

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, November 13, 2013**  
**7:00 PM**

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

MEMBERS ABSENT: Catherine Lavis

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

**CONSIDER THE MINUTES OF THE OCTOBER 9, 2013, BOARD OF ZONING APPEALS MEETING.**

Hamilton moved to approve the October 9, 2013 minutes, which passed on a vote of 4-0.

**A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED TWENTY-FIVE (25) FOOT FRONT YARD SETBACK TO TWENTY (20) FEET FOR A PROPOSED ADDITION TO AN EXISTING ATTACHED GARAGE AT 3039 CONROW DRIVE IN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT.. (APPLICANT/OWNER: WALTER AND DOROTHY PESARESI)**

Johnson presented the Exception Staff Report with a recommendation of approval of the item with two (2) conditions.

Hardy opened the public hearing.

Walter Pesaresi, applicant, expressed his appreciation for the staff, discussed the support by his neighbors for the project and said that the even with the addition to the garage the subject property sits back behind the neighbors line of sight.

Hardy closed the public hearing.

Hamilton said that she can support the application and that she would like the applicants comment about the line of sight not being blocked by the proposed addition added to the probable effect.

The Board made the following findings of fact for an Exception at 3039 Conrow Drive.

**PRESENT USE:** Single family home

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** Other than the Exception request, the subject site complies with all applicable regulations.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject site is zoned R, Single-Family Residential District, and is located in a predominantly single-family neighborhood. To the north of the subject property is a small area zoned R-2, Two-Family Residential. Located to the northwest of the subject property and is Manhattan Area Technical College, which is zoned U, University District, along with Cico Park, which is zoned in the R, Single-Family Residential District. Properties to the west are zoned R-1 Single-Family Residential; while properties to the east across Seth Child Road are zoned either R-3, Multi-family Residential, R, Single-Family Residential, or C-1, Residential Business.

Due to the location and design of the proposed addition to the garage adverse impacts on adjacent properties should be minimal. The subject property sets back behind the line of site of the adjacent properties due to its location in the center of the cul-de-sac. In addition, the properties that would be impacted the most from the proposal are 3037 and 3041 Conrow Drive—the properties directly adjacent to the west and to the south. The applicant has submitted a form letter from eleven (11) surrounding neighbors offering their support for the proposed addition; including the neighbors to the direct south and west.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** Minimal adverse affects on the general health, safety or welfare of the public is anticipated. The proposed addition to the attached garage will be outside of an eight (8) foot utility easement along the south property line. In addition, the proposed attached garage will be in character with the house itself and also a number of other properties in the neighborhood.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** The strict application of the minimum front yard setback would prohibit the addition to the attached garage to be built as proposed. The shape of the lot reduces the subject property's front yard area due to the bulb of the cul-de-sac projecting into the yard. In order to conform to the minimum front yard setback the design and siting of the garage would need to be reconfigured entirely due to the irregular shaped lot.

Considering the proposed garage addition will have a limited impact on the adjacent properties and that several neighbors have signed a support letter for the project, the strict application of the minimum front yard setback seems unreasonable.

Hamilton made a motion to approve an EXCEPTION under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the reduction of the minimum required twenty-five (25) foot front yard setback to twenty (20) feet for a proposed addition to an existing attached garage in the R, Single-Family Residential District with the following conditions:

1. The Exception shall be limited to the proposed garage addition as outlined in the application documents and shown on the applicant's site plan.
2. All applicable permits shall be obtained.

Thompson seconded the motion, which passed by a vote of 4-0.

**A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED TEN (10) FOOT REAR YARD SETBACK WHEN THE REAR LOT LINE ABUTS AN ALLEY TO TWO (2) FEET; AND TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED SIDE YARD SETBACK FROM THREE (3) FEET TO ZERO (0) FEET ON THE WEST PROPERTY LINE ALL FOR A PROPOSED DETACHED CARPORT AT 1026 PIERRE STREET LOCATED IN THE R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT. (APPLICANT/OWNER: WAYDE BYRD AND JOAN DOUGHERTY)**

Johnson presented the Exception Staff Report with a recommendation of approval of the item with three (3) conditions.

