

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, May 13, 2015
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

CONSIDER THE MINUTES OF THE FEBRUARY 11, 2015 BOARD OF ZONING APPEALS MEETING.

Thompson moved to approve the February 11, 2015 minutes which was seconded by Hamilton and passed with a vote of (4-0).

CONSIDER A REQUEST FOR A 180 DAY EXTENSION OF AN APPROVED EXCEPTION TO ALLOW FOR A REDUCTION IN THE MINIMUM REQUIRED NUMBER OF OFF-STREET PARKING SPACES FROM 63 PARKING SPACES TO 3 PARKING SPACES FOR A PROPOSED SELF-STORAGE UNIT BUSINESS ON PROPERTY LOCATED AT 4850 EUREKA DRIVE IN THE I-3/AO, LIGHT INDUSTRIAL DISTRICT AND AIRPORT OVERLAY DISTRICT. (APPLICANT / OWNER: JON MANSEL).

Hamilton asked for clarification on the staff memorandum. Johnson explained the timeline of the project. Hamilton then asked how this project compares with some of the other Extension requests. Johnson stated that this is the second 180-Day Extension request since a building permit has been issued and while the last Extension was approved the Board felt that there has to be a point where the market is no longer the reason to allow the Extensions to continue.

Hamilton moved that the board deny the request for the extension. Danner seconded the motion which passed on 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 APPROXIMATELY NINETEEN (19) FEET FOR A PROPOSED PRIVACY FENCE; AND TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED SIXTY (60) FOOT FRONT YARD SETBACK TO APPROXIMATELY TWENTY (20) FEET FOR AN ACCESSORY STRUCTURE LOCATED AT 300 FORDHAM, IN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT / OWNER: DREW RIFFEL)

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

Hardy opened the public hearing.

Drew Riffel, the applicant, addressed the Board to explain that it was a misinterpretation of the zoning code. The board had no further questions for Riffel.

The Board made the following findings of fact for the Exception at 300 Fordham Road.

PRESENT USE: Single-family residential property

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, Single-Family Residential District. The area is an established neighborhood with primarily single-family residential development with the majority of the properties being owner-occupied.

The existing above ground pool and proposed fence should not have a significant adverse impact to adjacent properties. There are other accessory garage structures located within the required sixty (60) foot front yard setback along Fordham Road. In addition, there appears to be existing structures located within the required twenty-five (25) foot front yard setback, including the aforementioned detached garages along Fordham Road and Drake Drive. Due to the required proposed fence limiting the view of the above ground pool, and the mature trees located within the right-of-way along Fordham Road limiting the view of the proposed fence, any adverse impacts to adjacent properties should be minimal. The adjacent property owner that will be most impacted by the proposed fence is the neighbor to the direct east of the subject site. The existing mature vegetation along the east property line limits the view of the proposed fence and a form letter was received by this property owner offering their support for the Exception requests.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The existing above ground pool is proposed to be enclosed by a six (6) foot tall privacy fence to provide safety provisions for the neighborhood. The proposed fence will not substantially encroach on the street or change the visual effect of the setback along Fordham Road. The existing mature trees located within the right-of-way along Fordham Road and the existing mature vegetation along the east property line limits the view of the proposed fence. Currently, there appears to be both primary and accessory structures located within the required front yard setback along Fordham Road. In addition, the proposed fence will not encroach upon any vision clearance triangles or known utility easements located within the subject site. The granting of the Exception requests should not have an adverse effect on the public health, safety, morals, order, convenience, prosperity or general welfare.

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 pool be relocated so that it is in compliance with the regulations. The structure would need to be moved approximately forty (40) feet to the south in order to be located outside of the minimum sixty (60) foot front yard setback required for an accessory structure. Since the property is a corner lot and has two (2) front yards, the area in which the pool could be located under compliance with the zoning regulations is limited. The zoning regulations state that, "Setbacks for accessory structures is generally sixty (60) feet except that accessory buildings on corner lots shall be set back from the side street a distance not less than that required for the principal structure". Since the house is currently sited facing Fordham Road, Drake Drive is considered the side street, which would allow an accessory structure to be setback a minimum of twenty-five (25) feet. It appears that the applicant misinterpreted the zoning regulations in regards to the required setback for an accessory structure. The application documents state in part, "I received a free pool built on my property at the time to my understanding of setbacks and started to erect [the] fence according to code. I did not fully understand corner lot setbacks. The pool was placed 20ft behind property line missing the setback by 5 ft. The fence can be moved accordingly. Building pool is massive undertaking...trying all appropriate option[s]".

Considering these factors and that the proposed fence and accessory structure will not impact adjacent properties or the general public, the strict application of the regulations appear to be unreasonable.

Hamilton motioned 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 nineteen (19) feet for a proposed privacy fence; and to allow for the reduction of the minimum required sixty (60) foot front yard setback to approximately twenty (20) feet for an accessory structure located in the R, Single-Family Residential District, with the following conditions of approval:

1. The proposed fence shall to be relocated to approximately nineteen (19) feet from the front property line.
2. The Exception request shall be limited to the existing above ground pool and relocated fence, as explained in the application documents.
3. The subject site shall be developed as proposed in the application documents.
4. All applicable permits shall be obtained.

Thompson seconded the motion which passed on a vote of (4-0).

A PUBLIC HEARING TO CONSIDER A VARIANCE FROM THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO NOT BE REQUIRED TO LOCATE LANDSCAPED OPEN SPACE WITHIN SEVENTY (70) FEET FROM ALL PARKING SPACES FOR PROPOSED

IMPROVEMENTS TO AN EXISTING OFF-STREET PARKING LOT LOCATED AT 2312 STAGG HILL ROAD, IN THE C-5, HIGHWAY SERVICE COMMERCIAL DISTRICT. (APPLICANT / OWNER: RUSSELL BRIGGS)

Johnson presented the staff report and recommended denial of the variance.

Hardy questions the use of the two parking spaces as suitable landscaping. Johnson states that they could do more landscaping, but this is the minimum.

Hardy opened the meeting to public hearing.

Russ Briggs, the applicant, stated that all the spots are currently filled and the two parking spots are needed and the landscaping would be in a service area, away from the public's view.

Hardy asked Johnson if other landscaping options were looked at. Johnson said neither he nor the applicant had explored the other alternatives to landscaping.

Hardy and Hamilton both expressed concerns that the minimum requirements would not help the lot look landscaped, but the standards should still apply.

Thompson suggested that there could be an alternative landscaping option. Johnson commented that the current zoning regulations are fairly black and white and are not arranged to be flexible under the Variance request due to the unique condition and hardship standards.

Hamilton moved the item be tabled to allow the applicant to come up with new landscaping options.

Thompson seconded the motion to table the item, which passed on a vote of (4-0).

Respectfully Submitted by,

Amelia Lewis, Planning Intern & Chase Johnson, Planner