properties. Commissioner Kulick commented that although the use is residential, those properties are zoned commercial.

Commissioner Raisanen asked if grading the lot to the east would cause drainage issues for those properties. Mr. Messick stated they would grade towards the storm drains.

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

Correspondence: Staff shared that the only correspondence received was from the Department of Public Works (DPW) and Department of Public Safety (DPS), with fairly standard requirements, noting that any approval would be contingent on meeting the DPW and DPS standards as well.

Motion by Kulick, support by Palm to approve case number ZBA 08-2013 filed by Jim Messick, General Manager of Graff, Buick, GMC, Cadillac, to grant a variance from section 154.106 (C-1) to allow the open outdoor display area in front of the building to be maintained to the front property line and to allow a reduction in the required 50 foot front setback to 25 feet, in accordance with section 154.095 to construct a new entrance feature designed to comply with GM's branding efforts. The addition will allow the existing 32 foot front setback to be reduced to 25 feet. The entrance feature is relatively small in comparison with the overall building and should ~~approve~~ *improve* the overall appearance of the site once complete.

The Board also grants the variance to allow a reduction in the 10 foot greenbelt along the extended portion of the open outdoor display area planned to the south to allow the applicant to maintain a consistent layout for new vehicles and permit updates along the area, in lieu of the greenbelt, more in line with the City's streetscape work. Final planting and use of building materials in the areas will be subject to final review and approval by the Planning Commission. The applicant will be responsible for installing irrigation to maintain the green area and will also be responsible for replacing existing irrigation when the driveways are removed. In addition, the applicant will be required to meet DPW and DPS requirements and meet with MDOT approval.

The Board finds that the proposal meets the intent of the Mission Redevelopment Overlay District; the proposed landscaping at the corner exceeds the minimum requirements of the Ordinance; the proposal will reduce the number of driveway openings and improve traffic safety; and, the proposed request is unique and will not set precedence.

It was suggested by Commissioner Kulick that the Board review the criteria for approving a variance. It was noted that removing the old building on the corner improves visibility and safety and makes this request unique. The Board also recognized that the reduced setback is common along that stretch of Mission Street and also noted that this fits the intent of the Mission Redevelopment Overlay zone; and also noted that the request will not be detrimental to the neighbors as the dealership already exists on the site.

Chairman Fokens called the question.

Motion approved.

C. ZBA-09-2012 - 612 S. Franklin.

Staff introduced Case 612 S. Franklin submitted by John Peterson, noting that the applicant recently purchased the home and is requesting a variance to allow a duplex on a lot lacking the required square footage. Staff noted that the property at one time was licensed as a duplex; however the license lapsed several years ago and the applicant wishes to reinstate the home as a two-family dwelling. The property contains 8,052 square feet and the Ordinance stipulates that no duplex shall be permitted on a lot smaller than 8500 square feet. Staff noted that the property has the required lot width; however is just shy of the area requirement.

Staff reported that the surrounding properties are all zoned R-3, with a single-family rental to the north, a duplex to the west and owner occupied to the south and east. Staff provided a chart of surrounding properties, listing lot sizes and rental vs. owner-occupied status, noting there is a mix of uses in the area. Staff also shared the site plan showing that the applicant is able to comply with the parking standards, placing three spaces along the alley, utilizing the existing two-car garage and parking in the driveway. Staff noted that the buffer and separations are subject to review by the Planning Commission.

Staff shared photos of the site that were provided by the applicant.

Commissioner Berkshire asked if the garage parking would be accessed off the alley or the driveway. Staff responded it would likely be off the driveway; however noted there was a door in the rear of the garage as well that could be used and suggested the applicant may want to put an additional door in the rear and access the garage strictly off the alley.

Commissioner Quast asked how we found out it was an unlicensed rental. Staff indicated he would let the applicant speak to that; however noted that the applicant had indicated that when he purchased the home, he was under the assumption it could be used as a duplex.

