

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, February 11, 2015
7:00 PM

MEMBERS PRESENT: Harry Hardy, Chairperson; Connie Hamilton, Vice Chairperson; Angie Danner; Catherine Lavis; Ray Thompson

MEMBERS ABSENT: None

STAFF PRESENT: Chase Johnson, Planner

CONSIDER THE MINUTES OF THE JANUARY 14, 2015 BOARD OF ZONING APPEALS MEETING.

Hamilton moved to approve the January 14, 2015 minutes which was seconded by Danner and passed with a vote of (5-0).

A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW FOR THE EXPANSION OF AN EXISTING ACCESSORY STRUCTURE; AND FOR EXCEPTIONS TO ALLOW FOR A REDUCTION OF THE REQUIRED NUMBER OF EXISTING OFF-STREET PARKING SPACES FROM TWENTY-SEVEN (27) PARKING SPACES TO EIGHTEEN (18) PARKING SPACES, AND TO ALLOW FOR THE EXISTING PARKING IN THE FRONT YARD AREA 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, EXTENDING TO THE EDGE OF THE ZONING LOT, YET STILL FACING THE FRONT LOT LINE; ALL ASSOCIATED WITH AN EXISTING LEGALLY NON-CONFORMING NINE (9) UNIT APARTMENT BUILDING LOCATED AT 711 N. JULIETTE AVENUE, IN THE R-M/TNO, FOUR-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT.

Johnson presented the staff report for the item with the recommendation of approval with five (5) conditions of approval.

Hamilton asked for if the subject site was platted to be in its current shape.

Johnson stated that the site was originally platted as a traditional ward lot with dimensions of 150' x 50'. The subject site has not been replatted but has changed overtime through assemblage and ownership of properties.

Hardy opened the public hearing.

Phil Anderson, the applicant, addressed the Board to explain the proposal. Anderson explained that the property was purchased in 2000-2001 and has renovated the apartment building through the decade. The garage is used to store equipment for renovation and the apartment building.

Hamilton asked if Anderson purchased the garage and apartment building in 2000-2001.

Anderson answered that him and his brother purchased the apartment building in 2000-20001 but later built the garage in 2002 to store equipment.

Hamilton stated her support for the item.

The Board made the following findings of fact for the Conditional Use/Exception at 711 N. Juliette Avenue.

PRESENT USE: legally nonconforming nine (9) unit apartment property

1. THAT THE SIZE OF THE ZONING LOT IS NOT INCREASED FROM THAT WHICH CURRENTLY EXISTS : The subject property is Lot 99 and the east 90 feet of Lots 97 & 98, Ward 4, which is not a typical rectangular shaped Ward lot. The size of the lot has not changed since the current property was constructed in 1971 and the lot size is not proposed to increase from what currently exists.

2. THAT EITHER: (A) THE CURRENT EXISTING USE DOES NOT HAVE A SIGNIFICANTLY ADVERSE IMPACT UPON EITHER THE SURROUNDING NEIGHBORHOOD OR THE PUBLIC HEALTH, SAFETY OR GENERAL WELFARE, AND THE PROPOSED MODIFICATIONS, ADDITIONS AND DELETIONS WILL NOT WORSEN SUCH IMPACT; OR, (B) THAT THE CURRENT EXISTING USE DOES HAVE SUCH A SIGNIFICANTLY ADVERSE IMPACT AND THE GRANTING OF THE PROPOSED MODIFICATIONS, ADDITIONS AND DELETIONS WILL BE MORE LIKELY TO REDUCE OR ELIMINATE SUCH IMPACT THAN A DENIAL OF SUCH PROPOSAL: The subject site and surrounding properties are zoned R-M/TNO, Four-Family Residential District and Traditional Neighborhood Overlay District. The lots within the area are traditional ward lots with several lots that have been divided and assembled into non-traditional lots. The area is a mix of single-family, two-family and multi-family dwellings, with a combination of owner-occupied and rental units. These properties are predominately single-family residential in character with a few that have been redeveloped into multi-family apartment buildings.

The current existing use does not have a significantly adverse impact upon the surrounding

neighborhood or the public, health, safety or general welfare. The subject site was built in 1971 as a nine (9) dwelling unit apartment building and has generally remained the same since it was constructed without any known complaints on record. The number and location of the off-street parking has generally remained the same as well. There are several properties within the immediate neighborhood with multiple dwelling units, including a nine (9) unit apartment building located to the southeast across Juliette Avenue. The higher density held by these properties is a remnant of the R-3, Multi-Family Residential District zoning history. In addition, several of these properties possess less than the minimum required off-street parking spaces, some of which are located in the defined front yard area. Likewise, the current garage has been on the site since 2002 without any known complaints on record. Several properties in the general neighborhood have accessory structures that are similar in size and assumed use due to the multi-family characteristics of the neighborhood.

