

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, January 9, 2013**  
**7:00 PM**

MEMBERS PRESENT: Harry Hardy, Vice Chairperson; Connie Hamilton, and Ray Thompson.

MEMBERS ABSENT: Joe Aistrup, Chairperson; and Catherine Lavis

STAFF PRESENT: Chad Bunger, AICP, CFM, Planner II;

**CONSIDER THE MINUTES OF THE December 12, 2012, BOARD OF ZONING APPEALS MEETING.**

Hamilton moved to approve the December 12, 2012 minutes, which was seconded by Thompson and passed with a vote of 3-0.

**CONSIDER A REQUEST FOR A 180 DAY EXTENSION FOR APPROVED CONDITIONAL USE TO ALLOW FOR THE EXPANSION OF AN EXISTING HEALTH AND FITNESS CLUB AT 3615 CLAFLIN ROAD IN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT (APPLICANT: BODY FIRST FITNESS CLUB – DOUG SELLERS OWNER: DOUG SELLERS, CONSTANCE BRIGGS, STEPHEN PARISH).**

Hamilton moved to approve the request for a 180 day extension for approved conditional use to allow for the expansion of an existing health and fitness club at 3615 Claflin Road in the R, Single-Family Residential District. Thompson seconded, which passed with a vote of 3-0.

**TABLE THE PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK FOR AN ACCESSORY STRUCTURE FROM SIXTY (60) FEET TO ZERO (0) FEET ALONG FAIRCHILD AVENUE FOR A PROPOSED TRASH ENCLOSURE AT 500 SUNSET AVENUE IN THE R-1/TNO/UO, SINGLE-FAMILY RESIDENTIAL**

**DISTRICT, TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT AND UNIVERSITY OVERLAY DISTRICT (APPLICANT/OWNER: BETA THETA PI HOLDING CO. – SCOT K. TENPENNY, TREASURER).**

Hamilton moved to table the public hearing to consider an exception to allow for the reduction of the minimum required front yard setback for an accessory structure from sixty (60) feet to zero (0) feet along Fairchild Avenue for a proposed trash enclosure at 500 sunset avenue in the R-1/TNO/UO, Single-Family Residential District, Traditional Neighborhood Overlay District and University Overlay District. Thompson seconded, which passed with a vote of 3-0. Thompson seconded, which passed with a vote of 3-0.

**CONTINUE THE PUBLIC HEARING TO CONSIDER AMENDING AN APPROVED CONDITIONAL USE TO ALLOW FOR A NEW THIRTY (30) FOOT BY SEVENTY (70) FOOT STORAGE BUILDING AND RESTROOMS FOR THE OPTIMIST PARK IN THE I-2, INDUSTRIAL PARK DISTRICT. (APPLICANT/OWNER: MANHATTAN OPTIMIST FOUNDATION, INC.)**

Hamilton moved to remove the item from the table. Thompson seconded which passed with a vote of 3-0.

Bunger presented the staff report. The City Administration recommended approval of amending the Conditional Use, with seven (7) specific conditions of approval.

Hamilton asked if there are any major concerns related to the addition of restrooms and sewage disposal, considering flooding issues. Bunger responded by stating that existing utilities are adequate and general floodplain considerations would suffice. Hamilton also expressed her concerns about compliance to the Zoning Regulations and floodplain development permits. Bunger stated that these concerns can be incorporated as conditions to approval. The Board suggested amending condition number two (2) and seven (7) to read ‘All necessary permits shall be obtained’ and ‘The property shall conform to the Manhattan Urban Area Subdivision Regulations and Manhattan Zoning Regulations’ respectively.

Hardy opened the public hearing.

Nancy Hardy, residing at 2623 Georgetown Place generally discussed her concerns about the flooding problems in the area. She requested the board to be proactive about requiring new developments, especially ones adjacent to Wildcat Creek, to maintain storm water detention and retention elements.

With no more public comments Hardy closed the public comment section for Board discussion.

Hamilton appreciated Nancy Hardy's concerns and suggested that the proposed modification to the Conditional Use with the recommended conditions would significantly limit flooding related concerns. Hardy agreed to Hamilton and expressed his willingness to support the amendment of the Conditional Use based on the findings of the staff report.

The Board made the following findings of fact for amending an approved Conditional Use for the Optimist Park in the I-2, Industrial Park District.

**DESCRIPTION OF CONDITIONAL USE:** The Manhattan Optimist Foundation organizes youth softball, tee-ball and wrestling programs. The Optimist Foundation also owns and maintains the Optimist Park (subject site). Softball and tee-ball practices and games have been held at the site since approximately 1986.

