

Mt. Pleasant Zoning Board of Appeals
Minutes of Regular Meeting
6/24/15

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

I. Roll Call: Staff called roll.

Members Present: Fokens, Friedrich, Orlik, Raisanen.

Members Absent: Berkshire, Ferden, White.

Staff: Kench, Murphy.

II. Approval of Agenda:

Kench reported that Case ZBA-09-2015 would be postponed until the July meeting, as there would not be a quorum for this case as Commissioner Friedrich would not be able to participate.

Motion by Raisanen, support by Orlik to approve the agenda with the noted change.

Motion approved.

III. Approval of Minutes: May 27, 2015

Motion by Orlik, support by Friedrich, to approve the minutes from the May 27, 2015 meeting.

Motion approved.

IV. Communications:

Staff reported that following the last meeting, communications were received from Robert Nims, which were included in Board packets.

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, however, based on Board By-Laws, with only four members present, the applicant has the option to postpone their case until a full board can be present.

A. ZBA-08-2015 - 1303 Andre - Mark Hansen

Kench introduced Case ZBA-08-2015 submitted by Mark Hansen, seeking a variance from Section 154.021 of the Zoning Ordinance to allow a 4 ft. chain link fence to be replaced with a 5 ft. privacy fence in the required setback for the side street yard.

Kench shared an overview of the site, showing the placement of the fence on the property, noting that the property sits on a corner lot bordering Andre and Kane Streets.

Kench noted the site is zoned R-2 Residential and is surrounded on all sides with R-2 Residential property. The proposed fence is an allowed use for this area. Future land use is Urban Residential.

Kench shared the Ordinance language from Section 154.021, which restricts the height of the fence in a required front or side street side yard to three feet and no more than 50% solid. Kench also shared a diagram showing where a fence with a height of up to 6' would be allowed on a corner lot, and where the height would be restricted to 3 ft.

Kench shared photos of the site, along with the neighboring property, which has a privacy fence the same height that is being requested by the applicant, and which would butt up to the applicant's fence. The neighboring fence has been there for several years and recently was granted a maintenance permit to replace the wood with vinyl of the same height. Kench noted that the applicant's site currently has a chain link fence and the applicant would like to replace it with a solid vinyl fence to help secure the pool area.

Kench explained how the ordinance determines which yard is the front yard vs. the side yard, with the narrowest lot frontage designated as the front. Kench further noted that the ZBA has granted similar requests to two other properties in the last three years and also reported that the Planning Commission (PC) will be asked to consider looking at a text change in the near future.

Kench shared the conditions required from Section 154.164 of the Zoning Ordinance that the Board needs to consider to grant the variance.

Mark Hansen, 1303 E. Andre, addressed the Board. Mr. Hansen clarified that the neighboring fence pillars are 6' high; however, the fence itself is 5'.

Mr. Hansen commented that he would like to replace the existing chain link fence with a 5' solid fence to enhance the security for the pool area. He also noted that the existing fence is in pretty rough shape. Mr. Hansen shared photos of the fence he is proposing to install.

Commissioner Orlik asked if the proposed fence would be vinyl. Mr. Hansen stated it would be and noted that there will be gates to allow future maintenance on the pool, but the gates will be equipped with deadbolt locks.

Chairman Fokens asked if the neighbor's fence enclosed a pool. Mr. Hansen said it did not.

Vice-Chair Raisanen asked staff if there was any reason the proposed fence would fit better than the existing.

Kench commented that it would be pretty much the same and commented that given the location of the pool, if the fence were to be pushed back, it would be into the concrete

surrounding the pool. The proposed fence would be in the same location, but with better materials. The existing fence is non-conforming also.