The addition to the existing garage building is proposed to be setback approximately eight (8) feet from the west property line, which is outside of the minimum three (3) foot required side yard setback for an accessory structure. Since the addition is only proposed to be expanded to the west of the existing garage, the property that could potentially be impacted the most is to the direct west. The adjacent property to the west contains an accessory garage structure that generally aligns with the proposed garage addition, which seems to minimize any adverse impacts.

The Zoning Regulations indicate that a legally nonconforming use shall be deemed a conditional use in the zoning district in which it is located. In general, a legally nonconforming use cannot be expanded, enlarged or increased in intensity beyond that which existed when it became legally nonconforming unless a conditional use is approved. An expansion, enlargement or increase in intensity is the use of additional structures, land area, or floor space within the same structure not originally designed or arranged for such use.

The application documents state that, “the garage is used to store material, tools, and equipment used to clean, maintain, repair and remodel the 9-plex”, which City Administration has recommended as a condition of approval. By conditioning the use of the garage to the existing apartment building, the proposed addition seems to be consistent with the intent to not increase the intensity of the legally nonconforming use as it relates to significant adverse impacts on adjacent properties and the surrounding neighborhood.

3. THE PROPOSED CONDITIONAL USE COMPLIES WITH ALL APPLICABLE PROVISIONS OF THESE REGULATIONS, EXCEPT FOR THOSE EXISTING CONDITIONS THAT ARE LEGALLY NONCONFORMING; HOWEVER, THE PROPOSAL MAY CONTAIN REQUESTS FOR EXCEPTIONS TO SUCH REQUIREMENTS AS PROVIDED IN PARAGRAPH (F) HEREINAFTER: The proposed Conditional Use complies with all applicable provisions of the regulations with the exception of the requests to reduce the required number of parking spaces from twenty-seven (27) to eighteen (18) and the location of the off-street parking spaces within the front yard area. The site currently has eighteen (18) off-street parking spaces for the apartment building, which are mostly located between the building façade and the front lot line along Juliette

Avenue. The Exception requests are required for the modification of the legally nonconforming use in order to comply with all applicable regulations.

4. THE EXISTING USE CONTINUES IN A SUBSTANTIALLY SIMILAR FORM, OR IN A FORM THAT IS ALTERED ONLY TO MAKE IT MORE MODERN OR EFFICIENT: The proposed addition to the existing garage building maintains the existing character and similar form of the accessory structure. With the condition of approval to limit the use of the garage to store materials and equipment used for the 9-plex as stated in the application documents, the existing use of the garage should continue in a substantially similar form. There are no other modification proposed to the subject site and the apartments will be continued in a substantially similar form.

Hamilton motioned that the Board approve the CONDITIONAL USE to allow for the expansion of an existing accessory structure; and for EXCEPTIONS to allow for a reduction of the required number of existing off-street parking spaces from twenty-seven (27) parking spaces to eighteen (18) parking spaces, and to allow for the existing parking in the front yard area 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, extending to the edge of the zoning lot, yet still facing the front lot line; all associated with an existing legally non-conforming nine (9) unit apartment building located in the R-M/TNO, Four-Family Residential District with a Traditional Neighborhood Overlay District, with the following conditions of approval:

1. The proposed garage addition shall be built as outlined in the application documents and shown on the applicant's site plan.
2. The garage shall only be used to store material, tools, and equipment used to clean, maintain, repair and remodel the 9-plex of two-bedroom apartments on the subject site, as stated in the application documents.
3. The Exception shall be limited to the required number of existing off-street parking spaces and the location of the existing parking spaces within the front yard area.
4. In the event the use upon the site changes to a use permitted at that location by these regulations, the Conditional Use shall expire and shall not be re-established.
5. All applicable permits shall be obtained.

Danner seconded the motion which passed on a vote of 5-0.

CAPITAL IMPROVEMENT PLAN FORMS

Hardy asked if anyone had any submittals for the capital improvements plan.

No one spoke.

Hardy adjourned the meeting.

Respectfully Submitted by,

Everett Haynes, Planning Intern