

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
City Commission Room, City Hall  
1101 Poyntz Avenue  
Wednesday, June 10, 2015  
7:00 PM

MEMBERS PRESENT: Harry Hardy, Chairperson; Angie Danner; Catherine Lavis

MEMBERS ABSENT: Ray Thompson; Connie Hamilton, Vice Chairperson

STAFF PRESENT: Chase Johnson, Planner; Amelia Lewis, Planning Intern

**CONSIDER THE MINUTES OF THE MAY 13, 2015 BOARD OF ZONING APPEALS MEETING.**

Danner moved to approve the May 13, 2015 minutes which was seconded by Lavis and passed with a vote of (3-0).

**A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE CONSTRUCTION OF A TWO-FAMILY DWELLING UNIT, IN WHICH BOTH OF THE DWELLING UNITS ARE GREATER THAN SIX-HUNDRED (600) SQUARE FEET IN FLOOR AREA AND WHERE ONE OF THE DWELLING UNITS HAS MORE THAN TWO BEDROOMS, LOCATED AT 910 OSAGE STREET, WITHIN A R-M/TNO, FOUR-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY. (APPLICANT: EMILY KOENIG / OWNER: BRANDT RUDZINSKI)**

**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 REAR YARD SETBACK TO APPROXIMATELY TWO (2) FEET FOR AN EXISTING STRUCTURE; A REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK FROM SIXTY (60) FEET TO APPROXIMATELY FORTY-SEVEN (47) FEET FOR AN EXISTING DETACHED GARAGE; AND A REDUCTION OF THE MINIMUM REQUIRED REAR YARD SETBACK FROM FIVE (5) FEET TO APPROXIMATELY TWO (2) FEET FOR AN EXISTING DETACHED GARAGE. THESE EXCEPTIONS ARE FOR AN EXISTING RESIDENTIAL HOME LOCATED AT 214 S. 6<sup>TH</sup> STREET, IN A R-M/TNO, FOUR-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY. (APPLICANT: M.O.D. DESIGN / OWNER: DEREK RICHARDS)**

**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 6,500 SQUARE FEET TO APPROXIMATELY 5,500 SQUARE FEET; AND TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED LOT DEPTH FROM ONE-HUNDRED (100) FEET TO SEVENTY-FIVE (75) FEET, ALL FOR AN EXISTING RESIDENTIAL STRUCTURE LOCATED AT 214 S. 6<sup>TH</sup> STREET, IN A R-M/TNO, FOUR-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY. (APPLICANT: M.O.D. DESIGN / OWNER: DEREK RICHARDS)**

Hardy motioned that the Board table the Public Hearing for the three (3) items. The motion was seconded by Danner which passed on a vote of (3-0).

**A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE CONSTRUCTION OF A TWO-FAMILY DWELLING UNIT, IN WHICH BOTH OF THE DWELLING UNITS ARE GREATER THAN SIX-HUNDRED (600) SQUARE FEET IN FLOOR AREA AND WHERE BOTH OF THE DWELLING UNITS HAS MORE THAN TWO BEDROOMS, LOCATED AT 531 BLUEMONT AVENUE, WITHIN A R-2/TNO, TWO-FAMILY RESIDENTIAL DISTRICT AND**

**TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT. (APPLICANT: GREGG WEGE / OWNER: RANDY KOKENGE)**

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

Hardy opened the meeting for public hearing. Neither applicant nor owner was present. Hardy closed the public hearing.

The board had no further questions. Danner made a motion to approve a CONDITIONAL USE under the terms of the Manhattan Zoning Ordinance based on the following conditions of approval.

The Board made the following findings of fact for the Conditional Use at 531 Bluemont Avenue.

