

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, June 10, 2009**  
7:00 PM

MEMBERS PRESENT: La Barbara J. Wigfall, Vice-Chairperson; Joe Aistrup; Connie Hamilton; and Ricci Dillon.

MEMBERS ABSENT: Harry Hardy, Chairperson

STAFF PRESENT: Chad Bunger, Planner; Stephanie Watts, Intern

**CONSIDER THE MINUTES**

Hamilton moved to approve the minutes of the May 13, 2009, Board of Zoning Appeals meeting which was seconded by Dillon and passed with a vote of 3-0.

**REMOVE FROM THE TABLE AND CONDUCT A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW FOR A MODIFICATION OF AN EXISTING LEGAL NONCONFORMING THREE-FAMILY DWELLING UNIT. THE MODIFICATION IS TO INCREASE THE NUMBER OF BEDROOMS IN THE BASEMENT UNIT FROM ONE (1) TO TWO (2) AND TO RELOCATE THE KITCHEN AND LIVING ROOM INTO THE ATTACHED GARAGE AT 930 BERTRAND STREET IN THE R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT AND TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT. (APPLICANT/OWNER: LARRY SCHOOF).**

Hamilton moved to remove the item from the Table.

Dillon seconded the motion, which passed with a vote of 3-0.

Chad Bunger presented the staff report and recommended approval of the Conditional Use with eight (8) conditions. He also stated that the original Exception request to reduce the required number of parking spaces was withdrawn by the applicant.

*(Aistrup joined the meeting in progress)*

Wigfall opened the public hearing and asked if the owner would like to make a statement.

Larry Schoof, the owner, addressed the Board and explained his intentions to solve structural problems associated with the house and thus determined it to be an opportunity to change the layout of the house to make more efficient use of the space. He also stated that the attached garage has not been used for vehicles in some time.

Hamilton asked Schoof if he had any reservations about staff's recommendation to provide site obscuring screening.

Schoof stated that he was against fences when not serving a purpose such as containment.

Hamilton explained that the screening is not limited to a fence and that vegetation could be used in lieu of a fence. Hamilton wanted to ensure that the owner was aware that site obscuring screening was a condition placed on the request.

Wigfall closed the Public Hearing with no one else wishing to make comment and opened for Board discussion.

Hamilton stated that she appreciates staff's "careful and clear" presentation given the complexity of this request. She stated the conditions seemed appropriate and she could support the approval of this item.

Dillon concurred with Hamilton.

Wigfall stated she too had no issues with this request since the use has existed without past complaints.

Dillon stated she appreciates the owner maintaining the structural integrity of the house.

The Board made the following findings of fact for the Conditional Use located at 930 Bertrand Street:

- A. **SIZE OF ZONING LOT:** The subject property is Lot 532, Ward 3, which is a typical rectangular shaped Ward lot. The lot is a corner lot to the northeast of the intersection of Bertrand Street and N. 10<sup>th</sup> Street. The lot has a width of fifty (50) feet and a lot depth of 150 feet. Lot 532, Ward 3 is 7,500 square feet in area. The lot size is not increased from what currently exists.
  
- B. **(A) EITHER, THE CURRENT EXISTING USE HAS NO SIGNIFICANT ADVERSE IMPACT ON EITHER THE SURROUNDING NEIGHBORHOOD OR PUBLIC, HEALTH, SAFETY OR GENERAL WELFARE AND THE PROPOSAL WILL NOT WORSEN THE IMPACT; OR, (B) THE CURRENT EXISTING USE HAS A SIGNIFICANT ADVERSE IMPACT AND GRANTING THE PROPOSAL WILL MORE LIKELY REDUCE OR ELIMINATE THE IMPACT COMPARED TO A DENIAL OF THE REQUEST:** The subject site and properties to the north, east and south are zoned R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay District. Properties to the west are zoned R-2/TNO, Two-Family Residential District with a Traditional Neighborhood Overlay District. Further to the west are properties zoned R-3/M-FRO, Multiple-Family Residential District with a Multi-Family Redevelopment Overlay District.

The current use has not had a significant adverse impact on the surrounding neighborhood and the public health, safety and welfare. According to the 1993 Conditional Use staff report, the three (3) dwelling unit has been in existent since 1959, with no zoning or building complaints on file. No zoning complaints have been recorded since the Conditional Use was granted. The only building code issues that have been filed on the property have been for sidewalks that are in poor condition and are a hazard to the public safety. These sidewalks have recently been rebuilt to comply with the Code Service Department issues.