Hamilton asked if there would be any additional parking with the application. Johnson said the parking amount would stay the same and the applicant was to cover the existing parking.

Hamilton asked if there are any design guidelines for the TNO district in regards to the application. Johnson said that there were no guidelines for accessory uses such as garages or carports and went on to explain the TNO regulations.

Hardy opened up the public hearing.

Hardy closed the public hearing.

Danner said that she didn't see anything wrong with the application.

Hardy said that the reason strict application seems unreasonable is because of the narrow lot the subject property is located on and the fact that it's set so far back from the front property line.

Hamilton agreed and said that she is relying on the fact that the property is setback 51 feet from the front property line and that the proposed carport is in character with the surrounding neighborhood.

Hamilton said that she would like to add that the carport is not increasing the amount of parking to the property under probable effect.

The Board made the following findings of fact for an Exception at 1026 Pierre Street.

**PRESENT USE:** Two-family home

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The subject site complies with all applicable regulations, other than for what the Exception requests are for. The existing property was built in 1991 and was zoned in the R-2, Two-Family Residential District. The area was down zoned in 2002 to R-1, Single-Family Residential District with a Traditional Neighborhood Overlay in 2003. The two-family dwelling is a legally non-conforming use.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject site and surrounding properties are zoned R-1/TNO, Single-Family Residential District and Traditional Neighborhood Overlay District. The neighborhood is a combination of two-family and single-family dwellings, with a blend of owner-occupied and non-owner-occupied units.

The proposed detached carport should not adversely impact adjacent properties. It appears that several other properties in the area have detached garages or carports in similar locations, including the property to the immediate west, north and east of the subject site. In addition, the proposed detached carport will not increase the amount of parking on the site; it is solely to add cover for the existing parking spaces.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** The proposed detached carport should not adversely impact the public health, safety and general welfare. The proposed carport will not encroach in any utility easements or vision triangles on the property. The application states that “my daughter is a school teacher [and] she is 65 years old. [It] is very difficult for her to clean snow and ice off [of her] car in winter time”.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** The strict application of the minimum rear and side yard setbacks in the R-1, TNO District would prevent the applicant from constructing the proposed detached carport. The applicant is proposing a detached carport that will be approximately four-hundred fifty-six (456) square feet located in the rear yard abutting the alleyway. Without the requested exceptions, the carport would not be able to conform to the zoning regulations as proposed or with reasonable adjustments. The subject site sets back approximately fifty-one (51) feet from the front yard property line, reducing the area available in the rear yard.

Considering that the proposed carport will match the character of the property and that the surrounding properties have detached garages or carports in similar locations, the strict application of the regulation appears to be unreasonable.

Danner made a motion to approve an EXCEPTION under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the reduction of the minimum required ten (10) foot rear yard setback when the rear lot line abuts an alley to two (2) feet; and to allow for the reduction of the minimum required side yard setback from three (3) feet to zero (0) feet on the west property line all for a proposed detached carport located in the R-1/TNO, Single-Family Residential District with a Traditional Neighborhood Overlay District with the following conditions:

1. The Exception request shall be limited to the proposed detached carport 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.

Hamilton seconded the motion, which passed by a vote of 4-0.

**A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK FROM TWENTY-FIVE (25) FEET TO ZERO (0) FOR AN EXISTING TREE HOUSE AT A SINGLE-FAMILY HOME AT 2031 SKYLER CIRCLE IN THE R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT/OWNER: JEFF AND KRIS TANNER)**

Thompson recused himself from the public hearing.

Bunger presented the Exception Staff Report with a recommendation of approval of the item with three (3) conditions.

Hamilton asked if there are any building codes in regards to tree houses. Bunger said that there are not any building codes that regulate tree houses and that code services didn't see any issues.

Hardy opened the public hearing.

Mark Miller, 2033 Parkway Drive, expressed his support for the applicant.

Jeff Tanner, applicant, said that the tree house is going to be painted to match the house and that it currently has a locked entrance.

Hardy closed the public hearing.

