

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, April 14, 2010
7:00 PM

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

MEMBERS ABSENT: Ricci Dillon

STAFF PRESENT: Chad Bunger, AICP, CFM, Planner II. Savannah Benedick, Planning Intern

CONSIDER THE MINUTES

Hamilton moved to approve the March 10, 2010 minutes which was seconded by Aistrup. The motion passed with a 4-0 vote.

TABLE the PUBLIC HEARING to consider an EXCEPTION to allow for a reduction of the minimum fourteen (14) foot front yard setback to three (3) feet along N. 9th Street to construct a proposed privacy fence for the property located at 901 Leavenworth Street in the R-M/TNO, Four-Family Residential District and the Traditional Neighborhood Overlay District (Applicant/Owner: Melvin Watson).

Hamilton motioned to table the item until the May 12, 2010 Board of Zoning Appeals meeting. Aistrup seconded the motion, which passed 4-0.

A PUBLIC HEARING to consider an EXCEPTION to allow an increase of the maximum lot coverage from fifty (50%) percent to fifty-six (56%) percent for a proposed building associated with the proposed Final Plat of the Junghans Addition, which is located in the LM-SC, Light Manufacturing-Service Commercial District. (Owner: Quik Shop – Greg Junghans and Greg and Patricia Junghans Applicant: SMH Consultants – Jeff Hancock).

Bunger presented the Staff Report, recommending approval of the Exception request.

Hardy opened the Public Hearing.

Jeff Hancock, SMH Consultants, spoke on behalf of the applicant and stated that he is available to answer any questions posed by the board.

Hamilton stated she is glad to see an alternative to the requests presented the month before. She also suggested that the last paragraph of the Staff Report should be revised to leave out the discussion of property owner awareness of the existing conditions.

Hardy agreed with Hamilton's suggestion, along with Aistrup and Lavis.

Hardy closed the Public Hearing.

The board made the following findings of fact for the Exception at the proposed Junghans Addition:

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The existing buildings along S. 3rd Street is approximately three (3) feet from the front property line and encroaches into the minimum twenty-five (25) foot front yard setback required in the LM-SC District. The existing building is also located approximately five (5) feet from the property line along the alley, which encroaches into the minimum ten (10) foot alley setback required by the LM-SC District. The building was constructed in approximately 1948. The Board of Zoning Appeals approved Exceptions on March 10, 2010 to address the existing conditions of this building.

The existing building along S. 4th Street is approximately twenty (24) feet from the front property line. This building was constructed in 1993. The building was required to have a minimum of a twenty-five (25) foot setback and thus the building was constructed in the wrong location. The Board of Zoning Appeals approved an Exception on March 10, 2010 to address the existing condition of this building.

The existing sign located along S. 4th Street was granted an Exception in 1995 to reduce the minimum fifteen (15) foot front yard setback for signs to six (6) feet.

Other the requested Exception, the property complies with all applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The subject site and surrounding properties to the north, east, south and west are zoned LM-SC, Light Manufacturing-Service Commercial District. The area consists of industrial and warehouse uses to the south and west along the railroad right-of-way and service commercial and retail businesses to the north, along Fort Riley Boulevard.

The proposed building and the Exception request should have minimal impacts on adjacent properties. To the north of the subject site is a commercial retail strip development. This development uses the named alley to gain access to off-street parking spaces; which is similar to what is being proposed with the new building on the subject site. To the south of the subject site is a ninety (90) foot wide Union Pacific Railroad right-of-way (ROW). To the south of the railroad ROW is a concrete batch plat. Because of the distance between the proposed building and the adjacent property to the south; there should be minimal adverse impacts on this property. To the east is a gas station and automobile repair shop and vacant land. To the west of the subject site is commercial office space, a former site for self-service fuel pumps and a restaurant. The existing buildings will screen the proposed building from the properties to the east and west

and the Exception request should not impact these properties. The proposed and building and development is also similar to adjacent properties and other properties in the LM-SC District.

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

The proposed Exception request should not have an adverse impact on the public health, safety or welfare. The proposed building will not encroach into any utility easements. The proposed lot and new building will have secondary access and off-street parking along the named alley. This type of development is allowed in the LM-SC District as long as adequate lot area is provided. The proposed off-street parking is required to have an alley off-set of one (1) foot to allow for sufficient visibility for drivers backing out of the off-street parking spaces. The alley off-set distance for the proposed site plan is seven (7) feet, which is sufficient. The applicant and the City Engineer have discussed that the proposed development will need to address stormwater runoff issues. These issues will be addressed through the building permit process.

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

The strict application of the regulation would not allow the new building to be constructed as proposed. The proposed lot coverage is fifty-six (56) percent. The maximum lot coverage for the LM-SC District is fifty (50) percent. The proposed building is approximately 2,563 square feet too large for the subject site. The applicant could construct a building that is smaller in area to meet the maximum lot coverage requirement for the LM-SC District.