The approved Conditional Use placed an occupancy limit of six (6) driving age adults and total occupancy shall be no more than nine (9) persons. The intent of this condition of approval was to address concerns of the occupancy load of the building based by the Code Department and to minimize parking congestion on the local streets because of the limited number of off-street parking spaces. By expanding the kitchen and living room of the basement unit into the attached garage, the living space of the unit increases, which allows the occupancy load to increase. Adding the second bedroom in the basement apartment would not alter or violate this condition of approval, since the number of bedrooms does not exceed the condition's maximum number of six (6) driving age adults or the total number of nine (9) persons.

The applicant has also proposed to reorganize the off-street parking area to the north of the structure to add two (2) more spaces, for a total of seven (7) off-street parking spaces. This is accomplished by moving the parking spaces approximately five (5) feet to the east property line and creating 90 degree parking spaces rather than the 45 degree parking spaces currently there. The relocation of the parking area to the east is to ensure that there is adequate width for cars backing out of the space. The Manhattan Parking Lot Configuration Standards require that this area be twenty-six (26) feet for 90 degree parking spaces. By adding the additional parking spaces, the concerns of on-street congestion raised in the past staff report of the approved Conditional Use and the existing parking concerns should be reduced. This should lessen the impact on the adjacent properties. Because of the reorganized parking area, sight-obstructing screening of not less than six (6) feet in height shall be installed along the east property line as required by the Parking Regulations (Section 6-211(E)(5)) to minimize the impact caused by moving the parking lot on the property to the immediate east.

- C. COMPLIANCE WITH ALL APPLICABLE REGULATIONS, EXCEPT EXISTING LEGALLY NONCONFORMING CONDITIONS AND ANY NECESSARY EXCEPTION OF THE REGULATIONS: The proposed Conditional Use complies with all applicable provisions of the regulations. The property was previously granted Variances for lot area, lot

width, the east side yard setback, the front yard setback along N. 10<sup>th</sup> Street for an existing fence, a reduction of the required number of off-street parking spaces, the parking area screening requirement and to allow the existing gravel parking lot to remain in 1993 for the three-family dwelling.

The proposed addition of a second bedroom in the basement unit would violate the Conditional Use approved in 1993. A condition of approval was “The number of bedrooms shall remain as shown on the floor plans.” The approved Conditional Use for a legally nonconforming use would bring the proposal into compliance.

- D. THE EXISTING USE WILL CONTINUE IN SIMILAR FORM, OR IN A FORM THAT IS ALTERED ONLY TO MAKE THE PROPOSED USE MORE MODERN OR EFFICIENT: The existing use as a three-family dwelling will change from having a total of five (5) bedrooms to six (6) bedrooms. The applicant has modified the existing gravel parking lot to provide two (2) more parking spaces, for a total of seven (7) spaces to address parking and on-street congestion concerns raised by the 1993 Conditional Use request and existing conditions. The major changes to the appearance of the exterior of the building will be removing the overhead door on the attached garage and replacing it with a residential entrance and exterior wall. The parking area will also be moved approximately five (5) feet to the east to provide the required backing distance for the parking spaces. Substantial changes will occur to the inside of the structure. The attached garage will become the basement unit’s kitchen and living room with a stairway leading to the basement, where two (2) large bedrooms and a bathroom will be.

Hamilton moved to approve a Conditional Use to allow for a modification of an existing legal nonconforming three-family dwelling unit. The modification is to increase the number of bedrooms in the basement unit from one (1) to two (2) and to relocate the kitchen and living room into the attached garage at 930 Bertrand Street in the R-1/TNO, Single-Family Residential District with a Traditional Neighborhood Overlay District, with the following conditions:

1. The Basement unit shall be renovated as outlined in the application documents and shown on the applicant’s floor plan.
2. At least seven (7) off-street parking spaces shall be provided as per the site plan.
3. The gravel parking lot shall be maintained.
4. The number of bedrooms shall be limited to six (6) as shown on the floor plan and in the application documents.
5. All applicable building permits shall be obtained.
6. There shall be an occupancy limit of six (6) driving age adults and total occupancy shall be no more than 9 persons.
7. Sight-obscuring screening of not less than six (6) feet in height shall be installed along the east property line to screen the seven (7) parking spaces.

8. The sight-obscuring screening shall be maintained in good condition.

Aistrup seconded the motion, which passed with a vote of 4-0

**A PUBLIC HEARING TO CONSIDER CONDITIONAL USE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE MODIFICATION OF A LEGALLY NON-CONFORMING TWO (2) FAMILY DWELLING AT 1006 PIERRE STREET WITHIN AN R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT AND TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT. (APPLICANT: MAUREEN KERRIGAN OWNER: MAUREEN KERRIGAN AND LYNELL SHEAHAN).**

Stephanie Watts presented the staff report for a Conditional Use and recommended approval with two (2) conditions.

