

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, November 14, 2012
7:00 PM

MEMBERS PRESENT: Joe Aistrup, Chairperson; Harry Hardy, Vice Chairperson; Connie Hamilton; Catherine Lavis; and Bruce Kent.

MEMBERS ABSENT: None

STAFF PRESENT: Chad Bunger, AICP, CFM, Planner II;

CONSIDER THE MINUTES OF THE October 10, 2012, BOARD OF ZONING APPEALS MEETING.

Hardy moved to approve the October 10, 2012 minutes, which was seconded by Hamilton and passed with a vote of 5-0.

CONSIDER A REQUEST FOR A 180 DAY EXTENSION FOR AN APPROVED 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).

Hamilton moved to grant a request for a 180 day extension for an Exception to allow for the proposed commercial building 1509 and 1515 Poyntz Avenue in the C-1, Restricted Business District. Hardy seconded and the motion passed with a vote of 5-0

TABLE THE PUBLIC HEARING TO CONSIDER AN EXCEPTION FOR THE REDUCTION OF THE MINIMUM REQUIRED SIDE YARD SETBACK FROM EIGHT (8) FEET TO SIX (6) FEET FOR AN EXISTING STRUCTURE AT 1219 POYNTZ AVENUE IN THE C-1, RESTRICTED BUSINESS DISTRICT. THIS ITEM WAS ORIGINALLY TABLED ON JULY 11, 2012. THE PROPERTY OWNERS ARE PROPOSING TO CONVERT THE EXISTING THREE-UNIT APARTMENT

BUILDING TO A TWO-FAMILY DWELLING (APPLICANT: JEFF HANCOCK, SMH CONSULTANTS OWNER: DANIEL R. AND LORI A. ALLEN).

TABLE THE PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW FOR A TWO-FAMILY DWELLING AT 1219 POYNTZ AVENUE IN THE C-1, RESTRICTED BUSINESS DISTRICT. THIS ITEM WAS ORIGINALLY TABLED ON JULY 11, 2012. THE PROPERTY OWNERS ARE PROPOSING TO CONVERT THE EXISTING THREE-UNIT APARTMENT BUILDING TO A TWO-FAMILY DWELLING (APPLICANT: JEFF HANCOCK, SMH CONSULTANTS OWNER: DANIEL R. AND LORI A. ALLEN).

Due to an error in the public notice mailing list, the item needed to be tabled to properly notify all property owners within 200 feet of the subject site.

Kent made a motion to table the two (2) items to the December meeting. Hardy seconded the motion, which passed unanimously.

A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK FOR AN ACCESSORY STRUCTURE FROM SIXTY (60) FEET TO ZERO (0) FEET ALONG FAIRCHILD AVENUE FOR A PROPOSED TRASH ENCLOSURE AT 500 SUNSET AVENUE IN THE R-1/TNO/UO, SINGLE-FAMILY RESIDENTIAL DISTRICT, TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT AND UNIVERSITY OVERLAY DISTRICT (APPLICANT/OWNER: BETA THETA PI HOLDING CO. – SCOT K. TENPENNY, TREASURER).

Bunger presented the staff report. The City Administration recommended approval of the Exception, with four (4) conditions of approval.

Kent asked for more details regarding the proposed landscaping around the enclosure. Bunger explained the location of the proposed bushes and that it will not buffer any views from Fairchild Avenue.

Lavish asked who will select the plant materials. She suggested Green Giant Arborvitae be used.

Aistrup opened the public hearing on the items.

Lawrence Pollock, 1841 Fairchild Avenue, spoke in opposition to the Exception request. He felt that a reasonable alternative exists by repairing the existing trash enclosure in the middle of the off-street parking lot on the subject site. He felt that the proposal is based in the property owner's desire to provide two (2) more parking spaces in the parking lot. Mr. Pollock discussed alternatives to meet the needs of the property owner and lessen the trash

enclosure's impact on adjacent property owners and provide the needed parking. Mr. Pollock also discussed the flaws and impacts that the proposal has. These include the fact that parked cars on Fairchild Avenue may impact access to the dumpster; it will be unsightly and will become in disrepair and cause further impacts.

