

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, May 14, 2014
7:00 PM

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

MEMBERS ABSENT: Connie Hamilton, Vice-Chairperson; Catherine Lavis

STAFF PRESENT: Chad Bunger, AICP, CFM, Senior Planner; Chase Johnson, Planner

CONSIDER THE MINUTES OF THE APRIL 9, 2014 BOARD OF ZONING APPEALS MEETING.

Thompson moved to approve the April 9, 2014 minutes, which passed on a vote of 3-0.

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-ONE (21) FEET FOR AN EXISTING SINGLE-FAMILY RESIDENTIAL BUILDING LOCATED AT 631 SPRING LANE HILL, IN THE R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT: KAW VALLEY ENGINEERING OWNER: MARY ROUSEY)

Johnson presented the staff report with recommendation of approval of the item with one (1) condition.

Hardy opened the public hearing.

The applicant was present.

Hardy closed the public hearing.

The Board made the following findings of fact for the Exception at 631 Spring Hill Lane

PRESENT USE: Single family home

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The Harwood Addition was platted in 1968, the same year the subject property was constructed. The subject site was zoned "AA" Residence District during the year of construction which required a minimum front yard setback of twenty-five (25) feet. The subject property received a building permit on

May 21, 1968 and it is presumed that it was allowed to be constructed and issued a certificate of occupancy as is. No other information can be obtained but it does not appear to have conformed to the Zoning Regulations at the time. However, the Exception request will bring the house into compliance with the current Zoning Regulations and resolve the nonconformity issue. Other than the Exception request, the subject site complies with all applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site is zoned R-1, Single-Family Residential District and is located in a residential neighborhood comprised of three single-family homes. Properties to the north of the subject property are zoned R, Single-Family Residential District. Properties to the south and southwest are zoned R-1, Single-Family Residential District with a Traditional Neighborhood Overlay District.

In regards to the Exception, the existing house has been in its location and a part of the neighborhood since the late 1960's. It is apparent that the location of the house has not impacted adjacent properties.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: Minimal adverse effects on the general health, safety or welfare of the public are anticipated. There are no proposed additions to the property and the exception request is for the existing single-family home in response to the replat of the Harwood Addition.

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 regulation would require that the existing house be removed or altered so that it is in compliance with the regulations. The home would need to move approximately four (4) feet to the south to be located outside of the minimum twenty-five (25) foot front yard setback. Although the home was constructed in the required setback, it would be unreasonable to require it to be removed or altered under the circumstances. Because the home has been in its existing state since 1968 and has minimal impacts on adjacent properties, strict application of the regulations seems to be unreasonable.

Thompson 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-one (21) feet for an existing single-family residential building located in the R-1, Single-Family Residential District with the following conditions:

1. The Exception shall be limited to the existing single-family home as outlined in the application documents and shown on the applicant's site plan.

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

A PUBLIC HEARING TO CONSIDER EXCEPTIONS TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED EIGHT (8) FOOT SIDE YARD SETBACK TO SEVEN (7) FEET; AND TO ALLOW FOR AN INCREASE OF THE MAXIMUM LOT COVERAGE FROM THIRTY (30%) PERCENT TO APPROXIMATELY THIRTY-FOUR (34%) PERCENT, ALL FOR A PROPOSED ADDITION TO A SINGLE-FAMILY RESIDENTIAL BUILDING LOCATED AT 517 THURSTON STREET, IN THE R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT. (APPLICANT: JUSTIN KLIMA OWNER: PATRICIA KLIMA & JUSTIN KLIMA)

Johnson presented the staff report with recommendation of approval of the item with three (3) conditions.

Hardy opened the public hearing.

Orlin Fritzon, 515 Thurston, expressed his concerns with the parking related to the proposed application. Johnson said that there is adequate parking available for the subject site.

Gary Klima, applicant, said that they could make arrangements to increase the parking for the subject site. Johnson commented that no more than four unrelated individuals can reside in the single family home.

Hardy closed the public hearing.

Thompson said that he could support the application. Danner said that she could support the request as well.

Hardy expressed his support for the application.

The Board made the following findings of fact for the Exception at 517 Thurston Street

PRESENT USE: Single-Family House

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 1953 and was zoned in the "A" Residence District at that time. The "A" Residence District required a side yard setback of six (6) feet in which the subject site complies with. The subject property is legally non-conforming in regards to the existing side yard setbacks.

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 single-family and two-family dwellings, with a blend of owner-occupied and non-owner-occupied units.