Wigfall opened the Public Hearing.

Maureen Kerrigan, the owner, further described the proposed addition and discussed how this would enhance the safety of the house.

Dillon asked the owner if she lived in the property.

Kerrigan responded that she did not.

Wigfall closed the Public Hearing and opened Board discussion.

Dillon stated that she felt it was admirable that the owner wanted to construct a screened-in porch on a rental unit. She went on to say that she believes it is a more functional and efficient use for the property in regard to access.

Hamilton stated she appreciates the owner's interest in making the structure safer and proposing a screened-in porch as opposed to another bedroom. She also explained that there is room for the proposed roof to extend off the rear of the structure given the modest size of the current structure on the lot.

Aistrup stated he can support the request.

Wigfall concurred that she had no problems with the proposal and appreciated the owner's attempt to consider safety and aesthetics. She also stated that the proposal is much more efficient than the current layout.

The Board made the following findings of fact for the Conditional Use located at 1006 Pierre Street:

- A. THAT THE SIZE OF THE ZONING LOT IS NOT INCREASED FROM THAT WHICH CURRENTLY EXISTS: The subject property is Lot 386, Ward 5, which is a typical

rectangular shaped Ward lot. The lot is to the north of Pierre Street and has a lot width of fifty (50) feet and a lot depth of 150 feet. Lot 386 is 7,500 square feet in area. The lot size is not increased from its current state.

- B. THAT EITHER: (A) THE CURRENT EXISTING USE DOES NOT HAVE A SIGNIFICANTLY ADVERSE IMPACT UPON EITHER THE SURROUNDING NEIGHBORHOOD OR THE PUBLIC HEALTH, SAFETY OR GENERAL WELFARE, AND THE PROPOSED MODIFICATIONS, ADDITIONS AND DELETIONS WILL NOT WORSEN SUCH IMPACT; OR, (B) THAT THE CURRENT EXISTING USE DOES HAVE SUCH A SIGNIFICANTLY ADVERSE IMPACT AND THE GRANTING OF THE PROPOSED MODIFICATIONS, ADDITIONS AND DELETIONS WILL BE MORE LIKELY TO REDUCE OR ELIMINATE SUCH IMPACT THAN A DENIAL OF SUCH PROPOSAL: The applicant is proposing to remove the interior staircase that provides access to the lower apartment and replace it with an exterior stairway and entrance. This would create separate entrances for the upper and lower dwellings. Both entrances would be covered by a roof to protect each entrance from inclement weather. Surrounding properties to the north, east, south and west are zoned R-1/TNO, Single-Family Residential District with a Traditional Neighborhood Overlay District. These properties are predominately single-family residential in character, but several two-family dwellings exists in the immediate area.

It is unlikely that there would be an adverse effect on adjacent properties if the use of the subject property were allowed to be altered as proposed. The net result will not increase the structure's number of bedrooms and will only slightly modify the exterior of the structure.

The Zoning Regulations indicate that a legally nonconforming use shall be deemed a conditional use in the zoning district in which it is located. In general, a legally nonconforming use cannot be expanded, enlarged or increased in intensity beyond that which existed when it became legally nonconforming unless a conditional use is approved. An expansion, enlargement or increase in intensity is the use of additional structures, land area, or floor space within the same structure not originally designed or arranged for such use.

The subject property is located within the 500-foot environs of the Fitz House at 1014 Houston Street, which is a single-family home on the National Historic Register. The applicant's proposal has been reviewed by the State Historic Preservation Office, and was issued a letter of compatibility with the historic character of the Fitz House (*letter attached*).

- C. THE PROPOSED CONDITIONAL USE COMPLIES WITH ALL APPLICABLE

PROVISIONS OF THESE REGULATIONS, EXCEPT FOR THOSE EXISTING CONDITIONS THAT ARE LEGALLY NONCONFORMING; HOWEVER, THE PROPOSAL MAY CONTAIN REQUESTS FOR EXCEPTIONS TO SUCH REQUIREMENTS AS PROVIDED IN PARAGRAPH (F) HEREINAFTER: The proposed Conditional Use complies with all applicable provisions of the regulations, except for the existing conditions that are legally nonconforming.