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

Board Discussion:

Commissioner Orlik commented that this appears to be a pretty straight-forward request and the applicant has answered all of the questions to meet the criteria. In reviewing the criteria, he noted that this would allow the applicant the same enjoyment and preservation of his property rights as the neighboring property. Further it will not be a detriment to the adjacent property and will not impair the purpose of this chapter of the ordinance or the public interest. The fence was inherited by the owner and from an aesthetic standpoint, the proposed fence will be an improvement.

Motion by Orlik, support by Friedrich, to approve ZBA-08-2015 filed by Mark Hansen, who resides at 1303 East Andre Avenue, for a variance from Section 154.021 of the Zoning Ordinance to replace a 4 ft. chain link fence with a 5' privacy fence within the required side street yard along Kane Street.

Kench noted that the only correspondence received was from the Department of Public Safety with no concerns or objections.

Chairman Fokens commented that when the Planning Commission looks at the ordinance, they may want to consider the safety aspect as well, as he feels this change is necessary for safety reasons.

Motion approved.

B. ZBA-09-2015 - 714 S. Main - Barberi Law/Joseph T. Barberi. (Postponed)

C. ZBA-10-2015 - 301 S. Crapo - Johnson Outdoor Digital on behalf of Community Mental Health.

Kench introduced case ZBA-10-2015, noting that the applicant is requesting a variance from the height and width restrictions of the Zoning Ordinance for a Ground Sign. In addition, the applicant is also asking for an increase in allowable sign area. Kench reported that the existing sign is non-conforming and the applicant is looking to update it. The applicant has indicated the sign will not be a LED sign.

Kench reported that the zoning for the site is OS-1, which permits this use, with OS-1 to the north; R-2 residential to the east; OS-1 to the south and R-2 Residential to the west. Future land use is designated as commercial. Currently the OS-1 serves as a transitional area between the districts.

Kench noted that the proposed sign would be placed in roughly the same location as the current sign. He further commented that the city wants to encourage ground signs, however, our ordinance actually restricts them. Kench noted that the Planning Commission will be looking at updating the sign ordinance at some point in the near future, based on a sign report that was adopted by the PC in 2008.

Kench shared the Ordinance language from Section 154.147, which defines sign regulations in the OS-1 District. Kench noted that the applicant is actually reducing the size of the signage that is currently on site, and further noted that the applicant would not require a variance to simply reface the existing sign and continue its use. Kench commented that the size of the proposed signage is consistent with other signage found in the area for similar uses.

Kench shared the renderings submitted by the applicant, noting that the sign posts and framing are exempt from the size calculations.

Kench reviewed Section 154.164 of the Ordinance listing the conditions necessary for granting a variance.

Gary Johnson, Johnson Outdoor Digital, 5555 E. 13 Mile Road, Paris MI, addressed the Board as the applicant, representing Community Mental Health of Central Michigan (CMHCM).

Mr. Johnson thanked the Board for hearing the appeal and explained that they were awarded the bid from CMHCM and provided with the criteria for what they wanted which would provide consistency with their other locations.

Mr. Johnson commented that it became apparent that the proposed sign would require a variance, even though it is actually a reduction from what they currently have. CMHCM felt that maintaining consistency with their locations throughout Central Michigan was important, therefore they felt it was best to seek a variance.

Mr. Johnson shared a picture of one of the other locations. For clarification, Commissioner Orlik asked Mr. Johnson to verify that the sign was not an LED sign even though their company name is Johnson Outdoor Digital. Mr. Johnson clarified that it would not be LED.

Vice-Chair Raisanen asked if the sign would have internal lighting. Mr. Johnson stated it would not. He further commented that the size of the existing sign is 4' x 9' and they would be reducing it to 3' x 8'. They would be increasing the size of the posts, but reducing the size of the actual sign.

Vice-Chair Raisanen commented that the overall space would be increased with the new structure, which concerns her. Kench explained that the supporting structure is exempt from the calculations, noting that the sign face itself is what the Board needs to consider. Kench further commented that the proposed sign is in line with what is in the area right now and also is in line with the 2008 sign report endorsed by the Planning Commission. Kench also commented that if the building was divided, it could have the 24 square feet of signage that is being requested and noted that this is not out of character for the OS-1 district.

