

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, December 10, 2014
7:00 PM

MEMBERS PRESENT: Harry Hardy, Chairperson; Ray Thompson; and Catherine Lavis

MEMBERS ABSENT: Connie Hamilton, Vice Chairperson; Angie Danner

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

CONSIDER THE MINUTES OF THE NOVEMBER 12, 2014 BOARD OF ZONING APPEALS MEETING.

Thompson moved to approve the November 12, 2014 minutes which was seconded by Lavis and passed with a vote of (3-0).

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 EIGHT (8) FEET FOR A NEW PROPOSED INDUSTRIAL BUILDING ASSOCIATED WITH THE EXPANSION OF AN EXISTING RECYCLING CENTER, 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 motioned that the Board table the Public Hearings on the items. Lavis seconded the motioned which passed on a vote of 3-0.

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 motioned that the Board table the Public Hearings on the items. Lavis seconded the motioned which passed on a vote of 3-0.

A PUBLIC HEARING TO CONSIDER A VARIANCE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED LOT AREA FROM 6,000 SQUARE FEET TO 5,970 SQUARE FEET; AND TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED LOT DEPTH FROM 100 FEET TO 90 FEET ALL FOR A NEW PROPOSED MULTI-FAMILY RESIDENTIAL BUILDING LOCATED AT 1208 POMEROY STREET, IN THE R-3/M-FRO/UO, MULTI-FAMILY RESIDENTIAL DISTRICT WITH A MULTI-FAMILY REDEVELOPMENT OVERLAY DISTRICT AND UNIVERSITY OVERLAY DISTRICT. (APPLICANT / OWNER: ANDREW MARTEN)

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 FOURTEEN (14) FOOT FRONT YARD SETBACK TO TEN (10) FEET FOR A NEW PROPOSED MULTI-FAMILY RESIDENTIAL BUILDING LOCATED AT 1208 POMEROY STREET, IN THE R-3/M-FRO/UO, MULTI-FAMILY RESIDENTIAL DISTRICT WITH A MULTI-FAMILY REDEVELOPMENT OVERLAY DISTRICT AND UNIVERSITY OVERLAY DISTRICT. (APPLICANT / OWNER: ANDREW MARTEN)

Johnson presented the staff reports of the two items together with the recommendation of approval for the requested Variance with four (4) conditions and denial for the requested Exception.

Hardy opened the Public Hearing.

Andrew Marten, the applicant, addressed the Board.
Hardy asked that if the Exception was denied, would it severely affect the project.

Marten answered that moving the front setback forward would simply provide more living space for the dwellings.

Tracy Anderson, local property owner, expressed his support for the recommendation of approval for the Variance and denial for the Exception. Anderson explained that moving the front setback forward would be out of character for the neighborhood. Anderson also expressed concern for the height of the proposed building in a neighborhood that is predominantly single-story and how the building may be too big on this relatively small piece of land. Anderson also asked for clarification if the project would meet the M-FRO Guidelines and where the stairs would be located, internally or externally.

Fay Fattaey, local property owner, expressed concern for parking and that the project would not supply enough off-street parking for residents and visitors which could create a problem in the neighborhood.

Lavis asked the applicant where the stairs would be located.

Marten answered that the stairs would be located at the back of the building.

Lavis asked if the site would be landscaped.

Marten answered that the front will be landscaped.

Hardy closed the public hearing.

Thompson expressed concern for the building height and size.

Hardy expressed support for the Variance request but could not support the Exception request. Hardy also elaborated that the applicant would provide eleven (11) parking spaces when only ten (10) are needed per regulations.

