

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, June 11, 2014**  
**7:00 PM**

MEMBERS PRESENT: Harry Hardy, Chairperson; Connie Hamilton, Vice-Chairperson; Catherine Lavis; and Angie Danner

MEMBERS ABSENT: Ray Thompson

STAFF PRESENT: Chase Johnson, Planner; Everett Haynes, Planning Intern

**CONSIDER THE MINUTES OF THE MAY 14, 2014 BOARD OF ZONING APPEALS MEETING.**

Lavis moved to approve the May 14, 2014 minutes. Hamilton seconded the motion which passed on a vote of 4-0.

**CONSIDER A REQUEST FOR A 180 DAY EXTENSION FOR APPROVED EXCEPTIONS TO REDUCE THE MINIMUM REAR YARD SETBACK FOR DECKS GREATER THAN 30 INCHES IN HEIGHT ABOVE THE GRADE ON WHICH THEY ARE LOCATED FOR LOTS 12A AND 12B TO LOT 20A AND 20B, KIMBALL TOWNHOMES ADDITION; A REDUCTION OF THE MINIMUM REAR YARD SETBACK FOR A PRINCIPAL SINGLE-FAMILY ATTACHED RESIDENTIAL STRUCTURE (LOT 12A, KIMBALL TOWNHOMES ADDITION); AND TO ALLOW AN INCREASE OF THE MAXIMUM THIRTY-FIVE (35) PERCENT LOT COVERAGE TO UP TO FORTY-FIVE (45) PERCENT FOR LOTS 12B TO 20B, KIMBALL TOWNHOMES ADDITION FOR THE PURPOSE OF CONSTRUCTING SINGLE-FAMILY ATTACHED RESIDENCES WITH DECKS IN THE R-2, TWO FAMILY RESIDENTIAL DISTRICT. (APPLICANT: BAYER CONSTRUCTION, OWNER: BAYER CONSTRUCTION AND APLETECH CONSTRUCTION, INC.).**

Hamilton noted that she is against the Extension in principal since it's been seven (7) years since the exception was originally granted. However, she moved to approve the extension since new information provided hints to the developers attaining a building permit and beginning construction/development on the sites.

Hamilton made a motion to approve the 180 Day Extension for Approved Exceptions

Seconded by Lavis and passed with a vote of 4-0.

**A PUBLIC HEARING TO A CONDITIONAL USE TO ALLOW FOR A NEW FACILITY ASSOCIATED WITH A RELIGIOUS ORGANIZATION TO INCLUDE, OFFICES, MEETING ROOMS, AND KITCHEN FOR THE ORGANIZATION MEMBERS; TWO (2) FOUR-BEDROOM APARTMENTS FOR STUDENTS ASSOCIATED WITH THE RELIGIOUS ORGANIZATION AND OFF-STREET PARKING LOTS LOCATED AT 904 SUNSET AVENUE, IN THE R-2/UO, TWO-FAMILY RESIDENTIAL DISTRICT WITH UNIVERSITY OVERLAY DISTRICT. (APPLICANT / 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 AND SIGHT-OBSCURING SCREENING FROM TWENTY-FIVE (25) FEET TO TEN (10) FOR A NEW FACILITY FOR A STUDENT RELIGIOUS ORGANIZATION LOCATED AT 904 SUNSET AVENUE, IN THE R-2/UO, TWO-FAMILY RESIDENTIAL DISTRICT WITH UNIVERSITY OVERLAY DISTRICT. (APPLICANT / OWNER: ECUMENICAL CAMPUS MINISTRY – WAIDE PURVIS, CHAIRMAN)**

Johnson presented both staff reports with recommendation of approval of both items, both with three (3) conditions.

Hamilton asked if property is sold to another entity, does the exception go with land and sale.

Johnson answered that the exception is tied with the land and campus ministry use.

Hardy added that the Exception should only apply to the facility.

Hamilton concerned with the wording in the Staff Report about tree maintenance and care. Landscaping should be maintained and in compliance with city codes. Maintain the number of trees, not necessarily the existing trees which could be lost.

Hardy opened the public hearing.

The applicant, Waide Purvis, and the ECM pastor, David Jones, were present. Jones spoke before the board and assured that the project would be of the most upmost quality and contribute to the neighborhood aesthetic.

Jones also informed the Board that the preexisting building was to be renovated but was told that it would be more cost effective and easier to demolish the structure and building a new building.

Jones also addressed Hamilton's concerns over landscaping and discussed how ECM plans to assemble a garden team to maintain landscaping and a proposed garden space north of the building.

