

Mt. Pleasant Zoning Board of Appeals
Minutes of Regular Meeting
3/25/15

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

I. Roll Call: Staff called roll.

Members Present: Berkshire, Ferden, Friedrich, Orlik, Raisanen, White.

Absent: Fokens.

Staff: Kench, Murphy

II. Approval of Agenda:

Motion by Berkshire, support by Orlik to approve the agenda as written.

Motion approved

III. Approval of Minutes: February 25, 2015

Motion by Berkshire, support by Ferden to approve the minutes from the February 25, 2015 meeting.

Motion approved.

IV. Communications:

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

V. Public Comments:

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

A. ZBA-02-2015 - 206 W. Maple - St. John's Episcopal Church (*postponed from February*).

Commissioner Berkshire noted that he is a member of the Church; however, after discussing with staff, it was determined that it would not be a conflict of interest for him to participate in the discussion.

Kench introduced Case ZBA-02-2015 submitted by Dennis Maloney on behalf of St. John's Episcopal Church, noting that the request includes three separate variances. A variance is requested to allow an addition and relocation of a building on the property within the required 40 ft. side yard setback. The applicant is also requesting variances from sections

154.120 & 154.095(S) to allow an increase in the amount of impervious surface and a reduction in the required on site parking.

Kench reported that the property is zoned R-3 residential as are the surrounding properties, and is located in an established residential neighborhood. Future land use calls for Urban Residential with an emphasis on maintaining the historic character of the neighborhood. Kench noted that the church has been in this location for more than 100 years and has received two other variances since 1988. One for a reduction in the 40 ft. required setback and to allow the parish hall to be used for a day nursery; and in 1995 to allow an addition to make the church more barrier free. Kench noted that it isn't clear from the records if a variance was sought to use on-street parking; however site plan approval was granted by the Planning Commission in 1995 to allow the addition. Parking occurs on the street during church services.

Kench shared the proposed site plan, along with photos of the existing conditions, explaining that the plan is to lift the manse from its current location and move it onto a new foundation, closer to the property line and place an addition to join the buildings on the site. Kench noted that the applicant wishes to preserve the historic character of the site by moving the building rather than replacing it with new construction. Kench explained that residential uses in the R-3 district require a 6.5 side yard setback; however, churches are required by Ordinance to maintain a 40 ft. side yard setback. Kench noted that if approval is granted for this project, the applicant will need to work out potential drainage issues with the Department of Public Works.

Kench referred to the floor plan that was submitted with the request noting that occupancy issues would be worked out with the permit process.

Rev. Wayne Nicholson, 405 E. High Street, addressed the Board as representative for the request. Rev. Nicholson reported that several years ago the church considered tearing down the manse and replacing it; however the congregation wanted to preserve the historic ties to the church and the neighborhood. Rev. Nicholson commented that the current site is not flexible and there is no easy passageway from one building to another. In its current configuration you need to go outside to get back and forth. He further noted that the kitchen is not up to code and cannot be brought up to code in its current configuration, making it more difficult to serve the homeless or to have church functions.

Rev. Nicholson stated that they would like to maintain the basic nature of the building and the sense of neighborhood, but would also like to enhance the flexibility of the buildings and make it easier for the congregation to hold events and be more accessible to the community. Rev. Nicholson explained how the building would be moved on the lot with the addition to connect the buildings.

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

Kench shared the correspondence received from the Fire Department and Department of Public Works.

Commissioner Orlik asked about water runoff. Kench stated they may have to provide something on site, and would need to work that out with DPW. Kench also noted that the Board may want to address possible damage to the alley.

Karen Varanauskas, 420 S. Kinney, addressed the Board as a representative of the church, stating that she believes there is a plan to redo the parking area and repair any damage to the alley caused by the construction.

Motion by Orlik, support by Berkshire to approve case number ZBA 02-2015 filed by Architect Dennis Maloney, on behalf of St. John's Episcopal Church for a variance from section 154.051(C)(3)(b) to permit an addition and relocation of the Manse (parsonage) on the property within the required 40 ft. setback, a variance from sections 154.120 to allow a reduction in the amount of on-site parking, based on the availability of street parking and an increase in the amount of impervious surface beyond 40% of the lot coverage as required under section 154.095(S) of the zoning ordinance with the condition that any damage to the alley incurred during the construction project be repaired by the applicant.

