

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, September 14, 2005**  
7:00 PM

MEMBERS PRESENT: Chuck Jackson, Harry Hardy, Calvin Emig, Dan Morin

MEMBERS ABSENT: Connie Hamilton

STAFF PRESENT: Steve Zilkie, Senior Planner, Jeremy Frazzell, Planner

**CONSIDER THE MINUTES**

Hardy moved to approve the August 10, 2005 minutes which was seconded by Morin and passed with a vote of 4-0.

**A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO REDUCE THE MINIMUM TWENTY-FIVE (25) FOOT FRONT YARD SETBACK FOR A PROPOSED FENCE AND OFF-STREET PARKING AT 2414 CASEMENT ROAD IN THE R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT.**

Frazzell presented the staff report.

Jackson opened for public comment.

Rich Wartell, General Manager of Manhattan Broadcasting Inc., 2414 Casement Road, explained the location of the fence directly along the parking area would be a problem for maneuvering in the parking lot. He further stated that the proposed additional parking area would provide more room for backing which would increase maneuverability, safety, and benefit his patrons.

Kelly Adams, 205 S. Seth Child, represented Bear Creek Developers and spoke in support of the proposal.

With no additional comments, Jackson closed the public hearing and opened for board discussion.

Hardy said he could support the request based on the staff report as it seemed reasonable particularly in a safety concern and in the parking situation.

The Board made the following Findings of Fact for the Exception:

A. The existing radio station is considered a legally nonconforming use due to being

established on the subject property in 1950, before the property was annexed into the City as part of a 40.96-acre single-family residential annexation in October 1982. The existing structure is nonconforming in terms of the minimum required 25-foot front yard setback, with a front yard setback of 21-feet along Casement Road. In addition, the existing gravel parking lot located on the north side of the property is nonconforming in terms of the current requirements for paved surfacing for commercial off-street parking areas. These nonconformities are also considered to be legal due to them being established before annexation. In 2003, Butterfield Road was extended east across Casement Road, creating two front yards for the subject property. With an existing parking area located in the new front yard, an exception was required to alleviate the nonconformity. Exceptions were granted to reduce the front yard setback for the existing off-street parking area to zero (0) feet to alleviate the nonconforming parking lot, an eight (8) foot reduction in the minimum required fifteen (15) foot front yard setback for a ground sign and a twenty-two (22) foot reduction in the front yard setback for a proposed fence.

B. The proposed increase in off-street parking will be screened by the proposed one hundred twenty (120) foot “dog leg” of the six (6) foot high wood fence. The proposed fence that encroaches into the front yard setback along Butterfield Road and extends around the perimeter of the property will help screen the commercial radio station from the surrounding residential properties that are located to the south and east. Property to the north is currently screened by the radio station structure and a large grove of trees. Two-family residential properties and a church to the west are separated by Casement Road and screened by existing on-site landscaping consisting of shrubs and trees.

C. As proposed, a portion of the fence and additional parking area will be located within a utility easement. Although the City of Manhattan does not encourage this, the applicant has been informed removal will be at the applicants own expense. There does not appear to be a significant concern which would affect the public’s health, safety, morals, order, convenience, prosperity or general welfare. The proposed fence will help to screen the parking lot and commercial building from the general public, and the addition to the parking area should increase safety and ease of backing out of the parking spaces in the parking lot. No adverse effects to the general public, safety, or welfare are expected.

D. Strict application of the minimum required twenty-five (25) foot front yard setback for off-street parking would prevent the applicant from increasing the maneuverability of the parking lot and meeting the general design guidelines for a 90 degree parking configuration. The proposed fencing within the south twenty-five (25) foot front yard setback would serve to screen the off-street parking area and the commercial use from the surrounding residential uses. The placement of the fence at the twenty-five (25) foot front yard setback would reduce the existing parking area, and requiring the fence to remain along the previously approved south boundary of the existing parking lot may reduce the amount of space available for vehicles to safely maneuver in the parking lot. The parking area north of the building can not be increased due to FCC safety regulations, the building prohibits a parking expansion to the north, Casement Road is directly west, Butterfield Road is directly south, and a large, existing garage type structure is located to the east. Previous Exceptions were granted in 2003 to

reduce the front yard setback for the existing parking area, and to allow placement of a fence and sign within the front yard setback. At that time, the applicant did not recognize the implications the fence would have on the existing parking area. The additional parking area and repositioned fence will not adversely impact the neighborhood as the proposed Exception is not out of character from what was previously approved. Strict application of the regulations appears to be unnecessary when all facts and circumstances are considered.

Hardy made a motion to recommend approval of an Exception to reduce the minimum twenty-five (25) foot front yard setback for a proposed fence and off-street parking at 2414 Casement Road, Lot 1, Hackberry Addition in the R-1, Single-Family Residential District with the following conditions:

1. If requested, the applicant shall be required to remove the fence and parking area located in the utility right of way at the applicant's expense.
2. The fence shall be constructed as shown on the site plan and application documents and shall be maintained in good condition.

Morin seconded, which passed 4-0.

Jackson closed the public hearing.

Respectfully Submitted,

Jeremy Frazzell, Planner

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