- D. THE EXISTING USE CONTINUES IN A SUBSTANTIALLY SIMILAR FORM, OR IN A FORM THAT IS ALTERED ONLY TO MAKE IT MORE MODERN OR EFFICIENT: The proposed renovation maintains the existing character of the building and keeps the apartments in a substantially similar form. Both apartments will be slightly reconfigured only to accommodate the individual laundry facilities and to make each apartment more efficient for entering and exiting through the rear door. The basement unit is the proposed to have the most substantial change. While the general layout of the unit will not be altered, the applicant is proposing to remove the walls that once contained the interior staircase and entrance, making the living unit more open. More specifically, the walls that once separated the kitchen from the stairwell and living room will be removed. The only improvements to the upstairs apartment will be reconfiguring the layout of the kitchen to accommodate the upstairs laundry facility.

Dillon moved to approve a CONDITIONAL USE to allow for the modification of a legally non-conforming two (2) family dwelling within an R-1/TNO, Single-Family Residential District with a Traditional Neighborhood Overlay District at 1006 Pierre Street with following conditions:

1. Both units shall be renovated as outlined in the application documents and shown on the applicant's floor plan.
2. All applicable permits shall be obtained.

Hamilton seconded the motion, which passed with a vote of 4-0.

**A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW FOR A GROUP DAY CARE CENTER AT 1500 HUDSON AVENUE IN A R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT/OWNER: THOMPSON CONSTRUCTION, INC. – TODD THOMPSON).**

**A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW A REDUCTION IN THE REQUIRED NUMBER OF OFF-STREET PARKING SPACES FROM 30 PARKING SPACES TO 22 PARKING SPACES, ALL ASSOCIATED WITH A PROPOSED GROUP DAY CARE CENTER AT 1500 HUDSON AVENUE IN A R-1, SINGLE-FAMILY RESIDENTIAL**

**DISTRICT. (APPLICANT/OWNER: THOMPSON CONSTRUCTION, INC. – TODD THOMPSON).**

*(Considered together)*

Bunger presented the staff report for a Conditional Use and recommended approval with eight (8) conditions. He concurrently presented the staff report and recommended denial for an Exception request.

Dillon asked Bunger for examples of Elementary Schools and daycares that are within close proximity to each other.

Bunger responded that there were no examples he was aware of that were as close as the proposed daycare center to Amanda Arnold Elementary.

Dillon also requested Bunger repeat the setback information.

Bunger complied.

Dillon clarified that the landscaping plan has shown that the mature trees located on the property will be removed.

Bunger stated that this was correct and that staff recommended that the daycare preserve as many mature trees as possible, but there was not a way to condition this.

Dillon asked how deep the retention basin would be.

Bunger conferred with the applicant that it would be at most, three (3) feet deep and that it would not be enclosed, which is customary.

Wigfall asked what the setback would be along Hudson Avenue for a single-family home.

Bunger stated the general setback would be twenty-five (25) feet. He went on to state that Hudson is a collector street, and Manhattan's Subdivision Regulations strongly discourage platted houses to have access off of collectors. He further described the setbacks that would be required if a house was to be located on the property.

Hamilton stated that she rejects the General Service Administration's (GSA) traffic and parking guidelines that state the peak would be at 10:00am.

Bunger described further that the traffic count was calculated by a trip generation model that the Institute of Traffic Engineer created, based on the use. He explained the different methods used to calculate the traffic count and that the method which produced the most amount of cars was used for this scenario.

Hamilton asked for further clarification as to how the peak hour and estimated additional vehicles related to one another.



Bunger provided further explanation that the daycare is estimating their peak hour to be 10:00am, yet the city is considering a reasonable peak hour to be 7:00am. Regardless of when the peak hour is, an additional 78 vehicles can be expected during that peak hour.

Dillon stated that she also did not agree that the peak hour would be 10:00am.

Hamilton asked Bunger to provide further detail regarding the post- and pre-development peak runoff rates.

Bunger explained how runoff is calculated and the different variables that go into consideration when calculating runoff.

Hamilton asked if there was some form of enforcement the City can use if the retention basin is not performing up to par.

Bunger stated that the advantage of the property owner dedicating the drainage easement through the platting process is that the City has means of ensuring the system is maintained and functions properly.

Hamilton expressed her concerns with the issue of safety with the retention basin having standing water near children.

Bunger responded that there would be a fence located between the parking lot and the retention basin.

Dillon also stated she was concerned with the retention basin being near a sidewalk frequented by children. She also asked the impact that this proposal would have on the crossing-guard associated with Amanda Arnold Elementary.

Bunger explained that the Elementary School would not lose their crossing guard since it is located on public sidewalk. Bunger then stated that he would have to defer to the applicant regarding where in the drainage easement the actual detention basin would be located. He then described where the fence would be located on the property.

