

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, August 8, 2007
7:00 pm

MEMBERS PRESENT: Connie Hamilton, Chairperson; Calvin Emig; Kate Watson;
La Barbara J. Wigfall; and, Harry Hardy.

MEMBERS ABSENT: None

STAFF PRESENT: Steve Zilkie, Senior Planner, AICP; Chad Bunger, Planner,

CONSIDER THE MINUTES

Watson asked the Board to consider a correction to the minutes. Her proposed correction as an addition to Page 4 of the minutes, third paragraph from the bottom; "Watson had referenced standards 14-605-D-1, 2, &3 in her discussion and stated that she could not support the request based on those standards and on the number of requests previously brought before the Board for exceptions of the zoning regulations for this property."

Hardy moved to approve the July 11, 2007 minutes as modified by Watson, which was seconded by Wigfall and passed with a vote of 5-0.

Table a PUBLIC HEARING to consider an EXCEPTION to allow a reduction of the eight (8) foot side yard setback to four (4) feet for the expansion of an existing garage in the R-1/TNO, Single-Family Residential District with a Traditional Neighborhood Overlay. The property is located at 311 North 14th Street.

Hamilton stated that the Board has been advised that the applicant requested the item to be tabled to redesign their proposal.

Hardy made a motion to table the public hearing from August 8, 2007 to September 12, 2007. The motion was seconded by Wigfall. The motion passed 5-0.

A PUBLIC HEARING to consider a EXCEPTION to allow a reduction of the twenty-five (25) foot front yard setback to twenty-one (21) feet along Stone Drive for the construction of single-family residence in the R-1, Single-Family Residential District. The property is located at 401 Stone Drive.

Bunger provided the staff report recommending approval with one (1) condition.

Watson asked if similar situation could occur with other properties within the subdivision. Bungler stated that this was an isolated incident caused by an error.

Hamilton opened the public meeting.

With no comments from the public, Hamilton closed the public hearing.

Emig stated he could support the request.

Watson stated that her questions were answered and could support the request, Hardy agreed.

Hamilton stated she could support the request due to its unique and isolated circumstances.

The Board made the following findings of fact for the Exceptions:

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The property currently complies with all applicable requirements of these regulations, other than the one for which an Exception is being requested.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

401 Stone Drive, Lot 69 of the Stone Pointe Addition, and properties directly east, south and west of the subject site are located in the R-1, Single-Family Residential District. Properties to the north of the subject site are in the R-2, Two-Family Residential District. All properties in the new residential subdivision are either vacant or under construction. The subject property is located to the south of Stone Drive on a slight curve in the roadway. When the structure is viewed along Stone Drive, the curvature causes the structure to appear to be in line with the new structures directly to the west and east and the proper distance from the property line. The encroachment of the front yard setback should not negatively impact

pedestrian traffic along the sidewalk in front of the home. It is not perceived that a reduction in the front yard setback along Stone Drive will have an adverse effect on adjacent properties.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:

The proposed Exception should not adversely affect the public's health, safety, morals, order, convenience, prosperity, or general welfare. The location of the new house should not affect vision clearance for traffic traveling along Stone Drive.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:

The new home's foundation was poured in the wrong location, which was later discovered during the framing inspection of the structure. This resulted in the north east corner of the building, where the attached garage is located, to be twenty-three (23) inches inside the front yard setback. When the eaves and guttering are considered (typically how a structure is measured to determine setbacks), the house encroaches on the front yard setback approximately four (4) feet. When the error was discovered, substantial construction to the home had occurred, including finishing of the roof, eaves, and exterior walls. If the strict application of the regulations is applied, the applicant would be forced to remove a section of the roof, walls and foundation to conform to the twenty-five foot front yard setback. The alteration of the new house would most likely leave it unattractive to new home buyers and possibly diminish the subject site and adjacent property values within the subdivision. The setback reduction will also allow the current owner and future owners clear title of the property. When all facts and circumstances are considered, the strict application of these regulations is unreasonable.

Hardy moved that the Board grant an a EXCEPTION to allow a reduction of the twenty-five (25) foot front yard setback to twenty-one (21) feet along Stone Drive for the construction of single-family residence in the R-1, Single-Family Residential District with one (1) condition.