Hamilton said that she would like to add compliance with any future code requirements to the conditions; and include that the applicant is planning to paint the tree house to match the primary house in probable effect on adjacent properties.

Danner said that she does believe that the tree house effects the property values in the neighborhood and it can be seen from the street even with tree coverage. She then said that she cannot support the application.

Hardy said that he can support the application and that it satisfies the criteria.

The Board made the following findings of fact for the Exception at 2031 Skyler Circle.

**PRESENT USE:** Single-family home with an accessory tree house.

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** Other than for what the Exception request is for, the subject site complies with all applicable regulations.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject site and surround properties on Skyler Circle and north of Snowbird Drive are zoned R-1, Single-Family Residential District. To the west, south and east of the subject site and properties on Skyler Circle are properties in the R, Single-Family Residential District.

Although the nonconforming condition was discovered through a complaint by a citizen, the existing accessory structure should not be an adverse impact on adjacent properties. The structure appears to be well constructed and is not a visual nuisance to the neighborhood. The structure is located approximately six (6) to eight (8) feet above the nature grade and is generally camouflaged when the tree has leaves. In addition, the applicant has plans to paint the existing tree house to match the primary home.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** No adverse impact on the general public is anticipated by the existing accessory structure. The accessory structure is entirely on the subject site and is outside any easements or vision triangles. There is a rather large, irregular shaped drainage and utility easement that consumes most of the subject site's open yard. Approximately 9,460 square feet or 46% of the area of the subject is consumed by this restrictive easement. Structures are not permitted in any drainage easements in the City. Trees and other vegetation are also very limited in drainage easements.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** The applicant documents states that the tree house was constructed without prior knowledge of the required setback for the accessory structure. Because of the drainage easement that consumes nearly half of the subject site, there are few options available to locate the tree house or any other children's playhouse on the subject site. To the south of the subject site is an open yard space that the applicant's have fenced in, but no mature trees are located in this area. Because of the limitations on the subject site created by the drainage easement and that it appears that the tree house does not adversely impact the surrounding neighborhood or the general public, the strict application of the setback regulation appears to be unreasonable.

Hamilton made a motion to approve an EXCEPTION to allow for the reduction of the minimum required front yard setback from twenty-five (25) feet to zero (0) feet along Skyler Circle for an existing tree house at a single-family home at 2031 Skyler Circle in the R-1, Single-Family Residential District, with the following conditions of approval.

1. The Exception request shall be limited to the existing tree house as explained in the application and shown on the site plan.
2. The subject site shall be maintained in good condition.
3. Subject site shall comply with any future tree house building code requirements.

Hardy seconded the motion, which passed by a vote of 2-1, with one vote recused.

**A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW FOR A NEW FACILITY ASSOCIATED WITH A RELIGIOUS ORGANIZATION CONSISTING OF GROUP LIVING QUARTERS FOR UP TO EIGHT (8) 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 904 SUNSET AVENUE IN THE R-2/UO, TWO-FAMILY RESIDENTIAL DISTRICT WITH UNIVERSITY OVERLAY DISTRICT. (APPLICANT: BRUCE MCMILLAN AIA ARCHITECTS, P.A. – BRUCE MCMILLAN OWNER: ECUMENICAL CAMPUS MINISTRY – WAIDE PURVIS, CHAIRMAN)**

**A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK FOR A PROPOSED OFF-STREET PARKING LOT FROM TWENTY-FIVE (25) FEET TO TEN (10) FOR A NEW FACILITY FOR A STUDENT RELIGIOUS ORGANIZATION AT 904 SUNSET AVENUE IN THE R-2/UO, TWO-FAMILY RESIDENTIAL DISTRICT WITH UNIVERSITY OVERLAY DISTRICT. (APPLICANT: BRUCE MCMILLAN AIA ARCHITECTS, P.A. – BRUCE MCMILLAN OWNER: ECUMENICAL CAMPUS MINISTRY – WAIDE PURVIS, CHAIRMAN)**

Bunger presented the Conditional Use and Exception Staff Reports together with a recommendation of approval of the Conditional Use with four (4) conditions and approval of the Exception with three (3) conditions.