John Peterson, 612 S. Franklin, addressed the Board, noting that he currently lives in the home with his fiancé and his fiancé's cousin. He noted that he purchased the home from the previous owner's son after it had sat unoccupied for several years. He moved into the home in the fall and spoke with the Fire Department who indicated he would need zoning approval to reinstate the home as a duplex. Mr. Peterson reported that the home has separate entryways and separate kitchens and indicated it would be difficult to convert back into a single-family dwelling. Mr. Peterson also noted that if approved, he has plans to make some upgrades to the exterior of the home, as well as the interior.

Commissioner Berkshire asked if there was an apartment over the garage. Mr. Peterson responded that there is a loft area above the garage, but it has no kitchen, bath or running water and he has no plans to convert the space to an apartment. His intent is to live in the lower level of the home and rent out the upstairs apartment.

Chairman Fokens noted that City records indicate the home was deleted from the rental program in 2001.

Commissioner Berkshire asked if the applicant was aware that it wasn't licensed at the time he purchased the home. Mr. Peterson stated that the previous owner had not disclosed that.

Commissioner Berkshire asked how long the applicant intended to live there. Mr. Peterson stated he was born and raised in the area and would like to remain here for a long time, and in response to Commissioner Berkshire's question on the type of renter he is looking for, he indicated he would like to rent to someone stable with a good job and would definitely check references.

Chairman Fokens asked if the applicant was purchasing the home on a land contract. Mr. Peterson stated he was, and added that he has already made improvements to the interior.

Vice-Chairman Palm asked staff to verify that there could be no more than 2 unrelated persons in each unit in the R-3 Zoning District. Staff verified that to be true. Mr. Peterson noted he was aware of that as well.

Commissioner Raisanen asked how the applicant became aware of the licensing requirements. Mr. Peterson stated the Fire Marshall visited a few months ago, prompting a meeting with City staff who defined the process he would need to go through for approvals.

Commissioner Kulick asked if there was currently a tenant in the upstairs unit. Mr. Peterson stated his fiancé's cousin is staying there.

Chairman Fokens opened the public hearing.

Nicole Massey, 612 S. Franklin, addressed the Board speaking in support of the request. Ms. Massey noted that the home is large, containing plenty of square footage and in addition the applicant is able to meet the parking requirements. Ms. Massey noted that she is aware that there are people in the room who are against the request; however assured the audience that the applicant is looking at remaining in the home long term.

Jim Dennis, 614 S. Franklin, spoke in opposition of the request, noting the City's Owner Occupied Incentive Program that was put in place to help manage the number of multiple family housing units north of High Street. Mr. Dennis commented that he hopes the City would continue with that plan and noted some inaccuracies in the applicant's presentation, noting that he had mentioned to the applicant when he moved in that it was a single-family home. He mentioned concerns with noise and the college environment and referred to the letter that was sent to the Board signed by several of the neighbors.

Commissioner Quast asked if the Mr. Dennis would be more comfortable with the request if there was a stipulation that one of the units would need to remain owner occupied. Mr. Dennis stated that would not ease his concerns, he would still be against it. He

acknowledged that the applicant has done some nice things to the home since he has been there; however commented that there have been some parking concerns on the site.

Mark Marshall, 622 S. Franklin, addressed the Board, speaking in opposition of the request, noting he would like to see the neighborhood remain single-family.

Susan Schiller, 600 S. Lansing, addressed the Board, speaking against the request, noting that she recently had to contact the police after three consecutive nights of partying and noise. Ms. Schiller stated that the noise was not from the applicant's address; however, noted concerns with noise and student housing in general. Ms. Schiller commented that Mr. Peterson has made improvements to the site; however, commented that the property could be sold to someone else and stated there are already too many rentals in the area. She further stated she was surprised at the state of disrepair the home was in at the time of the estate sale. Chairman Fokens asked if her assessment of the disrepair of the property was prior to Mr. Peterson purchasing the home. Ms. Schiller stated that it was.

