

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, February 9, 2005
7:00 PM

MEMBERS PRESENT: Connie Hamilton, Daniel Morin, Chuck Jackson, and Calvin Emig.

MEMBERS ABSENT: Harry Hardy

STAFF PRESENT: Steve Zilkie, Senior Planner, and Julie Kruse, Planner

CONSIDER THE MINUTES

Emig moved to approve the January 12, 2005 minutes. Jackson seconded the motion, which passed with a vote of 4-0.

A PUBLIC HEARING TO CONSIDER A REQUEST FOR AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW A REDUCTION OF THE REQUIRED MINIMUM FIFTY (50) FOOT FRONT YARD SETBACK TO FORTY-TWO (42) FEET FOR A PROPOSED ADDITION TO THE SOUTH SIDE OF AN EXISTING STRUCTURE AT 520 MCCALL ROAD, IN THE I-2, INDUSTRIAL PARK DISTRICT. (APPLICANT AND OWNER: DAVE DREILING.)

Kruse presented the staff report and recommended approval.

Hamilton opened the public hearing.

David Dreiling, 4100 Berkshire Circle, owner/applicant, offered to answer any questions from the Board.

There were no comments.

Hamilton closed the public hearing.

The Board members complimented Dreiling on having a successful business and felt the standard was met.

After the discussion the Board made the following findings of fact:

A. The building is considered legally nonconforming as a result of the construction and dedication of Carlson Street. The existing building is 42-feet and four feet and one-half (4 ½)

inch from the west property line, which places the building within the required front yard setback.

B. There should be minimal effects on adjacent property if the proposed addition is allowed. Commercial properties in the C-5 District are located to the east and south of the property. The adjacent property to the northeast is developed as Orscheln Farm and Home Supply. Adjacent to the property, to the north and west, is the I-2, Industrial Park District, which allows a broad range of manufacturing and research activities in a large lot industrial setting.

C. No adverse effects on the health, safety and welfare of the public are expected, as the addition does not encroach on a public easement or a vision triangle.

D. Strict application of the Regulations is unreasonable considering that the existing structure was in conformance with City Zoning Regulations when it was constructed. The establishment of Carlson Street changed the required minimum setback and resulted in the building becoming nonconforming. Constructing the proposed addition at the required setback would require the width of the addition to be reduced by 8-feet, which would disrupt the façade along Carlson Street and change the building's functionality and aesthetics.

Emig moved that the Board approve the requested Exception to allow an eight (8) foot reduction to the minimum fifty (50) foot front yard setback along the west property line in order to construct the proposed addition at 520 McCall Road, with the following conditions:

1. The addition shall be constructed according to the application and site plan documents.
2. A building permit shall be obtained.

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

A PUBLIC HEARING TO CONSIDER A REQUEST FOR A VARIANCE TO ALLOW A REDUCTION OF THE REQUIRED MINIMUM LOT AREA OF 15,000 SQUARE FEET TO 7,500 SQUARE FEET; A REDUCTION OF THE REQUIRED LOT WIDTH OF ONE HUNDRED (100) FEET TO FIFTY (50) FEET; A REDUCTION IN THE REQUIRED NUMBER OF PARKING SPACES BASED ON SQUARE FOOTAGE FROM SEVENTEEN (17) REQUIRED SPACES TO EIGHT (8) PARKING SPACES; A REDUCTION OF THE REQUIRED EIGHT (8) FOOT SIDE YARD SETBACK TO FOUR (4) FEET ALONG THE EAST PROPERTY LINE; AN INCREASE OF THE REQUIRED MAXIMUM LOT COVERAGE FROM THIRTY (30) PERCENT TO THIRTY-EIGHT (38) PERCENT; AND THE REDUCTION OF THE REQUIRED TWENTY-FIVE (25) FOOT FRONT YARD SETBACK TO ONE (1) FOOT ALONG 15TH STREET. ALL IN THE C-1, RESTRICTED BUSINESS DISTRICT, FOR A PROPOSED OFFICE BUILDING. (APPLICANT AND OWNER: TIM CLARK.)