The Board finds the conditions necessary under section 154.164 have been met to grant the variance requests. The variances will allow the Manse structure to be raised, relocated and placed on a new foundation, and then connected to the existing Church building. The applicant will need to comply with all Department of Public Works requirements for addressing storm water to permit an increase in the amount of impervious surface. Barrier Free parking will be provided near the new accessible entrance and on-street parking will continue to serve the community for Church functions.

Commissioner Berkshire read through the conditions necessary for granting the requests, noting that the church was established on the property in 1882, and further noted the limitations on the site. It was also noted that the 40 ft. setback for a historic church in a residential neighborhood may not be appropriate based on lot sizes. Vice Chair Raisanen commented that she feels it has been determined that having an urban congregation in a residential neighborhood is a benefit and has a positive impact on the surrounding properties.

Commissioner Orlik commented that this will allow the church to be able to use the kitchen area of the parish hall and reestablish that enjoyment and property right.

It was also noted by Board members that the church has been there for many years and there have been no complaints; therefore, it is not a detriment to adjoining properties.

Motion approved.

B. ZBA-04-2015 - 315 W. May - Richard L. McGuirk (*postponed from February*).

Kench introduced case ZBA-04-2015 submitted by Richard McGuirk, seeking a finding under Section 154.007 to permit the demolition of a four unit building and replace it with a two unit building with the same occupancy.

Kench reported that the use is non-conforming as it sits on a non-conforming lot with a number of deficiencies. The property is zoned M-2 multi-family residential and the future land use has been designated as multiple family residential/medium density and is surrounded by M-2 properties.

Kench shared the conditions necessary for Rooming/Boarding dwellings, noting that if approved, these conditions would be brought into compliance with the exception of a setback to allow an open porch to extend into the required side yard setback. Kench reported that the parking, which is currently gravel, would also be brought into compliance.

Kench shared the current and proposed site plan, noting that the plan calls for consolidating the parking in the back, off the alley. The applicant worked with the Fire Department to determine maneuvering lanes for the parking area. Kench noted that the Board has the option to review the parking area to determine whether to require a 24 ft. maneuvering lane or reduce it to 20 ft. to allow additional green space.

Kench shared the proposed landscape plan and elevation drawings and noted the reduction in non-conformities that the Board would be considering as a basis for granting the request:

- 154.095 Side Yard Setbacks- brought into compliance
- 154.095 Side Yard Setbacks- Deck over the property line will be removed
- 154.095 Increase in building area per person to comply with 1:300 154.095 Licensed Occupancy will be maintained
- 154.121 Parking will be hard surfaced
- 154.120 Increased Parking Ratios 1 to 1 for eight tenants
- 154.121 Parking lot maneuvering lane provided to comply with ordinance and fire code
- 154.121 - Stacked Parking will be eliminated

Commissioner Orlik commented that with two units, there would be a possibility that a family could move into one of them that may have more than four people. Kench noted that this area has a high concentration of student rentals, so although this is possible, it is highly unlikely. He further commented that the proposed use is consistent with the neighborhood.

Tim Bebee, Central Michigan Surveying & Development, addressed the Board. Mr. Bebee reported that they are proposing a complete redevelopment of this property. He indicated they have met with the Fire Department and staff to come up with this layout. During the review process they found that the Fire Department would allow a 20 ft. maneuvering lane. Mr. Bebee stated they would like to leave this at 20' to allow additional greenspace.

Kench explained the difference in the elevation for the side porch, noting that the original design included a wraparound porch which extended along the entire side of the building. The revised elevation is for the porch to be just over the entrance. Additional architectural features include the bay window and roof detail over the porch. Mr. Bebee

added that the Ordinance allows for an open porch to extend into a front yard setback but not the side.

Commissioner Berkshire requested clarification on whether the units would be divided 4/4 and if one of the RSO's wished to move into this building if they would be allowed. Kench stated that the request is for a specific use, in this case a two unit rooming dwelling. If the use is changed, then the applicant would be required to come back before the Board.

Commissioner Berkshire commented that with the occupancy of 8, there would be 875 square ft. per occupant.

