

Mt. Pleasant Zoning Board of Appeals
Minutes of Regular Meeting
August 24, 2016

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

I. Roll Call: Staff called roll.

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

Members Absent: Assmann.

Staff: Kench, Murphy.

II. Approval of Agenda:

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

Motion approved unanimously.

III. Approval of Minutes: February 24, 2016

Motion by Raisanen, support by Friedrich, to approve the minutes from the February 24, 2016 meeting.

Motion approved unanimously.

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.

A. ZBA-02-2016 -1005 & 1007 S. University

Kench introduced Case ZBA-02-2016, filed by Joe Olivieri on behalf of United Apartments, seeking a finding under section 154.054 C-2, to allow the construction of two new rooming dwellings. As part of the redevelopment, the applicant is requesting consideration to increase the permitted occupancy from 6 to 8 for each site.

Kench noted that the Board would be referring to the M-2 Redevelopment updates that went into effect last October, as well as the Redevelopment guidelines endorsed by both the Planning Commission and ZBA during their review of this case.

Kench noted the request involves the razing of four buildings on one zoning lot, splitting the lot into the original two separate zoning lots and constructing a two-unit building on each lot. The applicant is requesting a total of 8 occupants; 4 per unit, for each site. Kench reported that the property is zoned M-2 Multiple Family Residential and is surrounded by M-2 property. The surrounding uses are all Rooming Dwellings.

Kench reviewed the new ordinance language under 154.054 C-2, noting that the request meets all the requirements A-F, and the ZBA would be looking at section g when determining this case:

(g) The Zoning Board of Appeals shall have the authority to modify ordinance requirements to permit the development of a nonconforming lot, or redevelopment of a nonconforming use or building. In granting approval for the project the Zoning Board of Appeals may do the following:

- 1. Reduce dimensional zoning requirements such as setback and lot coverage and development requirements such as minimum parking space requirements and permit additional dwelling units provided the overall occupancy complies with division (A)(2)(g)2.*
- 2. Permit up to two additional occupants over the maximum permitted by land area. Occupant limits per unit shall still apply.*

Kench also shared the parcel requirements for the M-2 zoning district, noting that all requirements for size and setbacks would be met with this proposal.

Kench noted that if approved, the applicant would be required to go to the Planning Commission for Special Use Permit and Site Plan Review.

Kench shared the site plan and photos of the existing conditions, noting that there are currently four separate units on one parcel, which was combined several years ago, and which created non-conforming setback issues. The proposed redevelopment would correct the setbacks and parking issues. In addition, by splitting the property back to the original size, the parcel sizes will be more in line with the surrounding properties and the proposed buildings will have a smaller footprint.

Kench shared the proposed site plan, noting that this property first came to staff in March, and consisted of one long unit, which didn't fit the character of the neighborhood. Staff worked extensively with the applicant to reduce the footprint of the building, consolidate the parking and provide landscaping. In addition, staff worked with the applicant to get different design elements on each of the units with varying roof lines (1005 will have a hip roof and 1007 a gable roof), window treatments, trim boards, etc., pulling style features from some of the more distinctive homes in the surrounding area.

Kench explained that the new ordinance allows up to five spaces of stacked parking, which reduces the amount of impervious surface. The applicant has also agreed to include underground storm water storage, and will also be using a higher grade of

building materials on the facade. The applicant has designed the units to have the appearance of a single family home from the street with the placement of the doors.

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

- Rear dwelling units will be razed.
- Rear setbacks will be brought into compliance
- Side setbacks will be brought into compliance

In addition, the parking will all be out of the front yards and accessed off the alley, allowing the front yards to be landscaped and provide additional green space.

Kench noted that the M-2 Redevelopment procedures allows for up to two additional occupants, based on land area, for projects that are considered distinctive. Kench reiterated the Board should consider the use of upgraded building materials, architectural details, increases in the open landscaping areas, underground storm water storage, curb and gutter placement to define parking area, elimination of the rear dwelling units, removal of parking from the front and bringing the setbacks into compliance.

Kench suggested the board take the time during their deliberation to go through each piece of the M-2 zoning standards and ordinance requirements.

Vice-Chair Berkshire asked if there was only one entrance to each apartment and if all the parking was stacked. Kench indicated that there was a front and back entrance, which maintains the appearance of a single family home. Kench also noted that the parking would all be stacked, and further noted that the old ordinance required the large parking lots, whereas the updated language allows for the stacked parking, reducing the amount of impervious surface.

Vice-Chair Berkshire asked if the entrance for the parking would be off the alley. Kench stated it would be, and reiterated that the applicant has agreed to install full curb and gutters as well to prevent and/or restrict yard parking.