Kent asked if Pollock felt if there was any way to improve the view of the enclosure from Fairchild Avenue with landscaping. Pollock did not see how that would be possible.

Hamilton asked Mr. Pollock to address the issue with the notice of the neighborhood meeting. Mr. Pollock said that a neighborhood meeting was schedule in September, but no one was notified. He would have attended the meeting to discuss the issue, but he did not receive a meeting notice. Hamilton asked if he received the legal notice from the City. Mr. Pollock said that he did receive the required legal notice. Hamilton asked if a sign was posted only on Fairchild Avenue. Mr. Pollock stated that a sign was Fairchild Avenue and at the corner of Sunset Avenue.

Dean Zollman, 1845 Fairchild Avenue, voiced his opposition to the proposal. He began by elaborating on the neighborhood notice and how the notice may have failed to be made to the neighbors. Mr. Zollman continued by expressing that the view from his property and Fairchild Avenue would be affected. Only landscaping would be on the north and west side of the enclosure. Mr. Zollman went on to voice his concerns that the location of the trash enclosure would require any trash truck to go the wrong way down Fairchild Avenue, which would be a traffic hazard.

Mike Disney, 1849 Fairchild Avenue, went on record to voice his opposition to the enclosure and reiterated the concerns that were already raised by the previous public comments.

Becky Mosier, owners of the rental unit at 1853 Fairchild Avenue, stated that there would be issues with cars parked on Fairchild Avenue, which would be similar to the condition that the applicant wishes to avoid at the enclosure's current location. Mrs. Mosier commented that the fraternity owns land to the east of the current parking lot, where parking spaces could be provided if the issue was based on parking. She provided other alternatives to the trash enclosure location and parking issue.

Scott Bingham, Bowman, Bowman, Novick, Inc. and representative of the applicant addressed the questions and concerns raised by the Board and neighbors. He re-started the priorities of the property owners with this proposal. He said that the current location of the enclosure has impacted the parking lot surface. He stated there was an additional benefit to the proposal, which includes adding more parking on the lot and that the trash dumpster would be closer to the kitchen, where the majority of the trash is generated. Bingham discussed some of the alternatives that were discussed and why they were not feasible.

Bingham offered to add more landscaping on the south of the enclosure if that was desired. He stated that very little could be done to screen the east elevation of the enclosure. He discussed the design of the enclosure and how the materials were selected to lessen the impact on the neighborhood. He described how he envisioned the trash trucks would access the area.

Kent asked if Bingham's firm reached out to the neighborhood. Bingham stated that the communication with the neighbors was left with the fraternity, but he was at the meeting to present that proposal.

Aistrup asked if the trash enclosure could move further to the west to be in line that is similar to the sorority house to the north. Bingham discussed that possibility and the limitations to that option.

Hamilton offered another option, to where the enclosure opening would be to the south and the dumpster be accessed from the south along the sidewalk. Bingham further discussed that option.

Hardy felt that the trash enclosure has to be readily accessed by the trash company and the amount of on-street parking on Fairchild Avenue might cause issues.

Hamilton agreed with Hardy about the issue with the on-street parking in the area and how this will effect this proposal.

Kent expressed his concerns with the proposal and that it may need to be reconsidered by the applicant and it needs to be discussed with neighbors.

Aistrup agreed with Kent and felt that the neighborhood needs to be satisfied with the proposal and that they do not appear to be so at this time.

Hardy asked if the applicant would be willing to have the item tabled so that it can be possibly redesigned and further discussed with the neighbors.

Bingham would take the suggestion to the applicant and see what can be proposed with the input of the neighborhood.

Hardy moved to table the Exception request to reduce the front yard setback along Fairchild Avenue for the trash enclosure at the subject site until the January, 2013 meeting.

Kent seconded the motion, which passed by a vote of 5-0.

Aistrup adjourned the meeting.

Respectfully submitted by
Chad Bunger, AICP, CFM, Planner II