Hamilton asked for clarification of the screening for the parking lot. Bunger described the location of the screening and the types of screening that are allowed.

Hamilton then asked about the status of the access off of sunset. Bunger said that the access would be eliminated.

Hamilton asked about signage for the project. Bunger said that there was not signage in the application but it would need to be permitted under regulations. Bunger then clarified that the signage on the site plan addressed the traffic signs for the adjacent streets and are not located on the property.

Hardy opened up the public hearing.

Bruce Mcmillan, applicant, talked about the detail of the project and said that the reason for the exception was to allow for the maximum amount of parking instead of asking for a reduction in the off street parking requirement. He said larger meeting will be in the evening and then discussed the KSU parking regulations in regards to the parking lot south of the subject property.

Hamilton asked about the possibility of changing the plan in order to keep the trees that would be lost. Mcmillan discussed the options to change the parking ratio to keep the trees that would be lost.

David Jones, pasture at ECM, said that there has been discussion about retaining the trees and that there could be an agreement made to keep the area open.

Bunger discussed the reduction of the parking space and explained the parking regulations. He then said the site plan can be modified in the application so that it matches the building permit.

Hamilton expressed her thoughts on parking lots needing to be screened. She then said that she could support the application and the applicant has done a nice job.

Danner expressed her support.

Hardy expressed his appreciation for the efforts of the applicant.

Bunger said that he will update the findings as discussed.

The Board made the following findings of fact for the Conditional Use at 904 Sunset Avenue.

**PRESENT USE:** Eight (8) unit apartment building

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

**A. Compliance with all applicable regulations:** The existing eight (8) dwelling apartment building is nonconforming to the R-2/UO, Two-Family Residential District and University Overlay District. This building and its use is proposed to be removed. The application site plan shows a twenty-five (25) stall, off-street parking lot that is to be located approximately ten (10) feet from the front property line along Hunting Avenue. The applicant has submitted an Exception to reduce the front yard setback from twenty-five (25) feet to ten (10) feet for the proposed off-street parking lot (*Please see Exception staff report for more information*). Other than this condition, the subject site and the proposed use complies with all applicable regulations.

**B. Probable effect on adjacent properties:** The subject site and properties to the immediate north, south and west are zoned R-2/UO, Two-Family Residential District and University Overlay District. To the east and southeast are properties zoned R-M/UO, Four-Family



Residential District and University Overlay District. To the north and northeast area properties zoned R-3/VO, Multiple-Family Residential District and University Overlay District. To the southwest are properties that are zoned R, Single-Family Residential District. To the northwest are properties with the R-M/VO District designations.

The general neighborhood is comprised of a mix of residential uses, including single-family, two-family, multiple-family, Greek housing, campus ministry and a dormitory. The majority of housing in the area is devoted to rental units for Kansas State University students. An established single-family neighborhood is located to the southwest from the subject site.

The proposed meeting space, business office and group living quarters for ECM, a religious organization, should have a minimal adverse impact on the surrounding neighborhood. Currently on the subject site is an eight (8) unit, multiple-family dwelling, with a total of ten (10) bedrooms. In regards to the residential component of the proposed use, there will be a reduction in intensity. The building plans shows an eight (8) bedroom group living quarter with one (1) shared living room, kitchen and two (2) bathrooms. The intensity of the residential element will be less than the existing residential use.

The application documents states the use will have two (2) office workers and small group meetings held on a consistent basis throughout the week. The application also states that large social events will occur in the evening once or twice a month. The daily office work and small group meetings should not be an adverse impact on the surrounding neighborhood. The most likely impact to the surrounding neighborhood would be if on-street parking is generated. Hunting Avenue has heavy on-street parking due to its proximity to Kansas State University. The site plans shows an off-street parking lot that will provide twenty-five (25) parking spaces. This parking lot should be adequate enough for the day-to-day operations on the site.