Jones also discussed a proposal for a patio and additional landscaping to the south of the building.

Hardy closed the public hearing.

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

**PRESENT USE:** R-2/UO, Two-Family Residential District with University Overlay District

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

**A. Compliance with all applicable regulations:** The application site plan shows a twenty (20) 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/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 proposed meeting space, business office and apartment units for ECM, a religious organization, should have a minimal adverse impact on the surrounding neighborhood. Recently an eight (8) unit, multiple-family dwelling, with a total of ten (10) bedrooms was demolished in order to prepare for the new ECM building. In regards to the residential component of the proposed use, there will be a reduction in intensity. The building plans shows two (2) four-bedroom dwelling units that include living rooms, kitchens and two (2) bathrooms in each unit. 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 (20) 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 the required eight stalls for the two (2) dwelling unit were occupied and the two (2) staff members have vehicles and attend the large meetings; that will leave ten (10) 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 ten (10) 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. There were nine (9) neighbors in attendance including two from ECM.

**C. Domination by use over neighboring properties:** The proposed use of meeting space, business office and apartment units for the Ecumenical Campus Ministry should not dominate over the uses of the neighboring properties.

- 1. Location, nature, and height of physical improvements:** The proposed structure will be two-stories tall or approximately twenty-three (23) feet in height, with a traditional residential design. The building footprint will be 2,826 square feet which is similar to the recently demolished structure. The total floor area of the two-story building will be approximately 5,700 square feet. The main floor will be accessed from the front door along Sunset Avenue or a handicapped accessible door on the south side of the building. The basement level and second floor will be accessed by an exterior stairway and landing on the east side of the structure.
- 2. 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 eighteen (18) off-street parking spaces are required for the proposed use of a mix of residential and office space. This was derived by using the parking requirement for the apartment units as four (4) spaces per four-bedroom unit (2 four-bedroom units = 8 spaces) and the parking requirements for businesses as one (1) space per 200 square feet of floor area (1,919 square feet of floor area on

the main floor/ 200 = 10 spaces).

Twenty (20) 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. The site plan shows the installation of bike racks and the application states that bike traffic will be promoted. 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 and a new sidewalk is to be installed along Sunset Avenue. Access to the subject site is adequate.

Hamilton made a motion to approve the Conditional Use under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for a new facility associated with a religious organization to include, offices, meeting rooms, and kitchen for the organization members; two (2) four-bedroom apartments for students associated with the religious organization and off-street parking lots, all of which are located in the R-2/UO, Two-Family Residential District with University Overlay District with the following conditions:

1. The Conditional Use shall apply only 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.

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 Ave.

**PRESENT USE:** R-2/VO, Two-Family Residential District with University Overlay District

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The proposed use as a new facility for a student religious organization requires a conditional use in the VO, 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/VO, Two-Family Residential District and University Overlay District. To the east and southeast are properties zoned R-M/VO, 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 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.

The minimum number of required off-street parking is eighteen (18) spaces for the mix of residential, business and meeting space. The applicant has proposed a parking lot of twenty (20) 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. In addition, an existing curb cut off of Sunset Avenue is proposed to be removed and a new sidewalk is to be installed along the curb.

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 eighteen (18) 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 two (2) 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 in the R-2/UO, Two-Family Residential District with University Overlay District with the following conditions:

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 developed as proposed.
3. The Conditional Use to allow the student religious organization shall be approved.

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

**A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW A DRIVEWAY TO BE GREATER THAN TWENTY-FOUR (24) FEET IN WIDTH AND TO REDUCE THE MINIMUM LANDSCAPED OPEN AREA REQUIRED IN THE FRONT YARD FROM SEVENTY-FIVE (75%) PERCENT TO APPROXIMATELY SEVENTY (70%) PERCENT FOR A PROPOSED ADDITION TO THE PAVED DRIVEWAY FOR AN EXISTING SINGLE-FAMILY DWELLING LOCATED AT 304 WALTERS DRIVE, IN THE R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT / OWNER: TREVOR BOSCH)**

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

Hamilton wanted clarification if the driveway was currently at twenty (20) feet which Johnson confirmed. Hamilton commented that the majority of properties in the neighborhood are all uniform in character.

Danner asked to see photos of subject property and wanted clarification if the existing driveway is currently twenty (20) feet. Johnson confirmed that it was.

Hamilton also wanted clarification if the extension will line up with the existing fence. Johnson confirmed that the proposed extension would line up with fence.

Hardy opened the public hearing.

No one from the public presented or spoke. Applicant was not present.

