

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, April 10, 2013**  
**7:00 PM**

MEMBERS PRESENT: Joe Aistrup, Chairperson, Connie Hamilton, and Catherine Lavis.

MEMBERS ABSENT: Harry Hardy, Vice Chairperson and Ray Thompson

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

**CONSIDER THE MINUTES OF THE March 13, 2013, BOARD OF ZONING APPEALS MEETING.**

Hamilton moved to approve the March 13, 2013 minutes, which was seconded by Lavis and passed with a vote of 3-0.

**CONSIDER A REQUEST FOR A 180 DAY EXTENSION FOR 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).**

Hamilton moved to approve the Extension of the approved Exceptions at 1509 and 1515 Poyntz Avenue. Lavis seconded the motion, which passed with a vote of 3-0.

**TABLE THE PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW FOR A MULTIPLE-FAMILY DEVELOPMENT 718/720 POYNTZ AVENUE IN THE C-1, RESTRICTED BUSINESS DISTRICT. THE PROPOSED DEVELOPMENT WILL CONSIST OF FIVE (5) DWELLING UNITS, WITH A TOTAL OF ELEVEN (11) BEDROOMS IN THREE (3) EXISTING BUILDINGS. (APPLICANT: TRACY ANDERSON – ANDERSON KNIGHT ARCHITECTS OWNER: RUSSELL REITZ).**

**TABLE THE PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW**

**FOR THE REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK FROM TWENTY-FIVE (25) FEET TO EIGHTEEN (18) FEET FOR AN EXISTING BUILDING; A REDUCTION OF THE SIDE YARD SETBACK FROM EIGHT (8) FEET TO ZERO FEET ON THE WEST PROPERTY LINE FOR AN EXISTING BUILDING; A REDUCTION OF THE SIDE YARD SETBACK FROM EIGHT (8) FEET TO TWO (2) FEET ON THE EAST PROPERTY LINE; A REDUCTION OF THE REAR YARD SETBACK FROM TWENTY-FIVE (25) FEET TO ZERO FEET FOR TWO (2) EXISTING BUILDINGS; AN INCREASE IN THE MAXIMUM LOT COVERAGE FROM THIRTY (30%) PERCENT TO THIRTY-FOUR (34%) PERCENT; AND A REDUCTION OF THE MINIMUM REQUIRED NUMBER OF OFF-STREET PARKING SPACES FOR A PROPOSED FIVE (5) DWELLING UNIT DEVELOPMENT WITH A TOTAL OF ELEVEN (11) BEDROOMS FROM SIXTEEN (16) SPACES TO ELEVEN (11) SPACES. THESE EXCEPTIONS ARE FOR A PROPOSED FIVE (5) DWELLING UNIT DEVELOPMENT WITHIN THREE (3) BUILDING AT THE PROPERTY IN THE C-1, RESTRICTED BUSINESS DISTRICT. (APPLICANT: TRACY ANDERSON – ANDERSON KNIGHT ARCHITECTS OWNER: RUSSELL REITZ).**

Bunger explained the reason to table the requests. Hamilton moved to continue the table of the two (2) public hearings at 718/720 Poyntz Avenue. Lavis seconded the motion, which passed with a vote of 3-0.

**A PUBLIC HEARING TO CONSIDER A FOR A CONDITIONAL USE TO ALLOW FOR AN ADDITION TO AN EXISTING HOUSE TO ESTABLISH A TWO-FAMILY DWELLING UNIT LOCATED AT 1013 OSAGE STREET, WHICH IS WITHIN THE R-M/TNO, FOUR-FAMILY RESIDENTIAL DISTRICT WITH TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT, IN WHICH BOTH OF THE DWELLING UNITS ARE GREATER THAN SIX-HUNDRED (600) SQUARE FEET IN FLOOR AREA AND WHERE BOTH OF THE DWELLING UNITS HAVE MORE THAN TWO (2) BEDROOMS. THE EXISTING HOUSE WILL BE APPROXIMATELY 2,350 SQUARE FEET WITH FOUR (4) BEDROOMS AND THE PROPOSED ADDITION WILL BE 900 SQUARE FEET WITH TWO (2) BEDROOMS. (APPLICANT: ANDERSON KNIGHT ARCHITECTS, P.A. OWNER: PORTER RENTALS, LLC, WILLIAM & BRANDY PORTER)**

Bunger presented the Conditional Use staff report and recommended approval of the item with four (4) conditions of approval.

Aistrup asked about the proposal for the basement and ensuring that the area will not be used as a living space. Bunger stated that the question was asked from a number of City departments, and no one else had issues with it. Bunger did state that a condition was proposed to limit the use of the area.

Aistrup then asked how the basement was accessed. Bunger deferred the question to the owner.