The proposed addition to the existing home should not adversely impact adjacent properties. It appears that several other properties in the area have lot coverage and side yard setbacks similar to the proposed subject site. In addition, the entire rear yard is enclosed within a wooden fence providing screening from adjacent properties.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The request to increase the maximum lot coverage by four (4%) percent for the building addition equals approximately three-hundred (300) square feet. The increase in lot coverage is negligible and would not be noticed by the general public. The building addition will be towards the rear of the house and is supposed to match the architectural character of the existing house. Several properties in the immediate area appear to have total lot coverages that exceed the TNO District's maximum lot coverage. In addition, the Exceptions desired will not encroach upon any utility easements or the vision clearance triangles. The proposed addition would not alter the order of the neighborhood or impact the health, safety and welfare of the general public.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The strict application of the regulations would not allow the proposed addition to be constructed as designed. The subject site has nearly reached the maximum allowable lot coverage in the TNO District. According to the application documents "The addition puts me over the 30% lot coverage with the garage and I would like to keep the garage if I get granted 35% lot coverage". An option available to the applicant is to alter the site by tearing down the garage and provide the required off-street parking in its place. This alternative would result in a lot coverage of approximately twenty-seven (27%) percent, which complies with the zoning regulations.

A number of properties in the immediate area have lot coverages that exceed the maximum allowed by the TNO District. The conditions found on these adjacent properties were established prior to the adoption of the TNO District in 2003 for this area, which limits maximum lot coverage to thirty (30%) percent, compared to the underlying R-1, Single-Family Residential District, which has a maximum lot coverage of thirty-five (35%) percent.

Considering that the proposed addition will not adversely impact adjacent property owners or the general public and looking at the alternative options, the strict application seems unreasonable when all of the facts and circumstances are considered.

Danner made a motion to approve EXCEPTIONS under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the reduction of the minimum required eight (8) foot side yard setback to seven (7) feet; and to allow for an increase of the maximum lot coverage from thirty (30%) percent to approximately thirty-four (34%) percent, all for a proposed addition to a single-family residential building 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 single-family home addition 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.

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

A PUBLIC HEARING TO CONSIDER EXCEPTIONS TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED FIFTEEN (15) FOOT SIDE YARD SETBACK TO ELEVEN (11) FEET; AND TO ALLOW FOR AN INCREASE OF THE MAXIMUM HEIGHT OF THIRTY-FIVE (35) FEET TO THIRTY-SIX (36) FEET, ALL FOR A PROPOSED ADDITION TO THE UNITED METHODIST CHURCH BUILDING LOCATED AT 1609 COLLEGE AVENUE, IN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT: BG CONSULTANT-MATTHEW KOHLS OWNER: UNITED METHODIST CHURCH – MIKE DILLON, CHAIRMAN)

Johnson presented the staff report with recommendation of approval of the item with three (3) conditions.

Hardy opened the public hearing.

Tom Bennett, 3104 Harahey Ridge, elaborated on the site plan and dimension of the proposed extension.

Brenda Oppert, 2416 Dickens Ave, expressed her concerns with the application and said that the exceptions will impact her property. She also expressed concerns about increased water runoff caused by the improvements. Oppert then explained the history of her property.

Ron Cochran, 1618 Delaney Drive, said that he was not present to oppose the application but there to express his concerns over congestion on Dickens Avenue. Cochran then said that there is a church bus parked on Dickens during K-State game days that adds to the congestion.

Bennett said that the bus belongs to the Boy Scouts of America and that they would ask them to park somewhere else during game days.

Hardy closed the public hearing.

Hardy expressed his appreciation for the public comments.

Danner said that she doesn't think it will have an adverse impact on the adjacent property.

Thompson said that he understands the concerns from the adjacent property owners but doesn't think that there will be an adverse impact on adjacent properties.

Hardy asked for clarification on the historical nature of the adjacent property. Johnson explained the rescinded environs law and said that there are currently no city regulations regarding historically registered properties.

Bunger said that the letter that was referred to is essentially a cover sheet and that the property owned by Ms. Oppert is not on any historical registers.

Thompson made a motion to approve EXCEPTIONS under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the reduction of the minimum required fifteen (15) foot side yard setback to eleven (11) feet; and to allow for an increase of the maximum height of thirty-five (35) feet to thirty-six (36) feet, all for a proposed addition to the United Methodist Church building located in the R, Single-Family Residential District with the following conditions:

1. The Exception request shall be limited to the proposed church addition 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.

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

Respectfully submitted by,

Chase Johnson, Planner