

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, July 13, 2005
7:00 PM

MEMBERS PRESENT: Chairperson Chuck Jackson, Connie Hamilton, Calvin Emig.

MEMBERS ABSENT: Daniel Morin, Harry Hardy.

STAFF PRESENT: Steve Zilkie, Senior Planner; Jeremy Frazzell, Planner.

CONSIDER THE MINUTES OF THE JUNE 8, 2005, BOARD OF ZONING APPEALS MEETING.

Hamilton moved that the minutes be moved to the bottom of the agenda for discussion. The motion was seconded by Emig, which passed 3-0.

A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW A GROUP DAY CARE CENTER IN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT, FOR PROPERTY LOCATED AT 1604 STEWART COURT. (APPLICANT/OWNER: COLLEGE AVENUE UNITED METHODIST CHURCH.)

Frazzell presented the staff report.

Emig questioned if the church at some point acquired new properties and sold this church to another, would the conditional use be eliminated on this residential neighborhood lot or would it continue

Zilkie replied that as it is written, it would cease or a new owner would have to reapply. If the "shall be owned" phrase was eliminated, it could continue and be operated by someone else as long as it met the conditions of approval. If the board would like to place a limit to a specific operator (ownership) as done in the past with bed and breakfasts, the board could choose that option.

Emig said if an organization wanted to do private ownership of the day care center, then it would not be an integral part of the church. He said the group day care center would need to be limited to the church as the owner and operator.

Hamilton commented that in the past, hours of operation have been made more general.

Bray Jermark, current director of the infant and toddler center currently operating in the Methodist church said they have made every effort to make sure the use fits in with the neighborhood. The playground structure proposed for the rear yard playground is wooden and

one that is found in many family backyards. The possibility of increased traffic on Stewart Court has been limited by restricting parking to the existing church parking lot. Currently the day care within the church is for infants and toddlers and the church is excited about being able to serve children birth through five.

Hamilton questioned whether parents dropping their children off in inclement weather would use the parking lot and not use the convenient driveway on Stewart Court.

Jermark responded that despite the weather conditions, they would encourage parents and users of the facility to utilize the main church parking lot.

Jackson questioned whether the group day care center felt comfortable with limiting the hours of operation or if they would need a little different wording to allow more flexibility.

Jermark said the current hours of operation are between 7:30 a.m. and 5:30 p.m. The current day care program at the church has been in operation for six years and the hours have been the same. They hope to maintain the same hours. Staff does come in about fifteen minutes early and stay a half hour later, if an exception for staff members were needed, then that could be made, but the operating hours of the center are 7:30 to 5:30.

Ruth Anne Warren, 1600 Stewart Court, addressed a concern about the sixteen foot easement on the south end of the property and recommended that gates be placed across the easement instead of a fence, which might prevent utility trucks from being able to get in. She was pleased that the day care facility was proposing to use the existing church parking lot.

Jermark responded that the church is aware of the easement and had submitted a letter documenting that the church recognizes the easement and their responsibility for removal and replacement for the fence and sidewalk if necessary. They did plan for a ten foot gate on the southwest end of the property which should provide adequate access to utility trucks if they need it.

Jackson commented that it would be easier to put the fence at the edge of the easement so the church wouldn't have to worry about removal or replacement of the fence in the event of an emergency.

Jermark said realigning the fence might affect the square footage of their play area but the chain link fence is proposed to the west of the hedges, so they might be out of the easement at that point.

Zilkie clarified that the utility easement on this property is sixteen feet in width on the proposed property side, not eight feet on either side. It appears that utility access could be made along the church property to the east, without affecting the fence. Although the City does not recommend placing a fence within a utility easement, it can be done provided the applicant agrees and understands that the responsibility for removal and replacement of the fence and sidewalk does lie with the applicant.

