

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, November 14, 2007
7:00 PM

MEMBERS PRESENT: Connie Hamilton, Chairperson; Calvin Emig; Joe Aistrup;
La Barbara J. Wigfall; and, Harry Hardy.

MEMBERS ABSENT: None

STAFF PRESENT: Steve Zilkie, Senior Planner, AICP; Chad Bunger, Planner

CONSIDER THE MINUTES

Hardy moved to approve the October 10, 2007 minutes which was seconded by Wigfall and passed with a vote of 5-0.

TABLE a PUBLIC HEARING to consider a request for an EXCEPTION to allow a reduction in the minimum twenty-five (25) foot front yard setback to six (6) feet along South Juliette Avenue for off-street parking related to a proposed automotive parts store. The subject site is located at the northwest corner of the intersection of South Juliette Avenue and Fort Riley Boulevard and is zoned LM-SC, Light Manufacturing-Service Commercial District (Applicant: Dial Realty, Owner: Powell Brothers – Gary Duncy and Premier Commercial Property, Inc).

Bunger provided information regarding the need to table the request due to an error in Manhattan Mercury Advertisement description.

Hardy moved that the Board table the Public Hearing to the December 12, 2007, Board of Zoning Appeals meeting. Wigfall seconded the motion, which passed on a vote of 5-0.

A PUBLIC HEARING to consider a request for an EXCEPTION to allow a reduction of the minimum twenty-five (25) foot front yard setback along Woodduck Way for a proposed addition to an existing house. The property is located at 3408 Woodduck Way and zoned R-2, Two-Family Residential District (Applicant/Owner: Scott and Michele Jones).

Chad Bunger provided the Staff Report recommending approval with three (3) conditions.

Hamilton opened the public hearing.

Stan Hinelz of Custom Care Builders provided additional information concerning the proposed addition and regarding the restriction imposed on the property by the thirty-five (35) foot utility easement.

Scott Jones, Applicant, explained the need for the addition and the attempts made by the applicants and their contractors to work within the required setbacks and utility easements. Jones also stated that he had spoken with his neighbors about the plans and they had no objections to the project.

With no further questions or comments, Hamilton closed the public hearing.

Hardy stated that he could support the request and applauded the applicant for speaking with their neighbors about the project and for attempting to try and work within the zoning regulations.

Hamilton stated she could support the application, but was concerned about the finding denying the request would limit the functional use of the new bedroom addition. She felt that a reduction of the new bedroom by three (3) feet was not a justification for approving the Exception request. Hamilton did agree, however, with the finding that the elimination of the overhang and gutters would be out of character with the house and neighborhood. Hamilton asked the Board to consider adjusting the findings to reflect this.

The Board made the following Findings of Fact for the Exception:

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject property currently complies with all applicable regulations except for what the Exception is being requested.

PROBABLE EFFECT ON ADJACENT PROPERTIES: Lot 13, Deer Run Addition, Unit One and adjacent properties are in the R-2, Two-Family Zoning District. The existing house is setback 31 feet, 8 inches from the front property line. The attached garage, on the west side of the house sits back an additional two (2) feet, for a total of thirty-four (34) feet from the front property line. Because of the limitations placed on the property by the thirty-five (35) foot utility easement at the rear of the property, the applicants have chosen to utilize the garage area to expand their home. According to the applicant and the submitted site plan, the request to decrease the front yard setback to twenty-two (22) feet is to provide for eaves and gutters over the new two-car garage door.

After the addition is complete, the configuration of the house and attached garage on the subject site will match the character of the neighborhood. The single-family detached homes to the east and west of the subject site have garages located right at the twenty-five (25) foot front yard setback. The subject site also has several mature, deciduous trees that will provide

screening from any potentially negative affects that the three (3) foot overhang may cause. Minimal adverse impacts are anticipated, when the character of the neighborhood, the nature of the request, and the mature trees are considered.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed addition will not encroach into the thirty-five (35) foot utility easement located along the north property line. The proposed location of the addition will not affect the adjacent rights-of-way or vision clearance triangles. The proposed Exception is not anticipated to have an adverse effect on the public's health, safety, or general welfare.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The Zoning Regulations are designed to help ensure uniform yards and reasonable open space for all property owners. Because of the thirty-five (35) utility easement at the rear of the property, the applicants have limited building space for their proposed expansion, approximately eight (8) feet to the north and seven (7) feet to the south. The Exception request is for eaves and gutters for the addition to the front of the house. The strict application of the Regulations would result in either the proposed overhang to be removed from the design, or a reduction of the addition length, which would decrease the size of a proposed bedroom, a walk-in closet and new attached garage. The elimination of the overhang would not be consistent with the existing structure. When all facts and circumstances are considered, the strict application of this regulation is unreasonable.

Hardy moved that the Board grant an EXCEPTION to allow a reduction of the minimum twenty-five (25) foot front yard setback along Woodduck Way for a proposed addition to an existing house in the R-2, Two-Family Residential District for the property located at 3408 Woodduck Way based on the staff report as modified by Hamilton with the following conditions:

1. The addition shall be constructed according to the application and site plan documents.
2. The addition shall utilize building materials and paint schemes to coincide with the existing structure.
3. All applicable permits shall be obtained

Emig seconded the motion, which passed 5-0.