The Board made the following findings of fact for the Variance at 1208 Pomeroy Street:

PRESENT USE: Vacant, Single-Family Dwelling

CONDITIONS UNIQUE TO THE PROPERTY: The property is unique in that it is located within a subdivision, the Andrew J. Meade Addition, which was originally platted in 1947 with lots that are smaller than what is common within the traditional Ward Districts. As originally platted, lots within the Ward District are typically 7,500 square feet, measuring 50-foot wide and 150-foot deep. Lots within the Andrew J. Meade Addition range from 56 feet to 109 feet in lot width and lot depths ranging from 78 feet to 100 feet, resulting in smaller lots in terms of lot depth and total area when compared to traditional Ward lots. The minimum lot depth and lot size requirements of the Zoning Regulations were written to address the typical

dimensions of lots within the Ward Districts. The subject property is 5,970 square feet in area and holds 90 feet of lot depth, which is atypical of traditional ward lots within the zoning district and the general neighborhood.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and properties within the general area are zoned R-3/M-FRO/UO, Multiple-Family Residential District with a Multi-Family Redevelopment Overlay and University Overlay. The University Overlay ends a few lots to the east of the subject site, where properties are zoned R-3/M-FRO, Multiple-Family Residential District with a Multi-Family Redevelopment Overlay. The vast majority of properties within the surrounding area are rental units, with a few scattered properties that are owner-occupied. Adjacent properties to the east along the north and south side of Pomeroy Street are mostly single-family designed structures, which have been converted into two-family rental properties. In addition, there are a few multi-family apartment buildings located east along Pomeroy Street. To the west of the subject site, along the north side of Pomeroy Street, there are several apartment complexes. An off-street parking lot associated with a fifteen (15) unit apartment building is located to the direct west of the subject site.

There should be minimal negative effects on adjacent properties in terms of the intensity of use. The number of occupants for the proposed use will be consistent with adjacent properties. An increase to noise and traffic associated with the added density is likely, although these are excepted characteristics within the R-3/M-FRO District. The proposed unit-mix requires ten (10) off-street parking spaces. This was derived by using the parking requirements for dwelling units with two or more bedrooms, which is 1 parking space per bedroom (10 bedrooms = 10 parking spaces). The applicant has proposed eleven (11) off-street parking spaces to provide more parking than the minimum requirements as an effort to reduce on-street parking. Sight obscuring screening is required for the proposed off-street parking, which City Administration has recommended as a condition of approval.

The subject property is within an area that has been identified as a redevelopment district and was up-zoned to R-3/M-FRO District in October, 2003. The intent of the up-zoning is to encourage the area to develop at a higher intensity than currently exists, which has become common in the area. The properties that could potentially be impacted the most by the proposal are the lots to the direct north, northeast and east of the subject site. Currently, these properties are all two-family dwellings. Higher density properties containing either two-family or multi-family dwellings are established within the surrounding neighborhood, which limits the impacts the proposal has on these adjacent properties.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS: In order to meet the minimum lot size requirement of the R-3/M-FRO/UO District, the applicant would need to maintain the use as a single-family dwelling. The subject property meets the required minimum lot size for single-family detached dwellings within the R-3/M-FRO District, which is 5,000 square feet. Considering that the subject property is within an area that is envisioned for higher density residential development that currently includes numerous properties that have been converted into two-family and multi-family rental units that do not meet the minimum lot size requirements, it may be unreasonable to limit the use of the subject property to a single-family dwelling. This appears to be an unnecessary hardship to

the applicant. In order for the property owner to overcome this hardship, the Variance would need to be granted for the minimum lot depth and lot area or additional land would need to be acquired. The strict application of the minimum lot depth requirement within the R-3 District would restrict the property from being developed for any use.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed structure will maintain a consistent character with the neighborhood by conforming to the design and site layout standards required under the M-FRO regulations. The residential building will not encroach upon any platted easements or vision clearance triangles located on the subject site. The proposal was reviewed by the City's Traffic Engineer to determine if the parking layout is acceptable to City staff. The City Engineer determined that the proposed layout was acceptable and would not require modifications from a traffic perspective. The approval of the Variance request should not have any adverse effects to the public health, safety, and welfare.