Wigfall asked how the Boards actions would affect the Planning Board hearing scheduled for the following week.

Bunger explained the options available.

Aistrup asked Bunger what the site plan would look like if there were thirty (30) parking spots, given staff's denial of the Exception to allow less parking spaces than required. He further asked for how the basin might be affected and the site plan in general.

Bunger stated that there are options for constructing the basin underground to allow for more parking or the consideration of other best practice solutions, but he did state that the City cannot design the site plan.

Dillon asked what the total lot coverage would be for the site.

Bunger responded that lot coverage is only calculated for Planned Unit Developments, but stated that the building coverage would be well under the maximum thirty-five (35) percent lot coverage.

Hamilton asked if there was option for open-grid pavements.

Bunger stated to his knowledge, there is at least one contractor that does porous concrete to allow for stormwater to seep through the pavement.

Bunger wanted to point out that one of the conditions of approval was that the daycare center would be operated by Cornerstone Child Enrichment Center, to address surrounding property owner's concerns of what the property could potentially become is the daycare where to leave.

Hamilton asked what long term effect the platted drainage easement would have on the property.

Bunger stated that with approval of the City, the drainage easement could be vacated.

Dillon asked if there is a limit to the size of group daycares and if there is a cutoff as to what is considered a residential versus commercial daycare.

Bunger stated that there is not size and re-clarified that it is a Conditional Use. He further explained that if there are more than six (6) unrelated children, it is considered to be a group daycare which requires a Conditional Use.

Wigfall stated that the Board would take a five minute recess before opening the Public Hearing.

Wigfall asked that all wishing to make comment sign in at the podium and limit their comments to three (3) minutes given the number of individuals at the meeting. She also asked that those wishing to speak be cautious of being repetitive.

Wigfall opened the Public Hearing.

Patrick Tiede, 3434 Chimney Rock Road, stated that his property borders the entire subject site and further went on to voice his concerns. He stated that he was concerned about the proximity of the proposed playground to his home and recited Municipal Code 22.54 which addresses excessive noise. He also stated that he believed that the daycare would violate his and his neighbors' privacy rights. Stated that he was not against the construction of residential homes on the subject site, but believed placing a daycare on the site was an intrusion of his privacy rights. He also stated his concern with the lack of parking at Amanda Arnold and the impact on community. Tiede also expressed his apprehension regarding traffic congestion and traffic maneuvering along Hudson. He also stated his concern with the potential for traffic accidents.

Jason Annis, 1325 Hudson Avenue, stated that noise was not a concern for him, but traffic was the main problem. He then described the history of the street (when it was paved and the width reduction) and a petition that was passed around to neighbors stating that there would be no parking on the street and no additional curb cuts. He expressed his concerns of the daycare center being allowed to have additional curb cut without sharing the paving cost. He also stated that he did not receive official notice of the meeting (*Property not located within the required 200 foot notification area*). Further voiced concerns in regard to the issue of safety with the retention basin and stated that there should be fencing completely around the basin.

Sally Lansdowne, 3438 Chimney Road, stated that she shares approximately 170 feet with the subject property. She stated that the size and quality of the proposed project is not reasonable or appropriate

for the neighborhood. She also disagreed with City staff that the property's vegetation is overgrown and would like to see that the mature trees not be cut down.

James Koelliker, 3500 Minton's Landing, stated that he was the most distant of those notified and the subject site is not visible from his property. Stated that he is not anticipating noise to be an issue given the proximity of his property to the subject site. He further expressed his concerns with the issue of parking in relation to the proposed use and presented his research regarding parking standards (average spaces were 29-40). He then suggested an appropriate ratio for the retention basin and further explained drainage issues. Further presented his findings on recommended playground space per child. Voiced concerns about the lot being too small for the proposed use. His last concern was that the green space would be hid by fences and not visible to neighbors.

Susan Koelliker, 3500 Minton's Landing, expressed her concerns with the location of the proposed use in relation to the crosswalk leading across Hudson to Amanda Arnold.

Melinda Daniels, 3509 Minton's Landing, shares her rear property line with the subject site. She addressed two standards for Conditional Use Permits, part B and part C. In regards to part B, she shared her opinion that the proposed metal building would lower property values. She then presented two pictures showing the current view of the subject property she has from her back deck and compared that to the proposed metal building. She stressed that the properties around the subject site are of higher elevation and the trees that currently provide privacy will not remain with the proposed development. Further expressed her concern of the "commercial" looking building and felt the childcare center would be better suited in another area of town. Daniels then addressed part C of the standards in regard to the dominate size, nature and height of the proposed building and the lack of landscaping proposed. Daniels stated that she was upset that the City did not adequately address the issue of dominance over surrounding properties and that the issue of property values was never addressed.