Commissioner Friedrich commented that this is more of a monument sign, which is what the city is encouraging.

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

Kench shared the communications from the Department of Public Safety, who had no concerns with the request.

Commissioner Orlik reviewed the criteria, commenting that the proposed sign is not illuminated, is consistent with what is in this area, which is mostly institutional in nature. He further commented that they are actually reducing the actual face of the sign and this is a similar property right that is being exercised by other office uses in the area. Commissioner Orlik further noted that the Board recognizes that the Planning Commission will be looking at the ordinance in the near future and this type of sign falls into line with the Branding efforts of the city. He commented that the proposal will not adversely affect the public interest and is an improvement to the current signage.

Vice-Chair Raisanen clarified that although the sign is not internally illuminated, there will be lights that shine on it.

Motion by Orlik, support by Friedrich, to approve ZBA 10-2015 filed by Gary Johnson - Johnson Outdoor Digital on behalf of Community Mental Health seeking variances to construct a new ground sign at their 301 South Crapo Street location. The Board finds that the request complies with section 154.164 to permit the variance. The request is consistent with other signs found in the area, the sign area will be reduced from what is currently on site and is consistent with the branding efforts for businesses suggested in the 2008 Sign Committee's report. The Board also recognizes the Planning Commission will be looking at updates in the 1984 standards in the very near future based on the number of variance requests related to signage.

Motion approved.

D. ZBA-11-2015 - 407 S. Bradley - Kenneth Bullard.

Kench introduced Case ZBA-11-2015 submitted by Kenneth Bullard requesting a variance from Section 154.021 of the Zoning Ordinance to allow a solid 3 ft. fence in the side street setback.

Kench provided some background on this case, noting that the applicant had applied for a fence permit but was denied as it was taller than the three feet allowed. The applicant revised the permit to meet the height restriction, but there was some misunderstanding regarding the required 50% openness and the applicant went forward with constructing most of the fence. Kench noted that he believes this was an innocent mistake and was not intentional.

Kench reported that the property is located on the corner of Bradley and Lyons and shared an overview of the site, noting that Lyons Street, being the narrowest frontage, is considered

the front yard. Kench shared the language from the ordinance restricting fences in the side street side yard to three feet in height and 50% solid.

Kench reported that the property is zoned R-3 residential and this is a use by right. The property is surrounded by R-3 residential properties.

Kench shared a diagram showing allowable placement of fences on corner lots. He also showed several photos of the site, both before and after the fence was placed on the lot. Kench commented that typically the inside of the sidewalk represents the property line.

Kench referred to similar cases that have come before the Board in the past few years and were granted variances. He again noted that the Planning Commission is looking at making changes to this section of the zoning ordinance in the very near future to allow more usage of these side yard corner lots and referred to several recent cases dealing with this issue.

Kench explained that the applicant placed the fence to contain his dog and commented that a 50% open fence could create an issue for that purpose.

Kench shared the Ordinance language with conditions necessary for granting a variance.

Chairman Fokens asked the applicant to come forward. There was no one in the audience representing the applicant.

Motion by Fokens, support by Orlik, to postpone case ZBA-11-2015 until the applicant or his representative could be in attendance.

Motion approved.

VII. Old & New Business - None

VIII. New Business

- A. July ZBA Meeting: Kench noted that Case ZBA-09-2015, 714 S. Main Street will appear on the July agenda, as will ZBA-11-2015. Deadline for submittals is June 29, 2015. Kench commented that we will need everyone who can possibly make the meeting to be in attendance to assure we have a quorum for the 714 S. Main case, as two of our members are ineligible to participate.

XII. Adjournment

Motion by Raisanen, support by Orlik to adjourn.

Motion approved.

Meeting adjourned at 7:40 p.m.

BAM