Commissioner Berkshire asked Ms. Schiller to clarify if the noise complaints were from the applicant's address. Ms. Schiller stated they were not, they came from the corner of Maple and Franklin.

Debbie Huyett, 629 S. Franklin, stated they moved into their home 6 years ago and one of the reasons they chose this neighborhood was because of the limited number of rentals. She stated that since that time, the number of rentals has increased and although she is not familiar with these owners, in general, she is not in favor of more rentals.

Rose Ann Forton, 623 S. Franklin, spoke in opposition of the request noting that she is concerned that if it becomes a rental then it will be rented to college students and she has listened to them long enough.

There being no one else who wished to speak, the public hearing was closed.

Staff referred to the letters of opposition that were submitted regarding the request, noting they would be added as attachments to the minutes.

Board Discussion:

Commissioner Raisanen asked about the Department of Public Works requirement for separate water meters. Staff verified that it is currently a single water service, as are many of the older duplexes in the City. As the opportunity arises, the city is requiring separate water services to avoid both units being shut off if one unit doesn't pay their bill.

Commissioner Kulick commented that he has some compassion for Mr. Peterson who believed he could have a duplex; and further commented that if you have an owner living in one of the units, there are generally fewer problems; however if you don't, the quality of life can be reduced significantly for the neighboring properties. Commissioner Kulick stated that he has some problems with the amount of green space that would be eliminated to accommodate the required parking, noting that this deters from the residential feel of an area.

Commissioner Kulick asked staff what kind of problems it would create for code enforcement if the request was approved with the requirement that one unit remain owner occupied. Staff responded that they would just be allowed one rental license.

Commissioner Kulick commented that this area of Franklin Street is relatively stable and is located in the target area to reduce rental licenses, which causes him some concern.

Commissioner Raisanen agreed, and further commented that if the rental license had only lapsed for 12 months, rather than 12 years, she may look at the request differently.

Commissioner Berkshire noted that this property was not eligible for the Owner Occupied Incentive Program as it did not have a current license at the time the applicant purchased it.

Motion by Kulick, support by Palm to approve Case Number ZBA-09-2013 filed by John Lawson to grant a variance from section 154.051(C)(9) to allow a duplex on a parcel having less than 8,500 square feet of land area based on the fact that it was a duplex in the past and one unit will be owner occupied.

Commissioner Berkshire asked for an amendment to the motion to limit the rental to the upstairs apartment and add the stipulation that the unit above the garage not be converted to a rental unit.

Commissioners Kulick and Palm agreed to the amendment.

Commissioner Kulick commented that East Lansing has worked hard to preserve certain areas of the city to prevent rentals and suggested maybe Mt. Pleasant might want to consider that.

Commissioner Quast commented that she is torn by this request and appreciates the position the applicant is in and also understands the neighborhoods desire to keep additional rentals from coming in, and questioned whether a variance could be granted to one specific owner. Staff responded that the variance typically runs with the property.

Chairman Fokens commented that the Board's charge in this case is to determine if there is a basis for granting the variance.

The Board discussed the criteria necessary for granting a variance and noted that there is nothing unique about the lot; there are not a lot of other duplexes in the area and based on the testimony heard from the neighbors, it will be a detriment to the neighborhood.

Commissioner Palm commented that she didn't know if that would necessarily be true as the units would only be single-family units; they would not be able to put more than two unrelated persons in either unit.

Commissioner Raisanen noted that more rentals encourage more traffic and understands the neighbors' concerns.

In response to Board questions on how long the property was a single family dwelling and how long it was vacant, Mark Marshall addressed the Board. Mr. Marshall stated it has been a single family home since at least 2003 until the previous owner went to a nursing home. It has remained vacant since that time. Rose Ann Forton also responded to Board questions that the previous owners had not rented the property for 40 years or so.

