

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, November 12, 2014
7:00 PM

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

MEMBERS ABSENT: Catherine Lavis

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

CONSIDER THE MINUTES OF THE OCTOBER 8, 2014 BOARD OF ZONING APPEALS MEETING.

Hamilton moved to approve the October 8, 2014 minutes which was seconded by Danner and passed with a vote of (4-0).

TABLE THE PUBLIC HEARING TO CONSIDER A CONDITIONAL USE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR A PROPOSED EXPANSION OF AN EXISTING RECYCLING CENTER USE LOCATED AT 801 FAIR LANE, IN THE LM-SC, LIGHT MANUFACTURING-SERVICE COMMERCIAL DISTRICT. (APPLICANT / OWNER: HOWIE'S ENTERPRISE, LLC – GREG WILSON AND HOWARD WILSON)

TABLE THE PUBLIC HEARING TO CONSIDER 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 FRONT YARD SETBACK FROM TWENTY-FIVE (25) FEET TO ZERO (0) FEET FOR PROPOSED OFF-STREET PARKING FOR PROPERTY LOCATED AT 801 FAIR LANE, IN THE LM-SC, LIGHT MANUFACTURING-SERVICE COMMERCIAL DISTRICT. (APPLICANT / OWNER: HOWIE'S ENTERPRISE, LLC – GREG WILSON AND HOWARD WILSON)

Thompson moved that the Board table the Public Hearing. Hamilton seconded the motion which passed on a vote of 4-0.

TABLE THE PUBLIC HEARING TO CONSIDER A VARIANCE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED LOT AREA FROM 20,000 SQUARE FEET TO APPROXIMATELY 10,400 SQUARE FEET FOR A PROPOSED OFF-STREET PARKING LOT LOCATED AT 611 S. 9TH STREET, IN THE LM-SC, LIGHT MANUFACTURING-

SERVICE COMMERCIAL DISTRICT. (APPLICANT / OWNER: HOWIE'S ENTERPRISE, LLC – GREG WILSON AND HOWARD WILSON)

TABLE THE PUBLIC HEARING TO CONSIDER 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 FRONT YARD SETBACK FROM TWENTY-FIVE (25) FEET TO ZERO (0) FEET; AND TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED SIDE YARD SETBACKS FROM SIX (6) FEET TO ZERO (0) FEET ALL FOR A PROPOSED OFF-STREET PARKING LOT FOR PROPERTY LOCATED AT 611 S. 9TH STREET, IN THE LM-SC, LIGHT MANUFACTURING-SERVICE COMMERCIAL DISTRICT. (APPLICANT / OWNER: HOWIE'S ENTERPRISE, LLC – GREG WILSON AND HOWARD WILSON)

Thompson moved that the Board table the Public Hearing. Hamilton seconded the motion which passed on a vote of 4-0.

A PUBLIC HEARING TO CONSIDER A VARIANCE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR MORE THAN ONE (1) SIGN PER ZONING LOT, LOCATED AT 1133 COLLEGE AVENUE IN THE C-1, RESTRICTED BUSINESS DISTRICT. (APPLICANT: EKOE ARCHITECTURE-EMILY KOENIG / OWNER: MANHATTAN MEDICAL CENTER, LLC)

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

Hardy opened the public hearing.

Bob Dieball, owner of the Manhattan Medical Center, and Emily Koenig, architect, addressed and informed the Board that the Variance is for an increase in internal way finding signage and not necessarily readable off of Claflin.

Hardy closed the public hearing.

The Board made the following findings of fact for the Variance at 1133 College Avenue

PRESENT USE: The Manhattan Medical Office campus.

CONDITIONS UNIQUE TO THE PROPERTY: There are conditions unique to the subject property. Two (2) large office buildings located on a single lot is not ordinarily found in the C-1, Restricted Commercial District. In addition, the site has a substantial amount of internal vehicular circulation that is connected to a larger medical office campus, which is unique to the C-1, Restricted Commercial District and the surrounding neighborhood. The proposed signs are designed so that the public and clients of the medical offices can be directed to the correct medical offices while navigating through the internal parking lots. The

need for the proposed signs is a function of the Manhattan Medical Office campus design and large internal vehicular circulation.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site is zoned C-1, Restricted Business District. To the south and west of the subject site are properties zoned R, Single-Family Residential District. These properties consist of single-family homes. To the north are properties zoned U, University District, C-1 District and PUD, Residential Planned Unit Development.