Emig stepped down due to a conflict of interest.

Kruse presented the memo regarding the shared, or collective, parking agreement and intensity of uses and recommended denial of the variance.

Hamilton asked if there was a need for a variance since a shared agreement for the nine spaces needed has been met. She said that if the total number of off-street parking spaces for both businesses is provided, then the applicant will not need a variance; however, it is not known if the requirement is met.

Jackson made a motion to remove the item from the table. Morin seconded the motion, which passed on a vote of 3-0.

Jackson pointed out the businesses would be operating at opposite times of day. So regardless of the total number of parking spaces there will always be adequate spaces available. Hamilton said there is no need to grant a variance that is not needed.

Morin asked about the location of cross walks and if one existed at the 15th and Poyntz intersection. It was noted that the closest marked crosswalks are at 17th and Poyntz and 14th and Poyntz, but pedestrians can cross at any intersection.

Hamilton asked for clarification of how the square footage affects the number of required spaces. It was explained that the square footage for certain uses within in a building, such as utility rooms and closets do not count towards the total square footage. And depending on the future floor plan and size of those spaces, the amount of square footage that counts towards required parking space may change.

Hamilton questioned the term overbuilt. It was explained that there is a concern for the number of variance and exceptions that are requested.

Hamilton opened the public hearing.

Tim Clark, 224 Poyntz, applicant, read a letter from the owner, Darrell Hills who could not attend the meeting. The letter expressed that a shared parking agreement was addressed as well as the issue of non intensive uses.

Steve Galitzer, 1504 Humboldt, spoke on behalf the Manhattan Arts Center. He stated they average 15-20 parked vehicles during the day. The Arts Center busiest hours are Thursday through Saturday evenings, and weekends. He expressed that the shared arrangement is a good partnership.

Penny Serften, 3348 Newbury, spoke on behalf the Manhattan Arts Center. The Arts Center is pleased with the architecture of the building. There are sometimes classes in the afternoon but the classes do not require much parking. The partnership for shared parking is a benefit to both parties.

Hamilton closed the public hearing.

Morin noted that the applicant has made a good faith effort for this application and has provided a good shared parking agreement and saw no problem with approval. Jackson noted that it would be nice if shared parking was closer but the Arts Center is willing to share. He also felt that the design of the proposed office building is too large for the lot but Poyntz Avenue seems to be developing in this direction so there is no problem with approval. Hamilton said she was still concerned with granting a variance that is not needed and would like to have known the total number of parking spaces required for the two properties.

(Note: the collective provisions of the off-street parking regulations were determined to apply to the proposal based on an agreement between Tim Clark and the Arts Center.)

After the discussion the Board made the following findings of fact:

1. Lot 112, Ward 6, the subject property, does not meet the minimum lot width or minimum lot area for the C-1 District, and is nonconforming to the requirements of the C-1 District. The required lot area for the C-1 District is 15,000 square feet and the required minimum lot width is 100 feet. The subject property is 7,500 square feet and is 50 feet in width. Ward lots were originally at 50 feet in width and 150 feet in depth. The zoning history for this subject property shows that from 1925 to 1965 Lot 112 was zoned 'B', Residence, which required the side yard setback be 10 percent but not less than 6 feet and the front yard setback to be 20 percent but did not have to be more than 25 feet. From 1965 to 1969 the subject property was zoned 'A', Single Family, which required a minimum lot area of 8000 square feet, a 10-foot side yard setback, a 25-foot front yard setback, and 30 percent maximum lot coverage. Since 1969 the subject property has been zoned C-1, Restricted Business District, with a required minimum lot area of 15,000 square feet, a minimum lot width of 100 feet, lot depth of 150 feet, an 8-foot side yard setback, a 25-foot front yard setback and a maximum 30 percent subject property coverage.