Hamilton commented that for all of the conditional use permits for group day care centers, she had not seen one with as much land, little lot coverage, with no parking having to be accommodated for on-site. She said she was comfortable with the proposal, thought it was a good idea, glad that the neighborhood was in support, and very glad it was not going to utilize Stewart Court as access. She would like to increase the condition to include loading, unloading and parking all to the church parking lot. She encouraged the applicant to move whatever line or put in whatever gate necessary to be at a comfort level with the neighbors. She said she had not interpreted the owned and operated condition the same as city administration, however if a successor church would decide to maintain the facility, and agrees to the conditions and neighborhood concerns, then she is comfortable with approving the conditional use. For the hours of operation, she understood the comfort zone of 7:30 to 5:30 of the applicant, however she recommended that the condition should read “shall be generally limited to 7 a.m. to 6 p.m.” to provide a little more flexibility.

Emig commented that the group day care center would be an asset to the church and that the church was very fortunate to have an opportunity within the residential district to find a residence that is located on a twenty thousand square foot residential lot. He questioned city staff about the day care center being owned and operated by the church and he was very comfortable with that, but would feel unfortunate if the church decided to not do the day care center and sold it to private enterprise. He said he would like to ensure that the language “as long as the facility is owned and operated by the church” be inserted, because this is a conditional use granted due to the opportunity of parking cars and providing access from the church parking lot. He continued by saying, if that wasn’t the case, then the cars and people would be accessing the property from Stewart Court, which probably isn’t something the neighborhood people would feel comfortable with. He said the applicant needs to understand that down the road the day care facility use can not be sold to private enterprise because of the condition of this conditional use and the reason it is being granted.

The Board made the following findings of fact:

- A. The proposed use complies with all applicable provisions of the Zoning Regulations, except the need for a Conditional Use.
- B. 1604 Stewart Court and the surrounding area to the general north, south, and west is owner-occupied, single-family homes in the R, Single-Family Residential District. The property adjacent to the general east is occupied by the College Avenue United Methodist Church and is zoned R, Single-Family Residential District. The lot located adjacent and generally north (1608 Stewart Court) is owned by E.B. West Jr. who has agreed to allow an approximate 375 square foot permanent easement in the southwest corner of his lot to allow travel from the College United Methodist Church parking lot to the group day care. With parking and access restricted to the rear of the proposed lot via the existing church parking lot, the use of the property as a group day care center should have little effect on surrounding neighbors or Stewart Court.

C.

1. The property is an existing single story, single-family residential structure located on an irregular polygon shaped lot off a cul-de-sac street, Stewart Court. Minimum lot area for a group day care center is 10,000 square feet. The subject property is approximately 20,000 square feet in area. The residential structure has an approximate area of 1,724 square feet with the addition of a low back deck, giving total approximate lot coverage of 8%.

2. The outdoor play area will be surrounded with a four (4) foot vinyl coated chain link fence in areas that are not currently covered by an existing wood fence. A three (3) foot gate will allow access into the west side of the play area from the proposed sidewalk and church parking lot. A six (6) foot hedge will screen the chain link fence along the south.

D. Ninety-five (95) off-street parking spaces are available in the church parking lot and available during the Monday through Friday 7:00 a.m. – 6:00 p.m. operating hours of the day care. Manhattan Zoning Regulations Article VII Section 7-103 (C)(4) require group day care centers to provide at least one (1) parking space for each employee and one (1) parking space for each five (5) children. The existing church parking lot will allow sufficient parking for the proposed day care facility.

E. The property currently has access to city water and sewer as well as other utilities including electric, gas, cable and telephone services. There will be little to no effect to the current storm drainage for the property. Storm drainage flows to Stewart Court.

F. The subject property has frontage on Stewart Court; however, “parking and access to the facility will be provided by College Avenue and the College Avenue United Methodist Church parking lot. There will be no increase in traffic on Stewart Court. The impact on College Avenue is expected to be minimal.”