Vice-Chair Raisanen asked if there was any thought of putting the entrance on the back to eliminate the need for a variance on the side porch. Kench responded that the interior layout provides for two entrances/exits per unit and also noted that the side entrance adds some architectural interest to the side elevation. Kench further noted that the Board is not actually granting a variance, that allowing the slight reduction into the setback would all be part of the finding on whether the proposed redevelopment is a reduction in the degree of non-conformity. Kench also noted that a variance was granted to a neighboring property to incorporate open porches similar to this proposal, and noted the similarities to other porches in the neighborhood.

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

Kench shared the correspondence received from the Fire Department and DPW.

Motion by Berkshire, support by Orlik to approve Case Number ZBA 04-2015 filed by Richard L. McGuirk owner of Main Place Apartments, LLC/United Investments, Inc., seeking a finding on a nonconforming use under section 154.007, to permit the redevelopment of the property located at 316 West May Street. The approval will allow a new two-unit rooming dwelling for eight occupants (4 in each unit) and will permit a slight reduction in the side street setback for an open porch.

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

- 154.095 - Side Yard Setbacks will be brought into compliance (3.9' / 6.5'+)
- 154.095 - Side Yard Setbacks- Existing deck that is constructed over the property line will be removed
- 154.095 - Increase in building area per person to comply with 1:300 (295/400.9)
- 154.095 - Licensed Occupancy will be maintained 4/4.
- 154.121 - Parking will be hard surfaced (gravel lots currently provided)
- 154.120 - Increased Parking Ratios 1 to 1 for eight tenants
- 154.121 - Parking lot maneuvering lane will be provided at a minimum of 20' to allow additional greenspace.
- 154.121 - Stacked Parking (lacking proper maneuvering lanes) will be eliminated

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 permit the continuation of the licensed occupancy of eight on the property, or four per dwelling unit. Further, the Board finds that allowing a slight reduction in the side street setback is consistent with the approval granted at 816 Douglas Street and the porch provides improvements in the architectural features on the project.

The approval is subject to compliance with the site plan, building elevations presented to the board, and the owner/applicant implementing more stringent lease standards to ensure that tenants comply with all City standards related to trash, litter, nuisance parties, etc.

Commissioner Friedrich asked if allowing the porch to extend into the setback would be setting a precedent. Kench explained that in this case, there are a lot of other non-conformities being eliminated, along with the removal of a porch that extends over the property line. The Board reached a consensus that this would not set a precedent.

Motion approved.

VII. Old Business:

A. ZBA-03-2015 - 1024 & 1026 S. Main - Joseph Olivieri. (*postponed from February*)

Kench reviewed the original request which was presented to the Board at the February meeting. The request is for a finding on a non-conforming use under section 154.007 of the zoning ordinance. Kench noted that the use is non-conforming based on lot size, setbacks, land area, parking, etc. The proposal involves the two properties at 1024 & 1026 S. Main Street. The applicant is proposing to raze the existing buildings, combine lots and construct a RSO for 16 occupants. The properties together are currently licensed for 16 occupants. The applicant was originally asking to increase the occupancy to 18 (one per lot); however after hearing the Board's concerns, he has revised the request is now asking to just maintain the total license occupancy of 16.

Kench reported that the property is zoned M-2 as are the surrounding properties. Future land use is designated as multiple family residential. Kench shared the revised site plan which removed the stacked parking based on the reduction in occupancy. In addition, Kench noted that all setbacks will be brought into compliance.

Kench shared the requirements for an RSO, noting that if approved by the ZBA, the applicant will need to obtain a Special Use Permit and Site Plan Approval from the Planning Commission. Kench reported that the applicant meets all requirements except for the 25% open landscaped area but has shown a significant increase over what is currently on the sites.

Kench shared the elevation drawings submitted at last month's meeting along with the revised elevation drawings. Kench also shared photos of the existing sites and current conditions, including gravel parking areas.

Kench reported the non-conformities that would be eliminated with this redevelopment as:

- 154.095 Lots combined creating conforming parcel
- 154.095 Increase in building area per person
- 154.120 Parking ratios brought into compliance
- 154.121 Parking updated to hard surfaced
- 154.121 Parking lot maneuvering lane provided
- 154.121 Stacked Parking eliminated
- 154.095 Side yard setbacks brought into compliance
- 154.095 Separation distance brought into compliance
- 154.054 Increase in the required 25% open green space
- 154.095 Front Yard Setback brought into compliance

Kench noted that when considering land density with these redevelopment proposals, the Boards have consistently considered the current licensing or land area; whichever is greater to provide incentive to encourage better redevelopment. He also reiterated that with the revisions, the applicant is looking to simply maintain the current occupancy in combination with both properties at 16 and has made several updates in overall design to address the Board's concerns. Kench also noted that the proposed density is now consistent with other properties found in the immediate area.