The zoning regulations have changed over time and require a larger minimum size lot with a larger minimum width than when this subject property was originally platted. There are other properties in this zoning district that do not meet the required minimum lot area or subject property width but the opportunity exists for them to be joined with another property to create a larger property. On the south 1400 block of Poyntz Avenue, other lots have been combined to create the Capitol Federal Savings site. As a result there are no other lots to combine to increase the subject property size. A demolition permit was issued for the subject property, on May 1, 2002, which has been vacant to date. During the period of the subject property's nonconformity, ownership changed

The setbacks for a property located in the C-1, Restricted Business District are a twenty-five (25) foot front yard setback, and an eight (8) foot side yard setback. The subject property is a corner lot creating a front yard along Poyntz Avenue and 15th Street, and two side yards along the alley and the east property line. The setback is twenty-five (25) feet along both street frontages; the opposite yards are eight (8) feet. The buildable area is 1989 square feet, which is due to building setbacks and is equivalent to 27 percent lot coverage for building.

Accessory structures may be added to the total building coverage, not to exceed 30 percent. 30 percent of 7500 square feet is 2,250 square feet.

In general, a Variance for the minimum lot area, minimum lot width and the front and side yard setbacks are reasonable requests due to the size of the subject property. The minimum number of required off-street parking spaces is difficult to meet as a result of the site plan and building constraints. A collective (shared) parking agreement can resolve the problem.

2. There should be minimal effect on adjacent properties. On the east side of the subject property is Capitol Federal Savings with its parking lot immediately adjacent to the subject property. There are single-family residential properties located to the south with a twenty (20) foot alley separating them from the subject site. To the west of 15th Street, a 60-foot right-of-way, are single-family residential properties. To the north of Poyntz Avenue, a 100-foot collector street, are businesses allowed in the C-1, Restricted Business District.

Any negative effect on adjacent properties would most likely result from overflow parking. On street parking is available along 15th Street and Poyntz Avenue. The subject property is zoned C-1, Restricted Business District, and although specific tenants have not been identified, the proposed use is limited to business and professional offices, which are usually low intensity uses that most likely do not extend beyond the hours of 8 AM to 5 PM during the day. A shared parking agreement between the Manhattan Arts Center and the subject property allows the applicant to meet the total number of off-street parking spaces required, as long as the total number between the locations meets the total number of required spaces and will alleviate the burden of excess parking being available only on-street.

Visually the proposed building will have minimal effect. Poyntz Avenue is zoned C-1, Restricted Business, therefore other businesses exist in the surrounding area. The proposed building elevations give the appearance of an office building and will fit well with the Capitol Federal Savings building. There are some smaller offices across Poyntz Avenue and some single-family homes around this property. The proposed site plan attempts to keep a consistent front yard setback along Poyntz Avenue and some of the existing trees will be retained, which will help maintain a minimal visual impact on the neighborhood.

3. Some unnecessary hardships may result from the strict application of some of the regulations. The strict application of the required minimum lot width and minimum lot area is an unnecessary hardship for the subject property at this time. The required minimum lot width and lot area were established through zoning changes after the subject property was originally platted. All remaining lots on adjoining properties were combined to create one large lot for Capitol Federal Savings. Lot 112 is the only lot on the block that is undeveloped and cannot be combined with another lot on the same block to create a zoning lot that meets the required minimum width and size. The subject property cannot meet the minimum lot width and size for the C-1 requirements. Nothing can be constructed on the subject property without receiving a Variance for the required minimum lot area and required minimum lot width.

The required front yard setback and side yard setbacks are affected by the width and area of

the subject property. Since this subject property is a corner lot, there are two front yards and two side yards, which require a minimum of twenty-five (25) feet and eight (8) foot setback, respectively. It may pose an unnecessary hardship to require the applicant to meet the required setbacks since they did not create the minimum lot width and area requirements. Because the subject property is only fifty (50) feet wide the potential development of the subject property is extremely limited without Variance of the setbacks. The applicant is requesting a reduction in one front yard setback, along 15th Street and a reduction in one side yard setback, along the east side of the property. The applicant meets the other required front and side yard setbacks.