Hamilton moved that the board grant the Conditional Use for a Group Day Care Center at 1604 Stewart Court, Lot 10, Block 1, College Hill Park First Unit, based on the findings of fact, with the following conditions:

1. The Group Day Care Center shall be owned and operated by College Avenue United Methodist, and shall be generally limited to the hours between 7:30 AM and 5:30 PM, Monday through Friday;
2. The applicant shall limit loading, unloading and parking serving the group day care to the existing College Avenue United Methodist Church parking lot including all staff members. There shall be no on-street parking on Stewart Court;
3. The applicant shall obtain all necessary building permits and day care licenses;
4. The applicant shall maintain all structures, landscaping, and sidewalks in good condition.
5. The applicant shall be limited to providing service to 12-15 preschool age children with two to three staff members.

Emig seconded, which passed 3-0.

A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW FOR AN EXPANSION OF THE MERCY REGIONAL HEALTH CENTER HOSPITAL'S CAMPUS FOR A PROPOSED FINANCIAL ACCOUNTING OFFICE, WHICH WILL BE LOCATED IN AN EXISTING RESIDENTIAL BUILDING AT 2438 VAUGHN DRIVE. (APPLICANT/OWNER: MERCY REGIONAL HEALTH CENTER.)

A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW A REDUCTION OF THE MINIMUM REQUIRED FIFTEEN (15) FOOT SIDE YARD SETBACK TO SIX (6) FEET ON THE WEST SIDE OF A RESIDENTIAL BUILDING AND FROM FIFTEEN (15) FEET TO NINE (9) FEET ON THE EAST SIDE OF AN EXISTING RESIDENTIAL BUILDING, WHICH IS PROPOSED TO BE A TEMPORARY FINANCIAL ACCOUNTING OFFICE FOR MERCY REGIONAL HEALTH CENTER, FOR PROPERTY LOCATED AT 2438 VAUGHN DRIVE. (APPLICANT/OWNER: MERCY REGIONAL HEALTH CENTER.)

Zilkie presented the staff report.

Hamilton asked if there was any signage proposed on the building.

Zilkie said none was proposed, but would be subject to the sign regulations of the R District and referred the question to the applicant.

Hamilton asked if there was a concern for people parking on Vaughn and cutting through to the hospital parking lot.

Zilkie said that had not been considered, but the condition could be modified to address that concern.

Danny Woodworth, 1823 College Avenue, Facility Director at Mercy Health Center said the proposed signage will be for a handicapped signage out front for the one car where the handicapped parking will be.

Hamilton said the question was directed on signage addressing the location and temporary nature of the finance office.

Woodworth said no. The neighbors are ecstatic because of the reduction in noise and cars. Mercy has made it clear to the employees of Mercy that there will be no cars out there. When they talked to the neighbors, they said it was very congested. If employees park there, the Mercy security will ticket or tow those vehicles. All employees know they are not to park on Vaughn Drive.

Hamilton asked for clarification on Mercy's intention on moving the finance office to the temporary location.

Woodworth said that K-State wants the area where the finance office currently is located, in the old Farm Bureau building. Mercy is hoping that during the temporary one year duration, the finance office could occupy the residence space while the finance office area in Mercy can be remodeled.

Emig said he understood the reason for the hospital wanting to move into the residence area, but wanted to know if the hospital is planning on occupying additional residences along Vaughn Drive.

Woodworth said not at this time. The original reason for obtaining the facility was to provide a hospice for patients' families. With the ending K-State contract, the hospital would use the residence for one year for the temporary office use, followed by intern housing.

Emig asked if they would make changes to the facility to get it back into a residential facility once the temporary office use had expired.

Woodworth said no.

Emig said it is fortunate that you have this facility and this temporary opportunity. He said he thinks it's a good idea and not going to stand in the way.

Jackson closed for public hearing and opened for board discussion.

Hamilton asked Zilkie when the conditional use expires, if the zoning would remain R-1.

