

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, November 12, 2009
7:00 PM

MEMBERS PRESENT: Harry Hardy, Chairperson; La Barbara J. Wigfall; Joe Aistrup; and Ricci Dillon

STAFF PRESENT: Chad Bunger, AICP, Planner II

CONSIDER THE MINUTES OF THE October 14, 2009, BOARD OF ZONING APPEALS MEETING.

Aistrup moved to approve the minutes of the October 14, 2009 Board of Zoning Appeals meeting which was seconded by Dillon and passed with a vote of 4-0.

CONSIDER A REQUEST FOR A 180 DAY EXTENSION FOR AN APPROVED CONDITIONAL USE FOR A CLUBHOUSE AND POOL, ON ITS OWN LOT, WHICH IS A “HEALTH, FITNESS AND SERVICE CLUB” IN THE R-3, MULTIPLE-FAMILY RESIDENTIAL DISTRICT; AN APPROVED EXCEPTION TO ALLOW A REDUCTION OF THE MINIMUM NUMBER OF OFF-STREET PARKING SPACES FROM 720 PARKING SPACES TO 537 PARKING SPACES FOR THE PROPOSED STONE POINTE APARTMENT COMPLEX AND A REDUCTION OF THE MINIMUM SIXTY (60) FOOT FRONT YARD SETBACK FOR ACCESSORY STRUCTURES TO TWENTY-EIGHT (28) FEET FOR PROPOSED CARPORTS; AND AN APPROVED VARIANCE TO ALLOW OFF-STREET PARKING FOR THE PROPOSED STONE POINTE APARTMENT COMPLEX TO BE LOCATED BETWEEN THE FRONT LOT LINE AND A LINE PARALLEL TO THE FRONT LOT LINE DRAWN THROUGH A POINT WHICH IS ON THE SIDE OF THE PRINCIPAL STRUCTURE FURTHEST FROM THE FRONT LOT LINE, YET STILL FACING THE FRONT LOT LINE. THE APARTMENT COMPLEX WILL BE LOCATED ON LOTS 1 – 11, STONE POINTE ADDITION IN THE R-3, MULTIPLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT/OWNER: MICHAEL HILL, DBA MICHAEL HILL DEVELOPMENT.).

Aistrup commented that the Board typically has granted these kinds of requests and moved to approve the Extension. Wigfall seconded the motion, which passed with a vote of 4-0

A PUBLIC HEARING TO CONSIDER A AN EXCEPTION TO ALLOW FOR AN INCREASE OF THE MAXIMUM THIRTY (30) PERCENT LOT COVERAGE TO THIRTY-FIVE (35)

**PERCENT FOR A PROPOSED SINGLE-STORY OFFICE BUILDING AT 1509 AND 1515
POYNTZ AVENUE IN THE C-1, RESTRICTED BUSINESS DISTRICT.
(APPLICANT/OWNER: CALVIN EMIG).**

Bunger presented the staff report and recommended denial of the Exception.

Aistrup asked if the architect office noted in the staff report that received several Board of Zoning Appeals actions also included an approved Exception for lot coverage. Bunger responded that the property at 1431 Poyntz Avenue did receive a Variance to increase the maximum lot coverage. This was due to the fact that the building is on a single Ward Lot, which does not provide adequate lot area in the C-1 District. If the structure was built on a lot with the minimum required lot area for the zoning district, it would have not needed the Variance for lot coverage.

Wigfall asked about the proposed condition of approval that the location of the sign would need to conform to the Sign Regulations. Bunger responded that the applicant could either relocate the sign to meet the required setback or seek an Exception from the Board in the future.

Hardy opened the Public Hearing.

Calvin Emig, applicant and property owner, commented that he appreciated the time that he spent on the Board of Zoning Appeals. Emig explained his proposed building design and the need for the requested Exception. Emig explained the options that he and his architect had explored to meet the maximum lot coverage requirement, but felt that the proposed design best suited the location and created an aesthetically pleasing development.

Hardy asked what would need to be done to the building design to meet the Zoning Regulations. Emig stated some of the architectural features, such as the covered entrances and the use of brick as the exterior material, would need to be eliminated. Emig felt that eliminating those features would jeopardize the look and viability of the development.

Aistrup asked for clarification that by eliminating the aesthetic elements, the building would meet the minimum requirements. Emig answered yes. Aistrup asked if he had considered shrinking the overall size of the building to meeting the requirements. Emig said that had already been done, and removing more office space would reduce the viability of the commercial project.

Hardy thanked Emig for his time and service as a member of the Board of Zoning Appeals. The Board was unable to properly thank him before he stepped down from the Board.

Tim Clark, 1431 Poyntz Avenue, stated his support for the overall development and the Exception request. Clark did express his concern that if the use of the property was to change, there might not be enough parking provided on the property.

With no other comments from the public, Hardy closed the Public Hearing.

Hardy stated he was inclined to support the request because there are options to meet the minimum lot coverage requirement, but it would not result in an as attractive building as proposed. The proposed building design attempts to maintain the vista along Poyntz Avenue.

Dillon agreed with Hardy and felt that there is a need for quality redevelopment along Poyntz Avenue. She stated that she did not have an issue with the overhang and felt it was needed for the building and future tenants of the development.

Aistrup reminded the Board that the staff report states that the proposed development does not meet the Strict Application standard for approving an Exception and wanted to hear some language as to how to revise the staff report to approve the Exception.

Hardy read out loud the different facts and circumstances that the Board may considered as listed in the Strict Application standard. Hardy felt that it was in the interest of the public's general welfare to approve the Exception because it was a quality development that improved the curb appeal along Poyntz Avenue while not affecting the surrounding neighbors.