Steve Kiefer, 3508 Claflin Road, expressed his concerns that the scale of the proposed building would change the character of the neighborhood. He also stated, like many others, that the proposed structure is more of a commercial structure, compared to other daycares in neighborhood.

Rob Daniels, 3509 Mintons Landing, addressed the statement made in the staff report that there are other daycares of this magnitude in residential zoning districts, by stating that he could not find any examples. He went on to explain that noise being generated from Amanda Arnold is not an issue because the playgrounds are located behind the school backing up to open space. His last concern dealt with the distance between the entrances proposed on the subject and the crosswalk.

Sally Lansdowne addressed the Board again to state that she felt she would be limited as to when she could enjoy her home due to the daycare.

Janice Reitz, 3009 Claflin Road, explained to the Board the traffic issued associated with Amanda Arnold on snowy days and the issues this creates with the drop-off driveway and traffic along Hudson. Further explained her concerns with the traffic issue along Hudson.

Scott Eilert, 3405 Sioux Circle, expressed that while he did not receive notice because his property is not within the required notification boundary, he felt as if he should have been notified because his children attend Amanda Arnold, which is neighbors with the subject property. Expressed his opinion that Amanda Arnold would be in competition with the proposed daycare because of similar services. He also voiced his concern with the current traffic and parking problems associated with Amanda

Arnold Elementary. He further stated his disapproval with the proposed metal building because it is not in character with the neighborhood. Stated that he felt there was no opportunity for the proposed building to be anything other than a daycare. He further went on to state that he does not believe the building fits on the sight in regard to size.

Todd Thompson, the developer/owner, stated that asked for the Exception to allow less parking in order to have more green space on the site. He went on to address the neighbors' concerns of increasing off-street parking and stated that the daycare will not increase this current problem. Thompson did state that the overall amount of traffic will increase. He further explained that the 10:00 peak did not refer to peak travel, but when the daycare becomes full. Stated their intentions to capture some of the same parents that already travel along Hudson to drop their older children off. Stated that the engineer he employed showed that the proposed daycare will not have a significant impact on the traffic and that there is already congestion on Hudson because of the Elementary School.

Jennifer Olsen, program administrator, addressed the concern of the daycare competing with Amanda Arnold by stating that they will not have an after school program and only serve children six (6) weeks to five (5) years old. She also stated that they will not allow children from Amanda Arnold to use the daycare as an after school facility. The daycares intentions if for parents to be able to pick up their older child from the after school program at Amanda Arnold and then conveniently pick-up their younger child from daycare across the street. Olsen stated that she worked at one of the largest daycares in Manhattan and to her knowledge; the daycare never received complaints from adjacent neighbors. She also addressed the parking concerns. She stated that children will not be allowed to roam free in the parking lot and all children will be escorted by their parents inside the building. Stated their will be no buses used with their daycare. Stated that she had talked with two other neighbors who are looking forward to having the daycare open at 6:00am.

Thompson stated that he spoke with City staff regarding property value depreciation when a rezoning has occurred and there has been no such effect in the last 25 years.

Dillon stated that she disagreed with this statement.

Olsen further went on to explain that they will have a set curriculum based on requirements set by the KDHE and staff will ensure the curriculum is followed. She stated that the daycare is proposing to have a twelve (12) child preschool room which will catch the overflow of preschool-aged children that are on Amanda Arnold's waiting list. She did state that it is not their intention to take preschool-aged children away from the Elementary School which is why they are proposing such a modest sized preschool classroom.

Dillon asked Olsen which daycare she worked at prior.

Olsen stated that she worked at Kindercare for over a year.

Dillon clarified as to the rolls Olsen and Thompson played with the proposed daycare.

Olsen stated that she will be the Program Administrator and Thompson stated he was the owner and contractor.

Dillon asked if the daycare was a franchise.

Thompson replied no.

Dillon stated that the main issue was the traffic issue and that as a whole; we have not considered the traffic conditions on Hudson Avenue. She asked Bunger if there is a standard for the number of cars on a collector versus an arterial.

*Someone in the audience responded to her question but it is unclear as to what is said.*

Dillon restated her question directed at Bunger.

Bunger responded that Hudson is a collector and it is based on traffic characteristics not the number of vehicles. He presented examples of how streets are graded. He stated that he is not aware of any level F streets here in Manhattan.

Dillon stated that most people would agree that Hudson is a level F during peak hours.