**PRESENT USE:** Under Construction two-family dwelling

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The proposed Conditional Use complies with all applicable regulations of the R-2/TNO, Two-Family Residential District with Traditional Neighborhood Overlay. The Conditional Use is required because the second dwelling unit of the proposed structure has a total floor area that is larger than 600 hundred square feet (approximately 1,087 square feet) and the dwelling unit has more than two (2) bedrooms (4 bedrooms are proposed).

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject property and surrounding area to the east are located within a R-2/TNO, Two-Family Residential District with Traditional Neighborhood Overlay. To the west of the subject site is a R-M/TNO Four-Family Residential District with Traditional Neighborhood Overlay. The residential properties are generally characterized as single-family homes and homes that have been either converted or redeveloped into two-family or multi-family rentals. The majority of the residences in the area are renter-occupied with a few owner-occupied dwellings.

Due to the proposed redevelopment of a single-family dwelling unit into a two-family dwelling unit that will add five (5) bedrooms to the lot, an increase in parking congestion can be anticipated. The site plan provides area for five (5) off-street parking spaces, or 2.5 parking spaces per dwelling unit, to be located in the rear yard via alley access. The proposed off-street parking area for the subject property has one (1) parking space more than the minimum requirement of two (2) off-street parking spaces per dwelling unit. Any increase in parking congestion should be minimal.

Minimal impact to adjacent properties in regard to density is expected, as the adjacent properties to the east and west consists of densities that are at least identical to the subject site. The property adjacent to the west across North 6<sup>th</sup> Street contains six (6) dwelling units according to the Riley County Appraisers' Office. The property to the east is a replica of the subject property, containing two (2) 4-bedroom dwelling units.

The proposed two-family dwelling should have minimal negative impacts on adjacent properties in terms of its design. The applicant has demolished the existing single-family dwelling structure in order to construct the proposed two-family dwelling. The proposed structure meets the minimum requirements of the TNO District Building Design Standards. In addition, the properties adjacent to the east and the west are constructed with similar architectural styles. As a part of the Conditional Use application, the applicant held a neighborhood meeting on Thursday May 21, 2015. According to the applicant, "There were 5 people at the meeting. Everything said at the meeting was all positive. No one had any problem with anything discussed at the meeting. Everyone at the meeting said that if there was anything they could do, they were more than willing to help."

**DOMINATION BY USE OVER NEIGHBORING PROPERTIES:**

**C. Domination by use over neighboring properties:**

**1. LOCATION, NATURE, AND HEIGHT OF PHYSICAL IMPROVEMENTS:** The total floor area of the proposed structure is approximately 2,174 square feet. The previous house on the subject site was single-story measuring approximately 1,120 square feet. According to the application documents, the proposed building will

measure approximately eighteen (18) feet tall. While the height of the previous structure is unknown, it is reasonable to assume that it was of a similar height to the proposed development. Additionally, all setbacks of the proposed structure will comply with the zoning district regulations. Although the footprint of the proposed structure is larger than the previous single-family dwelling, the lot coverage and setbacks of the proposed structure are similar to the dimensions of the surrounding structures in the neighborhood. In addition, the proposed structure appears to be lower in height than the adjacent properties. Therefore, the proposed Conditional Use should not dominate over adjacent properties.

- 2. LANDSCAPING AND SCREENING:** The subject property currently consists of residential landscaped yard vegetation with existing mature trees along the east property line. According to the site plan, the applicant has not proposed any additional landscaping. Due to the existing parking area being located on the south end of the subject property and behind the residence, the parking of five (5) vehicles should not visually affect onlookers along 6<sup>th</sup> Street as parking adjacent to alleys are already established in the area. Screening is not required in the R-2/TNO District unless the site has more than six (6) off-street parking spaces. The site plan shows a fence along the east property line screening the off-street parking area.

**ADEQUATE PROVISION OF PARKING AND LOADING:** The site plan provides for a five (5) car parking area to be located along the south property line that is adjacent to an alley. The proposal provides enough area for one (1) additional off-street parking space than the required two (2) off-street parking spaces per dwelling unit. The parking area will be accessed via the adjacent paved alley. On-street parking is unavailable along Bluemont Avenue, thus any excess vehicles would likely park along 6<sup>th</sup> Street. Adequate parking is provided for the use as proposed.