The Sign Regulations allow properties in the C-1 District to have a maximum gross surface area of a sign to not exceed one (1) square foot for each one (1) foot of linear street frontage which abuts the zoning lot (Section 6-202(D)). The subject site has approximately 761 feet of linear frontage along Claflin Road. The subject site could have signs that equal 761 square feet of total area. Combined, the proposed ground signs and existing signage have a total surface area of approximately 309 square feet; well below the maximum allowed area.

The proposed ground directional signs are not out of character with the surrounding properties along the collector street corridor. The signs are proposed to be consistent with an overall signage plan for the entire medical office campus in terms of size, location and materials. The location of the signs will generally not be seen by the adjacent residential properties to the south or west. The residential properties to the northeast and northwest are along Claflin Road and are in proximity to other types of commercial developments with similar types of signs. In addition, the distance the proposed ground signs are setback should minimize any effects. No adverse impacts are expected on adjacent properties.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS: The strict application of the Sign Regulation would not allow the signs to be installed as proposed. According to the applicant, "Locating specific buildings within the site can be difficult in its current state. Guests must come into the site with knowledge of building and level location. The landscaping surrounding the Medical Center has reached its mature growth over the years and seasonally masks specific landmarks and way-finding attributes of the site." The hardship from strictly applying the regulation maybe imposed on the medical office's clients and the general public, which in turn would cause an unnecessary hardship to the applicant. The signs act more as directional or informational signage, rather than a typical business sign that specifically advertises a business and their services or products. In addition, due to the Manhattan Urban Area Planning Board recommending approval of the amendment to the Manhattan Medical Center PUD, strict application may cause an unnecessary hardship by impacting the overall directional signage plan for the medical office campus.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed signs are setback a minimum of seventy-two (72) feet away from north property line along Claflin Road. The size and distance from the property line more than meets the minimum standards of the Sign Regulations for the C-1 District and should not impact the driving public. The purpose of the signs is to direct internal traffic to the correct parking areas and medical office buildings. Improving the informational and directional signage on the subject site should positively

impact the public by decreasing confusion of people trying to find the correct buildings.

RELATIONSHIP TO INTENT OF REGULATIONS: The design of the C-1 District is to provide for non-retail commercial, and business and professional activities adjacent to arterial and collector streets. The intent of the District is to be compatible with adjacent residential districts. The Sign Regulations for the C-1 District carry out the intent of the District by limiting the number of signs a lot can have to one (1) so that the property does not become over commercialized in appearance. The C-1 District does allow the total surface of area of all signs to be as large as one (1) square foot for each one (1) foot of linear street frontage which abuts the zoning lot. The subject site has approximately 761 feet of linear street frontage. The total square footage of all signs on the lot could be as large as 761 square feet. Considering the purpose of the proposed ground signs is to direct the public to the appropriate medical office buildings and the size of the proposed signage plan compared to what would be permitted on the subject site, the intent of the regulations are met.

Hamilton made a motion to approve a Variance to allow for more than one (1) sign per zoning lot in the C-1, Restricted Business District, with the following conditions of approval:

1. The Variance shall only apply to the proposed signs as shown on the site plan and outlined in the application documents.
2. The amendment to Ordinance No. 6451 and the Final Development Plan of the Manhattan Medical Center PUD is approved.
3. All applicable permits shall be obtained.

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

A PUBLIC HEARING TO CONSIDER 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 ZERO (0) FEET FOR A PROPOSED PRIVACY FENCE ALONG ANDERSON AVENUE FOR PROPERTY LOCATED AT 1101 VAIL CIRCLE, IN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT: ROBERT MCALLISTER / OWNER: CATHY E ASLIN, TRUST)

Johnson presented the staff report with the recommendation of approval with four (4) conditions.

Danner asked if the physical address will change. Johnson said that it probably would not change but deferred the question to the applicant to answer.

Hardy opened the public hearing.

Robert McAllister, applicant, said that the address would not change and that he was present to answer any questions.

Hamilton asked if the side of the fence that is finished will face Anderson. McAllister said the finished side will face Anderson.

Hamilton asked if there was access off of both Anderson and Vail Circle would the fence still need an Exception. Johnson said that the fence would still need an Exception because there would be two (2) front yards.

Hamilton said that the fence makes sense along Anderson and that she can support the request.

Hardy and Danner echoed Hamilton's comments.

Hardy closed the public hearing.