Bill Porter, property owner, explained the access to the basement apartment and explained that he did not like basement apartments and hopes to eliminate the living space there and only have it for storage and tornado shelter space.

Hamilton asked for clarifications on the off-street parking requirement. Bunger explained the parking requirement and the proposed parking on the subject site. The conversation revolved around counting stacked cars and how the existing driveway is being utilized. Bunger explained the conditions revolving around the driveway and the proposal.

Hamilton voiced her concern about the impact on the neighborhood by decreasing the amount of open green space in the rear yard. She pointed out that several properties in the area did have limited open green space in the rear yards due to large detached garages, so the proposed addition matches the character of the area. Hamilton suggested to the Board that a condition of approval be made that the yards in the front and rear of the property be maintained as grass lawn areas. Porter addressed the concern and explained that lawns will be maintained in those areas. Hamilton appreciated Porter's comments.

Aistrup opened the public hearing.

Porter made his self available for questions.

Aistrup asked about the existing driveway. Porter explained that a detached garage had been in the general area of the gravel driveway. The garage has since been torn down and the gravel driveway was maintained.

Aistrup echoed Hamilton's concerns of maintaining the rear yard as open landscape space and not have it turned into a parking area.

Porter addressed the concerns and explained the parking situation, which included placing parking blocks to prevent someone from parking in the lawn area.

Hamilton asked if Porter would object to a condition of approval stipulating that the landscape area in the rear be maintained. Porter said he would not have an issue with that.

Hamilton commented that the proposal pushes the boundaries of a two-family dwelling with the roofline only connecting the two (2) dwellings. Bunger explained that this sort of building design has been previously approved through permitting processes. Hamilton understood the reason for approval.

With no other comments from the public, Aistrup closed the public hearing.

Aistrup asked how this project was different than a proposal that was denied in the 600 block of Osage Street a year or two ago. Bunger explained City Administration's recommendations and the differences between the two proposals. Aistrup and Hamilton further discussed the two Board of Zoning Appeals requests.

Hamilton commented that the City should consider that a family could reside in a rental unit, rather than student housing.

The Board made the following findings of fact for Conditional Use at 1013 Osage Street.

**PRESENT USE:** Two-family dwelling unit with a total of six (6) bedrooms.

#### **STANDARDS FOR A CONDITIONAL USE**

**Compliance with all applicable regulations:** The subject site has been used as a two-family dwelling since 1995. At the time, the zoning district was R-M, Four-Family Residential District, which allowed the two-family dwelling as it currently is. The proposed addition to the existing building requires the Conditional Use to comply with the TNO, Traditional Family Overlay District requirements, which was implemented in 2003 in the area. Other than this issue, the subject site complies with all applicable regulations.

**Probable effect on adjacent properties:** The subject site and surrounding properties to the south of Osage Street are zoned R-M/TNO, Four-Family Residential District and Traditional Family Overlay District. To the north of Osage Street and west of N. 10<sup>th</sup> Street are properties zoned R-3/M-FRO, Multiple-Family Residential District and Multi-Family Redevelopment

Overlay District. To the west of the immediate neighborhood is the City Park. The immediate area is a mix of single-family, two-family and multiple-family developments, almost all of which are rental properties. There are four (4) owner occupied properties that are adjacent to the subject site (1 across the street to the north, 1 next door to the east and 2 south of the subject site, across the alley).

1. The subject site has had a two-family dwelling in the structure since at least 1995. The basement dwelling has two (2) bedrooms with a gross floor area of approximately 900 square feet. The main dwelling has four (4) bedrooms (3 on the main floor and 1 in the second floor) and has a gross square footage of 1,450 square feet. The applicant is proposing to construct an approximately 1,050 square foot building addition to the south of the existing structure to relocate the basement dwelling in to the addition. According to the floor plans in the application documents, the new dwelling will have a floor area of approximately 900 square feet. The addition will also enlarge a bedroom that is on the main floor from a twelve (12) foot by eight (8) foot room to a twelve (12) foot by ten (10) foot room. According to the application documents, the basement will not be used as bedrooms, but rather storage, a laundry room and an addition bathroom for the upper floors. The new dimensions of the main dwelling will be approximately 2,400 square feet. The increase in floor area to the main dwelling unit is attributed to the basement area being newly dedicated to this dwelling.
2. As part of the application process, an informal neighborhood meeting was held February 18, 2013. The meeting summary listed five (5) areas of issues and or concerns raised at the meeting. The responses found in the application documents to these issues are shown in *italics*.
3. Trash, parties are common with the tenants (general comment in regard to all rental properties in the neighborhood with specifics made to last year's tenants). *The owner (Mr. Porter) had some bad tenants that he had to evict and couldn't get them removed until last June. The tenants did major damage to the interior and he spent thousands of dollars renovating. There are currently four female K-State students living in the house. Mr. Porter does due diligence by routinely checking references on potential tenants but that is not always a guarantee.*
4. Parking is a concern in the neighborhood. *Currently the tenants park in the driveway which extends from the street to the alley as well as on the street. With this project, five new parking stalls will be provided off the alley as well as parking on the existing driveway which will only extend from the street to the rear of the existing house.*
5. A suggestion was made to raise the addition floor level to match the existing house. *The owner would like to leave the addition as a slab-on-grade for construction cost reasons as well as making the unit more marketable for people with mobility issues.*
6. A good working relationship between neighbors and the landlord would be appreciated. *Mr. Porter gave his phone number out to those that requested it.*
7. A suggestion was made to add more windows on the east and west elevations. *The*