**ADEQUATE PROVISION OF DRAINAGE, AND OTHER PUBLIC UTILITIES:** Adequate sewer and water facilities currently exist for the proposed two-family dwelling. Drainage on the site flows to the alley and to the storm sewer along Bluemont Avenue, which is adequate for the proposed use.

**ADEQUATE PROVISION OF ACCESS:** Access is provided via a paved alley on the south side. The alley is in fair condition and should be adequate for the proposed use. No curb cuts are proposed off 6<sup>th</sup> Street or Bluemont Avenue. Existing sidewalks are provided along both 6<sup>th</sup> Street and Bluemont Avenue and walkways are proposed for pedestrian access. Adequate access is provided for the proposed use.

**STAFF COMMENTS:** City Administration recommends approval of a CONDITIONAL USE under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the construction of a two-family dwelling unit, in which both of the dwelling units are greater than six-hundred (600) square feet in floor area and where both of the dwelling units has more than two bedrooms, located within a R-2/TNO, Two-Family Residential District and Traditional Neighborhood Overlay District, with the following conditions:

1. The building floor plan shall be constructed as proposed in the site plan and application documents
2. All applicable permits shall be obtained.

Lavis seconded the motion which passed on 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 TWENTY-THREE (23) FEET FOR A PROPOSED GARAGE ADDITION; A REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK FROM TWENTY-FIVE (25) TO EIGHT (8) FEET ALONG GROSS STREET; AND A REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK FROM TWENTY-FIVE (25) FEET TO TWENTY-FOUR (24) FEET ALONG STRONG AVENUE, ALL FOR THE EXISTING RESIDENTIAL HOME LOCATED AT 2001 STRONG AVENUE, IN A R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT / OWNER: GARY PRYOR)**

Johnson presented the staff report with a recommendation of approval based on two (2) conditions.

Hardy opened the meeting for public hearing. Gary Pryor came forward, the board had no additional questions for

him. Hardy closed the public hearing portion.

The board made comments that the new garage is being built on an existing carport foot print and this addition could potentially add value to the property.

Lavis made a motion to approve an EXCEPTION under the terms of the Manhattan Zoning Ordinance based on the following conditions of approval.

The Board made the following findings of fact for the Exception at 2001 Strong Avenue.

**PRESENT USE:** Single family home

**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-1, Single-Family Residential District, and is located in a predominantly single-family neighborhood. To the southwest of the subject property, along Tuttle Creek Boulevard, is a small area zoned C-5, Highway Service Commercial District associated with drive-thru restaurants and auto-sales uses.

Due to the location and design of the proposed addition to the garage, adverse impacts on adjacent properties should be minimal. The property that would be impacted the most from the proposed Exception is the property directly to the west of the subject site. This property does not front Gross Street. The property to the direct west is sited facing Green Avenue, with its side yard abutting the subject site. The applicant has submitted a form letter from the neighbor located directly adjacent to the south offering their support for the proposed addition.

In regards to the Exception for the existing house, it has been in its location and a part of the neighborhood since 1969. It is apparent that the existing home has not impacted adjacent properties.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** Minimal adverse affects on the general health, safety or welfare of the public is anticipated. The proposed garage addition will not substantially encroach on the street or change the visual effect of the setback along Gross Street. The garage addition is proposed to be setback substantially further from the front property line than the existing house. The proposed attached garage will be outside of any utility easements and vision clearance triangles located on the subject site. In addition, the attached garage is proposed to be in character with the existing house and a number of other properties in the neighborhood.

