

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, April 13, 2016
7:00 PM

MEMBERS PRESENT: Harry Hardy, Chairperson; Angie Danner; La Barbara Nelson Wigfall; Brandi Nelson

MEMBERS ABSENT: Connie Hamilton, Vice Chairperson

STAFF PRESENT: Chad Bunger, Senior Planner; Doug May, Planner; Amelia Lewis, Planning Intern

CONSIDER THE MINUTES OF THE MARCH 16, 2016 BOARD OF ZONING APPEALS MEETING.

Danner moved to table the approval of the March 16, 2016 minutes until the May meeting which was seconded by Wigfall and passed with a vote of (4-0).

A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM PARKING SPACES BY FIVE (5) SPACES AT 720 POYNTZ AVENUE, LOCATED WITHIN A C-1, RESTRICTED BUSINESS DISTRICT. (APPLICANT: TRACY ANDERSON – ACTION PACT DESIGNS, OWNER: JEFF MATHIS)

Lewis presented the staff report for the item with the recommendation of approval with two (2) conditions of approval.

Wigfall asked about the eight (8) existing spaces and Lewis clarified that those were existing at 720 Poyntz.

Wigfall asked if the five (5) spaces would be designated or marked. Lewis said she believed that was the intention.

Hardy opened the public hearing.

Tracy Anderson, applicant, wanted to clarify that the remote sites at the church would be primarily for staff. Anderson said in the original and existing parking agreement it does not specify that they will be marked, however they would consider that.

Steve Graber, 714 Poyntz Ste C, said his building is located to the east of the subject site and said he hoped the board could do whatever possible to accommodate Katie's Way.

Hardy closed the public hearing.

The Board recommended that the first condition of approval be amended to include “designated parking spaces.”

Danner made a motion to approve an EXCEPTION to allow for the reduction of the minimum parking spaces by five (5) spaces, located within a C-1, Restricted Business District with the following conditions of approval:

1. The Exception shall be only for the five (5) designated parking spaces.
2. The Exception shall only apply to Katie Way’s and no subsequent property owner.

Wigfall seconded the motion which passed on a vote of 4-0.

The Board made the following findings of fact for the Exception at 720 Poyntz Avenue.

PRESENT USE: Katie’s Way, Youth Mental Health Facility

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The building has more than one primary structure on a single lot with the renovation and use of the northeast building.

The main house is located approximately eighteen (18) feet from the front lot line along Poyntz Avenue and encroaches into the twenty-five (25) foot front yard setback.

The northeast building is located approximately three (3) feet from the east property line and encroaches into the eight (8) foot side yard setback and zero (0) feet from the rear property line, which encroaches into the twenty-five (25) foot rear yard setback.

The third building is a garage that has recently been used as storage. The garage is zero (0) feet from the rear property line along the alley and encroaches into the twenty-five (25) foot rear yard setback for a principle structure and is zero (0) feet from the west property line, encroaching into the minimum required eight (8) foot side yard setback.

The buildings cover approximately thirty-four (34%) percent of the subject site. The C-1 District has a maximum lot coverage of thirty (30%) percent. Although the two (2) houses pre-date Zoning regulations in the City and the northwest house complied with the zoning regulations at the time it was constructed; Exceptions were requested and approved in 2013 to bring them into conformance with the Zoning Regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and surrounding properties along Poyntz Avenue are zoned C-1, Restricted Business District. To the north of the alley are properties zoned R-M/TNO, Four-Family Residential District and Traditional Neighborhood Overlay District. The area is a mix of residential, commercial and institutional uses. Immediately to the west and north of the site are residential uses. To the east is a commercial office building and the First Congregational Church. To the south of Poyntz Avenue are commercial office buildings including Landmark National Bank and Commerce

Bank.

The adjacent properties with the most potential to be impacted by the parking condition would be those along Poyntz Avenue. There are eight (8) existing sites on the property which should account for a significant portion of the visitors to the business. The additional spaces located at the Church are within a reasonable distance and will only be used during business hours and during the week. Considering these factors, there should be minimal impacts on adjacent properties.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: No effects on the public health, safety or general welfare is anticipated by approving the Exception request. The applicant has entered a contractual agreement with the Church in order to uphold public safety by providing dedicated parking spaces in a nearby location rather than not complying with the parking regulations and requiring employees and visitors to park in surrounding areas illegally.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The application document states that there seem to be no other reasonable alternatives to provide parking on the site. Demolition of the existing garage to provide more parking space would still not meet the parking requirement and would not be allowed as that building is also considered a contributing building by the National Register designation. The applicant has sought a viable alternative to comply with the strict application of the parking regulations.

A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW FOR THE ADDITION OF A LIMESTONE MONUMENT SIGN TO A LEGALLY NON-CONFORMING OFFICE BUILDING AT 320 SUNSET AVENUE, ON THE CORNER OF SUNSET LANE AND SUNSET AVENUE, WITHIN THE R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT. (APPLICANT: POTTROFF LAW OFFICE /OWNER: RAINMAKER LITIGATION SERVICES, LTD.)

May presented the staff report for the item with the recommendation of approval with four (4) conditions of approval.

Hardy opened the public hearing.

Anne deNoble, 1900 Sunset Lane, said she was concerned for the visibility leaving Sunset Lane. deNoble commented on the location the property owners staked out and said that with a ten (10) foot setback along Sunset Avenue there is little visibility.

Bunger commented that he has not seen the stakes; however the setback applies to the property line and not the curb. May said it was about six (6) feet from Sunset Avenue to the property line. DeNoble said she felt that sixteen (16) feet removed would not inhibit the visibility.