On May 13, 2009, the Optimist Club was granted a Conditional Use to expand the ball park. The approved Conditional Use consisted of four (4) phases to construct or relocate new ball fields and a multiple-purpose indoor facility. Phase 1 was to complete needed dirt work and to construct a new softball fields to the west of the existing park area. The western softball field was proposed to be lit by four (4) light poles. Phase 2 was to construct a new tee-ball field to the south of Plymate Lane cul-de-sac. Phase 3 was to build a new 110 foot by 90 foot multiple-purpose building in the general area of the existing tee-ball field to be used for storage, indoor softball practice, and space for the youth wrestling program to practice and compete. Twenty-three (23) off-street parking spaces were proposed with the indoor facility. The last phase, Phase 4, was to construct a new regulation sized softball field in the approximate place of the existing gravel driveway. This field would be lit by four (4) light poles.

The majority of dirt work was completed in 2009 with approval from the Kansas Department of Agriculture, Division of Water Resource Flood Plain Fill Permit, February 25, 2009, and a Manhattan Flood Plain Development Permit, May 5, 2009. The regulation softball field to the west of the park and the small field (tee-ball field) to the south of Plymate Lane cul-de-sac have been constructed. The light poles proposed for the softball field were not constructed.

No other development has occurred on the subject site. Other user spaces and structures present on the subject site is an existing gravel parking lot area, the softball field to the east of the gravel parking lot, the tee-ball field to the west of the gravel parking lot and two (2) storage buildings, one of which includes restroom facilities.

The consultant has proposed an amendment to the approved Conditional Use to:

- Eliminate the 90 foot by 110 foot multiple-purpose facility and its associated parking
- Eliminate the construction of the 2<sup>nd</sup> softball field to the east of the existing gravel parking lot.
- Eliminate the construction of the light poles around the new western softball field.
- Construct a new one-story 70 foot by 30 foot storage building and restroom facility generally north of the existing tee-ball field.

- Re-orientate the existing tee-ball field so that home plate is nearest to the Plymate Lane cul-de-sac.

#### *Proposed New Developments*

The tee-ball field will be re-orientated to accommodate a new storage building. The current tee-ball field is situated so that the home plate is to the northeast, with the outfield to the southwest. The new orientation will shift the home plate to south so it is near the Plymate Lane cul-de-sac and the entrance to the Optimist Park. The outfield will be to the northwest. The ball field will be enclosed with fencing similar as it is today.

The proposed one-story building will be 70 feet by 30 feet and oriented east to west. The building will be used for storage and restroom facilities. The western 2/3 of the building will have storage for equipment and materials related to the ball fields. The eastern 1/3 of the building will have restroom facilities for players and spectators of the ball fields.

The proposed changes are substantial and require an amendment to the Conditional Use that was approved on May 13, 2012.

**PRESENT USE:** Two (2) full size softball fields, two (2) small, tee-ball sized field, two (2) accessory buildings, which include restrooms and a gravel off-street parking lot.

### **STANDARDS FOR A CONDITIONAL USE**

**A. Compliance with all applicable regulations:** The Optimist Park was created when the land was donated to the Manhattan Optimist Foundation in 1986. The City of Manhattan's Zoning Regulation at that time (Ordinance No. 3790) did not permit parks and playgrounds nor allow health and fitness clubs as a Conditional Use in the I-2 Zoning District. Before the Conditional Use was approved in 2009, it was considered a nonconforming use.

In January, 2009, the Manhattan Optimist Foundation acquired a 2,395 square foot piece of Lot 4, Westside Industrial Park, Unit 2 Addition. This acquisition of land was done by a lot split by deed and not a Final Plat. The Manhattan Urban Area Subdivision Regulations state in Article I, General Provisions, Part 5, Applicability:

Section I-501: Subdivision of land shall be made in accordance with these Regulations, and shall require a plat or replat (whichever is applicable) to be made in accordance with these Regulations, unless otherwise exempted by Part 6, below, whenever the owner(s) of any land within the jurisdiction of these Regulations desires to:

- (A) Divide, or further divide, land into two or more lots or parcels; or,
- (B) Otherwise alter the boundaries of lots or parcels of land.

The property shall be replatted to comply with the Manhattan Subdivision Regulations. Other than these issues, the property complies with the applicable regulations.

The proposed site plan shows the fence of the tee-ball field to be located eleven (11) feet from the front property line along Plymate Lane. The minimum setback for the fence is twenty-five (25) feet. An Exception shall be applied for to reduce the front yard setback for the fence or the fence must conform to the minimum setback at the time the fence is installed.