1. The Exception shall be limited to the site plans as proposed.

Wigfall seconded the motion, which passed 5-0.

A PUBLIC HEARING to consider a request for a CONDITIONAL USE to allow for a Group Day Care in a C-1, Restricted Business District. The property is located at the First United Methodist Church Learning Center, 121 North 6th Street.

Bunger provided the staff report recommending approval with two (2) conditions.

Watson asked why the Conditional Use Permits were to run with the child care organizations and not with the building. Bunger stated that stating that the permits are for the organization and not the building, which allows the City to have more administrative control over and knowledge of what group day care centers are in operation.

Hamilton opened the public meeting.

With no comments from the public, Hamilton closed the public hearing.

Hardy stated he could support the request based on the staff report.

Watson stated her question had been answered and could support the request.

Wigfall and Hamilton also stated they could support the request

The Board made the following findings of fact for the Exceptions:

Compliance with all applicable regulations: The existing and proposed uses comply with all applicable provisions of the Zoning Regulations, except the need for a Conditional Use.

Probable effect on adjacent properties: 121 North 6th Street and properties directly south and west of the subject site are zoned C-1, Restricted Business District. Properties directly east and north are zoned C-4, Central Business District. There are also residential properties zoned R-M, Four-Family Residential District to the northwest and south and R-1, Single-Family Residential District to the southwest. All zoning districts in the vicinity allow group day care uses as a Conditional Use. The group day care uses at the subject property have been present since 1969, when the Manhattan Day Care Center opened its doors. The First United Methodist Preschool began in 1983. No adverse effect on adjacent properties appear to be present from the existing group day care uses, nor should adverse effect be felt by the

expanded services that the First United Methodist Preschool will provide.

Domination by use over neighboring properties:

Location, nature, and height of physical improvements: The property is an existing three story, multi-functional structure located on a corner lot at the intersection of North 6th Street and Humboldt Street. The minimum lot area for all uses in the C-1, Restricted Business District, is 15,000 square feet. The subject property is approximately 34,000 square feet in area. When compared to the surrounding area, the height and presence of the existing structure is comparable to other commercial and religious structures along North 6th Street, Humboldt Street and Poyntz Avenue.

Landscaping and screening: The existing outdoor play area consists of grass and gravel as a play surface for the children and is surrounded with a four (4) foot chain link fence. The property also contains mature trees along the edge of the property boundary or in the road right of way along North 6th Street and Humboldt Street.

Adequate provision of parking and loading: Fourteen (14) off-street parking spaces are available in the Education Center parking lot, twenty-six (26) parking spaces are available at the Church's parking lot to the north and twenty-seven (27) spaces are available at the Alan Lee building directly to the west for a total of sixty-seven (67) spaces. These parking lots and spaces are available between 7:30 a.m. – 5:30 p.m., Monday through Friday, normal operating hours of a day care. Manhattan Zoning Regulations, Article VII Section 7-103 (C)(4) requires 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. For the existing and proposed uses, the First United Methodist Preschool and Manhattan Day Care Center require a total of fifty-eight (58) off-street parking spaces. Although the lot on which the Education Center is located does not meet the required number of off-street parking space. When the entire First United Methodist Church campus is considered, which is in easy walking distance to the preschools in the Education Center, adequate off-street parking is available, all of which is in the C-1 District. Furthermore, the Education Center has established drop-off points located on the adjacent, one-way alley that realistically decreases the number of off-street parking spaces required for the preschool uses on the subject site.

Adequate provision of drainage, and other public utilities: 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 the alley to the south of the subject site and to North 6th Street as well as to Humboldt Street.

Adequate provision of access: The existing building has direct access off of Humboldt Street and also utilizes an alley to the south of the property which is restricted as one-way traffic that travels from west to east. Minimal traffic impacts should be experienced on Humboldt Street or North 6th Street from the existing uses or the proposed uses.