The large group meetings held once or twice a month may adversely impact the adjacent properties. These impacts may be in the form of light, noise and traffic to and from the subject site. Assuming that all eight (8) residents and the two (2) staff members have vehicles and attend the large meetings; that will leave fifteen (15) spaces in the proposed parking lot. Depending on the size of the large meetings, which the application document state could be up to 80 people, the fifteen (15) parking spaces will not be adequate to serve the attendees. However, there is the large Kansas State University parking lot to the south of the subject site. Parking is free in this lot in the evenings and on the weekends. The application documents notes that students attending these large group meetings live in the area. Also, in the general neighborhood are several fraternities and the United Methodist Campus Ministry Center to the northwest. These uses frequently have large group meetings. This type activity is not unusual for the surrounding neighborhood and should generally be tolerated by surrounding properties.

The applicant held an informal neighborhood meeting as part of the Conditional Use application process. A letter addressed to the Board of Zoning Appeals from Karen and Rodney Franz, on behalf of several neighbors in the area shows support from the proposal (*see attached*). Likewise, twenty-five (25) neighbors signed a form letter showing their support for the proposed project.

**C. Domination by use over neighboring properties:** The proposed use of meeting space, business office and group living quarters for the Ecumenical Campus Ministry a religious organization should not dominate over the uses of the neighboring properties.

Location, nature, and height of physical improvements: The proposed structure will be two-stories tall or thirty (30) foot in height, with a contemporary design. The building footprint will be 2,950 square feet. The total floor area of the two-story building will be approximately 5,150 square feet. The main floor will be accessed from the south via sidewalks leading to the sidewalk along Hunting Avenue and the off-street parking lot. The second floor will be accessed by an exterior stairway and landing on the east side of the structure. A second story deck will be located on the west side of the structure.

Landscaping and screening: The site plan submitted with the application documents show a typical residential lawn area with existing mature trees.

The proposed off-street parking lot requires sight obscuring screening from the adjacent properties to the north and east. The site plans shows that a six (6) foot screening fence will be installed, as required.

**D. Adequate provision of parking and loading:** A minimum of twenty-two (22) off-street parking spaces are required for the proposed use of a mix of residential uses and office space. This was derived by using the parking requirement for lodging/boarding use as one (1) space per resident plus two (2) additional spaces (8 bedrooms plus 2 = 10 spaces) and the parking requirements for businesses as one (1) space per 200 square feet of floor area (2,280 square feet of floor area on the main floor/ 200 = 12 spaces).

Twenty-five (25) parking spaces are provided on the site plan. An Exception request has been made to reduce the minimum required twenty-five (25) foot front yard setback to ten (10) feet along Hunting Avenue to accommodate the proposed parking lot (*see Exception staff report for details*). The applicant has provided an excess of off-street parking based on the minimum requirements for the proposed uses and the day-to-day operations of the facility. As previously stated, ECM has large group meetings once or twice a month, which can have attendance of up to 80 students. The amount of off-street parking on the subject site will not be adequate if all of the large group meeting attendees drive to the subject site. The application documents states that many of these students live in the area or have on-campus parking space, implying that they will generally walk to the subject site for these meetings. In addition, there is a large University parking lot to the south of the subject site that would have available free parking after 5:00 pm and on the weekends. Considering these factors, adequate provisions for off-street parking is provided.

**E. Adequate provision of drainage, and other public utilities:** The site plans shows that that site will be graded so that stormwater runoff will sheet flow to Hunting Avenue to the south, where it will be managed by the City's stormwater sewer system.

Public water, sanitary sewer and other public utilities are present and adequate for the proposed use.

**F. Adequate provision of access:** Access will be off of Hunting Avenue, a local residential street. The access point is set back appropriate from the intersection of Sunset Avenue and Hunting Avenue. Sidewalks are present on both sides of Hunting Avenue. No sidewalks are present on Sunset Avenue in the area. Access to the subject site is adequate.

Hamilton made a motion to approve a Conditional Use to allow for a new facility associated with a religious organization consisting of group living quarters for up to eight (8) persons, a dining facility for the occupants and organization members, offices and meeting rooms, and off-street parking lots, all of which are located 904 Sunset Avenue in the R-2/UO, Two-Family Residential District with University Overlay District, with the following conditions of approval:

1. The Conditional Use shall apply to the facility associated with the religious organization as outlined in the application documents and site plans.
2. The subject site shall be constructed as proposed.
3. The Exception to reduce the front yard setback along Hunting Avenue shall be approved.
4. A maximum of 8 residents may live at the subject site

Danner seconded the motion, which passed by a vote of 4-0.

