

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, June 12, 2013
7:00 PM

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

MEMBERS ABSENT: none

STAFF PRESENT: Chad Bunger, AICP, CFM, Planner II; Chase Johnson, Planning Intern

CONSIDER THE MINUTES OF THE MAY 8, 2013, BOARD OF ZONING APPEALS MEETING.

Aistrup moved to approve the May 8, 2013 minutes, which passed on a vote of 5-0.

A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED TWENTY-FIVE (25) FOOT REAR YARD SETBACK TO NINE (9) FEET FOR A PROPOSED SCREENED-IN, COVERED PORCH TO AN EXISTING HOUSE AT 2705 ST. CHRISTOPHER CIRCLE IN THE R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT (APPLICANT/OWNER: BRAD AND SHELLY WILLIAMS).

Bunger explained the Exception staff report and recommended approval of the item with four (4) conditions.

Aistrup opened the public hearing.

Hardy stated his support for the approval. Aistrup also expressed his support for the approval.

The Board made the following FINDINGS OF FACT for the Exception at 2705 St. Christopher Circle.

PRESENT USE: Single-family home

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject site complies

with all applicable regulations, other than for what the Exception requests are for.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and surrounding properties to the north and west are zoned R-1, Single-Family Residential District. To the south are properties zoned R, Single-Family Residential District. To the east are properties zoned University Commons PUD, Residential Planned Unit Development. The immediate area is made up of single-family homes.

Impacts on adjacent properties should be minimal. The subject site backs up onto one (1) large residential home on a large residential lot. There is significant separation (over 45 feet) between the proposed addition and the adjacent house to the west. In addition to the horizontal distance, the two (2) homes are separated by a drainage swell along the adjoining property line. The drainage swell is within a twenty (20) foot wide drainage easement (10 feet on the subject site and 10 feet on the property to the west). The change in elevation between the two (2) lots increases the visual separation between the properties.

The application documents state “Putting the porch on the back versus on the side will have less adverse effects on the neighbors, as the back neighbors are farther away than the side neighbors. The house is setback approximately eighteen (18) feet from the side property line. The minimum requirement is eight (8) feet. The adjacent property to the north has a side yard setback of approximately ten (10) feet.

The applicant has submitted a form letter from six (6) surrounding neighbors offering their support for the proposed building addition. The neighbors to the west that would be most impacted has signed the support letter.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The public health, safety and welfare should not be adversely impacted. The proposed location of the building addition will be outside of any easements. A ten (10) foot drainage easement runs along the rear property line. The City’s Code of Ordinance requires that all drainage easement shall be free from any structure or other obstructions. Because the location of the proposed addition, City Administration is recommending a condition of approval that states “Prior to issuance of a building permit, the location of the property line and drainage easements shall be verified by a licensed surveyor.”

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The strict application of the rear yard setback would prohibit the construction of the proposed building addition. A covered and enclosed patio, with the same square footage, could be reconfigured to fit outside of the side and rear yard setbacks. The house is set approximately eighteen (18) from the north side lot line and twenty-five (25) foot rear lot line. The configuration of the modified porch may not be functional, and as the application stated, would have more of an adverse impact on the adjacent property to the north.

Considering that the proposed building addition will have a limited impact on the adjacent property to the north and west and that several neighbors have signed a support letter for the

project, including the neighbors potentially impacted, the strict application of the rear yard setback seems unreasonable.

Aistrup made a motion to approve an EXCEPTION to allow for the reduction of the minimum required twenty-five (25) foot rear yard setback to ten (10) feet for a proposed screened-in, covered porch to an existing house at 2705 St. Christopher Circle in the R-1, Single-Family Residential District.

1. The Exception request shall be limited to the proposed building addition as explained in the application and shown on the site plan.
2. The subject site shall be developed as proposed.
3. Prior to issuance of a building permit, the location of the property line and drainage easements shall be verified by a licensed surveyor.
4. All applicable permits shall be obtained.

Hardy seconded the motion, which passed on a vote of 5-0.

A PUBLIC HEARING TO CONSIDER AN A EXCEPTION TO ALLOW OFF-STREET PARKING BETWEEN THE FRONT LOT LINE AND A LINE PARALLEL TO THE FRONT LOT LINE DRAWN THROUGH A POINT WHICH IS ON THE SIDE OF THE PRINCIPAL STRUCTURE FURTHEST FROM THE FRONT LOT LINE ALONG PLATT STREET AND QUIVERA DRIVE FOR AN EXISTING AND PROPOSED PAVED OFF-STREET PARKING LOT FOR AN EXISTING FRATERNITY AT 1919 PLATT STREET LOCATED IN THE R-M/UO, FOUR-FAMILY RESIDENTIAL DISTRICT AND UNIVERSITY OVERLAY DISTRICT. (APPLICANT/OWNER: ALUMNI ASSOCIATION OF ALPHA ZETA CHAPTER OF ALPHA GAMMA RHO).