Emig moved to grant a CONDITIONAL USE permit to allow for a Group Day Care in a C-1, Restricted Business District. The property is located at the First United Methodist Church Learning Center, 121 North 6th Street with the following conditions:

1. The Group Day Care Center shall be owned and operated by the First United Methodist Church and Manhattan Day Care Center as proposed, and shall be limited to the hours between 7:30 AM – 5:30 PM, Monday through Friday.
2. The applicant shall obtain all necessary day care licenses.

Wigfall seconded the motion, which passed 5-0.

A PUBLIC HEARING to consider a request for a EXCEPTION to allow a temporary gravel driveway between the front lot line and a line parallel to the existing residential structure in an R, Single-Family Residential District. The property is located at 2920 Tatarrax Drive.

Bunger provided the staff report recommending approval with two (2) conditions.

Hamilton stated that two separate email letters were given to the Board members from the public stating their concerns of the request.

Hamilton opened the public meeting.

Ruth Parker, Applicant, provided the Board with additional information concerning the property and the construction of the temporary driveway, including the need for the Exception.

Emig asked if the new trenches dug for sanitary sewers were compacted. Parker stated that

the trenches were just backfilled. Parker stated that no other options were given to her by the contractor.

Dickie Green spoke in opposition to the Exception request, stating that construction standards typically require trenches dug for sanitary sewer to be immediately compacted. Green also stated that enough time has elapsed to provide adequate compaction by natural means. Green offered some alternatives to the Exception request, including doing compaction test. The tests will provide information if the trench is solidly compacted, if it is not, then the trench should be re-compacted.

Emig asked Green's professional opinion as to how a trench should adequately compacted and if allowing a trench to naturally settle would be an adequate method of compaction. Green stated a variety of methods are available to compact a new trench that is determined to size and depth. Green also stated that allowing a trench to naturally compact is not up to engineering standards.

Wigfall asked the probability of a new driveway failing if the soil is not adequately compacted. Green stated that in the short term, a driveway would crack and break apart if the soil was not compacted.

David Fisher spoke against the Exception request. Fisher was concerned that gravel coming off of the road could damage the street and cause the street to fail. Fisher also expressed concerns with working outside of the established building standards of the City of Manhattan

Linda Guthrie provided a suggestion to ask the applicant to pave a majority of the driveway and allow the driveway to remained gravel only over the area of the trench in question.

Parker provided additional information concerning the sanitary sewer trench in question and also provided a response to the comments and questions asked by Green, Fisher and Guthrie.

Hamilton asked Parker if she would object to tabling the request so they could conduct compaction tests on areas over the sanitary sewer trench. Parker stated that she has no objections.

With no further comments from the public, Hamilton closed the public hearing.

Emig stated that based on experience and Green's professional opinion, the trench should have been compacted and not be required to settle for two years. He felt that the applicants should get a compaction test done now to know the stability of the trench and driveway. Emig felt that the request did not meet Standard D: The strict application of these regulations is unreasonable, or unnecessary when all facts and circumstances are considered.

Hardy agreed with Emig's statements and opinion.

Watson asked Emig if the contractor hired to do the driveway would do compaction tests. Emig stated that contractors typically do not do the tests, because the assumption is that the soil is already stable.

Hamilton suggested that the Board consider tabling item so more information can be obtained from a certified soil compaction test.

Watson moved to table the application until the September 12, 2007 Board of Zoning Appeals meeting so the applicant can conduct a soil compact test.

Hardy seconded the motion which passed 4-1. Emig voted against the motion.

A PUBLIC HEARING to consider a request for a EXCEPTIONS to allow a reduction of the twenty-five (25) foot front yard setback for the existing house, and to allow a decrease in the twenty-five (25) foot rear yard setback to accommodate the existing structure and a proposed garage addition. Both reductions for the existing house are to allow the owner clear title to the property. The property is located at 2505 Dipper Lane and is in the R-1, Single-Family Residential District.

Bunger provided the staff report recommending approval with three (3) conditions.

Emig asked how close the proposed attached garage would be to the house of the adjoining neighbor to the south. Bunger stated the proposed addition would be a great distance from the southern home.

Hamilton opened the public meeting.

Marcus Meeker, applicant, provided additional information regarding the request.