RELATIONSHIP TO INTENT OF REGULATIONS:

The intent of the regulations for minimum lot size and width is to ensure that properties are developed at a density that is consistent with the intent of the zoning district. This is accomplished through adequate front, rear and side yard setbacks and the assurance that adequate space is available for appropriate structures and off-street parking. The proposed site plan maintains the appropriate rear yard of twenty-five (25) feet and side yard setbacks of six (6) feet, while providing enough space to construct the proposed three-story, three-family structure. The site plan also provides the required number of parking spaces for the proposed unit-mix.

With the up-zoning of the subject property and surrounding area in 2003, this area has been identified as a redevelopment area, with the intention being that the area will provide for higher-density residential development. The R-3 District is designed to provide for multiple-family development at a density no greater than one (1) dwelling unit per 1,000 square feet. The density of the proposed use is less than the maximum density permitted within the R-3 District.

In addition, it is the intent of the Multi-Family Redevelopment Overlay (M-FRO) Overlay District to provide a framework within which higher density housing can be built, while being sensitive to surrounding neighborhoods and the public streetscape with regard to design and site layout. According to the application documents, "the new building would be designed to conform to the design guidelines of the MFRO zoning regulations, and would overall be a significant improvement to the lot as it currently sits." Considering these factors, the proposed Variances meet the intent of the R-3/M-FRO/VO District regulations.

Lavis moved that the Board approve the Variance to allow for the reduction of the minimum required lot area from 6,000 square feet to 5,970 square feet; and to allow for the reduction of the minimum required lot depth from 100 feet to 90 feet all for a new proposed multi-family residential building located in the R-3/M-FRO/VO, Multi-Family Residential District with a Multi-Family Redevelopment Overlay District and University Overlay District, with the

following conditions:

1. All Multi-Family Redevelopment Overlay District use limitations and compatibility standards shall be followed as outlined in Section 4-112(E) and 4-112(F).
2. Site obscuring screening shall be required for the proposed off-street parking as outlined in Section 7-102(E)(5).
3. A modified site plan shall be required that conforms to all other applicable regulations.
4. All applicable permits shall be obtained.

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

The Board made the following findings of fact for the Exception at 1208 Pomeroy Street:

PRESENT USE: Vacant, Single-Family Dwelling

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject site complies with all applicable regulations, other than for what the Exception and concurrent Variance requests are for. The existing house sites approximately twelve (12) feet from the front property line along Pomeroy Street measured to the roof eave above the front door, which is considered the front porch. For the R-3/M-FRO District, the minimum front yard setback is fourteen (14) feet except that front stoops, roof eaves, porches, porticos, and balconies may be as close as ten (10) feet to the front property line.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and properties within the general area are zoned R-3/M-FRO/UO, Multiple-Family Residential District with a Multi-Family Redevelopment Overlay and University Overlay. The University Overlay ends a few lots to the east of the subject site, where properties are zoned R-3/M-FRO, Multiple-Family Residential District with a Multi-Family Redevelopment Overlay. The vast majority of properties within the surrounding area are rental units, with a few scattered properties that are owner-occupied. Adjacent properties to the east along the north and south side of Pomeroy Street are mostly single-family designed structures, which have been converted into two-family rental properties. In addition, there are a few multi-family apartment buildings located east along Pomeroy Street. To the west of the subject site, along the north side of Pomeroy Street, there are several apartment complexes. An off-street parking lot associated with a fifteen (15) unit apartment building is located to the direct west of the subject site.

There appears to be a few properties along Pomeroy that encroach into the fourteen (14) foot front yard setback. The few properties that appear to be located within the required setback are due to front stoops, porches, porticos, or balconies, which are allowed to be as close as ten (10) feet to the front property line. The property that could potentially be impacted the most by the proposal is the lot to the direct east of the subject site. The mature vegetation located along the east lot line of the subject site does act as a visual buffer, although it is uncertain how much vegetation is located within the subject site's boundaries or if it is feasible to preserve during redevelopment of the site. Maintaining the required setbacks for the subject property seems to be necessary to minimize adverse impacts, due to the increase in density and smaller lot size.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposal will not encroach upon any platted easements or vision clearance triangles located on the subject site. The proposal was reviewed by the City's Traffic Engineer to determine if the parking layout is acceptable to City staff. The City Engineer determined that the proposed layout was acceptable and would not require modifications from a traffic perspective.