A PUBLIC HEARING to consider a request for an EXCEPTION to allow for the maximum lot coverage of the property to exceed thirty (30%) percent. The Exception is for a proposed addition to an existing structure. The property is the St. Paul's Episcopal Church located at 601 Poyntz Avenue and is zoned C-1, Restricted Business District (Applicant: Bruce McMillian Architects, Owner: St. Paul's Episcopal Church).

Chad Bunger provided the Staff Report recommending approval with two (2) conditions.

Hamilton opened the public hearing.

Bruce McMillan, McMillan Architects, provided information regarding the proposed addition. McMillan also introduced Morris Dozier, project architect and Frank Connizzo, Senior Warden of St. Paul's Episcopal Church.

Morris Dozier, McMillan Architects, further explained the project. Dozier provided information about the location of the addition and the materials that will be used to match the existing structures.

Frank Connizzo explained the need for the expansion and the timing of the project. Connizzo stated that fundraising for the project would begin the beginning of next year, with the construction to hopefully begin in the summer of 2008.

Hamilton asked if the applicant was aware that construction would need to begin within 180 day of receiving the Notice of Decision. Bruce McMillan stated that his firm and the applicants are aware of the time limit and anticipate requesting one (1) extension if fundraising does not produce the needed resources within the allotted 180 days.

Emig reiterated the 180 day time limit and the need to begin construction within that time or request and exception.

With no further questions or comments, Hamilton closed the public hearing.

The Board made the following Findings of Fact for the Exception:

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject property was originally constructed in 1867, prior to zoning regulations in the City of Manhattan. The sanctuary was built approximately twelve (12) feet from the property line along Sixth Street and approximately three feet from the alley at the south end of the property. The administration office addition was constructed sometime in the 1950's. At the time of construction, the building was located zero (0) feet from the western property line. It is presumed that the Episcopal Church obtained a variance to construct the building in this location, but no documents could be found. However, in 1965, the subject property was designated as "D" Central Business district, which permitted zero (0) foot building setbacks. The combination of these setback issues has also caused the subject property to exceed the maximum coverage of thirty (30%) percent. The existing lot coverage is approximately 8,380 square feet or thirty-seven (37%) percent. These existing side yard setback and lot coverage conditions are considered to be legally nonconforming. Other than the previously mentioned grandfathered issues and for which the Exception is being requested, the property currently complies with all applicable requirements of these regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: Minimal negative impacts are anticipated on adjacent properties. The proposed addition is located in the interior of the lot within three existing structures. The proposed addition will not be visible from Poyntz

Avenue due to the location of the “Encore Center” and its porch area. According to the architectural drawings, the addition will match the style of the two historic buildings and blend in to the sanctuary and “Encore Center” when viewed from South Sixth Street.

Because the proposed addition will occur within 500 feet of a registered historical site, the project was reviewed by the State Historical Preservation Officer (SHPO) “The SHPO has determined that the proposed project will not encroach upon, damage, or destroy any listed historic property or its environs” (please see attached letter).

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: No vision triangle or public easements are encroached upon. The subject property currently has a lot coverage of thirty-seven (37%) percent due to grandfathered issues. The public has not been impacted by the existing conditions, which have been part of the established neighborhood for more than 140 years. The request to increase lot coverage to thirty-nine (39%) percent is not anticipated to adversely impact the health, safety or general welfare of the public.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The subject property already exceeds the maximum lot coverage for properties located in the C-1, Restricted Business District, by seven (7%) percent due to the previously mentioned grandfathered conditions. Other churches and commercial uses in the surrounding area within the C-1 zoning district have similar lot coverage above the maximum thirty (30%) percent. Furthermore, the strict application of these regulations would limit the Church in providing suitable ADA access for the congregation’s aging population. When all facts and circumstances are considered, the strict application of this regulation is unreasonable.

Emig stated he could support the application and applauded the church for their efforts.

Hardy stated he could support for the request and the reason for the proposed addition

Hamilton stated her support and thanked the applicant for their efforts.

Wigfall stated her support and thanked the applicant for preserving the historic aspect of the property.

Emig moved that the Board grant an Exception to allow the maximum lot coverage of the property to increase from thirty (30%) percent to thirty-nine (39%) percent for a proposed addition to an existing church in the C-1, Restricted Business District, for the property located at 601 Poyntz Avenue based upon the staff report, with the following condition of approval:

1. The Exception shall be limited to the proposed addition as outlined in the application documents and shown on the applicant’s site plan.
2. All applicable permits shall be obtained.

Hardy seconded the motion which passed 5-0.

Chairperson Hamilton took time to welcome aboard Joe Aistrup, the new Board of Zoning Appeals member.

THE GENERAL MEETING WAS ADJOURNED.

Work Sessions

Jane Winslow and Allie Lousch, Ethics Policy Committee members provided a presentation of the City's efforts to create an ethics policy. Winslow and Lousch asked the Board members for input on the creation of ethics policy.

Respectfully Submitted,
Chad Bunger

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