**B. Probable effect on adjacent properties:** The subject site and surrounding properties to the south and west are zoned I-2, Industrial Park District. To the north and east of the subject site, properties are zoned R, Single-Family Residential District and R-2, Two-Family Residential District and New Boston Commons PUD, Commercial Planned Unit Development. The current Zoning Map appears to be in error by showing the R, Single-Family Residential District, on the subject site. When the area, including the subject site, was annexed into the City, the area was zoned for industrial uses south of the center line of Wildcat Creek. To the north of Wildcat Creek, the property was zoned for residential uses. The property within the I-2 District consists of light manufacturing and storage uses. The area in the R District is vacant land located along Wildcat Creek.. The properties within the R-2 District are single-family detached and single-family attached dwellings. To the northwest of the subject site are properties zoned PUD, Planned Unit Development and R-3, Multiple-Family Residential District. There are a number of commercial and residential PUD's along Garden Way, with include multiple-family developments and businesses and vacant land along Wildcat Creek. The R-3 District consists of several multiple-family apartment buildings.

The proposed amendment to the approved Conditional Use should have minimal impacts on adjacent properties. The Optimist Park has been in existence since 1986. The single-family attached and single-family detached dwellings closest to the existing playing fields were built in the late 1980's and early 1990's. The apartments along Garden Way were built in the mid-1960. Other single-family homes to the east of the Optimist Foundation property were built in the 1940's, 1950's and 1960's. There are no complaints on record concerning the softball fields and/or the lighting that was present prior to the most resent park expansion.

The two (2) new ball fields were constructed in 2009 and were first used in the 2010. No specific complaints regarding the actual use of the Optimist Park have been submitted to the Community Development Department. During the approval of the Conditional Use in 2009, there were concerns of the effects that the proposed light poles would have on adjacent properties. These lights or support poles have not been constructed and have been proposed to be eliminated from the development plans of the park. Not having the lit ball fields will lessen the impact of the Optimist Park on adjacent properties.

Another topic raised during the initial Board of Zoning Appeals process and subsequent years was the impact that fill placed on the subject site had on adjacent properties both upstream and downstream of the subject site during Wildcat Creek flood events. Fill placed on the subject site met the requirements of the State of Kansas and City of Manhattan and were issued appropriate permits. Currently, the area here the proposed building is to be located in the Zone AE (commonly referred as the 100 year flood plain) and Zone X (commonly referred to as the 500 year flood plain). The Article X, Flood Plain Regulations allows development in

both flood zones provided all requirements are followed.

The City of Manhattan has received preliminary flood insurance rate maps (FIRMs) from the Kansas Division of Water Resource for Riley County (attached), which are not dated. These maps will delineate new 1% Annual Chance and 0.2% Annual Chance Floodplain boundaries. The proposed FIRMs show that Zone AE (100 Year Flood Plain) has expanded on the subject site compared to the current FIRMs (attached). The new base flood elevation for the area is 1040 feet above sea level. Although this flood information and FIRMs are preliminary, the City has made an administrative determination to use the more restrictive of the two (2) flood studies and FIRMs when reviewing development proposals and apply the current Flood Plain Regulations accordingly. Because the location of the building is located in the Zone AE area, the Flood Plain Regulations and the City's recent policy will require that the building will have to have its finished floor elevated or be flood proofed to at least one (1) foot above the base flood elevation, which is currently would be 1040 feet above sea level.

**C. Domination by use over neighboring properties:**

- 1. Location, nature, and height of physical improvements:** A single-story, storage building is proposed near the center of the subject site. This building will be approximately 70 feet by 30 feet and will also have restroom facilities. The building will be approximately 165 feet to the north of Plymate Lane.

Other improvements include the existing fields and two (2) storage buildings. These improvements were approved in 2009. The approved Conditional Use also allowed for the installation of light poles to illuminate two (2) of the softball fields. These light poles have been removed from the development plans of the park and will not be installed.

The proposed building and the softball fields and tee-ball fields are adequately setback from the front, side and rear property lines. These fields have been used by the Optimist Foundation for their sports programs since 1986 with no record of complaints. The proposed building and the use will not dominate the surrounding industrial uses

- 2. Landscaping and screening:** No specific landscaping plan has been proposed. The outfields of the ball fields are grass with other areas in an open lawn. Chain link fences surround each ball field and as the backstop for each ball field. These fences are to designate the playing field and protect spectators from softballs.

The I-2, Industrial Park District, requires a landscape area of twenty (20) feet installed on all sides abutting a street. The existing grass area along Plymate Lane meets this requirement. The proposed fence is shown to be approximately eleven (11) feet from the front property line along the street. The fence will either need to be moved to comply with the front yard setback requirement or the applicant will need to seek an Exception.

One (1) tree of a minimum two and one-half (2 ½) caliper or larger in size will be required to make sure that the parking area around the building will comply with the parking regulations. Existing trees may be able to meet this requirement.

An Exception to allow for the gravel parking and driveway for up to two (2) years was approved with the Conditional Use in 2009.

**D. Adequate provision of parking and loading:** The existing configuration of the Optimist Park has approximately 70 off-street parking spaces on a gravel surface. The proposed site plan for the Optimist Park shows sixty-six (66) off-street parking spaces.