The existing house in its location has been a part of the neighborhood since 1969, with no apparent impacts on the general public.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** No viable option exists to remove the existing home to comply with the current zoning regulations. The encroaching structure would need to be relocated or partially removed and redesigned under strict application. The Exception is to bring the property into conformance with the Zoning Regulations so a clear title may be obtained. The strict application of the minimum front yard setback would prohibit the addition to the attached garage as proposed. According to the application documents, "The lot north of the property drains into the Pryor's back yard, and there needs to be sufficient room for water to drain away from the garage." It appears that the intent to locate the garage as proposed is in order to provide adequate drainage for the site. In addition, encroachments into the north side-yard setback could occur by moving the garage to the north as the proposed addition sets approximately eight (8) feet at its closest point from the north property line.

Considering the proposed garage addition will have a limited impact on the adjacent properties and the general public, the strict application of the minimum front yard setback seems unreasonable.

**STAFF COMMENTS:** City Administration recommends approval of an EXCEPTION to allow for the reduction

of the minimum required twenty-five (25) foot front yard setback to twenty-three (23) feet for a proposed garage addition; a reduction of the minimum required front yard setback from twenty-five (25) to eight (8) feet along Gross Street; and a reduction of the minimum required front yard setback from twenty-five (25) feet to twenty-four (24) feet along Strong Avenue, all for the existing residential home located in a R-1, Single-Family Residential District, with the following conditions:

1. The Exception shall be limited to the proposed garage addition and existing house as outlined in the application documents and shown on the applicant's site plan.
2. All applicable permits shall be obtained.

Danner seconded the motion which passed on 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 SIXTY (60) FOOT FRONT YARD SETBACK TO APPROXIMATELY TWENTY-FIVE (25) FEET FOR A PROPOSED TREE HOUSE; AND TO ALLOW FOR MORE THAN ONE (1) CURB CUT PER STREET FRONTAGE, ALL ASSOCIATED WITH AN EXISTING SINGLE-FAMILY HOME LOCATED AT 1912 STRATTON CIRCLE, IN THE R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT: M.O.D. DESIGN / OWNER: DAVID & DIANE SAUTER)**

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

Lavis wanted to clarify that the structure would not be attached to a tree. Johnson said that was correct, and that it would be anchored in the ground.

Hardy opened the meeting for public hearing. David Sauter, owner came forward. The board had no further questions and Hardy closed the public hearing.

Danner said she did not think it would be visible from the street.

Hardy noted the curb cut was already existing and did not pose much of a problem. He did note the Board received a letter from a neighbor on Grandview Drive, voicing their concerns but felt it did not present much of an impact with where the two properties were located. Johnson agreed with Hardy on the minimal impact to the neighboring properties.

Danner made a motion to approve an EXCEPTION under the terms of the Manhattan Zoning Ordinance based on the following conditions of approval.

The Board made the following findings of fact for the Exception at 1912 Stratton Circle.

**PRESENT USE:** Single-family residential property

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** Other than for what the Exception requests are for, the subject site complies with all applicable regulations.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject site and properties located along Stratton Circle and directly south are located in the R-1, Single-Family Residential District. Properties directly to the east across Sunset Avenue are zoned R-1/TNO/UO, Single-Family Residential District with a Traditional Neighborhood and University Overlay. Properties to the north are zoned R-3/UO, Multi-Family Residential District with a University Overlay. To the west and farther south, properties are located in the R, Single-Family Residential District. Outside of Stratton Circle, the area is a mix of single-family, two-family and multi-family dwellings, with a combination of owner-occupied and rental units. In addition, there are a significant number of fraternity and sorority houses located with the general neighborhood.

The proposed tree house 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 properties that should be impacted by the proposed tree house. Additionally, due to the heavy vegetation limiting the view of the tree house, any adverse impacts to adjacent properties should be minimal.

In regard to the Exception for the existing 2<sup>nd</sup> curb cut, it has been in its location and a part of the neighborhood for an unknown amount of time. Since the subject site consists of two (2) lots platted in 1969, it is reasonable to assume that the curb cut was added for Lot 5 when the initial infrastructure was constructed for the subdivision. It is apparent that the existing curb cut has not impacted adjacent properties.