Vice-Chair Berkshire referred to the letter received regarding a concern over increased alley traffic. Kench commented that we had received a letter from someone leasing a home in the area, who expressed that concern; however, he noted that the alley is designed for the traffic.

Commissioner Orlik asked for clarification on the requested occupancy, as the combined site is currently licensed for 13. Kench explained that the procedures requires the baseline occupancy to be determined based on the land area of 1:900. Once the site becomes two, the applicant would be allowed 6 occupants per site based on the available land area. They are asking for two additional occupants (8) per site.

Commissioner Orlik referred to the request to split the parcel, noting that this could possibly be looked at as two cases. Kench commented that staff debated this as well; however, because the lot is currently one parcel, it is being considered as one case. Kench also noted that if the property remained as one parcel, the ordinance would allow a large building, which staff believes is out of character for the neighborhood.

Commissioner Raisanen commented that if the goal is to look like a single family home, why would they be modeled after rooming dwellings. Kench explained that at one time, the surrounding rooming dwellings were all single family homes. Commissioner Raisanen commented that she feels there is a significant difference in the look of the single family homes vs. the student rentals, noting the lack of windows on the back of the homes as one of the differences, which she feels is significant.

Kench reviewed the new standards and guidelines with the Board, which call out details, noting that this project goes beyond what any of the previous redevelopments have done and further commented that the applicant may be willing to add windows if that is the only issue.

Joe Olivieri, 1933 Churchill, addressed the Board, offering to answer questions.

Vice-Chair Berkshire asked about the layout of the home. Mr. Olivieri commented that they are side by side units, with the living area on the main floor, two bedrooms upstairs, and two in the basement. Each unit will have two means of egress. He noted that the kitchens are towards the back; and there are fewer windows to allow for cabinets. He noted that he may be able to reconfigure the layout to include another window if the board requires him to. He noted there are two windows in each bedroom, and further commented that with many of the newer homes he is building, the owners prefer less windows as a matter of privacy.

Commissioner Orlik asked why they were asking for 16 occupants rather than 14. Mr. Olivieri responded that the cost of using the upgraded materials is significant and provided some cost comparisons. Commissioner Orlik acknowledged that the Board basically needs to choose whether they prefer a more institutional look or want the upgrades with the additional occupants.

Mr. Olivieri commented that they want these homes to have a "wow" factor, something they are proud of.

Vice-Chair Berkshire commented that code enforcement reports have been provided for the Board; however, asked about police reports.

Kench noted that there were no reports of calls for this property. Kench also noted that United Apartments has indicated on past cases that they hire additional security for the big weekends.

Vice-Chair Berkshire asked if there were penalties in the lease for residents who violate.

Rick McGuirk, owner, responded that they charge residents \$300 per person for violations of the nuisance ordinance. In addition, they include damage assessments and noted that they aren't going to put this kind of investment into a property and then sit back and watch it be destroyed.

Mr. Olivieri reiterated there is a strict policy that if something is destroyed, they require it be replaced, noting a lot of time and effort goes into these redevelopments and they take pride in maintaining them.

Commissioner Orlik commented that in 2005 the Planning Commission was asked to join these properties and questioned when they decided it was better to separate them.

Mr. Olivieri responded that the property was under different ownership at that time.

Chairman Fokens opened the public hearing.

Michael Lents, 502 S. University, addressed the Board, noting he was opposed to the increase in occupancy. Mr. Lents cited the three criteria in the Redevelopment procedures: Elimination of non-conformities; demonstrated track record for property maintenance; and the use of durable materials. Mr. Lents commented that he doesn't feel like the maintenance criteria has been met. Mr. Lents further indicated that he has called the police at least once for parties in this vicinity.

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

Correspondence:

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

Board Discussion:

Vice-Chair Berkshire commented that this is the first request we have had under the new ordinance and feels the Board needs to carefully consider this request. Chairman Fokens agreed, commenting that the Board needs to go through the findings of fact and consider each criteria, and base their decision on their findings. Chairman Fokens commented that staff did an outstanding job of providing the information.

Vice-Chair Berkshire commented that the project is very nice; however, his concern is with more density and stated he feels we really need to get the police report for the property. Kench commented that the information he received came from the Director of Public Safety, through the City Manager and again, there were no issues related to DPS for the property.

Commissioner Raisanen commented that the lack of police reports is likely due to the fact that this property is in a neighborhood where every other neighbor is a student rental.

Vice-Chair Berkshire commented that he is satisfied with staff's response but feels that these reports should be made available to the Board for these cases.