Hamilton asked what the maneuverability issue is with the current driveway. Johnson answered that it may have to do with parking an additional vehicle on the driveway instead of street.

Hardy closed the public hearing.

Hamilton discussed the uniformity of the widths, slopes, and appearance of driveways within the same neighborhood, but also the presence of boats and trailers parked on the driveway. Thus, she could not support the item in fear that many others in the area will follow suit, especially since no evidence was presented to support that the applicant had a unique maneuverability issue with site.

Members of the Board also brought up the point that there was no real need for width extension under the original premise that it was for maneuverability purposes.

Johnson commented that even if denied, applicant could still expand driveway to 24'

Hardy mentioned the letter from the adjacent neighbor in support of the proposed Exception.

Hardy also commented on the uniformity of the neighborhood.

Johnson again mentioned the letter of support from the adjacent property. Hamilton said that the standard is larger than the adjacent/nearby property.

Hamilton made a motion to deny the EXCEPTION under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow a driveway to be greater than twenty-four (24) feet in width and to reduce the minimum landscaped open area required in the front yard from seventy-five (75%) percent to approximately seventy (70%) percent for a proposed

addition to the paved driveway for an existing single-family dwelling located in the R-1, Single-Family Residential District.

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

The Board made the following findings of fact for the Exception at 304 Walters Drive

**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 are zoned R-1, Single-Family Residential District. The property is within a predominately residential neighborhood in the northeast area of the city. Minimal adverse impacts on adjacent properties are anticipated by approving the Exception. The property impacted the most by the proposed driveway addition is the property to the direct east of the subject site. The two lots have a common curb cut along Walters Drive that splits into two driveways leading to the respective attached garages. The application documents state “I have spoken with the neighbor at 300 Walters Dr who welcomes the idea and has no issue with the addition”.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** The Exception desired will not encroach upon any utility easements or vision clearance triangles. However, the expansion of the existing driveway beyond the allowed width of twenty four (24) feet may affect the public order along Walters Street. There are few to no properties along Walters Street and within the general neighborhood that have driveways extending beyond twenty-four (24) feet in width.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** The strict application of the regulations would require the proposed driveway to be no more than twenty-four (24) feet in width. At the allowed twenty-four (24) feet in width, the driveway would produce a total area of approximately 645 square feet. The open area in the front yard would be approximately seventy-three percent (73%) and equal a difference of sixty-eight (68) square feet from the proposed twenty-seven (27) foot driveway addition. It seems that a reasonable alternative is available to the applicant to expand the width of the current driveway to twenty-four (24) feet and meet the stated objectives of adding maneuverability to the driveway and space for parking.

Considering these factors and that the proposed addition to the driveway may impact the general order of the neighborhood, strict application of the regulations is not unreasonable.

**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 TEN (10) FEET FOR A PROPOSED FENCE ALONG ESTELLA DRIVE LOCATED AT 2105 PLYMOUTH ROAD, IN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT / OWNER: ZIFEI LIU)**

Johnson presented the staff report with recommendation of approval of the item with two (2) conditions.

Hardy opened the Public Hearing

Zifei Liu, applicant and property owner, addressed the Board who had no questions for the applicant.

Daryl Donahey, neighbor living at 2041 Estella Dr., addressed the Board and Property Owner/Applicant.

Donahey concerned with how partially constructed/proposed wooden fence would obstruct view, as well as the aging of proposed fence could affect the aesthetics of the neighborhood.

Donahey spoke in support of a wrought iron fence, chain link, or other type of fence as an alternative that would allow relative transparency and visibility.

Hamilton informed Donahey that by Code, applicant could build wooden fence in zone, although closer to house and within setback limits.

Donahey understood this but also expressed concern with how code should be followed and the fence should be kept away from the street. Donahey is concerned with maintaining the aesthetics and quality of the neighborhood.

Hardy closed the public hearing

Board discussed three letters were received, one concerned with school bus drop offs and visibility. Board concluded that the sender did not fully understand that proposed fence would not be 10' back from street curb but 10' from property line.

Hamilton noted the concern for neighborhood aesthetics and views and that the chosen fence material does not necessarily reflect typical side yard fences that serve as a front yard. Hamilton also mentioned that the Staff Report does not completely reflect the Board's past decisions in regards to fences, corner lots, and also how proposed fence would not alter order of the neighborhood.

Board spoke to applicant and gave the option to either deny request or table the item for the

next meeting on July 9, 2014 to allow time for applicant to come up with alternatives.

Danner moved to table the item for the July 9, 2014 hearing

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

Respectfully submitted by,

Everett Haynes, Planning Intern