Bunger responded that at certain times the traffic conditions are poor, but not necessarily an F. He further explained that how the City classifies streets, it is considered a free-flow of traffic throughout the day based on an engineering standpoint. He stated that to his knowledge, there are no plans to upgrade Hudson to an arterial. Bunger explained the hierarchy of streets.

Dillon asked if the group daycare property would be taxed residential or commercial given its zoning classification of R-1.

Thompson stated that he did not know how the property would be taxed.

Bunger stated that he does not the answer for a fact, but he would presume that it would be taxed as a commercial use, like a bed-and-breakfast would be taxed.

Dillon stated that she felt it was a contradiction between how a property is taxed and its zoning.

Bunger responded that the appraiser's office also classifies duplexes and multi-family homes as commercial for tax purposes.

Dillon explained that there are very specific instructions for parents on how to drop-off and pick-up their children from Amanda Arnold. She also expressed her concern with the construction proposed to occur in September of 2009 at Amanda Arnold Elementary and its impact on the safety of children.

Olsen stated that Amanda Arnold does produce a lot of traffic problems, but asked the Board not to penalize the proposed daycare for existing conditions.

Hamilton asked the owner for his thoughts on staff's recommendation to deny the Exception and how he would address his site plan if the Board denied the Exception.

Thompson stated that they would explore their options for the site. He further explained that it is not a perfect ratio where they would reduce the number of kids and thus reduce the staff because of KDHE standards.

Olsen explained that the younger the child the higher ratio of staff to child. She stated that they have explored options for reducing the amount of children.

Hamilton asked if they have considered an underground detention system.

Thompson stated that he would have to talk to the engineers he hired, but underground detention would be the last resort because it is the most costly.

Dillon asked if Thompson was concerned about liability with the retention basin not being fenced near the sidewalk.

Thompson explained that the basin is based on a 100-year flood.

Dillon asked if they expect water to be standing in the basin.

Thompson explained that its purpose was to hold the water and slowly release the water and the only time it will be full is when we have had a heavy rain. He also stated that children at the daycare will not be out playing will it is raining. He stated that if fencing is an issue, he would address that.

Dillon asked if the owner was planning to replace the trees along the north and west side that have to be torn down for construction.

Thompson stated that because of the fabric needed for the retaining wall; large trees will not be able to be planted without destroying to the structural integrity of the wall.

Hamilton asked what the retaining wall would look like from the adjacent neighbors' perspectives.

Thompson explained that there will only be grass visible and that it is not just a freestanding wall.

Bunger provided further clarification of the fabric used to construct the retaining wall.

Thompson explained that the wall will not be visible to the neighbor's behind the property.

Hamilton asked for clarification as to the proposed lighting. She asked if the light located in the parking lot would be on all night for security purposes.

Thompson stated that the light located in parking lot would only be used during operation hours. The lights located around the building would be on during the night for security.

Hamilton asked the owner if they are planning to stay within the sign regulations.

He replied yes.

Dillon asked the owner why he chose to use metal for the siding.

Thompson responded that it requires the least amount of maintenance and most durable.

Hamilton responded that the metal is out of character for the neighborhood, which is one reason neighbors are upset.

Dillon expressed her concern about the potential traffic conflicts between Amanda Arnold traffic and the daycare traffic.

Thompson asked if in the Board's opinion it would be better to have a one-way loop and not the two way entrance.

Dillon stated that she could not answer what the best scenario would be.

Wigfall suggested that the owner ask Schwab-Eaton (the engineer for the project).

Thompson stated that the current design was Schwab-Eaton's best traffic design. He stated that originally they wanted to place the building on the south portion of the site to leave the mature trees, but because of the need for the detention basin, the site had to be rearranged into the current configuration.

Jim Koelliker addressed the board again and presented his opinion regarding the size of each proposed parking space. He also presented a site plan showing how more parking spaces could be included. He further presented information regarding children-to-teacher ratios and expressed his concern that parents waiting for their children at Amanda Arnold will utilize the daycare's parking lot.

Wigfall closed the Public Hearing and opened for Board discussion.

Bunger explained the parking requirements for Elementary schools and how they are not required to provide parking spaces for a certain number of children like group daycares. He encouraged the Board to look at the facts of the property and the street and try and eliminate factors from Amanda Arnold because the owner has not caused these issues. Thus, the owner should not be penalized for this. He further stated that issues regarding where parents park waiting for school to be dismissed is a separate issue from the proposed use. Bunger stated that if the daycare provides the required amount of parking space and are not contributing to the parking issue, then they should not be penalized for the problems Amanda Arnold has created. Bunger further explained staff's findings for recommending denial of the requested Exception to reduce the required number of parking spaces.