Zilkie responded saying yes.

Hamilton questioned whether this one property would then be subject to the conditional uses allowed in the R-1 zones.

Zilkie responded saying that the R and the R-1 Districts are similar, except the R does not allow hospitals. By rezoning the property to R-1, it brings the property into compliance. As zoned R, the minimum lot size is 10,000 square feet, now the minimum lot size is 6,500. Similarly the side yard setbacks are now in conformance, so rezoning brought the property into compliance for the long term.

Hamilton questioned whether a conditional use would be required to have four unrelated persons living in the residence after the temporary use expired.

Zilkie said no.

Hamilton commented that when the board approved the conditional use of the hospital expansion, one of the key notions was that the expansion was going to still have a buffer to the neighborhood and was not stressing the interface of the neighborhood. Although this has good

reasons, it is stressing the interface and she doesn't want approval to show that the city does not still adhere to the key concern that the neighborhood be protected. Because it is not permanent, she can support it.

The Board made the following findings of fact:

A. The subject property, 2438 Vaughn Drive, Lot 14, Block 8, College Hill Park #10, and the Mercy Regional Health Center campus at 1823 College Avenue, comply with all applicable provisions of the Zoning Regulations. A companion Exception application was submitted to reduce the minimum fifteen (15) foot side yard setback for existing structure on at 2438 Vaughn Drive. A Conditional Use requires a minimum fifteen foot side yard setback.

Mercy Regional Health Center at 1823 College Avenue was granted a Conditional Use Permit to allow construction of an addition to the existing facility on May 10, 2000. The current proposal is an amendment to the 2000 Conditional Use Permit. Mercy Regional Health Center is located on a 12.3 acre campus immediately north of 2438 Vaughn Drive (attachments).

B. Adjacent properties to the general south, east, and west of 2438 Vaughn Drive, are within an R, Single-Family Residential District. The surrounding area is a combination of renter and owner-occupied older single-family homes. Property adjacent to the general north, northwest, and northeast is occupied by the Mercy Regional Health Center and is zoned R-1 Single-Family Residential. Prior to applicant's purchase of 2438 Vaughn Drive, the property was a rental property occupied by students. The use of the residential building for a temporary office space for Mercy Regional Health Center's accounting office should have minimal adverse effect on surrounding residential properties along Vaughn Drive. The office use is a low impact activity in terms of noise, light and traffic. Employees will have to use of Mercy Regional Health Center's off-street parking. The applicant has indicated on-street parking for the temporary use will not be allowed on Vaughn Drive. The temporary nature of the use ensures the activity does not become long term occupancy of the residential building, which might otherwise alter the character of the residential neighborhood on Vaughn Drive.

C.

1. The structure at 2438 Vaughn Drive is an existing single story, single-family residential building located on an irregular polygon shaped lot with an approximate area of 7,840 square feet. Six (6) administrative personnel will temporarily occupy the facility during normal business hours (8 a.m. to 5 p.m.) for approximately one (1) year.

2. Although not required, the applicant has submitted a landscape plan prepared by Howe Landscape, Inc. to improve the existing aesthetics of the lot. Perennial plants, groundcover, and shrubs will be placed around the perimeter of the house. Three (3) trees currently occupy the property, two (2) of which will be removed. A vinyl privacy fence with a four (4) foot gate will separate the back yard from the hospital's parking lot. A four (4) foot gate will be added on the north side yard separating the front and back yards.

D. Clients will not be visiting or utilizing the facility. One (1) ADA parking space will be provided on driveway off Vaughn Drive with all other staff entering from the rear of the property and utilizing the existing hospital's adjoining parking lot. Off-street parking is permitted within 600 feet and in the same zoning district. Adequate parking is provided.

E. Adequate utilities including electric, gas, cable and telephone services are available. Storm drainage flows to the City storm drains located on Vaughn Drive.