The Board made the following findings of fact for the Exception at 904 Sunset Avenue.

**PRESENT USE:** Eight (8) unit apartment building

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The existing eight (8) dwelling apartment building is nonconforming to the R-2/UO, Two-Family Residential District and University Overlay District. This building and its use is proposed to be removed. The proposed use as a new facility for a student religious organization requires a conditional use in the UO, University Overlay District. Other than the Conditional Use request and the Exception request to reduce the front yard setback for the proposed off-street parking lot, the subject site complies with all applicable regulations.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject site and properties to the immediate north, south and west are zoned R-2/UO, Two-Family Residential District and University Overlay District. To the east and southeast are properties zoned R-M/UO, Four-Family Residential District and University Overlay District. To the north and northeast area properties zoned R-3/UO, Multiple-Family Residential District and University Overlay District. To the southwest are properties that are zoned R, Single-Family Residential District. To the northwest are properties with the R-M/UO District designations.

The general neighborhood is comprised of a mix of residential uses, including single-family, two-family, multiple-family, Greek housing, campus ministry and a dormitory. The majority of housing in the area is devoted to rental units for Kansas State University students. An established single-family neighborhood is located to the southwest from the subject site.

The location of the proposed off-street parking lot should not adversely impact adjacent properties. Currently on the subject site is a gravel parking lot accessed off of Hunting Avenue. The existing parking lot is approximately fifteen (15) feet from the front property line, which encroaches into the minimum setback. Other properties along Hunting Avenue encroach into the front yard setback with either the house or an off-street parking lot. These are all nonconforming conditions.

In addition, the subject site is located on the outside of the curve on Hunting Avenue, giving the appearance that it will be set further back than it actually is.

The minimum number of required off-street parking is twenty-two (22) spaces for the mix of residential, business and meeting space. The applicant has proposed a parking lot of twenty-five (25) spaces to provide more parking than the minimum requirements as an effort to reduce on-street parking. Because of the proximity to the University, the area has a congested on-street parking condition.

Considering these factors, the Exception request should not adversely impact the adjacent properties.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** The applicant has chosen to provide more than the minimum required off-street parking because they recognize that the surrounding area has congested on-street parking conditions. This additional parking is a benefit to the surrounding property and the general public.

The location of the off-street parking in the front yard setback will not impact platted easements or any vision triangles created by the driveway and the street.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** The strict application of the front yard setback for the off-street parking lot would prohibit any parking within twenty-five (25) feet of the front property line along Hunting Avenue.

Based on the proposed use, a minimum of twenty-two (22) off-street parking spaces are required. The application site plan and the design of the off-street parking lot has one (1) of the minimum required spaces located approximately six (6) feet into the front yard setback, in addition to the three (3) extra spaces proposed. The parking lot would need to be re-designed so all spaces are located behind the setback line, the building would need to be re-designed to require less parking, an Exception to reduce the required off-street parking would need to be approved or the Exception request to reduce the front yard setback.

Considering that the applicant is proposing to provide more parking than what is minimally required because of the on-street parking conditions in the area and that the location of the parking should not adversely impact the adjacent properties or the general public; it appears that the strict application of the front yard setback regulation is unreasonable.

Hamilton made a motion to approve an Exception to allow for the reduction of the minimum required front yard setback for a proposed off-street parking lot and sight-obscuring screening from twenty-five (25) feet to ten (10) for a new facility for a student religious organization at 904 Sunset Avenue in the R-2/UO, Two-Family Residential District with University Overlay District, with the following conditions of approval:

1. The Exception shall apply to the facility associated with the religious organization as outlined in the application documents and site plans.
2. The subject site shall be constructed as proposed.
3. The Conditional Use to allow the student religious organization shall be approved.

Danner seconded the motion, which passed by a vote of 4-0.

Respectfully submitted by

Chase Johnson, Planning Intern