Wigfall stated that the Board would probably like to take the Conditional Use first.

Hamilton replied to the contrary, because the decision of the Exception could impact the site plan.

Wigfall stated that the discussion will focus on the parking.

Aistrup asked if the owner was willing to redesign the proposal to accommodate for the required thirty (30) parking spots that are more than eight and a half (8 ½) in width.

The applicant stated that adding more parking and increasing the width of each space was probably not feasible.

Dillon asked when the daycare would become cost prohibitive based on the number of children.

Thompson stated that he did not wish to disclose that information at the current time.

Aistrup suggested addressing the Conditional Use first in all fairness to the applicant.

Dillon asked why the Conditional Use is needed.

Hamilton provided explanation.

Hamilton clarified how the Board would proceed with the request brought before them.

Wigfall stated they should go through each standard individually.

Aistrup explained his thoughts on the Conditional Use. He did state that daycare is a need in the community and he is not opposed to daycare on the subject site, because it could fit into the character of the neighborhood. He did state that the proposed building does not fit into the character of the neighborhood. The proposed building is too large, has metal siding and will impact the neighborhood in a negative way.

Hamilton expressed her agreement that the location near the Amanda Arnold Elementary School was a positive aspect; however existing traffic problems that could potentially be worsened are a great concern. She also expressed her concerns about traffic flow and traffic maneuvering in and out of the site. She also commented that metal buildings along Fort Riley Boulevard are not out of character, but in this residential neighborhood, a metal building does not belong. She also expressed concern for the retaining wall as a safety issue and suggested some kind of vegetation buffer. Hamilton also stated that the drainage basin is a safety issue to the children and could potentially be an aesthetic issue if a fence was surrounding it.

Dillon agreed with all previous points, but stated that the Amanda Arnold School did not create the traffic problem; that the rapid growth of the community is the cause. Felt that the traffic issue is a huge concern. She also posed the question, what else the site could be used for other than a single-family home right next to a school? She made the point that the property was on the market for 225 days as a single-family use, and no one took the opportunity to develop it until now. Stated that she agreed that the site would be a good site for a daycare center, yet this proposal is too dense and the building does not fit with the residential character.

Wigfall explained to the Mr. Thompson that this is a difficult site to develop and understood his need to develop the site to maximize the intended use. She commented that most everyone who opposes the proposal does not disagree that more daycare centers are needed; however it is the design of the proposed building and parking lot that people are opposed to. She applauded the owner for taking this vacant site and attempting to place a daycare on it, which is a great need in the community.

Bunger expressed his appreciation for the views of the Board Members and questioned the Board on their decision to either deny the Conditional Use and Exception or to Table it for a redesign.

Wigfall expressed concern about residents stating they were not notified.

Bunger stated that the City of Manhattan has a notification boundary of 200 feet, therefore residents approximately two (2) or more blocks away would not be within that boundary. He also stated that the city tries to ensure all residents who needed to be notified were, in fact, notified. If there was an oversight, he recommended tabling the proposal in order to correct it.

Aistrup stated that he would like to Table the Conditional Use and Exception in order to allow the applicant to submit a redesign. He recommended that the owner reduce the size of the day care center, design a building that would fit into the character of the neighborhood. He also explained that the traffic flow as related to a daycare was not a large concern of his.

Hamilton stated should could also support Tabling the items.



Dillon asked staff whether tabling the items would put the next process on hold.

Bunger provided explanation of the process.

Wigfall explained that it is not the Board's intent to extend the duration of the process.

Aistrup stated his concern over the possibility of reduced residential property values in the area, because of the proposed design and materials of the daycare center. He stated that the key issue to him is that the building not look like an institution. He also stated that for him, the drainage basin was not a safety concern.

Dillon stated that another concern was that the owner meets the adequate provision of parking and loading based on the number of children and employees.

Hamilton made the point that the issue is not the drainage but the capturing of the storm water and where it should be located on the site.

Wigfall summarized that B, C, D, E and F were the standards still needing to be addressed.

Aistrup stated that he was not as concerned with the drainage basin as a safety concern and asked for evidence supporting that basins are a hazard to children.

Wigfall restated the drainage concerns.

The Board addressed a series of comments by persons in the audience. *(These comments were inaudible.)*

Aistrup motioned to Table items 4 and 5 until the July 8, 2009 meeting.

Hamilton asked staff about the In Touch Service.

Bunger provided explanation.

Hamilton seconded the motion which passed with a vote of 4-0.

Wigfall adjourned.

Respectfully Submitted,  
Stephanie Watts and Savannah Benedick, Planning Interns  
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