**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 located within the subject site. The proposed tree house will not substantially encroach on the street or change the visual effect of the setback along Stratton Circle. The granting of the Exception should not have an adverse effect on the public health, safety, morals, order, convenience, prosperity or general welfare.

The existing second curb cut in its location has assumably been a part of the neighborhood since 1969, with no apparent impacts on the general public.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** No viable option exists to remove the existing curb cut to comply with the limit of one (1) curb cut per street frontage. The Exception is to bring the property into conformance with the Zoning Regulations so a clear title may be obtained. Under the R-1, Single-Family Residential District setback regulations, strict application would require that the proposed tree house be located a minimum of sixty (60) feet from the front property line. Due to the topography towards the rear of the subject site, there are limitations to locating the tree house outside of the sixty (60) foot front yard setback.

Considering these factors and that the proposed tree house 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.

**STAFF COMMENTS:** City Administration recommends approval for an EXCEPTION to allow for the reduction of the minimum required sixty (60) foot front yard setback to approximately twenty-five (25) feet for a proposed tree house; and to allow for more than one (1) curb cut per street frontage, all located in the R-1, Single-Family Residential District, with the following conditions:

1. The Exception shall be limited to the proposed tree house and the existing second curb cut
2. The proposed tree house shall be constructed as outlined in the application materials and site plan.
3. All applicable permits shall be obtained.

Lavis seconded the motion which passed on 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 REAR YARD SETBACK TO APPROXIMATELY ONE (1) FOOT; A REDUCTION OF THE MINIMUM REQUIRED SIDE YARD SETBACK FROM EIGHT (8) FEET TO APPROXIMATELY FIVE (5) FEET ALONG THE NORTH PROPERTY LINE; AN INCREASE TO THE MAXIMUM ALLOWED FRONT YARD SETBACK FROM TWENTY-FIVE (25) FEET TO APPROXIMATELY THIRTY-SEVEN (37) FEET; AND TO ALLOW ACCESS FROM A CURB CUT OFF OF 8TH STREET WHILE THE LOT IS REASONABLY ACCESSIBLE FROM AN ALLEY. THESE EXCEPTIONS ARE FOR A PROPOSED REMODEL OF AN EXISTING RESIDENTIAL HOME LOCATED AT 312 S. 8<sup>TH</sup> STREET, IN A R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY. (APPLICANT / OWNER: DAVE DARLING)**

**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 6,500 SQUARE FEET TO APPROXIMATELY 5,000 SQUARE FEET FOR A PROPOSED REMODEL OF AN EXISTING RESIDENTIAL HOME LOCATED AT 312 S. 8<sup>TH</sup> STREET, IN AN R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY. (APPLICANT / OWNER: DAVE DARLING)**

Johnson presented the staff reports for the two (2) items with the recommendation of approval, based on the conditions for both items.

Hardy opened the meeting for public hearing. The applicant came forward, the Board had no questions but Hardy commented that the project seemed like it would make an improvement in the neighborhood.

Hardy closed the public hearing.

Danner commented that the project was mainly improving the property with minimal changes to the footprint.

Lavis made a motion to approve the EXCEPTION under the terms of the Manhattan Zoning Ordinance based on the following conditions of approval.

The Board made the following findings of fact for the Exception at 312 S 8<sup>th</sup> St.

**PRESENT USE:** Single-Family House

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The subject site is currently nonconforming in lot size at 5,000 square feet. A request has concurrently been applied for a Variance to reduce the minimum lot area for the existing single-family dwelling (See the Variance Staff Report). The Variance request is to bring the property in to conformance with the Zoning Regulations so a clear title may be obtained. The property complies with all applicable requirements of these regulations, other than the ones for which the Exceptions and Variance are being requested.