Wigfall asked if any mature trees or other landscaping will be lost with the construction of the proposed attached garage. Meeker stated that the garage will be built on an existing concrete pad and will not require any trees or grass to be removed.

With no further comments from the public, Hamilton closed the public hearing.

Hardy stated he could support the request based on the staff report.

The Board made the following findings of fact for the Exceptions:

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The property complies with all applicable requirements of the Zoning Regulations, other than those addressed in this staff report.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The property in question is part of the established neighborhood, and granting the two setback Exceptions will have no foreseeable negative impact. The lots in this neighborhood are larger than typical residential lots with R-1 zoning, and the houses are farther apart than is normal. The front-yard setback Exception is to accommodate the existing building. Thus, granting it will create neither negative nor positive impact. The rear-yard exception is to accommodate his existing home and the proposed garage addition. It, too, is not anticipated to have negative impact on surrounding properties.

Directly to the west is a new single-family residential house that is currently under construction. North of the property, across Dipper Lane, is a block of three (3) heavy commercial businesses. The lot abutting the subject property's rear lot line, directly to the south, is flag-shaped. The portion of that property that abuts the applicant's rear lot line is the "pole" and is used as a driveway to the house, which sits on the "flag" of the lot. The applicant's proposed addition should not interfere with that neighbor's visibility on his or her driveway as there is another lot between the subject property and the mouth of the flag lot's driveway onto Galaxy Drive. There are several mature trees on this neighbor's property that are near the subject property's rear lot line, and there are two (2) mature trees on the subject

property near the rear lot line. These provide screening between the subject property and the neighbor's driveway. There are also several mature trees between the applicant and his immediate western neighbor, which provide screening between the two properties.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:

The proposed Exception does not encroach on any public easement or right-of-way and has no foreseeable negative impact on the public.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:

The applicant acquired his home three (3) years ago. He was unaware that it violated bulk regulation standards until he recently applied for a building permit for the proposed garage addition. His home was built in 1958, which is seven (7) years prior to his development's annexation by the City of Manhattan. At the time of construction, it was not subject to city zoning regulations. In order for Mr. Meeker to bring his property into compliance with current bulk regulation standards, he would have to demolish the northwest and southeast corners of his home. That would be unreasonable. Because of how his house sits on its lot, there is no practical location for an attached garage, other than where he proposes. Because of the unique shape of his neighbor's lot, there should be no negative impact if the setback was reduced to four feet.

Hardy moved to grant an EXCEPTION to allow a reduction of the twenty-five (25) foot front yard setback for the existing house, and to allow a decrease in the twenty-five (25) foot rear yard setback to accommodate the existing structure and a proposed garage addition. Both reductions for the existing house are to allow the owner clear title to the property in the R-1, Single-Family Residential District with the following conditions.

1. The garage addition shall be built as proposed in the application materials
2. A building permit shall be obtained and construction shall begin within 180 days
3. A demolition permit shall be obtained for the well house, and it shall be demolished within the same 180 day period as the proposed addition, or during the following 180 day period.

Emig seconded the motion, which passed 5-0.

A PUBLIC HEARING to consider an EXCEPTION to allow a reduction of the minimum twenty-five (25) foot front yard setback to zero (0) feet along Glenstone Circle for a proposed fence in the R-2, Two-Family Residential District. The property is located at 804 Glenstone Circle.

Bunger provided the staff report recommending approval with three (3) conditions.

Wigfall asked if the property to the west of the subject property was large enough to develop. Bunger responded that the piece of land in question is part of a larger property to the north of the subject property and forms a panhandle shape lot. The land is also too small to develop for residential uses.

Hamilton opened the public meeting.

Gabe Grabow, applicant, provided additional information regarding the request.

With no further comments from the public, Hamilton closed the public hearing.

Emig stated he could support the request.

Hardy also stated he could support the request.

Wigfall stated that her questions were answered and could support the request.

Watson also stated that her answered and could support the request.