Vice-Chair Raisanen spoke of some research she conducted on density and referred to *Morning Sun* articles from 1984, at the time that this portion of the zoning code was passed. She noted that the articles state that the Planning Commission secretary at the time stated that the new codes would tighten up the density requests for apartments and rooming dwellings and in the future, developers would not be able to fit as many renters in such small spaces. She further commented that the Board intentionally created the 300 sq. ft. building area and 900 sq. ft. of land area to help reduce density. Vice Chair Raisanen commented that there were multiple comments on hoping this would allow the area to remain as a mixed use area for single family occupancy as well as student rentals. She indicated that she believes that was the intent when the ordinance was created and it has not been changed. Vice Chair Raisanen commented that she believes the intent of the Ordinance was to reduce density to meet standards when a property goes under redevelopment.

Vice-Chair Raisanen also stated she had pulled meeting minutes from Planning Commission and ZBA meetings talking about M2 special uses not using existing occupancy as the criteria, but rather basing requests on what the code allows, and in unique or special circumstances allowing one to two additional occupants.

Vice-Chair Raisanen quoted headlines from several recent newspaper articles regarding behavioral issues over St. Patrick's Day weekend and referred back to comments in a 1984 newspaper article stating that the high student concentration and parties cause disruption and fear in the area. She also quoted several social media comments and referred to the police report noting 300 calls on St. Patrick's Day alone. She noted that she is not saying this particular project is going to cause more behavioral issues, however feels that issues with density need to be addressed and questioned whether we are going

to allow a grandfathered occupancy into a brand new development or limit them to what the code allows.

Kench noted that both the ZBA and PC have been very sensitive to these issues during the review process. This is why the stricter lease agreements have been required with every redevelopment approved by the Board. He also commented that several of the property owners have implemented on site security during special weekends, welcome back, homecoming, etc. Kench commented that the records speak for themselves, code enforcement visits are greatly reduced due to the approvals and the good working relationship with the developers/landlords who are going through these processes. The developers know that once they are granted the approval, they are responsible for the site; policing and maintaining the sites in accordance with these approvals.

Kench further commented, the ZBA is charged with reviewing these requests to ensure they meet the requirements outlined under section 154.007 regarding a nonconforming use. State law grants authority to communities to address nonconformities. The zoning ordinance provides this authority and requires the ZBA to render a finding that there are sufficient reductions in the manner and degree of nonconformities to consider a request to change a use. This is an administrative review assigned to the ZBA.

Kench commented that the other issue with behaviors is really a policy decision: how do we handle student behavior?

Vice-Chair Raisanen again commented that she is not trying to tie those behaviors to this particular request, but is asking the question on whether we allow grandfathered occupancy licensing to continue or use current code.

Kench commented that the ZBA has consistently looked at the higher number regarding slight increases in density as part of the review on nonconforming uses.

Vice-Chair Raisanen commented that the incentive is always tied to economics and we keep hearing that the demand for downtown housing vastly exceeds supply. She commented that it is simple supply and demand and if demand exceeds supply then the market can bear the increased cost and that is the incentive. She commented that she feels we need to be clear on how we handle these requests going forward.

Kench commented that the Board needs to be consistent with what we have done in the past, and further noted he believes the Boards are doing a good job. Kench also read an e-mail from the Sorority noting they have been at this location since 1969. Most of their issues have been related to trash removal and parking, rather than parties. He further noted they are a dry sorority. Kench further commented that whether this is the process that everyone supports, the results speak for themselves. We are getting better developments and tighter lease agreements and better compliance with code enforcement issues.

Commissioner Orlik spoke regarding past discussions with the Planning Commission and current realities, using the current request as a case in point. He commented that the

reality is that if we reduce the occupancy to 11, which would be allowed by current standards, the redevelopment is not going to happen. He noted that either way, we will have 16 occupants at this site; we will either have 16 with the current facilities, which are more likely to have behavioral issues as they are not in good shape, or we can maintain the current occupancy with a new facility, which will address parking issues, access issues, etc.