F. The subject property has frontage along Vaughn Drive, while the Mercy Regional Health Center of Manhattan Campus has frontage along Kimball Avenue and College Avenue. The front driveway will provide parking for one car with existing access off of Vaughn Drive. The Mercy Health Center of Manhattan parking lot will provide additional parking for hospital personnel and has access from College Avenue and Kimball Avenue. Adequate provision for access is available for the proposed temporary office.

Emig moved to grant approval of a modification of the Conditional Use for Mercy Regional Health Center to include the property located at 2438 Vaughn Drive, Lot 14, Block 8, College Hill Park #10, based on the findings of fact, with the following conditions:

1. The Conditional Use at 2438 Vaughn Drive shall be for a temporary accounting office for one (1) year from the date of the Notice of Decision, at which time the use shall cease, unless the applicant submits an application for a Conditional Use to extend the temporary occupancy. The application shall be submitted and considered by the Board of Zoning Appeals prior to the date on which the temporary use expires.
2. The temporary office shall only be used by hospital personnel and shall be limited to seven (7) employees.
3. Off-street parking shall be provided on the Mercy Regional Health Center's parking lot, except that the existing driveway off 2438 Vaughn Drive shall accommodate one (1) ADA accessible off-street parking space.
4. On-street parking for the temporary office use shall be prohibited along Vaughn Drive.
5. Temporary office hours shall be limited to normal business hours from eight (8) a.m. to five (5) p.m., Monday through Friday.
6. Landscaping shall be provided according to the landscape plan.
7. The residential building, other improvements and landscaping shall be maintained in good condition.
8. An Exception of the side yard setback shall be granted.
9. There shall be no signage other than what is needed for the handicapped zone.

Hamilton seconded the motion which passed 3-0.

For the Exception, the Board made the following findings of fact:

A. The subject property, 2438 Vaughn Drive, Lot 14, Block 8, College Hill Park #10 and 1823 College Avenue, comply with all applicable requirements of the Zoning Regulations other than the existing side yard setback for which the Exception is being requested. A Conditional

Use permit must be approved for the residential building to be used as a temporary accounting office for Mercy Regional Health Center.

B. No adverse effects on adjacent properties are expected. The subject property and adjacent properties to the general south, east and west are within an R, Single-Family Residential District. The surrounding area is a combination of renter and owner-occupied older single-family homes. Property adjacent to the general north, northwest, and northeast is occupied by the Mercy Regional Health Center and is zoned R-1 Single-Family Residential District. The existing building encroachment of the existing structure should have little negative effect on surrounding neighbors or Vaughn Drive. The house has been part of the neighborhood since it was built in 1970. The proposed use is an accounting office with no outdoor activity and should generally be consistent with the low intensity use as a residence.

Prior to applicant ownership, the property was a rental property occupied by students. The applicant indicates that occupancy of the property by the hospital “will be an improvement for neighbors (with regard) to parking, noise level, and cleanliness of the property.”

C. There are no perceived negative effects to the public with the temporary occupancy of the hospital accounting department. The existing overhang improvements will not be changed. The existing encroachments do not extend into a public utility easement.

D. The existing encroachments were not created by the applicant and the applicant indicates that when they acquired property, they were not aware of the condition requiring an exception. There are no reasonable alternatives which would allow the property to meet the strict application of the zoning regulations. Lot size was determined at time of construction and neighboring properties are developed and occupied.

Emig moved to approve an Exception to allow a reduction in the minimum required fifteen (15) foot side yard setback to six (6) feet on the western side yard and to nine (9) feet on the eastern side yard, for Lot 14, Block 8, College Hill Park #10, at 2438 Vaughn Drive, which is part of the Mercy Health Center Campus at 1823 College Avenue, both in the R-1, Single-Family Residential District, with the following conditions:

1. The Exception shall be limited to the side yard setbacks for the existing residential building according to the site plan.