Aistrup said that he was less concerned with the issue of the roof overhang, but noted that the footprint of the building, minus the overhang, was still over the maximum lot coverage allowed by two (2) percent. Aistrup asked if the two (2) percent in lot coverage mattered to the welfare of the general public.

Dillon stated that the use of the brick would make a considerable difference in the long-term maintenance and appeal of the building when compared to other types of exterior materials.

Hardy felt that was also an issue for the general public. He also commented that other alternatives that the applicant had mentioned would not be appropriate for that location.

Dillon also noted that the cost of construction today requires the maximizing of space.

Aistrup noted that a commercial development is appropriate for the C-1 District and he would be willing to support the request. He asked why the C-1 District has such a small lot coverage requirement compared to other commercial zoning districts. Bunger stated that the reason for the maximum lot coverage of 30% in the C-1 District was due to the district's design as being a non-retail commercial district that is intended to be compatible with adjacent residential districts. The maximum lot coverage is smaller so that the commercial uses would not overwhelm the nearby residential properties.

Wigfall asked if staff had considered how the building could be decreased in size to meet the maximum lot coverage requirement. Bunger responded that he not considered other alternatives other than decreasing the overall size of the building.

Hardy offered the following revision to the findings to the staff report for the Board to consider - starting at the 5th sentence of the Strict Application standard, replace the staff's findings with the following:

The building could be decreased in size to meet the C-1 District lot coverage requirements; however such a decrease in size would have a negative impact on the general welfare of the community by requiring the reduction of the building's aesthetic appeal and the general character of the surrounding commercial structures along Poyntz Avenue.

The Board approved of Hardy's proposed revisions to the staff report.

The Board made the following findings of fact for the Exception at 1509 and 1515 Poyntz Avenue:

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The location of the proposed building is in compliance with all applicable regulations. It appears that the site plan shows a sign five (5) feet from front property line along Poyntz Avenue. The sign regulations for the C-1 District require signs to be setback a minimum of ten (10) feet. The proposed sign will need to be relocated to meet the minimum requirements of the sign regulations or an additional Exception be requested. Other than the issue of the proposed sign and the Exception being requested, the proposed development is in compliance with the Zoning Regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The site and the properties to the immediate north, east and west are zoned C-1, Restricted Business District. Properties to the south of the alley abutting the site are zoned R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay District. The properties in the C-1 District include a mix of professional office buildings, a bank, the Manhattan Arts Center and single and two-family residential dwellings. To the south of the site is a mix of single-family and two-family dwelling units. Most of the residential dwellings immediately to the south of the site use the alley to access off-street parking spaces. Theodore R. Roosevelt Elementary School is located to the southeast of the site along the south side of Houston Street.

Minimal adverse affects are expected on adjacent properties as a result of the increased size. The proposed use is permitted in the C-1 District. The proposed building is similar in character to other buildings in the area. Most of the commercial buildings along Poyntz Avenue have met the maximum lot coverage requirement of the C-1 District. The one exception is the building at 1431 Poyntz Avenue, Tim Clark Architect office, which was granted a Variance for lot coverage along with a number of Variances for lot width, lot area and setback requirements in 2005.

The size of the proposed building is approximately 856 square feet larger than allowed by the Zoning Regulations. The building's size should not be noticeable to neighboring properties, considering a majority of the overage in size is due to roof eaves and gutters.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:

The proposed development and the Exception request should not have an adverse impact on the public health, safety or welfare. The proposed building will not encroach into any easements or affect vision triangles along Poyntz Avenue or the alley to the south. The entire four lot development with the two (2) similar commercial office buildings would be required to meet the Public Works Department's requirement to keep post-development stormwater runoff rates equal to or less than pre-development stormwater runoff rates. This issue will be addressed through the building permit process.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:

The strict application of the maximum lot coverage regulation would not allow the structure to be built as proposed. Measured to the gutter, the structure is approximately 856 square feet, or five (5) percent, over the maximum lot coverage requirement. The applicant has stated in the application documents that "There are alternatives which would allow the property to meet the strict application of the zoning regulations. However, the alternatives would most likely have an adverse affect on the aesthetic impact of the proposed improvements."

The proposed building is approximately 4,820 square feet in area measured to the exterior of the walls. This calculation does not include the architectural elements of the entryways, the roof overhangs, and

gutters. This is equal to approximately thirty-two (32) percent of the lot's coverage, which exceeds the maximum lot coverage of the C-1 District. Considering that the proposal is to demolish the existing structure on the site and construct a new commercial building, the new building should meet all Zoning Regulations. The building could be decreased in size to meet the C-1 District lot coverage requirements; however such a decrease in size would have a negative impact on the general welfare of the community by requiring the reduction of the building's aesthetic appeal and the general character of the surrounding commercial structures along Poyntz Avenue.

Aistrup made a motion to approve the EXCEPTION to allow for an increase of the maximum thirty (30) percent lot coverage to thirty-five (35) percent for a proposed single-story office building at 1509 and 1515 Poyntz Avenue in the C-1, Restricted Business District with the following conditions:

1. The Exceptions shall be limited to the proposed office building as outlined in the application documents and shown on the applicant's site plan.
2. The proposed sign along Poyntz Avenue shall be relocated to meet the minimum front yard setback for signs as described in Article VI.
3. All applicable permits shall be obtained.

Wigfall seconded the motion, which by a vote of 4-0.

Hardy adjourned.

Respectfully Submitted,

Chad Bunger, AICP, Planner II

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