According to the application documents, "the new building would be designed to conform to the design guidelines of the MFRO zoning regulations, and would overall be a significant improvement to the lot as it currently sits." Although the proposed structure will maintain a consistent character with the neighborhood in terms of site and building design standards, the Exception may impact the established setback lines along Pomeroy Street.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The existing residential structure is setback approximately twelve (12) feet from the front property line along Pomeroy Street, measured to the roof eave above the front door. The minimum front yard setback is fourteen (14) feet except that front stoops, roof eaves, porches, porticos, and balconies may be as close as ten (10) feet to the front property line. According to the application documents, "The purpose of this Exception request is to allow for a larger footprint of the building to accommodate a larger, more usable space on the main floor..." Due to the proposed increase in density and smaller lot size, it seems necessary to maintain all required setbacks for the subject site. While the applicant may need to modify the interior layout, it does not seem to be unreasonable in this case. Considering these factors and that the proposal may have an adverse impact on adjacent properties, the strict application of the regulations appears to be reasonable.

Thompson moved that the Board deny the Exception to allow for the reduction of the minimum required fourteen (14) foot front yard setback to ten (10) feet for a new proposed multi-family residential building located in the R-3/M-FRO/UO, Multi-Family Residential District with a Multi-Family Redevelopment Overlay District and University Overlay District.

Lavis seconded the motion which passed with a vote of 3-0.

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 ATTACHED CARPORT LOCATED AT 1836 PLYMOUTH ROAD, IN THE R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT / OWNER: JUAN MALDONADO)

Johnson presented the staff report with the recommendation of denial.

Hardy opened the Public Hearing.

Sandra Moser, representative of the applicant, Juan Maldonado, addressed the Board and elaborated on the reasoning for the carport. The carport would provide space and shelter for two vehicles while the garage would house an antique car and motorcycle. The garage is not of normal size and the space to the side of the garage is not sufficient to build a carport so this Exception is needed to allow a carport to be built onto the front of the garage.

Susan Tobolski, local resident at 1823 Plymouth Road, discussed how the subject lot is a major blind spot on Plymouth Road. Tobolski stated that if a carport addition was allowed, it could create safety issues for children and the elderly who may be walking or playing in the street. Tobolski also stated that a carport can potentially devalue property values in the area. Tobolski asked that the Board deny the item.

Hardy closed the Public Hearing.

The Board concurred with the staff report and also mentioned two received letters that expressed opposition to the proposed carport over safety and property value concerns.

The Board made the following findings of fact for the Exception at 1836 Plymouth Road:

PRESENT USE: Single family home

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject property was built in 1987, according to the Riley County Appraiser's office. At that time the property was located in the same zoning district as today (R-1, Single-Family Residential District), which requires a front yard setback of twenty-five (25) feet. Currently, the garage appears to be encroaching into the required front yard setback. It is presumed that the front yard setback was measured to the foundation of the main portion of the structure, which is approximately twenty-five (25) feet from the front property line, and not the attached garage. No other information could be obtained but it does not appear to have conformed to the Zoning Regulations at the time.

Since the proposed carport is to be located at the property line and essentially covers the entire driveway, it will encroach into the vision clearance triangle created by the driveway and Plymouth Road. Other than being noncompliant with the vision clearance triangle and the Exception request, the subject site complies with all other applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site is zoned R-1, Single-Family Residential District, and is located in a predominantly single-family neighborhood. To the east of the subject site are properties zoned R-2, Two-Family Residential. Located to the west of the subject site are properties zoned R, Single-Family Residential. To the north of the subject site is a residential PUD, Plymouth Landing.