The maximum lot coverage of the C-1 District is thirty (30) percent. The proposed building coverage is about thirty-three (33) percent subject property coverage. The applicant is asking for an increase of maximum lot coverage to thirty-eight (38) percent because some of the design features on the building are still unsure. The elevations and floor plans show balconies on the east side of the building, overhangs that will be used to shade the windows, the location and shape of the staircase, the floor plans, and other features that could possibly change. The applicant thought that the thirty-eight (38) percent lot coverage would be the maximum amount needed to accommodate any changes.

The parking regulations for the proposed use when applied to the proposed site plan might be an unnecessary hardship. The proposed use of business/professional offices is required to have one (1) parking space per three hundred (300) square feet. The size of the subject property poses some unique obstacles for the proposed site plan and it is impossible for the applicant to meet the off-street parking requirements based on the proposed site plan. However, if the applicant can acquire a shared parking agreement then the lack of off-street parking at this site will be a non-issue.

4. There should be no adverse effects on the public as a result of the proposed site plan. Other professional office uses and single family residential surround the subject property. Although specific tenants have not been identified, the use of the building can only be business and/or professional offices.

5. The minimum lot area, lot width, lot coverage, and setback regulations are intended to ensure that adequate yard, setback, and structural coverage do not exceed minimum or maximum standards for uniformity in a neighborhood, as well ensure that adequate light, air and access are provided for the inhabitants of the property. The regulations also ensure that properties within a zoning district are developed at a density that is consistent with the intent of the zoning district. Setting a maximum amount of lot coverage ensures that some green space is maintained on a property. The setback regulations ensure that the development pattern within a zoning district is maintained. While the subject property does not meet the minimum lot area requirement, the intensity of the proposed physical development of the site is similar to other properties within the C-1 District and appears to be consistent with the intent of the C-1 District regulations. The applicant is not responsible for Lot 112 not meeting the minimum lot area or lot width. Development on the subject property will be difficult if reductions in the setback are not allowed. However, the lot coverage could be met or at least

be less than thirty-eight (38) percent. The design of the proposed building has not been decided upon and therefore the amount of lot coverage may change. The thirty-eight (38) percent lot coverage is a coverage based on what the applicant indicates he should be able to meet.

The intent of the parking regulations is to reduce the need for on-street parking and to ensure the availability of parking for both occupants and the public. By requiring minimum off-street parking spaces the amount of on-street parking will be reduced and those who may reside, visit, or do business on a particular property will be adequately served. The use of the subject property dictates the amount of required off-street parking. It should be noted, that based on the uses allowed (business/professional) some generate few trips such as insurance agents, while others such as doctors generate higher traffic counts, and more off-street parking spaces are needed. The applicant indicates that the use would be business and/or professional office, but does not identify the tenants or type of office.

Morin moved that the Board approve a Variance to allow a reduction of the required minimum lot area of 15,000 square feet to 7,500 square feet; a reduction of the required lot width of one hundred (100) feet to fifty (50) feet; a reduction of the required eight (8) foot side yard setback to four (4) feet along the east property line; an increase of the required maximum lot coverage from thirty (30) percent to thirty-eight (38) percent; and the reduction of the required twenty-five (25) foot front yard setback to one (1) foot along 15th Street. All in the C-1, Restricted Business District, for a proposed office building at 1431 Poyntz Avenue, Lot 112, Ward 6, with the following conditions of approval:

1. The building shall be built according to the site plan.
2. The collective parking requirements shall be met.

Jackson seconded the motion, which passed on a vote of 3-0.

Respectfully Submitted,

Julie Kruse, Planner

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