Hamilton seconded the motion which passed 3-0.

A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW FOR A HEALTH AND FITNESS CLUB IN THE I-2, INDUSTRIAL PARK DISTRICT, FOR A PROPOSED YOUTH GYMNASTICS CENTER, FOR PROPERTY LOCATED AT 2730 AMHERST AVENUE. (APPLICANT/OWNER: TGM, INC. DBA GYMNASTICS PLUS.)

A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW FOR A

REDUCTION OF THE REQUIRED NUMBER OF OFF-STREET PARKING SPACES AND A REDUCTION OF THE EAST SIDE YARD SETBACK FOR OFF-STREET PARKING, BOTH ASSOCIATED WITH A PROPOSED GYMNASTICS CENTER IN THE I-2, INDUSTRIAL PARK DISTRICT, FOR PROPERTY LOCATED AT 2730 AMHERST AVENUE. (APPLICANT/OWNER: TGM, INC. DBA GYMNASTICS PLUS.)

Frazzell presented the staff report.

Hamilton said she was surprised at the significant reduction in parking and the 198 capacity for the building as she had a picture of more open space for a gymnastic and fitness center.

Frazzell commented that the capacity was determined by code services.

Jackson commented that the building is only 10,000 square feet.

Hamilton questioned if the use was to expand and goes elsewhere, or another operation were to take over the facility, how would we protect from another operation thinking there are already thirty-three parking spaces available?

Zilkie said to refer to the reduction as related to the conditional use of the health and fitness center only.

Jackson commented a designation should be made to specify the health and fitness center as a youth health and fitness center.

Hamilton asked how big the building, parking, and operation is right now to understand the parking needs.

Pam Kasper, 2730 Amherst, half owner of the gymnastics center, said that the current facility is 14,400 square feet. Over a weeks time they average 500 students during the school year and 30 part time employees.

Jackson asked how many employees at any one time.

Kasper said that in the late afternoon they can have 2 or 3 preschool classes which have 6 students a piece and one coach. Recreation classes are limited to 8 students per coach. 10-15 team members with one coach. If each class is completely full with one parent to watch, they figure that during the peak they would have occupancy of approximately 80 people. She continued by saying due to the nature of the business, most of the facility is full of equipment. Traditionally most of the time parents drop their children off and leave, however some do stay. Occupancy of 80 is with the coaches, office staff, children, and if one parent would stay for each student and all the classes were full.

Jackson asked how many instructors at any one time would be at that location.

Kasper said maybe nine at any one particular time driving and using a parking space.

Hamilton asked how the operation compares with the existing operation on Hayes Drive.

Kasper said they hoped that it would remain the same. The number of the parking spaces drawn in the application is very similar to what they have now.

Emig asked if they have parking issues now.

Kasper said they ask their instructors to currently park across the street, which alleviates the parking issues. Most of their parking issues are related to a bottleneck effect based on the current parking lot design (one entrance and one exit) and not on the amount of spaces available.

Hamilton clarified that the applicant is looking at roughly the same extent of operation, looking at parking that should be adequate as proposed with enhanced circulation within the parking lot entrance and exiting.

Jackson said that at one time the area in the back and along the side of the lot had at one time been completely paved and graveled over, so the area could be used for additional parking if needed without any problem.

Emig commented that the site plan shows existing asphalt and concrete paving on the northeast corner of the building which looks like it could be striped. He asked the architect why there would not be parking there, and if there was a different elevation in that area.

Dan Knight, architect, 327 Poyntz Ave. Suite 201, said that the building was a storage facility, and the entire east side of the building is two feet below floor level. Out the overhead door, north of the existing concrete paving that slopes gradually to the north, but straight east slopes rapidly down. The patch of asphalt between the concrete slopes dramatically. There are 37 parking spaces total, where now she has 33. To the east of the asphalt patch is a parallel stall because of the steep slope, everything else is 90 degree parking.