The proposed attached carport is not a minor encroachment into the front yard setback and

would seem to visually disrupt the building line along Plymouth Road. Although Plymouth Road starts to transition from linear to a curvilinear street at the subject site, it seems that the potential impact would not be alleviated due to the amount of encroachment. There are currently no other property along Plymouth Road within the area that have similar carports located within the front yard setback. The proposed attached carport seems to cause an adverse visual impact on the adjacent properties, therefore may be inappropriate.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed attached carport does encroach into the vision clearance triangle created by the driveway and Plymouth Road. In order for the proposal to be located within the vision triangle a Variance to the regulation would be required and has not been applied for at this time. Additionally, the location of the carport may affect the streetscape along Plymouth Road. There are no other properties along Plymouth Street or within the general neighborhood that have carports encroaching into the front yard setback.

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 attached carport to be built as proposed. The existing attached garage is setback approximately seventeen (17) feet from the north property line which is considered a side lot line. The R-1, Single-Family Residential District requires a minimum side yard setback of eight (8) feet. An expansion of the existing garage appears to be feasible to accomplish the applicant's goals. While these alternative projects may require additional Exceptions, there appears to be reasonable alternatives available to the applicant.

When all facts and circumstances are considered, strict application of the regulations is not unreasonable.

Thompson moved that the Board deny the 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 attached carport located in the R-1, Single-Family Residential District.

Lavis seconded the motion which passed with a vote of 3-0.

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 APPROXIMATELY TWENTY-THREE (23) FEET FOR AN EXISTING INSTITUTIONAL BUILDING LOCATED AT 1213 BAKERS WAY, IN THE R, SINGLE-FAMILY RESIDENTIAL WITH UO, UNIVERSITY OVERLAY. (APPLICANT: BBN ARCHITECTS—PATRICK SCHAUB / OWNER: AMERICAN INSTITUTE OF BAKING)

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

Hardy opened the Public Hearing.

Patrick Schaub, the applicant and representative of the American Institute of Baking (AIB), discussed how the Exception is needed for the replatting of the lots and proposed project to move forward.

Hardy closed the Public Hearing.

The Board made the following findings of fact for the Exception at 1213 Bakers Way:

PRESENT USE: American Institute of Baking (AIB)

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 with UO, University Overlay. The surrounding properties to the north, east, and southeast are zoned R, Single-Family Residential while properties directly to the south are zoned R-3, Multi-Family Residential with UO, University Overlay. To the west is Kansas State University, zoned U, University. This zoning mix creates a wide variety of uses, both residential and educational. While surrounded by housing, the property is relatively isolated by foliage and high trees that screen the property from adjacent properties. The property is only accessible by one street that only serves the property and terminates on the property.

The nonconformity has existed for more than twenty (20) years without any complaints from neighboring property owners. It appears that the adjacent property owners are not adversely impacted by the existing building encroaching into the twenty-five (25) foot front yard setback.

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. The non-conformity has existed for more than twenty (20) years, when the building was expanded in the early 1990s. During this period, the condition has existed without any adverse effects on the public.

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 a portion of the existing building that protrudes into the setback be removed or altered so that it is in compliance with the regulations. The structure would need to be moved approximately 14.4 inches to the southwest to be located outside of the minimum twenty-five (25) foot front yard

setback. Although a small portion of the building was constructed in the required setback, it would be unreasonable to require it to be removed or altered under the circumstances. Because the structure has minimal impact on adjacent properties and public health, safety and general welfare, strict application of the regulations seems to be unreasonable.

Thompson moved that the Board approve the 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 approximately twenty-three (23) feet for an existing building located in the R, Single-Family Residential with UO, University Overlay with the following conditions:

1. The Exception shall be limited to the existing institutional use as outlined in the application documents and shown on the applicant's site plan.

Lavis seconded the motion which passed with a vote of 3-0.

Respectfully Submitted by,

Everett Haynes, Planning Intern