A PUBLIC HEARING TO CONSIDER A VARIANCE TO ALLOW A PROPOSED INTERNALLY LIT, WALL MOUNTED IDENTIFICATION SIGN LOCATED ALONG PLATT STREET FOR AN EXISTING FRATERNITY AT 1919 PLATT STREET IN THE R-M/UO, FOUR-FAMILY RESIDENTIAL DISTRICT WITH THE UNIVERSITY OVERLAY DISTRICT. (APPLICANT: SCHURLE SIGN, INC. – SCOTT KULP OWNER: ALUMNI ASSOCIATION OF ALPHA ZETA CHAPTER OF ALPHA GAMMA RHO).

Bunger presented the Staff Reports with a recommendation of approval for both the Exception and Variance with three (3) conditions each.

Aistrup opened the public hearing.

Hardy expressed his support for the approval of the exception and variance. Aistrup stated his support for the approval as well.

Hamilton expressed her appreciation for the parking improvements.

The Board made the following FINDINGS OF FACT for the Exception at 1919 Platt Street.

PRESENT USE: Alpha Gamma Rho fraternity

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject site complies with all applicable regulations, other than for what the Exception requests are for. The building itself complies with all applicable setback and lot coverage requirements. As previously mentions the location of the existing off-street parking lot in the front yard area of the subject site is considered to be a grandfathered condition. The proposed expansion of the existing parking lot requires the Exception.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and the immediate areas to the east, south and southwest are zoned R-M/UO, Four-Family Residential District and University Overlay District. Properties to the west are zoned R, Single-Family Residential District, R-1, Single-Family Residential District and Techumseh Lofts PUD, Residential Planned Unit Development District. To the north are properties zoned R-3/UO, Multiple-Family Residential District and University Overlay District. East of Sunset Avenue is also properties zoned R-3/UO Districts.

The area is a mix of fraternity houses, multiple-family dwellings, a medical center and single-family and two-family dwellings, many of which are rental units. All of the fraternity and majority of the multiple-family dwellings in the area have parking in the restricted front yard area. The location of these parking lots is due to the age of the developments in the area, which were done prior to the regulation which prohibited off-street parking in the front yard area as defined in Section 7-102(C)(2).

The proposed expansion of the off-street parking should have minimal impact on the adjacent properties. The proposed plans will add five (5) new parking spaces to the subject site. Because of the area being so close to Kansas State University Campus, on-street parking is very congested. The additional off-street parking on the site will assist to alleviate the issue in the area.

Visually, both front yards along Platt Street and Quivera Drive are very large. The front yard along Platt Street will be over 150 feet wide and approximately 30 feet deep. The front yard along Quivera Drive will also be over 150 feet wide and 30 feet deep to the closest part of the building in this area. The structure is setback an additional 70 feet, creating a very large front yard area along Quivera Drive. The additional impervious surface is relatively minor compared to the large front yards and will allow for additional parking and more space for the parking of larger vehicles.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: A number of fraternity houses and some multiple-family dwellings have off-street parking lots located within the restricted front yard area as defined in the regulations. The proposed parking lot expansion will match the character of the subject site and the surrounding neighborhood.

The proposed parking lot expansion along Quivera Drive will impact an existing utility manhole in the area. The applicant is aware of the issue and has been in discussion with the Public Works Department to alter the manhole so that it matches the grade of the new parking lot. The improvements to the manhole will be the responsibility of the applicants. Recommended condition of approval #3 covers this issue as it will be permitted by the Public Works Department.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: No alternative is available to the applicant to enlarge the off-street parking lot to give more room for larger vehicles to park and maneuver through the parking lot and to provide more parking spaces. The permitted area for off-street parking is already utilized to its full capacity. The parking in the restricted front yard area is a grandfathered condition and cannot be expanded, unless approved by the Board of Zoning Appeals.

Considering that the applicant has proposed an off-street parking lot design which provides for safer maneuvering through the parking lot and provides more off-street parking in an area that has extreme on-street parking congestion, the strict application of the parking regulation is unreasonable.

Aistrup made a motion to approve an Exception to allow off-street parking between the front lot line and a line parallel to the front lot line drawn through a point which is on the side of the principal structure furthest from the front lot line along Platt Street and Quivera Drive for an existing and proposed paved off-street parking lot for an existing fraternity located at 1919 Platt Street in the R-M/UO, Four-Family Residential District and University Overlay District, with the following conditions of approval.

1. The Exception request shall be limited to the proposed off-street parking lot improvements as explained in the application and shown on the site plan.
2. The subject site shall be developed as proposed.
3. All applicable permits shall be obtained.

Hardy seconded the motion, which passed by a vote of 5-0.

The Board made the following FINDINGS OF FACT for the Variance at 1919 Platt Street.

PRESENT USE: Alpha Gamma Rho fraternity

CONDITIONS UNIQUE TO THE PROPERTY: The subject site is a large corner lot,

with a fraternity house located on it. The fraternity fronts on Platt Street and Quivera Drive. The subject site is approximately 1.05 acres in area. The large corner lot is not unique to the immediate area, but is unique to the R-M/VO, Four-Family Residential District with University Overlay District. The immediate area was platted in the late 1940's and early 1950's. Several of the subdivisions platted at that time set aside large lots to accommodate fraternity house uses. The subject site is Lot 1, Fraternity Knoll Addition, which was specifically platted for the Alpha Gamma Rho Fraternity. No other R-M or VO Districts have such large lots in them specifically intended for fraternities.