Chairman Fokens called the question.

Staff took roll call vote:

Nays: Fokens, Quast, Palm, Berkshire, Raisanen, Kulick. Yays: None.

Motion failed.

Motion by Kulick, support by Raisanen to deny the variance request.

Motion approved. Request was denied.

Chairman Fokens called a five minute recess.

Meeting reconvened at 8:38 p.m.

D. ZBA-10-2013 - 706 W. Pickard.

Staff introduced Case ZBA-10-2013 submitted by Coyne LLC/MTW Industries for a variance from Section 154.121(K) that requires hard-surfacing of the access drive and parking to be completed within one year of the date that a building permit is issued.

Staff reported that the applicant received site plan approval in May of 2012 to construct an addition on the front of their building with the contingencies that they comply with the site plan; complete a boundary adjustment to give the property frontage on Pickard Street as it was a land-locked parcel; and they comply with DPW and DPS requirements. Staff noted that the site is also located in an area that is subject to an environmental cleanup.

Staff reported that the applicant has completed the building and is working to complete the survey and legal description; however because the clean-up is not yet complete and will result in areas of excavation throughout the site, the applicant is requesting an extension of the one-year time frame to put in the driveway and parking area.

Staff reported that although we could require a bond for the amount of the remaining work, it is not realistic to hold a bond for the length of time that will be required to complete the work. The other option for the city was to get security through ZBA action.

Staff referred to the letter submitted with the application from MRP Properties Company, which indicates they have a deadline of June 2014 to submit a Remedial Action Plan for the site. Following that, the Michigan Department of Environmental Quality (MDEQ) has six

months to review the plan. Based on this, it appears the site should be cleaned up and ready for paving sometime in 2015.

Shanee Thayer, Central Michigan Surveying and Development, addressed the Board as representative for the applicant.

Ms. Thayer commented that they are requesting a time extension to allow the clean up to be complete, noting that if the paving was done prior to the clean up, it would need to be removed. Ms. Thayer referred to the letter from MRP, noting they expect to have the clean up complete by June 2014. She noted that depending on the time of year that the cleanup is actually done and approved by the state, they would expect to have the site complete within 90 days, weather permitting. Ms. Thayer noted that if it is too late in the year, then the asphalt plants are closed, which could further delay them.

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

Staff shared the correspondence from DPW and DPS, noting they had no objections to the request.

Board Discussion:

Motion by Kulick, support by Raisanen to approve ZBA-10-2013 filed by Coyne LLC/MTW Industries, LLC, to grant a variance from section 154.121 (K) to allow an extension to complete the hard surfacing on the access drive and parking lot called for under SPR-12-10 for the addition to the MTW facility located at 706 W. Pickard until December 31, 2015 or 90 days following the completion, whichever comes first.

The approval will allow MRP Properties Company, LLC and the Michigan Department of Environmental Quality to complete their final environmental reviews and to prevent damage to the new parking lot and access drive and help preserve the environment in the area of the Chippewa River.

Commissioner Kulick commented that he has no problem extending the deadline; however questioned what action would need to be taken if the clean up isn't completed until December of 2015 and the asphalt plant was closed; if staff would at that time require a bond. Staff responded that if that was the case, the request could be brought back to the ZBA under old business, with no fee requirement.

The Board reviewed the criteria for granting a variance noting that the site is unique in the fact that it was the site of a former oil refinery with possible contaminants; and is therefore the site of an environmental cleanup project. They further noted that this is only a temporary variance.

Chairman Fokens called the question.

Motion approved.

IX. Old Business:

None

X. New Business

None

XI. Other Business

A. August Meeting - Staff noted that we will likely have at least 2-3 cases for August.

XII. Adjournment

Motion by Kulick, support by Berkshire to adjourn.

Motion approved.

Meeting adjourned 8:55 p.m.

bam

Attachments: Correspondence