The curvature of the south property line is a unique condition not found on most properties in the LM-SC District. The configuration of the subject site was created when the Union Pacific Railroad acquired the area for railroad ROW in 1902. Prior to 1902, the subject site consisted of eight (8) Ward lots that were 50 feet wide by 150 feet deep, and a total area of 60,000 square feet. The railroad ROW acquired approximately 16,459 square feet of the subject site, create the current lot configuration, which as a total of 43,541 square feet. If the railroad ROW was not acquired, the subject site would have an adequate amount of area for the existing buildings and proposed building.

According to the Riley County Register of Deeds, the west zoning lot was purchased in 1993 and the east lot was purchased in 2006. Considering the unique shape and the limiting conditions of the subject site and the fact that the proposed building will not adversely impact adjacent properties, strictly applying the maximum lot coverage regulation is unreasonable and unnecessary.

Hamilton motioned to approve the Exception, as corrected, to allow an increase of the maximum lot coverage from fifty (50%) percent to fifty-six (56%) percent for a proposed building associated with the proposed Final Plat of the Junghans addition, which is located in the LM-SC, Light Manufacturing-Service Commercial District with the following conditions:

1. The Exceptions shall be limited to the existing buildings and proposed building as shown on the application site plan and described in the application materials.
2. The site shall be developed as proposed.

3. The Exception shall be contingent on the Manhattan Urban Area Planning Board's approval of the Final Plat of the Junghans Addition.
4. All applicable permits shall be obtained prior to the construction of the new building.

Lavis seconded, which passed with a vote of 4-0.

A PUBLIC HEARING to consider an EXCEPTION to allow for a reduction of the minimum twenty-five (25) foot rear yard setback to seventeen (17) feet for a proposed addition to the existing house at 2508 Purcell's Mill. The property is located in the Butterfield, Unit 7 PUD, Residential Planned Unit Development. (Owner/Applicant: Michael and Barbara Weltsch).

Benedick presented the Staff Report, recommending approval of the Exception request.

Hardy opened the Public Hearing.

Barbara and Mike Weltsch, property owners, spoke on behalf of the request. They stated that they have a large family and the existing house does not provide enough space, which is why they are proposing the addition to the house. They stated that any questions are welcome.

Hamilton asked the property owners why they decided to propose the addition on the south side of the house. Mrs. Weltsch explained that the south side is where the existing living room is located, and that is what they would like to expand, otherwise it would have been easier to locate the expansion on the north side of the house.

With no other comments from the public, Hardy closed the Public Hearing.

Aistrup stated that he can support the Exception. The other members agreed.

Hamilton proposed to modify a section of the Staff Report, and suggested a revision of the last paragraph discussing the limited space for building the addition. The other members agreed with her suggestion.

The board made the following findings of fact for the Exception at 2508 Purcells Mill:

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject site currently complies with all applicable regulations, other than that for which the Exception is being requested.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The Exception request is not anticipated to adversely affect adjacent properties. The subject property and all properties to the east, west and south are zoned as PUD, Butterfield Residential Planned Unit Development. The lots directly north of the subject site are zoned R-2, Two-Family Residential District, and are currently vacant. Developed properties north of the subject site are also zoned R-2, Two-Family Residential District, and are situated so that there is minimal vision of the subject site's

backyard. There is an existing six (6) foot tall fence along the south and east property lines of the subject site that may mitigate any visual impact that the Exception request would have on the properties located to the south and east. The existing house will obstruct any views of the proposed addition from the properties located to the west.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The Exception request is located outside of any utility or drainage easements. The request is not anticipated to negatively affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

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

STAFF COMMENTS: The strict application of the zoning regulations would require that the proposed addition be setback a minimum of twenty-five (25) feet from the rear-yard property line. The applicant has stated that “there are no reasonable alternatives to allow this project to meet the strict application of the zoning regulations.” The rear yard property is diagonal in relation to the house, which limits the available area to construct an addition to the existing house. Additionally, the existing house was built approximately thirty (30) feet from the front yard property line or approximately fifteen (15) feet passed the minimum fifteen (15) foot front yard setback established by the PUD for the subject site. Due to the existing location of the house, the rear yard setback is located four (4) feet at its closest point from the rear of the house.

The location of the proposed addition is limited by the internal layout of the house. To comply with the twenty-five (25) foot setback requirement, the proposed addition would be approximately seven (7) feet at its furthest point, and four (4) feet at its shortest point. Due to these circumstances, the strict application of the zoning regulations is unreasonable.