It was asked if these units provided more or less building area per occupant. Mr. Olivieri responded that these units are much bigger, with four bedrooms per unit. He further

reminded the Board that there are currently four buildings on one lot, with the back units being quite small. Kench noted that the ordinance allows the Board to reduce land area, but not building area, noting that the buildings are of sufficient size to meet ordinance requirements.

Kench reviewed each of the criteria and asked the Board to consider whether, based on the proposal, does the project meet the requirements or are there changes that need to be made in the project to grant the request.

154.054 (C2)h1: The redevelopment markedly decreases the number and extent of nonconformities. Reductions to nonconformities can include improving setbacks, increasing parking and complying with pavement and location requirements, and increase in building area per occupant.

It was noted that the project will eliminate the rear dwelling units, will bring the setbacks into compliance and in addition, the applicant will be adding underground storage for storm water and will add curbs and gutters.

Board consensus was the project meets this criteria.

154.0564 (C2)h2 and M-2 Review: The redevelopment improves the building and aesthetics and maintains the appearance of a single family dwelling, taking into consideration the shape, location and architectural details of homes in the neighborhood.

- *Historic architectural style, including the use of details customarily expected with that style throughout the building design*
- *Building massing and composition*
- *Roof pitch*
- *Architectural details, including bracketing; moldings; window and door surrounds; column details; the proportion and reveal of shingles, shakes, and clapboards, including decorative shingles; etc.*
- *Window placement and proportion*
- *The extent of the use of durable building materials, including brick and other masonry.*
- *When shingles, shakes, and/or clapboards are used, the extent of the use of hardwood, fiber cement, and other similar products*
- *Utilization of unique architectural elements such as turrets, box or bay windows, etc.*

Kench provided a review of the upgraded materials being used by the developer, along with the added architectural details. Board consensus was the project meets this criteria.

154.054(C2)h3: The redevelopment improves the site aesthetics including such elements as foundation planting, site landscaping and decorative fencing as well as the preservation of existing, healthy and non-invasive trees..

Discussion ensued on the number of trees that would be removed. Staff noted that there were very few trees on the site right now and reviewed the proposed landscaping plan. It was noted that this project will add significantly more green space, will have irrigation,

and in addition, an additional street tree will be added. Board consensus was the project meets this criteria.

154.054(C2)h4: The redevelopment improves the site's layout and function of the property with regard to issues including trash disposal and the elimination of front yard parking.

Landscaping will replace the front parking area. All parking will be in the back and off the alley and will have complete curb and gutters. In addition, there will be a designated area for the trash carts. Board consensus was the project meets this criteria.

M-2 Review:

Proposal indicates sufficient use of durable/distinct materials. Board consensus was the project meets this criteria.

Applicant demonstrated ability to provide long term maintenance; and, Applicant demonstrated ability to address code related issues.

Discussion took place with one Board member, Commissioner Raisanen, commenting that she is hesitant on this point and wishes the existing property had been better maintained, noting that she doesn't see the love and care of the current structures, but is hopeful that the new property will be better maintained. No one else voiced any concerns. Kench referred to another recent redevelopment owned by the applicant, noting it is very well maintained. Board consensus was the project meets this criteria.

Motion by Orlik, support by Berkshire, to approve case number ZBA 02-2016, filed by Joe Olivieri, Olivieri Homes on behalf of United Apartments, 4175 East Bluegrass Road, seeking a finding under section 154.054 C-2 to allow the construction of 2 new two-unit rooming dwellings on 1005 and 1007 South University Street.

While the approval is a marked increase in the occupancy on each of the two sites, the Board finds that the redevelopment will markedly decrease the number of nonconformities on the site that includes the elimination of rear dwelling units that encroach into the side and rear setbacks, bringing the primary structures into compliance with the rear and side yard setback district requirements. Parking will be removed from the front yards and relocated to the rear of the property. The Board further finds that the design of the homes incorporates the use of durable materials and architectural detailing to make this project distinctive in nature to others found in the neighborhood to grant the request to increase occupancy from 6 to 8 based on the available land area on each lot.

All siding and trim materials (window trim, fascia, soffit, belly board, water table, etc.) used on this project shall be *hardiboard* or equal as approved by staff. Masonry materials shall be provided on the exposed foundation and porch features as shown on the approved plan.

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

Motion approved unanimously.

Commissioner Raisanen commented that she would like to encourage more of this type of building so that is why she ultimately approved the project.

Commissioner Orlik commented that the upgrade in building materials was a crucial part of his approval.

Commissioner Raisanen called for a two minute recess.

Chairman Fokens called a two minute recess.

Meeting reconvened.

B. ZBA-03-2016 - 610 & 610 1/2 N. Arnold

Kench introduced case ZBA-03-2016 submitted by Sam Cascarelli, requesting a variance from Section 154.010 of the Zoning Ordinance to reinstate the use of a rear dwelling unit.