**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, two-family and multi-family dwellings, with a blend of owner-occupied and non-owner-occupied units. To the east of the site is the Manhattan Catholic School campus.

The proposed remodel to the existing home should not adversely impact adjacent properties. It appears that several other properties in the area have setbacks, and drive ways with curb cuts located within the front yard that are similar to the proposed subject site including the lot to the south. According to the elevations, the proposed roof pitches and modification will match the design of the existing structure. In addition, the house has been in its existing location and a part of the neighborhood since 1910, according to the Riley County Appraiser's Office. The proposed remodel is merely making improvements to the established building footprint and upgrading the functionality of the site. It is apparent that the existing home has not impacted adjacent properties. The adjacent property to the west, which is most impacted by the existing rear yard setback, is oriented perpendicular to the construction allowing for the encroachment to be located where only a detached garage is sited. According to the application documents, "I have met Juanita, Dave and Jeanne on the adjacent properties and all have been extremely excited to see us on the site as they have been dealing with this unattended property for as long as 35 years." In addition, the applicant has submitted a form letter from the adjacent neighbor to the north (Dave Seay, 803 Pierre) offering their support for the proposed addition.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** The Exceptions desired do not encroach upon any utility easements or vision clearance triangles. The Exceptions will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. The existing house in its location has been a part of the neighborhood since 1910, with no apparent impacts on the general public. In addition, curb cuts and driveways located in the front yard are found within the general area.

**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 existing property would need to be relocated or reduced in size under strict application. The subject site is limited by its size at 5,000 square feet in terms of alternative options. Due to its limited size, most alternatives would still require some form of Exception to the minimum required setbacks from the current zoning regulations.

In regards to the addition of the curb cut and driveway proposed to be located within the front yard. Since the existing house is sited approximately one (1) foot from the rear property line, accessing parking behind the front façade is not feasible. Strict application of the alley access for the lot would result in a driveway and associated parking in the front yard area parallel to the street. This option would still require an Exception from the Board. The proposed location of the curb cut and associated driveway seems to be the most appropriate option in terms of access for the lot, due to its current limitations. In addition, maintaining the front yard area is important to the subject site due to the limited rear yard area.

Considering that the proposed remodel 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.

**STAFF COMMENTS:** City Administration recommends approval of the EXCEPTIONS to allow for the reduction of the minimum required twenty-five (25) foot rear yard setback to approximately one (1) foot; a reduction of the minimum required side yard setback from eight (8) feet to approximately five (5) feet along the north property line; an increase to the maximum allowed front yard setback from twenty-five (25) feet to approximately thirty-seven (37) feet; and to allow access from a curb cut off of 8th Street while the lot is reasonably accessible from an alley. These Exceptions are for a proposed remodel of an existing residential home located in a R-1/TNO, Single-Family Residential District with a Traditional Neighborhood Overlay, with the following conditions of approval:

1. A companion Variance shall be approved.
2. The Exceptions shall be limited to a modification to the single-family dwelling unit as proposed in the site plan and application documents.
3. All street trees that are removed shall be replaced in accordance with Section 4-111(F)(1)(d)
4. All applicable permits shall be obtained.

Danner seconded the motion which passed on a vote of (3-0).

Danner made a motion to approve the VARIANCE under the terms of the Manhattan Zoning Ordinance based on the following conditions of approval.

The Board made the following findings of fact for the Variance at 312 S 8<sup>th</sup> St.

**PRESENT USE:** Single-Family House

**CONDITIONS UNIQUE TO THE PROPERTY:** The subject site is unique due the fact that it is not a traditional ward lot, as it has been separated by deed after time. The property is an assemblage of the North 50 feet of Lots 161 & 162 of Ward 5. Originally both Lots 161 and 162 were 50-ft. by 150-ft. lots. According to the Riley County Appraisers Office, the house was built in 1910, prior to adoption of the City's initial Zoning Regulations.