Hamilton motioned to approve an Exception, as corrected, to allow for a reduction of the minimum twenty-five (25) foot rear yard setback to seventeen (17) feet for a proposed addition to an existing single-family house in the Butterfield, Unit 7 PUD, Residential Planned Unit Development at 2508 Purcells Mill, with the following conditions:

1. The Exception shall apply to the proposed addition as outlined in the Staff Report and application documents and as illustrated in the site plan.
2. All applicable permits shall be obtained.

Aistrup seconded, which passed with a vote of 4-0.

A PUBLIC HEARING for a CONDITIONAL USE to allow for facilities associated with a religious organization consisting of group living quarters for up to fifty-four (54) persons, a dining facility for the occupants and organization members, offices and meeting rooms, and off-street parking lots, all of which are located at 1001 Sunset Avenue, in the R-M/UO, Four-Family Residential District with University Overlay District. (Owner/Applicant: K-State Wesley – United Methodist Campus Ministry).

Bunger presented the Staff Report, recommending approval of the Conditional Use request.

Mike Taluba spoke on behalf of the property owner, K-State Wesley- United Methodist Campus Ministry. Taluba stated that the intended use will not operate like a church because the membership is only provided to students of KSU and not to the public as a whole. Taluba included that, in reality, the residents of the facility will be members of the religious group and will attend the meetings. Therefore, the facility will act much like a fraternity.

Hamilton asked whether the fifty-four residents would include residential staff. Taluba stated that it would include residential staff, and that fifty-four residents will be considered maximum occupancy.

With no other comments from the public, Hardy closed the Public Hearing.

Hamilton stated that she can support the Conditional Use. The other members agreed.

The board made the following findings of fact for the Conditional Use at 1001 Sunset Avenue:

Compliance with all applicable regulations: The previous owner, Delta Tau Delta Fraternity, was granted a Conditional Use in 1989 to establish the fraternity. In January, 1999, a Conditional Use was approved to expand and renovate the building to its current configuration. The expansion was a 1,260 square foot area to the northwest of the building. Exceptions were also approved to reduce the 25 foot front yard setback to 16 feet and to reduce the 15 feet side yard setback to 12 feet, for an off-street parking lot and for a proposed building addition, respectively, on the lot where the building is located. Exceptions were also approved to reduce the 25 foot front yard setback to 5 feet along Sunset Avenue and to 0 feet along College Heights Avenue, for an associated off-street parking lot located at Sunset Avenue and College Heights Road. Variances were also approved in January, 1999 to allow parking between the front lot line of the building and a line parallel to the front lot line drawn through a point which is on the side of the principle structure furthest from the front lot line, yet still facing the front lot line for the off-street parking spaced on the lot where the building is located and to allow off-street parking in a different zoning district for the off-street parking lot to the south of the College Heights Road. The following condition of approval was placed on the Condition Use for the fraternity:

“Six (6) foot high sight obscuring screening should be placed along the south and west lot lines of the southern parking lot, and any screening in the front yard setback should be evergreen trees. Evergreen trees should be planted at a maximum of 6 feet in height at the time of planting.”

The required fences and evergreen trees were not planted by the previous owner. The applicant has proposed to construct the fence and plant the required trees to provide sight obscuring screening to comply with the Zoning Regulations and the previous requirements made by the Board of Zoning Appeals.

In March, 2009, the Board of Zoning Appeals approved a Variance to allow an internally illuminated ground sign along Sunset Avenue and an Exception to reduce the fifteen (15) foot front yard setback for a sign to one (1) foot along Sunset Avenue.

Other than the previous requirements to screen the off-street parking spaces and the need for the Conditional Use, the property complies with all applicable regulations.

Probable effect on adjacent properties: The subject site and properties to the immediate north and west are zoned R-M/UO, Four-Family Residential District with University Overlay District. To the south and east are properties zoned R-3/UO, Multiple-Family Residential District and University Overlay District. To the west are properties zoned R, Single-Family Residential District, R-1, Single-Family Residential District and the Tecumseh Lofts PUD, Residential Planned Unit Development. Also in the area are properties zoned U, University District and R-2, Two-Family Residential District. The area is a mix of fraternities, owner-occupied and rental single-family dwelling, two-family dwelling, multiple-family apartments, the hospital and Kansas State University dormitories.

According to the application documents, K-State Wesley currently hosts two (2) large group gatherings a week; a Sunday night meeting and Tuesday evening meeting. The application documents also states that the facility will also be used for “a variety of activities among the student members of K-State Wesley, such as small group meetings, holiday gatherings and social gatherings” and will occur on the main floor of the north wing or the 1st floor of the south wing. The 2nd and 3rd floors of the south wing will be considered as private living space. Other events associated with the organization and the building will be associated with Kansas State University, such as the Open House at the University. The application documents explain that the kitchen will provide for meals to the residences of the facility as well as provide meals for the Sunday evening event.