The Board made the following findings of fact for the Exceptions:

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The subject property is located in the R-2, Two-Family Residential District which requires a minimum twenty-five (25) foot building set back for all front yards. The overhang of the eaves along the east side of the existing house is currently within this setback by less than one (1) foot. The owner/applicant is currently not seeking an Exception for this, however, it is recommended that in the future one is sought to obtain a clear title. The property currently

complies with all applicable regulations, other than the aforementioned and for which the Exception is being requested.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The subject property and surrounding properties are located in the R-2, Two-Family Residential District. All properties that are contiguous with the subject property have fences abutting the subject property's property lines or adjacent to them. The subject property is located in an area where fences are very common. The approval of the Exception is not anticipated to have an adverse impact on surrounding properties.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:

The proposed Exception should not adversely affect the public's health, safety, morals, order, convenience, prosperity, or general welfare. There are no curb cuts along the north side of the cul-de-sac on Glenstone Circle. This portion of Glenstone Circle is also a low traffic area due to it being a dead end. The location and design of the proposed fence will ensure that it does not encroach into the public right-of-way or affect vision clearance along Glenstone Circle. The proposed fence will also not encroach onto any utility or other easements.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:

Lot 12A and 12B of the Kundiger Addition is a unique corner lot due to the placement of the cul-de-sac at the west end of Glenstone Circle. The cul-de-sac is not centrally located at the end of the Glenstone Circle, instead it bulbs out towards the north reducing the applicants' ability to utilize the functionality of the back yard. If Glenstone continued on as a through street instead of ending in a cul-de-sac, the applicant would be able to build the proposed fence in its planned location without the need of an Exception. When all facts and circumstances are considered, requiring strict application of the regulations for the proposed improvements is unnecessary and unreasonable.

Emig moved to grant an EXCEPTION to allow a reduction of the minimum twenty-five (25) foot front yard setback to zero (0) feet for the proposed fence in the R-2, Two-Family Residential District, with the following conditions:

1. The Exception shall be limited to the proposed fence as outlined in the application documents.
2. The proposed fence shall be built according to the site plan and maintained in good

condition.

3. All applicable permits shall be obtained.

Hardy seconded the motion, which passed 5-0.

A PUBLIC HEARING to consider an EXCEPTION to allow for lot coverage of the property to exceed thirty (30) percent and a reduction of the rear yard setback from five (5) feet to three (3) feet for a proposed detached garage in the R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay. The property is located at 217 North 14th Street.

Bunger provided the staff report recommending approval with three (3) conditions.

Hamilton opened the public meeting.

Dan Ellis, applicant, provided additional information about the property and the proposed detached two-car garage. Ellis did state he would like to create a turn around to allow the applicant to drive forward out on to North 14th Street.

With no further comments from the public, Hamilton closed the public hearing.

The Board made the following findings of fact for the Exceptions:

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The existing detached garage is an accessory structure and is located one (1) foot from the north property line. The Zoning Regulations (5-103(B)(1)) requires accessory structures to be located a minimum of three (3) feet from the side yard property line. The existing garage is currently located within the side yard setback and is planned to torn down to extend the driveway to the proposed, two car detached garage. Other than the aforementioned and the Exceptions being requested, the property complies with all applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The subject property is located in a residential area where similar garages are common. The owner/applicants proposed two (2) car garage, with regards to location and construction, are within the character of the neighborhood. The properties to the north and south of the subject property both have garages located at the rear of the properties. To the west of the property

there is an apartment complex. Between the rear of the subject property and the apartment complex, there are no access roads or parking spaces. If storm water runs off from the garage into this open area, it will not cause any negative affects because the open area is covered in grass and dirt, which can retain the water. For these reasons the proposed two (2) car garage is not foreseen to cause any adverse effects on adjacent properties.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed two (2) car detached garage should not have a negative affect on the public due to its proposed location. The subject property's rear lot line does not abut an alley nor have any public easements located within it. Therefore, no encroachments will result from the construction of the proposed detached garage.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The subject property is located in an area that is within close proximity to Kansas State University campus. Due to this, the owner/applicants find it difficult to park the second vehicle on the street near their house. There is also no alley at the rear of the property, which prevents current rear yard parking. For this reason and due to the size of the residential structure, a two (2) car garage is more practical. At its current location, there is not enough area to expand the existing detached garage into the desired two (2) car garage. The only placement option to accommodate a larger garage is in the rear yard of the property where there is enough area to construct the needed width of the garage. Also, for the second vehicle to have enough room to pull in and out of the garage, the garage needs to be set as far back from the residential structure as possible. For these reasons strict application of these regulations would be unreasonable or unnecessary.