**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, two-family and multi-family dwellings, with a blend of owner-occupied and non-owner-occupied units. To the east of the site is the Manhattan Catholic School campus.

Adverse impacts on adjacent properties should be minimal. The Variance request is to bring the property in to conformance with the current Zoning Regulations so a clear title may be obtained. The existing home has been in its current location since 1910 and the lot area has been in its current nonconforming state since at least 1953, which at



that time the minimum lot area was 5,000 square feet.

**UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS:**

The existing lot size is a condition created by previous owners of the property and is not a condition created by the applicant. The North 50 feet of Lots 161 & 162 of Ward 5 is an improved existing nonconforming lot with a single-family house. The Variance request is merely to bring the property into conformance with the current Zoning Regulations to facilitate the requested Exceptions and so a clear title may be obtained.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** The current home does not encroach upon any utility easements or vision clearance triangles. The Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. The existing house in its location has been a part of the neighborhood since 1910, with no apparent impacts on the general public. The Variance request is merely to bring the property in to conformance with the current Zoning Regulations to facilitate the proposed remodel and so a clear title may be obtained.

**RELATIONSHIP TO INTENT OF REGULATIONS:** The intent of the regulations regarding minimum lot size is to sustain densities and to create adequate open space between properties. The subject property meets the intent of the regulations even though minimum lot area is less than the required minimum. The site provides adequate open space and maintains the maximum lot coverage of thirty percent (30%).

**STAFF COMMENTS:** City Administration recommends approval of a Variance 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 6,500 square feet to approximately 5,000 square feet for a proposed remodel of an existing residential home located in an R-1/TNO, Single-Family Residential District with a Traditional Neighborhood Overlay, with the following conditions:

1. Companion Exceptions shall be approved.
2. All street trees that are removed shall be replaced in accordance with Section 4-111(F)(1)(d)
3. All applicable permits shall be obtained.

Lavis seconded the motion which passed on 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 FRONT YARD SETBACK FROM TWENTY-FIVE (25) FEET TO ZERO (0) FOR AN EXPANSION OF AN EXISTING OFF-STREET PARKING LOT ASSOCIATED WITH A PROFESSIONAL OFFICE BUILDING LOCATED AT 2306 ANDERSON AVE. IN THE C-1, RESTRICTED BUSINESS DISTRICT. (APPLICANT: TIMBER & STONE ARCHITECTURE AND DESIGN LLC / OWNER: EILEEN & CURTIS HAYDEN)**

Johnson presented the staff report with the recommendation of approval based on the four (4) conditions. Danner asked Johnson for clarification on the current driveway and the proposed changes to it. Hardy noted that widening the curb cut is not a matter for the zoning board.

Hardy clarified that the five proposed parking stalls are within the current setback.

Hardy opened the meeting for public hearing. Owner, Curtis Hayden stated the reasoning for this project was to improve the safety for his clients.

Joe Stock of Timber & Stone Architecture and Design LLC wanted to make sure the Board had seen the proposed screening options between the commercial and residential properties.

Jan McIntosh of 717 Midland Ave voiced her concerns of encroachment with the additional parking spots being placed behind her property. Johnson pointed out the six foot wide screening between these proposed spots and McIntosh's back yard. McIntosh also questioned if the proposed stalls were necessary when the business has been there for many years, and noise concerns with the parking stalls being used on the weekends by college students for

parties. There was also a letter from another neighborhood resident, Gary Stevens with similar concerns on the project.

Cale Becker, 1601 Humboldt owns a rental unit nearby and voiced his support for the project.

Hayden wanted to address McIntosh's concerns, clarifying that his practice, number of employees and clientele has grown since 2004, one reason for the proposed parking increase. He also pointed out his investment in the property since his ownership, including landscaping along McIntosh's property line. Also mentioned that his practice closes at 5 pm and he has no control over the students parking.

Hardy closed the public hearing.