The proposed residential use and accessory kitchen, meeting rooms and study rooms will function very similar to a fraternity or sorority, which is a prevalent use in the neighborhood. Four (4) fraternities are located to the north and west of the subject site in the immediate area. Fraternity and Sorority uses are Conditional Uses in the UO District. The Conditional Use request asks to renovate the existing residential wing to accommodate a total of fifty-four (54) residents. The Conditional Use for the Delta Tau Delta fraternity allowed a maximum occupancy of sixty-four (64) persons.

Complying with the new application procedures for Conditional Uses, the applicant held a neighborhood meeting to discuss the proposed use of the subject site. Neighbors within 200 feet of the subject site were invited to attend the meeting. According to the applicant, no one attended the meeting. Attached is information about the applicant’s attempt to host a neighborhood meeting.

Because the proposed use is similar to the fraternities in the immediate area and that the residential facilities associated with the religious organization will have fewer occupants that what was previously approved for the former fraternity, minimal adverse impacts on adjacent properties are anticipated.

Domination by use over neighboring properties:

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

The existing building is made of brick and is three-stories tall on the south wing of the building. The north wing is one-story tall. The building has a total lot coverage of approximately 7,500 square feet in area, or twenty-four (24%) percent. The main entrance is to the east along Sunset Avenue. A second entrance is to the west from the parking lot area. According to the site plan submitted with the application documents, the existing building complies with all setback requirements or was granted an Exception to reduce the side yard setback of the R-M/UO District.

2. Landscaping and screening: Landscaping consists of mature trees and lawn with a landscaping bed to the east of the building. A landscape plan was submitted for the area adjacent to the west entrance of the building. This landscape plan shows a brick patio area with outside seating, a grassy area and a flower bed located on the east edge of the parking lot.

The Conditional Use approved in 1999 required that the southern parking lot provide sight obscuring screening of a minimum height of six (6) feet along the west and south property lines and landscape screening along the north and east property lines consisting of evergreen trees, to be planted at a maximum of six (6) feet in height, be installed. This screening was not installed. At the time of the Conditional Use in 1999, shrubs and bushes lined the west property line of the site where the north parking lot is located. These shrubs and bushes provided adequate screening of the parking lot from the adjacent property at that time. Since then, the landscape screening has been removed.

The applicant has proposed a sight obscuring screening fence to be installed to the west and north of the parking lot that is adjacent to the building to screen the existing parking spaces. At the southern parking lot, a six (6) foot sight obscuring screening fence is proposed on the south and west sides of the parking lot. Six (6) foot tall bushes are proposed to be planted along the sides of the parking lot in the twenty-five (25) foot front yard setback to provide screening. The proposed screening plan meets the minimum screening requirements for parking lots and complies with the condition of approval of the previous Conditional Use for the former fraternity.

ADEQUATE PROVISION OF PARKING AND LOADING: The application documents state that a total of fifty-four (54) residents will live at the K-State Wesley Campus Ministry Center. Based on the proposed use being similar to that of a fraternity or sorority, the off-street parking requirement is at least one (1) parking space for each occupant for the first twenty (20) occupants, or a total number of spaces equal to seventy-five percent (75%) of the total occupants, whichever is greater (Section 7-103(A)(4)). The proposed capacity of the residential use is fifty-four (54) persons, which would require a minimum of forty-one (41) off-street parking spaces. A total of forty-four (44) off-street parking spaces are provided in the existing parking lots. The northern lot provides twenty-one (23) parking spaces and the southern lot contains twenty-one (21) parking spaces. Adequate off-street parking is provided for the proposed use.

ADEQUATE PROVISION OF DRAINAGE, AND OTHER PUBLIC UTILITIES:

Adequate drainage and utilities exist for the site and no changes are proposed.

ADEQUATE PROVISION OF ACCESS: Vehicular access to the northern parking lot is from a curb cut located along College Heights Road. The southern parking lot access is from Sunset Avenue. A public sidewalk is located along College Heights Road. Adequate access is provided to the subject site.

Hamilton motioned to approve the Conditional Use, as corrected, to allow for facilities associated with a religious organization consisting of group living quarters for up to fifty-four (54) persons, a dining facility for the occupants and organization members, offices and meeting rooms, and off-street parking lots, all of which are located at 1001 Sunset Avenue, in the R-M/UO, Four-Family Residential District with University Overlay District, with the following conditions:

1. The Conditional Use shall be for the K-State Wesley United Methodist Campus Center as proposed in the application documents.
2. The Conditional Use shall be for the proposed uses as shown on the site plan, floor plans and stated in the application documents.
3. All applicable permits shall be obtained.
4. Required screening of the off-street parking lots shall be installed as proposed prior to the issuance of a Certificate of Occupancy.
5. Landscaping and sight-obscuring screening shall be maintained in good condition.

Aistrup seconded, which passed with a 4-0 vote.

Hardy adjourned.

Respectfully Submitted,

Savanah Benedick, Planning Intern