Hardy moved to grant an EXCEPTIONS at 217 North 14th Street located in the R-1, Single-Family Residential District with a Traditional Neighborhood Overlay, to allow a reduction of the minimum five (5) foot rear yard setback to three (3) feet and to allow lot coverage to increase from thirty (30) percent to thirty-six (36) percent for the purposed two (2) car detached garage with the following conditions:

1. The Exceptions shall be limited to the proposed two (2) car detached garage as outlined in the application documents.
2. The proposed two (2) car detached garage shall be built according to the site plan and maintained in good condition.

3. All applicable permits shall be obtained.

Wigfall seconded the motion, which passed 5-0.

Hamilton announced that the remainder of the agenda will be taken out of order to handle the extension request for 905 Allison Avenue.

Request for an extension of a previously approved EXCEPTION to allow a reduction in the minimum 25 foot front yard setback to sixteen (16) feet along Allison Avenue for a proposed covered porch addition in the R-1, Single-Family Residential District. The property is located at 905 Allison Avenue.

Bunger provided the Board with information about the extension request.

Hardy moved to grant an extension of a previously approved **EXCEPTION** to allow a reduction in the minimum 25 foot front yard setback to sixteen (16) feet along Allison Avenue for a proposed covered porch addition in the R-1, Single-Family Residential District. The property is located at 905 Allison Avenue

Emig seconded the motion, which passed 5-0.

A PUBLIC HEARING to consider an VARIANCE to allow a reduction of the minimum required one-hundred (100) foot lot depth to ninety-one (91) feet, and a reduction in the minimum required lot area of seven-thousand, five-hundred (7,500) square feet to five-thousand, eight-hundred and four (5,804) square feet, for a proposed two-family dwelling located in the R-3/M-FRO, Multi-Family Residential District with Multi-Family Redevelopment Overlay. The property is located at 1127 Pomeroy Street.

Bunger provided the staff report recommending approval with three (3) conditions.

Watson asked as to what type of screening will be provided for the parking area. Bunger stated that no screening is required for off-street parking lot with six (6) or less parking spaces.

Hamilton opened the public meeting.

William McNally, applicant, provided additional information regarding the Variance request and proposed project.

Emig asked if the applicant has made any provisions for trash receptacle. McNally stated that they would be placed the trash containers in the southwest corner of the property.

Emig asked if the applicant had thought about adding a 5th parking space. McNally stated that his plan meets the minimum requirements; additional cars would be required to park on Pomeroy. McNally stated he would consider adding additional parking if required.

Hamilton asked the applicant if he considered replacing the existing house with a single-family home. McNally had considered placing a single-family home on the property, but felt that if he could meet the building requirements with the granting of a Variance, the two-family structure was more feasible.

Watson asked if the applicant had asked neighbors if they were comfortable with the proposal. McNally stated that he discussed the proposal with a property owner across the street with no objections.

With no further comments from the public, Hamilton closed the public hearing.

Emig stated his concerns there not being enough parking spaces for the proposed number of bedrooms.

Watson expressed her concerns on the lack of adequate screening of the off-street parking lot to protect neighbors to the south of the property.

Hamilton stated her concerns with the proposed two-story, two-family structure being out of scale with the rest of the block and the impact on adjacent neighbors.

Wigfall and Hardy agreed with Hamilton's statements.

The Board made the following findings of fact for the Variance:

CONDITIONS UNIQUE TO THE PROPERTY: The property is unique in that it is located within a subdivision, the Coronado Subdivision, which was originally platted in 1947 with lots that are smaller than what is common within the Ward Districts of the older, traditional neighborhoods. As originally platted, lots within the Ward District are typically 7,500 square feet lots, measuring 50-feet wide and 150-feet deep. Lots within the Coronado Addition range from 63 feet to 66 feet in lot width and lot depths ranging from 87 feet to 92 feet, resulting in smaller than average lots when compared to Ward District properties. The minimum lot depth and lot size requirements of the Zoning Regulations were written to address the typical dimensions of lots within the Ward Districts. The subject property is 5,804 square feet in area, 64-feet wide and 91-feet deep, as is typical of all lots within the Coronado Subdivision.