The Board made the following findings of fact for the Exception at 1101 Vail Circle

PRESENT USE: Single-family residential property

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: According to the Riley County Appraiser's Office, the principal structure was constructed in 1957 as a single-family home. At that time the property was located in the "A" First Dwelling House District, which allowed for front yard setbacks to be 25% of the lot depth but no more than 25 feet. It is presumed that the depth of the lot was measured from the lot line associated with the cul-de-sac to the south property line, thus allowing the building to be constructed where it currently sits, roughly eleven (11) feet from the south property line and twenty (20) feet from the north property line. Other than for what the Exception request is for, the subject site complies with all applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The area surrounding the subject site is a mix of single-family and two-family dwellings, with a combination of owner-occupied and rental units. In addition, there are a significant number of commercial properties located within the general neighborhood, especially to the east as Anderson approaches Seth Child Road. The subject site and surrounding properties are zoned in the R, Single-Family Residential District. Properties to the northeast are zoned C-1, Restricted Business District as well as the Manhattan Medical Center PUD. Properties to the southwest and northwest are zoned C-1, Restricted Business District with the majority of the uses being professional offices. Farther to the west, towards Seth Child Road, properties are either zoned C-2, Neighborhood Shopping District or located within the West loop Shopping Center PUD.

The proposed fence should not have a significant adverse impact to adjacent properties. Due to the location of the subject site at the end of a cul-de-sac, there are limited site lines that should be impacted by the proposed fence. Additionally, due to the design of the proposed fence and

the existing vegetation limiting the view of the fence, any adverse impacts to adjacent properties should be minimal. The adjacent properties that will be most impacted by the proposed fence are the neighbors to the direct east and west of the subject site. Similar to the subject property, these properties do not front Anderson Avenue. The property to the direct west is sited facing Rebecca Road, with its rear yard abutting the subject site. The property to the direct east of the subject site is sited in a similar form as the subject site, fronting Vail Circle. Additionally, there is a similar type of fence located in this properties' required front yard setback.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The granting of the Exception should not have an adverse effect on the public health, safety, morals, order, convenience, prosperity or general welfare. The Exception desired will not encroach upon the vision clearance triangle created by the private drive and Anderson as it is setback the appropriate distance. The proposed fence is setback near the driveway in order to allow for enough loading space and visual clearance for vehicles. The proposed fence will be encroaching upon three (3) utility easements located within the site. Five (5) foot wide utility easements are located along the south, east and west property lines. The property owners need to be aware that if access to the utility easement is required the cost of replacing the fence will be the responsibility of the property owners. The proposed fence will not substantially encroach on the street or change the visual effect of the setback lines as there are currently other fences and heavy vegetation located within the required front yard setbacks along Anderson Avenue. In addition, the proposed landscaping combined with the higher elevation of the subject site reduces the visual impact of the fence from Anderson Avenue.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: Under the R, Single-Family Residential District setback regulations, strict application would require that the proposed fence be located a minimum of twenty-five (25) feet from the front property line. Strict application of the regulations would only allow for the northern part of the lot to be fenced, as this portion lies outside of the required front yard setbacks. Due to the subject site being a through lot and the sites current access characteristics, fences would be allowed within the classified rear yard along Vail Circle. This alternative would have a visual effect on the setback lines along Vail Circle, thus impacting the adjacent properties. In addition, under current subdivision regulations, access to the subject site would be limited to Vail Circle and the yard along Anderson Avenue would be considered the rear yard. Therefore, allowing for fences along the south property line.

Considering these factors and that the proposed fence 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.

Thompson made a motion to approve an EXCEPTION to allow for the reduction of the minimum required twenty-five (25) foot front yard setback to zero (0) feet for a proposed fence along Anderson Avenue in the R, Single-Family Residential District, with the following conditions:

1. The Exception shall be limited to the proposed fence.
2. The proposed fence and landscaping shall be maintained in good condition.
3. The proposed fence shall be constructed as outlined in the application materials and site plan.
4. 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 UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK FROM FOURTEEN (14) FEET TO APPROXIMATELY ZERO (0) FEET FOR A THREE (3) FOOT TALL DECORATIVE LIMESTONE POST FENCE ALONG BLUEMONT AVENUE AND N. 4TH STREET; AND TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK FROM FOURTEEN (14) FEET TO APPROXIMATELY FIVE (5) FEET FOR A FENCE ALONG 4TH STREET ALL FOR PROPERTY LOCATED AT 402 BLUEMONT AVENUE, IN THE R-2/TNO, TWO-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT. (APPLICANT / OWNER: TIM AND ADENA WISER)

Haynes presented the staff report with the recommendation of approval with four (4) conditions

Danner asked for clarification on the location of the fence on the west side of the property. Haynes clarified that the fence will be located below the retaining wall.

Hardy opened the public hearing.