The 70 x 30 foot storage building is required to have one (1) off-street parking space (Section 7-103(B)(20) At least one (1) parking space for each 2,000 sq. ft. of floor area).

The City of Manhattan Zoning Regulations does not specifically address parking requirements for baseball, softball and tee-ball fields. In researching this topic, cities across the country use different numbers of required off-street parking spaces for the recreational uses. Based on the research, City Administration has determined a reasonable requirement is that each field to provide eighteen (18) spaces (2 parking spaces for each position on the field) is appropriate. The three (3) proposed ball fields are required to have fifty-four (54) off-street parking spaces. The proposed parking lots and number of parking spaces are adequate for the proposed ball fields and indoor athletic practice facility.

The northern portion of the parking lot is in the effective mapped flood plain and is shown to be entirely in the mapped flood plain on the preliminary maps. Parking is permitted in these areas, provided that vehicles or trailers can be moved out of the flood area before the flood waters rise to a level that could impact the parked vehicles or trailers. The concern is that the flood waters could damage the vehicles and/or trailers or the contents in them, or worse, sweep the vehicles downstream, which would most likely worsen the flooding by blocking stormwater structures or cause damage to property downstream. Because the park is not monitored on a continual basis, City Administration recommends a condition of approval to limit the use of the parking lots in the floodplain to no overnight parking or long term storage of trailers or other equipment.

**E. Adequate provision of drainage, and other public utilities:** Existing utilities are adequate to provide water, sanitary sewer and power to the proposed storage building.

As previously mentioned, parts of the site is in the mapped Floodway and Zone AE (commonly referred as the 100 year flood plain), as shown on the effective FIRM for the area. The area where the proposed building is to be located split between the Zone AE (commonly referred as the 100 year flood plain) and Zone X (commonly referred to as the 500 year flood plain). The Flood Plain Regulations allows development in both flood zones provided all requirements are followed. Section 10-203(C) requires that all structures be required to have its finished floor elevated or flood proofed be at least one (1) foot above the base flood elevation. The preliminary FIRMs show that Zone AE (100 Year Flood Plain) has expanded

on the subject site compared to the current FIRMs. The new base flood elevation for the area is 1040 feet above sea level. Although this flood information and FIRMs are preliminary, the City has made an administrative determination to use the more restrictive of the two (2) flood studies and FIRMs when reviewing development proposals and apply the current Flood Plain Regulations accordingly. The proposed storage building will be required to be elevated or floodproofed a minimum of 10401.0 feet above sea level.

Stormwater detention would not be required for the proposed development, nor be advised. The City of Manhattan Design and Construction Standard Specifications and Policies states that stormwater detention be required on site for new subdivisions and infill projects that are 0.5 acres or larger. The requirement is to ensure that post-development stormwater runoff is equal to or less than the pre-development conditions. The area proposed to be disturbed by the construction of the new building is less than 0.5 acres and would not apply to the policy.

In addition, requiring stormwater detention within a mapped floodplain is generally not advisable. Stormwater detention is designed to slow the rate of runoff from a site using a variety of different methods to meter the water over an extended period of time, so that it does not worsen a flood event. If detention is placed too close to a stream, the metered stormwater could coincide with floodwater traveling from upstream. The City Stormwater Engineer has reviewed the proposed development and will not require such stormwater detention.

Because the proposed building is located in the floodplain, a local floodplain development permit will be required. Depending on certain factors, such as amount and height of fill, a state fill permit may be required also.

**F. Adequate provision of access:** The Park has access from an existing curb cut on the bulb of the Plymate Lane cul-de-sac. The access will be adequate for the proposed uses at the Optimist Park.

Hamilton made a motion to approve the Amendment to the approved Conditional Use to allow for a Health and Fitness Club which consists of a total of four (4) softball and tee-ball fields and accessory structures, including a new 70 foot by 30 foot storage building with restroom facilities and the existing buildings at the Optimist Park at 317 Plymate Lane in the I-2, Industrial Park District with the following conditions of approval:

1. The Conditional Use shall be limited to the total of four (4) softball and tee-ball fields and accessory structures, including a new 70 foot by 30 foot storage building with restroom facilities and the existing buildings
2. All necessary permits shall be obtained.
3. The park shall be maintained in good condition.
4. An amendment to the Conditional Use shall be required if any new developments are to occur.
5. The western or south playing fields shall not be illuminated with light poles.
6. Off-street parking areas in the mapped floodplain area shall be restrict to no overnight parking or long-term storage of vehicles, trailers or equipment.
7. The property shall conform to the Manhattan Urban Area Subdivision Regulations and



Manhattan Zoning Regulations.

Thompson seconded the motion, which passed by a vote of 3-0

Hardy adjourned the meeting.

Respectfully submitted by  
Jose Abraham, Planning Intern