Although the lot depth is a unique condition to the property, the Variance request for lot area would not be needed if a single-family home was proposed to be built. The lot area Variance request is a condition created by the applicant for the proposed two-family residential structure.

PROBABLE EFFECT ON ADJACENT PROPERTIES: Adjacent properties directly to the north, east, and west along Pomeroy Street and Ratone Street are single-story, single-family structures, many of which have been converted into two-family rental properties. Properties to the south, on Ratone Street, are also single-story, single-family structures, some of which have been converted into two-family rental units and some of which have been maintained as single-family dwellings. To the southwest of the subject property, along the north side of Ratone Street are two large apartment complexes. Within the surrounding area, the vast majority of properties are rentals, with a few scattered properties that are owner-occupied.

The two-story structure proposed on the subject property is larger than the single-story structures located on adjacent properties along the south side of Pomeroy Street and the north side of Ratone Street. Although intensity of residential uses is the same throughout the neighborhood, the size of the structure will overshadow the adjacent properties, thus creating adverse effects on these properties. The overshadowing size of the structure will also negatively impact properties on the north side of Pomeroy Street.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS:

In order to meet the minimum lot size requirement of the R-3/M-FRO District, the applicant would need to repair and maintain the existing structure as a single-family dwelling or replace the existing structure with a new single-family structure. This is a viable option that would not negatively affect the adjacent properties. Based on these viable options, the strict application of the regulations would not create an unnecessary hardship.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The structure will not encroach upon any easements and should not have any adverse effects to the public health, safety, and welfare.

RELATIONSHIP TO INTENT OF REGULATIONS:

The intent of the regulations for minimum lot size and width is to ensure that properties are developed at a density that is consistent with the intent of the zoning district. This is accomplished through adequate front, rear and side yard setbacks and the assurance that adequate space is available for appropriate structures and off-street parking. In addition, it is the intent of the Multi-Family Redevelopment Overlay (M-FRO) Overlay District to provide a framework within which higher density housing can be built, while being sensitive to surrounding neighborhoods and the public streetscape with regard to design and site layout.

Although the structure and site layout proposed for the subject property do conform to the Compatibility Standards of the M-FRO District, the proposal is not sensitive to the surrounding neighborhood and public streetscape in regard to the height or setback of the building compared to the neighborhood.

Emig moved to deny the Variance to allow a reduction of the minimum required one-hundred (100) foot lot depth to ninety-one (91) feet, and a reduction in the minimum required lot area of seven-thousand, five-hundred (7,500) square feet to five-thousand, eight-hundred and four (5,804) square feet, for a proposed two-family dwelling located in the R-3/M-FRO, Multi-Family Residential District with Multi-Family Redevelopment Overlay based on the findings of the Board.

Wigfall seconded the motion, which passed 5-0

A PUBLIC HEARING to consider an VARIANCE to allow a driveway to be greater

than ten (10) feet in width in the Traditional Neighborhood Overlay District; and, reduce the minimum 75% landscaped open area required in the front yard, all for a proposed paved addition to an existing driveway in the R-1/TNO, Single-Family Residential District with a Traditional Neighborhood Overlay. The property is located 1519 Fairchild Avenue.

Bunger provided the staff report recommending approval with six (6) conditions.

Hamilton opened the public meeting.

Gary Young, applicant, provided additional about the property and the request.

With no comments from the public, Hamilton closed the public hearing.

Hardy stated that he could support the request and appreciated the applicant's efforts to improve the parking situation and create a parking plan that prevented tenants from parking on grass.

Emig stated he could support the request based on the overall parking plan and the steps the applicants have taken to only need one (1) additional parking space in front yard.