Vice-Chair Raisanen commented that she feels that this conversation needed to occur, noting that she is not saying what her personal opinion is, but felt it was important for viewers to understand the rationale for making the decisions we are making.

Vice-Chair Raisanen called the applicant to come forward, and apologized to Mr. Olivieri regarding her comment at the last meeting regarding the parking areas being paved. She re-visited the site and noted that they are gravel as the applicant had stated in the application.

Mr. Olivieri, 1933 Churchill, addressed the Board as applicant for the case and commented that he has owned the property for 35 years so was confident that the parking areas were indeed gravel.

Mr. Olivieri commented that following the February meeting he revised the plan to address concerns expressed by the Board. In addition, he worked with an architect to provide updated renderings.

Commissioner Berkshire asked if he had reduced the ADA area. Mr. Olivieri stated he had not - there were still two bedrooms/bathrooms that would be ADA accessible. Kench indicated that all units could be made adaptable. Commissioner Berkshire commended the Sorority for making the space handicap accessible.

Mr. Olivieri commented that the Sorority has also chosen to add additional fire protection. Vice-Chair Raisanen commented that is a big step up in safety.

Commissioner Berkshire asked if the building was still being constructed so that it could be converted to a duplex. Mr. Olivieri stated it was not - he has revised the floor plan and eliminated the third floor.

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

Kench shared the correspondence received: an e-mail from the Sorority and comments from the Department of Public Works and Public Safety.

Commissioner Berkshire commented that if the maneuvering lane is reduced to 20 ft., it would provide room for additional greenspace.

Commissioner Berkshire asked Mr. Olivieri if he had considered just redoing the buildings on site. Mr. Olivieri noted that would not eliminate the non-conformities and it would be too costly.

Commissioner Orlik stated he feels the revised proposal is a significant improvement over the project that was being considered last month. Vice-Chair Raisanen commented that she liked the revised renderings.

Motion by Raisanen, support by Berkshire, to approve Case Number ZBA-03-2015 filed by Joe Olivieri, Olivieri Homes, seeking a finding on a nonconforming use under section 154.007, to allow redevelopment of the properties located at 1024 and 1026 South Main Street for a new RSO Dwelling for the ASA Sorority. The approval takes into consideration the revisions that were made by the applicant to address the concerns raised in February related to density and building design.

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

- 154.095 - Lots combined creating conforming parcel for lot width and lot area (50ft & 5,015 to 100&10,030)
- 154.095 - Increase in building area per person to comply with 1:300 (251/376)
- 154.120 - Parking ratios brought into compliance of 1:1 + 2 for RSO.
- 154.121 - Parking will be hard surfaced (gravel lots currently provided).
- 154.121 - Parking lot maneuvering lane will be provided at a minimum of 20' to permit additional greenspace.
- 154.095 - Side Yard Setbacks- brought into compliance.
- 154.095 - Separation distance of 12' minimum between buildings will be brought into compliance.
- Existing dwellings do not provide the required 25% open green space in the side and rear yards. The updates will increase the combined open area from the proposed 18.5% to 20%, bringing it closer to the 25% requirement.
- 154.095 - Front Yard Setback brought into compliance with permitted porch encroachment.
- The applicant will implement more stringent lease standards to address nuisance violations.
- The RSO has been established at the site and operates under a no alcohol policy which should deter problems associated with nuisance gatherings and parties at the site.

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 maintain the current licensed occupancy of 16 for the redevelopment.

The approval is subject to compliance with the site plan, building elevations presented to the board, and the owner/applicant implementing more stringent lease standards to ensure that tenants comply with all City standards related to trash, litter, nuisance parties, etc.

Motion approved.

VIII. New Business

A. April ZBA Meeting: Kench noted that we have not received any new applications at this time. Deadline for submission is March 30.

B. Commissioner Ferden thanked the Mt. Pleasant Police Department and surrounding area departments for their assistance during St. Patrick's Day weekend. Vice-Chair Raisanen added her thanks as well.

XII. Adjournment

Motion by Berkshire, support by White to adjourn.

Motion approved.

Meeting adjourned at 8:40 p.m.