Similarly, the large building associated with the Alpha Gamma Rho Fraternity is not unique to the immediate area, but is unique to R-M/VO Districts throughout the City. The building on the subject site has a building footprint of approximately 7,500 square feet. Other fraternities in the area are of similar size. The Mercy Regional Hospital building located to the north, which is located in the R-3/VO, Multiple-Family Residential District and University Overlay District, also has a large building.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and the immediate areas to the east, south and southwest are zoned R-M/VO, Four-Family Residential District and University Overlay District. Properties to the west are zoned R, Single-Family Residential District, R-1, Single-Family Residential District and PUD, Techumseh Lofts Residential Planned Unit Development District. To the north are properties zoned R-3/VO, Multiple-Family Residential District and University Overlay District. East of Sunset Avenue is also properties zoned R-3/VO Districts. The area is a mix of fraternity houses, multiple-family dwellings, a medical center and single-family and two-family dwellings, many of which are rental units.

The proposed internally illuminated sign should not adversely affect the adjacent properties. Properties to the south, east and west will be screened from the sign by the existing building. The only specific property that will face the location of the sign will be the Mercy Regional Hospital campus to the north. The immediate area along Platt Street is open grass lawn with mature trees and off-street parking lots and loading areas. The hospital building is over 250 feet from the location of the sign.

Other internally illuminated signs exist in the area, including the United Methodist Campus Center to the southeast, the Sigma Phi Epsilon fraternity to the east, the Riley County Health Department to the northwest and the Mercy Regional Hospital campus to the north. The proposed internally illuminated sign should not visual detract from the area along Platt Street.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS: The application documents states "The regulation prohibiting the internal illumination of the sign will cause the unnecessary hardship on the Fraternity, if the sign is not illuminated it will be able to be easily read and identified. Not illuminating the sign will cause unnecessary hardship making it harder to find the location."

Although other types of illumination options exist, such as external illumination, several other properties, including adjacent fraternities and former fraternities were granted Variances to

allow internally illuminated lighting. In March, 2009, the BZA approved an internally illuminated ground sign with a changeable message bulletin board for the United Methodist Church Campus Center to the southeast. The need for safety and to avoid vandalism was cited as the reason to approve such a sign. On February 10, 2010, a halo sign, which is internally illuminated, was approved for the Sigma Phi Epsilon fraternity to the immediate west. The BZA cited that "The proposed internally lit sign creates a soft halo effect, which would not be intrusive to the adjacent residential properties and is not typical of other internally lit commercial sign or message boards. Limiting the applicant to an externally lit sign when there are benefits from the proposed sign would be a hardship."

On August 8, 2012, the Riley County Health Department was granted a Variance to install two (2) new internally illuminated ground signs that were replacing existing internally illuminate ground signs. The Mercy Regional Hospital campus to the north also has internally illuminated ground signs along Sunset Avenue. It is unclear as to how these signs came to be internally illuminated.

The proposed sign on the subject site is individual cut letter with internal illumination as seen with typical commercial signage. Although the proposed sign is different than the other existing internally illuminated signs, the illumination characteristics appear to be identical. Prohibiting such an illumination characteristic would be a hardship to the applicant and the property owner when a wide variety of internally illuminated signs are already present on properties with similar uses in the residential neighborhood.

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

The effects on the health, safety, morals, order, convenience, prosperity, or general welfare of the neighborhood should be minimal. The proposed internally illuminated sign should have little or no effect on the public. The internally illuminated wall sign is more commercial in character, but have become a part of the character of the surrounding neighborhood, which in not a typical residential neighborhood. Within the neighborhood are several fraternities, the Riley County Health Department and Mercy Regional Hospital campus, most of which have internally illuminated signage.

RELATIONSHIP TO INTENT OF REGULATIONS:

The intent of the Sign Regulations within residential districts is to limit the size, placement, number, and illumination characteristics so that residential properties are not negatively impacted.

The intent to limit signs to be only externally lit is of an aesthetic nature to maintain a residential character. Internally illuminated wall signs are more commercial in character. Other internally illuminated signs can be found in the immediate area and have become a part of the character of the immediate area, which has a wide variety of residential and institutional uses.

Aistrup made a motion to approve a Variance to allow a proposed internally lit, wall mounted identification sign located along Platt Street for an existing fraternity at 1919 Platt Street in the

R-M/UO, Four-Family Residential District with the University Overlay District, with the following conditions:

1. The Variance shall only apply to the proposed site plan and the proposed sign.
2. All applicable permits shall be obtained.
3. The proposed sign shall be full cutoff design and not cast direct light onto public streets or adjacent property

Hardy seconded the motion, which passed on a vote of 5-0.

Respectfully submitted by

Chase Johnson, Planning Intern