Wigfall stated her concerns for tenants safety resulting from having a car parked in front of main entrance to the building.

Watson could not support this request goes against the general spirit of the Traditional Neighborhood Overlay District regulations by allowing a vehicle to parking in front of a residential building.

Hamilton stated that she could not support the request based on the negative impact that the parking will have on neighborhood and adjacent properties.

Gary Young, applicant, provided additional information about the property and the request.

The Board made the following findings of fact for the Variance:

CONDITIONS UNIQUE TO THE PROPERTY: The subject property is a small, interior lot (5,663 square feet) with no alley access. The two-family residential structure was built approximately in 1926 and has been maintained as a two-family resident since. A opinion of legal nonconformity has been given to the applicants, stating that the lot area of 5,663 square feet; the existing two-family residential use and parking requirements of one (1) space per dwelling units were present at the time of the legal creation of the lot and structure. The amount of existing impermeable surfaces (663 square feet) in the front yard is also a nonconforming condition that could not be confirmed to exist before the zoning regulation was established in 1978. These conditions are unique to the property and cannot be found in the surrounding area.

Although providing four parking stalls is technically not required due to the legal non-conformity of the subject site, the applicants wishes to design the lot to provide four off-street parking stalls to keep tenants from parking their cars on Fairchild Avenue. The lot design includes three (3) parking stalls to be located at the rear of the property. Because of the limited lot size and lack of alternative access to the rear parking stalls, the applicants has requested to place the fourth parking stall in the front yard area. This lot design should eliminates the need for backing out the length of the property, as would be required if all parking was placed in the rear yard.

PROBABLE EFFECT ON ADJACENT PROPERTIES: Minimal adverse affects to adjacent properties are expected. The subject property and all of the adjacent properties are within a R-1/TNO, Single-Family Residential District with a Traditional Neighborhood Overlay. The neighborhood is a mix of owner occupied homes, single-family, two-family and multi-family rental units. Manhattan Christian College's campus is located directly north of the subject property. Fairchild Avenue has prohibited parking on the south side of the street due to pedestrian traffic from Manhattan Christian College and Kansas State University. The configuration of the proposed parking spaces would allow for three of the desired spaces to drive forward directly onto Fairchild Avenue, creating a safer environment along Fairchild Avenue. To ensure that parking would be restricted to the proposed concrete pad in the front yard area, the applicants has proposed to install three (3) steel bollards plant spiraea and Oregon grape shrubs along the proposed parking space in the front yard area.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS: Due to the termination of the verbal agreement between the applicants and adjacent property

owner to the east, the applicants are left with few safe alternatives to maintain the off-street parking spaces desired for the property's use. The applicants feel that this proposal is the safest, most convenient lot design for the tenants and the public. The property is only required to have one (1) parking space for each dwelling unit or a total of two (2) spaces, according to the 1926 Zoning Regulations, which were in effect at the time the structure was built. The property meets and exceeds the 1926 parking requirements by providing three (3) parking spaces in the rear yard area. Requiring one tenant to park on the street would not result in a hardship to the property owner if the regulations were strictly applied.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:

The order of the parking throughout Fairchild Avenue may be interrupted by allowing the Variance. The Traditional Neighborhood Overlay prohibits parking in front of the residential structure in the front yard. By allowing this Variance, the parking configuration will disrupt the natural flow of the streetscape and order of the historic neighborhood.

RELATIONSHIP TO INTENT OF REGULATIONS:

The intent of the front yard restriction is to limit the amount of parking in the front yard and to preserve the amount of green space between the building and the front property line. The proposed parking configuration will violate the intent and spirit of the regulations by allowing one off-street parking space in front of the residential structure and decrease the total open space in the front yard.

Watson moved to deny the VARIANCE request to allow a driveway to be greater than ten (10) feet in width in the Traditional Neighborhood Overlay District; and, reduce the minimum 75% landscaped open area required in the front yard for a proposed paved addition to an existing driveway located at 1519 Fairchild Avenue in the R-1/TNO, Single-Family Residential District with a Traditional Neighborhood Overlay based on the findings of the Board.

Wigfall seconded the motion, which passed 3-2.

ADJOURN