*owner feels that the amount of windows shown is appropriate.*

8. The Conditional Use request does not appear to impact adjacent properties. The area is a mix of single-family, two-family and multiple-family dwellings, most of which are rental units. The subject site has been used as a two-family dwelling since at least 1995 and the proposed addition will keep the same number of bedrooms in the structure, while adding approximately 150 square feet in total floor area. Surrounding neighbors voiced their concerns with the project and the applicant has provided their response to those concerns. Many of these concerns are outside the realm of the Conditional Use request.

**Domination by use over neighboring properties:** The proposed Conditional Use should not dominate over the neighboring properties. The proposed addition will be towards the rear of the subject site. The existing street facing façade will not be impacted. The total footprint of the existing building and addition comply with the R-M/TNO District Regulations.

**1. Location, nature, and height of physical improvements:**

The existing two-family dwelling is two-stories and is located approximately twenty-five (25) feet from the front property line along Osage Street. The building is setback approximately eight (8) feet from the east property line and eleven (11) feet from the west property line. The proposed building addition will follow the same building lines as the existing building. The building addition will be approximately forty-nine (49) feet from the rear lot line along the public alley.

**2. Landscaping and screening:** The subject site has a typical grass lawn in the front and rear yards. No trees are located on the subject site.

An existing wood fence is on the adjoining property line with the property to the east. A trash enclosure is proposed shown on the site plan at the southwest corner of the lot. No specific details are provided in the application documents. City Administration recommends a condition that “the proposed trash enclosure be constructed of sight obscuring materials, such as wood, be completely enclosed with a gate of similar sight obscuring materials and be a minimum of six (6) feet tall in height.”

**Adequate provision of parking and loading:** Parking is proposed in a new paved off-street parking area to the rear of the subject site along the alley and on an existing driveway. The new parking area has five (5) spaces shown on the site plan. The driveway is shown to be sixty-two (62) feet long, which would provide for three (3) parking spaces, parking vehicles behind each other. Based on the site plan, a total of eight (8) spaces are shown. A total of six (6) bedrooms are shown to be in the two-family dwelling. The minimum parking requirement for a two-family dwelling is four (4) spaces (two (2) spaces per dwelling unit). The amount of parking shown should be adequate for the proposal.

**Adequate provision of drainage, and other public utilities:** The subject site is relatively flat. A majority of the site drains toward the alley to the south, where the stormwater is then

directed to the adjacent street and the stormwater sewer system. Adequate provisions for drainage are provided.

All public and private utilities are adequate and are available to serve the site.

**Adequate provision of access:** Access for the existing driveway is off of Osage Street, a local residential street. The existing driveway is allowed to remain and be maintained in its current condition (width and length) according to Section 4-111(F)(1)(a)(5). Access to the new paved off-street parking lot will be off of the public alley.

An existing sidewalk is present along Osage Street.

Adequate access is provided to the subject site.

Hamilton moved to approve a Conditional Use to allow for an addition to an existing house to establish a two-family dwelling unit located at 1013 Osage Street within the R-M/TNO, Four-Family Residential District with Traditional Neighborhood Overlay District, with the following conditions:

1. The Conditional Use shall apply to the proposed addition for a two-family dwelling unit as described in the application and shown on the site plan and floor plans.
2. The existing basement shall remain vacant and not be used as a bedroom for the main unit.
3. The proposed trash enclosure be constructed of sight obscuring materials, such as wood, be completely enclosed with a gate of similar sight obscuring materials and be a minimum of six (6) feet tall in height.
4. All applicable permits shall be obtained.
5. Landscaping shall be installed and maintained as shown on the application site plan.

Lavish seconded the motion, which passed unanimously, 3-0.

### **BOARD OFFICER ELECTIONS**

Hamilton moved to elect Aistrup remain as the Board Chairman and Hardy remain as Vice-Chairman. Lavis seconded the motion which passed by a vote of 2-1, with Aistrup voting against the motion.

Aistrup adjourned the meeting.

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