Emig asked about the size and use of the existing shed located to the north of the building.

Kasper responded that the shed was small and used for lawn tool storage.

Emig asked if it is identified that there is inadequate parking, could the shed be removed and the parking lot expanded to the west, since there will not be any curb and it is just flat work, it could easily be done.

Kasper said that would definitely be considered.

Emig commented that since there is a request to reduce the amount of required parking spaces

by fifty percent, if the applicant and the owner of the property, in the future, find that there is inadequate parking, they should consider expanding the parking lot to facilitate those needs.

For the Conditional Use, the Board made the following findings of fact:

A. The subject property complies with all applicable provisions of the Zoning Regulations, except those requiring the concurrent Exception.

B. The subject property and adjacent properties to the general north, west and east are within an I-2, Industrial Park District. Uses within the I-2 District range from the Amherst Self-Storage to the north, a vacant property and the Highland Dairy to the east. Properties located across Amherst Avenue (generally south of the proposed property) are within the C-5, Highway Service Commercial District and range from church property directly south and a self-storage to the east. A car lot is located to the general west.

There are no perceived negative effects to the surrounding neighborhood. The gymnastics facility will likely be a low traffic generator, especially during the normal business hours of the adjacent properties. Activities at the facility will occur primarily in the late afternoon and early evenings. This should have no interference with surrounding uses. The nature and intensity of Gymnastics Plus will not dominate the immediate neighborhood. It will in no way prevent development and use of the neighboring properties.

C.

1. An existing approximate 10,000 square foot structure is on the subject property. Entrance to the lot is via an existing shared drive off of Lot 2, provided by a permanent type easement.

2. Existing landscaping is along the west, and south of the structure. The south side of the property abuts Amherst Avenue and currently meets the required landscaped area of twenty (20) feet. The applicant has proposed a new landscaped island (approximate area of 1,450 square feet) separating the existing drive with the proposed parking lot along the east side yard. A new 2 ½ caliper tree will be placed in the proposed landscaped island along with a combination of grass and row of trees.

D. Adequate provision of parking and loading: The proposed off-street parking area along the east side yard was originally used for backing and turning movements for warehouse storage, but was not an off-street parking lot. The applicant has requested to utilize the existing gravel and paved area as a parking lot with the understanding that the entire parking area is required to be paved according to Article VII (E)(3) of the Manhattan Zoning Regulations.

To attain the required parking spaces and maintain adequate backing space, the applicant has chosen to utilize a 90 degree parking configuration for two-way traffic. To attain the minimum distances required within the Parking Lot Configuration Standards, a reduction of ten (10) feet to the required twenty (20) foot east side yard is requested.

Section 7-103(B)(8) of the Manhattan Zoning Regulations require at least one (1) off-street

parking space for each 300 square feet of floor area in business and professional offices, or approximately 3 parking spaces for the proposed floor plan. Section 7-103(C)(10) identifies parking requirements for auditoriums, gymnasiums, and other places of assembly without fixed seats: one (1) parking space for each three (3) persons based upon the designated capacity.

The designated capacity was determined by Code Services to be approximately 198 persons for the main building, requiring approximately 66 parking spaces. The applicant has filed a concurrent Exception to reduce the required parking spaces from 66 to 33 along the east side of the property. The fact that this use has considerable amount of floor space taken up by equipment and probably less occupancy anticipated than designated under the formula approach, a strict requirement of meeting the full occupancy for parking of 198 is unreasonable under these circumstances.

Currently an additional three (3) parking spaces are located within the front yard setback and Amherst Avenue right of way. The applicant has requested one of the spaces be utilized for regular parking with the other two (2) spaces utilized for ADA accessibility. Although the City does not encourage parking which requires backing onto collector streets, the three parking spaces have been in use since the mid-1960's, likely prior to annexation and platting.