Kench noted that the property was zoned R-3 Residential, with R-3 zoning to the north, south and west, and C-3 Commercial to the east.

Kench noted that the unique feature of this property is that it has a rear dwelling unit, which was allowed up until 1984. After that time, the use became a legal non-conforming use. Kench noted that the properties on each side of this property also have rear dwelling units that are in the housing licensing program. Kench noted that this particular property has no record of ever having a rental license and the owner has indicated that because he lived on the same property in the front house, he did not realize that he needed a license.

Kench shared photos of the site, noting that both homes were constructed in the late 1920's. The rear home has a basement, a separate water heater, kitchen, bathroom, etc. Kench noted that the applicant has indicated that the unit has been occupied for rental purposes for more than 30 years up until recently when the tenant was arrested and the Fire Department became aware of the unlicensed status. The applicant is asking the board to find that he has a legal non-conforming use that has not been interrupted for a period of a year or more to allow him to continue the use. Kench noted that the board may also allow the use to be resumed under section 154.007B4 where it can be found that there will be a marked decrease in the degree of nonconformance, improves the character of the neighborhood and is of decided benefit to adjacent conforming uses.

Vice-Chair Berkshire asked if the back units on the adjoining properties are licensed rentals. Kench noted they were.

Commissioner Raisanen asked how long the unit has been an unlicensed rental. Kench indicated it appears that it has been this way for a long time. He noted that in this

particular neighborhood there are a number of ~~principle~~ *principal* buildings with rear dwelling units.

Vice-Chair Berkshire asked if the property would be inspected if licensed. Kench noted it would, and there may be upgrades that the applicant would be required to make to have it licensed.

Commissioner Raisanen asked if there was any penalty for having an unlicensed rental. Kench stated there are fines, however, the goal is to clean up the property and start the process.

Sam Cascarelli, 610 N. Arnold, addressed the board. Mr. Cascarelli indicated the property has been a rental for 50-60 years and commented that his tax assessments are quite high, which leads him to believe that is due to the back unit. Mr. Cascarelli stated he wasn't trying to get away with anything, he thought because he lived on the same property that he would not need to license the unit. Mr. Cascarelli stated the same tenant was there for 27 years, up until the time he was arrested. He noted that is when the inspector said he needed to have the property licensed.

Vice-Chair Berkshire questioned the applicant on the fact that the neighboring properties were licensed and asked if in all this time, that never came up. Mr. Cascarelli stated that he works in Alma and indicated that he rarely speaks with the neighbors. Mr. Cascarelli stated that he has another rental unit on the west side that is licensed. In response to Commissioner Raisanen's question, Mr. Cascarelli stated that he was fined \$300 for the unlicensed rental violation.

Commissioner Raisanen questioned why the applicant wouldn't have questioned the need for a license when he was aware of the rental licensing program with his other property. Mr. Cascarelli commented that he thought this property was different as it is located on the same property as his primary residence.

Commissioner Friedrich asked if the same tenant had been there for 27 years. Mr. Cascarelli stated he had. Commissioner Raisanen asked if the property was rented prior to this tenant. Mr. Cascarelli stated it had been rented continuously. He noted that he purchased the property from his cousin and there was a tenant there at that time. He indicated that if approved, he will be making some updates to the property in order to get it licensed.

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

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

Board Discussion:

Commissioner Orlik commented that there is a reason the city quit allowing these uses, and the ordinance provides language that requires a non-conforming use to go away once discontinued.

Commissioner Raisanen commented that one of the selling points for approving the last request was that it was eliminating the rear dwelling units and further commented that she feels allowing this one to be reinstated would be a double standard.

Motion by Orlik, support by Berkshire to approve case ZBA-03-2016, filed by Sam Cascarelli, seeking approval to reinstate a non-conforming dwelling unit located at 610 1/2 N. Arnold Street.

Ayes: Fokens, Friedrich, White.

Nays: Orlik, Raisanen, Berkshire.

Motion failed.

Motion by Berkshire, support by Raisanen to deny the request.

Ayes: Orlik, Raisanen, Berkshire, Fokens.

Nays: Friedrich, White.

Motion approved and the request was denied 4:2.

IX. Old Business:

Kench reported there was no old business.

X. New Business

- A. September ZBA Meeting: Kench noted that no applications have been received as of this time.

Vice-Chair Berkshire noted he would be out of town during the September meeting.

XI. Adjournment

Motion by Raisanen, support by Orlik to adjourn.

Motion approved unanimously.

Meeting adjourned 8:42 p.m.