Danner acknowledged that there are valid neighborhood concerns, but the project has taken precautions to minimize the potential effects. Hardy agreed with Danner, including the landscaping and design of the project, and the noise complaints are problems with the police. He also pointed out that the projects increase in parking is keeping with the City's requirement for parking, with at least three more stalls meeting the minimum parking requirement.

Lavis commented that there are plant materials that can serve as a noise reducing, screening between the two properties.

Danner made a motion to approve the EXCEPTION under the terms of the Manhattan Zoning Ordinance based on the following conditions of approval.

The Board made the following findings of fact for the Exception at 2306 Anderson Avenue.

**PRESENT USE:** Professional Office Building

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** Other than the Exception request to reduce the front yard setback for the proposed modification to the off-street parking lot, the subject site complies with all applicable regulations. Sight obscuring screening of at least six (6) feet in height is required to screen the off-street parking lot from adjacent residential districts. The applicants have agreed to this requirement and City Administration is recommending this as a condition of approval.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The neighborhood is generally characterized by a combination of single-family residences to the northeast, south, east, and southwest. The subject site is currently zoned C-1, Restricted Business District and the like-kind Professional Place Planned Unit Development (PUD) is located to the northwest of the subject site, which is generally occupied by professional offices. College Heights Baptist church is located to the northwest as well as a large office building occupied by the Kansas State University Foundation.

The location of the proposed off-street parking lot should not adversely impact adjacent properties. A total of five (5) parking spaces are proposed to be located within the required front yard setback along Anderson Avenue. The modified parking area will be screened from the adjacent neighbors by the existing mature trees and vegetation running along the east property line. In addition, sight-obscuring screening of at least six (6) feet in height shall be required along the east property line. Furthermore, the applicant has submitted a form letter from eight (8) of the adjacent neighbors offering their support for the proposed addition.

The minimum number of required off-street parking spaces is fifteen (15) spaces for the dental office use based on a 5.5 spaces per 1,000 square feet of building area. Currently, there are twelve (12) spaces located on the subject site. The applicant has proposed a parking lot of eighteen (18) spaces to provide more parking than the minimum requirements and designed the layout in an effort to increase circulation and access for the orthodontist office patients.

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 and the proposed site design improvements because they recognize the needs for their patients. According to the applicant, the orthodontist office has received feedback from a number of patients regarding the issues with the existing parking lot. This feedback consists of commentary on overall capacity of the parking area and access from Anderson Avenue. This additional parking and enhanced circulation is a benefit to the general public in terms of traffic safety provisions. The City's Traffic Engineer has reviewed the applicant's site plan and has determined that the proposal is acceptable.

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. In addition, the installation of the proposed berm and shrubs will provide screening for headlights that potentially could impact traffic along Anderson Avenue.

**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 Anderson Avenue. Based on the existing use, a minimum of fifteen (15) off-street parking spaces are required. The application site plan shows two (2) of the minimum required spaces located approximately ten (10) feet into the front yard setback, in addition to the three (3) extra spaces proposed. It appears that the applicant has few alternatives in this case. The proposed parking lot would need to be re-designed so all spaces are located behind the setback line, the existing 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 would need to be approved.

Considering that the applicant is proposing to provide more parking than what is minimally required due to the consistent feedback received from patients 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.

**STAFF COMMENTS:** City Administration recommends approval of an Exception to allow for the reduction of the minimum required front yard setback from twenty-five (25) feet to zero (0) for an expansion of an existing off-street parking lot associated with a professional office building in the C-1, Restricted Business District,.

1. The Exception shall be limited to the modification to the existing off-street parking lot as proposed in the site plan and application documents.
2. The subject site shall be constructed as proposed.
3. Site obscuring screening shall be required for the proposed off-street parking as outlined in Section 7-102(E)(5).
4. All applicable permits shall be obtained.

Lavis seconded the motion which passed on a vote of (3-0).

Hardy adjourned the meeting.

Respectfully submitted by,

Amelia Lewis, Planning Intern