DeNoble asked if the proposed sign being three (3) feet from Sunset Lane would be damaged in future utility improvements down Sunset Lane. Bunger said he did not think that would be an issue.

Nelson asked about the stakes deNoble referred to and May clarified that the stakes had been placed incorrectly. Loretta Hensley, representing the applicant, said that the stakes had been placed incorrectly but they would be adjusted in the future.

Bruce McMillan, 1920 Sunset Lane, said he shared the same concerns as deNoble regarding the visibility. McMillan said that Sunset Lane is considered an alley and not a street though it is the primary entrance for ten (10) residences. McMillan asked if the vision triangle was setup for an alley and not a street, where the vision triangle measurement requirements are larger.

Bunger said there were unique circumstances regarding Sunset Lane, saying that it does have the rights of way of an alley. Nelson asked if the setback would be different if it was considered a street and not an alley. Bunger said the setback and the vision triangle would be different, the setback would be 15 feet and the vision triangle for two streets is 30 feet and for an alley it is ten (10) feet.

Nelson asked McMillan if the sixteen (16) feet would be sufficient. McMillan said he thought the requirements of a street vision triangle should be considered.

McMillan asked if the existing sight would be removed. Hensley said it would.

Bunger suggested tabling the item and getting it staked correctly.

Hardy closed the public hearing.

Danner made a motion to table the item until the May Board of Zoning Appeals Meeting.

Nelson seconded the motion which passed on a vote of (4-0).

A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW FOR THE CONSTRUCTION OF A POPEYE'S LOUISIANA KITCHEN RESTAURANT WITH A DRIVE-THROUGH IN THE C-3 AGGIEVILLE BUSINESS DISTRICT, LOCATED AT 1115 BLUEMONT AVENUE. (APPLICANT: MATT MCLAUGHLIN/PROPERTY OWNER: CHARLES H. BUSCH, CCSD, LLC)

May presented the staff report for the item with the recommendation of approval with three (3) conditions of approval.

Hardy opened the public hearing.

Chris Ball, Ball Architects, said they tried to address as many City requirements as possible in their design.

Charlie Busch, representing the property owner, said he was in favor of the project.

Hardy closed the public hearing.

Nelson said she appreciated the design of the project and attempts to work it into Aggieville.

Nelson made a motion to approve the CONDITIONAL USE at 1115 Bluemont Avenue in the C-3, Aggieville Business District to allow a drive-in establishment (drive-through) to be associated with a proposed permitted restaurant with the following conditions:

1. The Conditional Use Permit shall be limited to the Popeye's Louisiana Kitch'd drive-through restaurant. Any future additions or expansions shall require a new Conditional Use Permit
2. The applicant shall obtain all necessary permits.
3. The site shall be constructed as proposed.

Danner seconded the motion which passed on a vote of (4-0).

The Board made the following finding of facts for the Conditional Use at 1115 Bluemont Ave:

PRESENT USE:

The present use of the site is a vacant Arby's restaurant with a drive-through.

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The proposed conditional use complies with all applicable regulations, including lot size requirements, bulk regulations, and use limitations.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The properties to the east, west, and south are all in the C-3 Aggieville Business District. To the east sits Kansas State Bank, to the west sits Rickel's Liquor Store, and to the south (across the alley) sits a city-owned public parking lot and mixed use building with Hunan Express and Wabash bar on the first floor and apartments on the second and third floors.

The

DOMINATION BY USE OVER NEIGHBORING PROPERTIES: (SITE PLAN)

1. LOCATION, NATURE, AND HEIGHT OF PHYSICAL IMPROVEMENTS:

The proposed structure is 2,265 square feet with seating for 46. The structure is proposed to be approximately 16' in height. The structure is proposed to be wood-framed with stucco and stone veneer.

2. LANDSCAPING AND SCREENING:

The proposed site contains 1,650 square feet of green space landscaped with 20-25 shrubs and 1-2 understory trees. The parking lot area will likely include landscaping with 30-35 shrubs and 3-5 understory trees. The proposed site includes a split-faced masonry block dumpster enclosure with screening gates of painted steel. Both the gates and the enclosure will be painted to match the color scheme of the building. Additionally, the site contains a proposed

patio along the front property line, parallel to Bluemont Avenue.

3. ADEQUATE PROVISION OF PARKING AND LOADING:

The C-3 Aggieville Business District does not require any accessory off-street parking facilities for businesses of this size, but this proposal contains 17 parking spaces, including two handicapped spaces.

4. ADEQUATE PROVISION OF DRAINAGE, AND OTHER PUBLIC UTILITIES:

The proposed site slightly reduces the amount of impervious surface, but not enough to significantly impact existing stormwater runoff. There is an existing stormwater drain located at the north end of the site on Bluemont Avenue, which will not be modified by this proposal. Stormwater will be discharged out of the existing western curb cut onto Bluemont Avenue or onto the alley, on the southern side of the site.

5. ADEQUATE PROVISION OF ACCESS:

The proposed site layout contains a queuing line that encircles the building with the order menu on the south end of the building and the pick-up window on the east side of the building. The queuing lane is 10' wide and approximately 215' long, which has an approximate capacity of 10 queuing spaces, and the vehicles would be directed to exit through the same driveway as the entrance, on the west side of the property. The proposed site layout, vehicular and pedestrian circulation, and drive-up queuing were reviewed and approved by the City Engineer and the Fire Department.

Hardy adjourned the meeting.

Respectfully Submitted by,

Amelia Lewis, Planning Intern