E. The property currently has access to city water and sewer as well as other utilities including electric, gas, cable and telephone services. There is a fairly steep slope to the northwest of the structure which might cause an increase in velocity of drainage on the proposed parking lot once paved, however it is preexisting and is anticipated to have little effect to the current storm drainage for the property. Storm drainage from the proposed parking lot will flow from the existing drive onto Amherst Avenue.

F. The subject property has frontage along Amherst Avenue and parking lot access from an adjacent existing driveway along the east side yard. A previous easement which runs with the land will allow access to the proposed parking lot along the east side yard. Two driveways will be created to designate entrances onto the paved parking area and will be separated by a landscaped island.

Hamilton moved to approve the Conditional Use to allow a gymnastic facility into the I-2 Industrial Park District at 2730 Amherst Avenue, based on the findings of fact, with the following conditions of approval:

1. The applicant shall obtain all required permits.
2. Landscaping shall be installed as proposed and within the first planting season.
3. The site shall be developed as shown on the site plan.
4. A companion Exception shall be granted.

Emig seconded the motion and approved with a 3-0 vote.

For the Exception, the Board made the following findings of fact:

A. 2730 Amherst Avenue complies with all applicable requirements of the Zoning Regulations other than the existing side yard setback distance and reduction in parking requirements for which the Exception is being requested.

B. No adverse affects on adjacent properties are expected. The subject property and adjacent properties to the general north, west and east are within an I-2, Industrial Park District. Uses within the I-2 District range from the Amherst Self-Storage to the north, a vacant property and the Highland Dairy to the east. Properties located across Amherst Avenue (generally south of the proposed property) are within the C-5, Highway Service Commercial District and range from a car lot to the general west, church property directly south and a self-storage to the east.

Activities at the facility will occur primarily in the late afternoon and early evenings. This should have no interference with surrounding uses. The nature and intensity of Gymnastics Plus will not dominate the immediate neighborhood. It should not prevent development and use of the neighboring properties.

C. There are no perceived negative effects to the surrounding neighborhood with the occupancy of the gymnastics facility as the proposed use should be consistent with the ongoing operation on Hayes Drive which has peak occupancy below one hundred. The gymnastics facility will likely be a low traffic generator, especially during the normal business hours of the adjacent properties.

D. There are no reasonable alternatives which would allow the property to meet the strict application of the parking requirements. The amount of space required for the 66 parking spaces is not readily available on-site. The amount of parking required for the use is not reasonable as clients will primarily be dropped off for gymnastics lessons and will not be parking. The existing gymnastics facility located at 1111 Hayes has 33 parking spaces.

The area to be utilized for a parking lot by the applicant has historically been used for backing and turning movements for warehouse storage, not as an off-street parking area. To ensure compliance with the parking standards, the parking spaces will encroach ten (10) feet into the east side yard.

When the applicant acquired the property, they were not aware of the condition requiring an exception.

Emig moved to approve an Exception at 2730 Amherst Avenue to allow a reduction of ten (10) feet to the east side yard setback to ensure proper spacing for an off-street parking lot and a reduction of the minimum required off-street parking spaces from 66 off-street parking spaces to 33 off-street parking spaces, based on the findings of fact, with the following conditions:

1. The Exception shall be limited to the reduction of ten (10) feet in the east side yard and a reduction in off-street parking spaces from 66 to 33 according to the site plan.
2. Landscaping shall be installed according to the site plan within the first planting season of occupancy and shall be maintained in good condition.

3. A companion Conditional Use Permit shall be granted.
4. The Exception shall be limited to the use of the youth fitness center proposed in the companion conditional use permit and the companion conditional use permit shall be approved.

Hamilton seconded, and approved with a 3-0 vote.

After board discussion, Hamilton moved to approve the minutes as to all items except for 2309 Anderson to which she offered some modifications to the minutes as written.

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

Respectfully Submitted,

Jeremy Frazzell, Planner
071305