Tim Weiser, applicant, explained the proposal and stated that he was there to answer any questions the Board may have.

Hardy commended the work that the applicant has done on the property and said that he could support the proposal.

Hamilton said she appreciated the work the applicant has done to match the improvements the city has done.

Hardy closed the public hearing.

The Board made the following findings of fact for the Exception at 402 Bluemont Avenue.

PRESENT USE: Single-Family House

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: In 2009, the historic house structure was moved to its current position on the lot in order to make space for the Bluemont Avenue and 4th Street roundabout improvements. A Variance and Exception were requested and granted on July 9, 2008 in order to bring the property into compliance. The variance allowed the reduction of the minimum required lot area of 6,000 square feet to 5,700 square feet and a reduction of the minimum lot width of fifty (50) feet to thirty-two (32) feet. The exception allowed the reduction of the minimum fourteen (14) foot front yard setback along N. 4th Street to six (6) feet for the reduction of the existing house on the property.

Other than the Exception and Variances discussed above and the requested Exception to reduce the front yard setback, the subject site complies with all applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and the adjacent properties to the west and properties to the south are zoned R-2/TNO, Two-Family Residential District, with Traditional Neighborhood Overlay District. The properties to the south are separated from the subject site by Bluemont Avenue. The properties to the north are zoned R-1/TNO, Single-Family Residential District, with Traditional Neighborhood Overlay District, and separated from the subject site by an access alleyway. Properties to the east are zoned C-5, Highway Service Commercial District. Together, this zoning mix creates a wide variety and mix of uses with many residential types and commercial spaces and properties. Because of this mix of uses, the proposed fences will have little to no effect on adjacent properties. The fences will not impair drainage from adjacent properties, most notably from the adjacent property directly to the west, which is on higher ground.

The proposed fence materials are consistent with neighboring properties' building materials and also compliment the historical character of the house and the nearby roundabout. The fences will be constructed of quality materials and add to the aesthetic value of the area. The limestone decorative fence will align with the existing limestone retaining wall that runs along the north side of Bluemont Avenue and will not disrupt the visual qualities and alignment of the properties in the area. Wooden fences can be found on many properties within the immediate vicinity and the proposed wooden fence will be of high quality and design.

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

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed fence will not impact any known utility easements nor hinder vision at the traffic circle of Bluemont Avenue and 4th Street. The design of the wooden privacy fence was altered for it not to conflict with the vision triangle at the intersection of the alleyway and the sidewalk. The decorative front limestone column and chain fence will not hinder visibility since it will sit back a sufficient distance from the street. Proposed landscaping shrubs will also not hinder visibility and will remain low. Proposed species include low boxwoods or native grasses that shall be kept pruned at a low height in order to prevent hindrance to traffic visibility. An existing retaining wall on the southwest corner of the

lot installed by the city does not hinder traffic visibility and the proposed fences shall not either.

The proposed limestone column and chain fence will align with the existing limestone retaining wall that begins at the southwest corner of the property and runs westwards onto other properties. The limestone columns will also compliment the limestone material used in the retaining wall construction. This alignment and matching materials will help establish a uniform look throughout the properties and area.

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 would severely alter the design plan and prevent the property owners from building the fences as planned. The construction of the roundabout in 2009-2010 resulted in a significant loss of yard space for the property. If the exception is not granted, the fence will be required to be built at the fourteen (14) foot setback and greatly diminish the allowable enclosed area of the front yard. The six (6) foot privacy fence will align with the house which sits six (6) feet from the property line along 4th Street which already was brought into conformance in 2008. The decorative limestone fence will serve primarily as a landscaping feature that will compliment the aesthetics of the area and history of the property. This fence will also align with the existing limestone retaining wall onsite.

Considering these factors and that the fences will not adversely impact any vision triangles, adjacent properties, or the general public; it appears that the strict application of the regulations is 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 front yard setback from fourteen (14) feet to approximately zero (0) feet for a three (3) foot high limestone post and decorative chain rope fence along Bluemont Avenue and 4th Street and from fourteen (14) feet to approximately five (5) feet for a six (6) foot high wooden privacy fence along 4th Street in the R-2/TNO, Two-Family Residential District with a Traditional Neighborhood Overlay District with the following conditions:

1. The Exception shall be limited to the proposed fence.
2. The proposed fence and landscaping shall be maintained in good condition.
3. The proposed fence shall be constructed as outlined in the application materials and site plan.
4. All applicable permits shall be obtained.

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

Respectfully Submitted by,

Everett Haynes, Planning Intern
Chase Johnson, Planner