

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, July 8, 2015
7:00 PM

MEMBERS PRESENT: Harry Hardy, Chairperson; Connie Hamilton, Vice Chairperson; Angie Danner; LaBarbara James Wigfall

MEMBERS ABSENT: Catherine Lavis

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

CONSIDER THE MINUTES OF THE JUNE 10, 2015 BOARD OF ZONING APPEALS MEETING.

Danner moved to approve the June 10, 2015 minutes which was seconded by Hamilton and passed with a vote of (4-0).

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.

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

Hardy opened the public hearing.

Emily Koenig, applicant said the property owner, Brandt Rudzinski bought the property with the intention of remodeling the existing structure, but the repairs were too costly.

Wigfall asked Koenig about the preservation of existing trees on the lot. Koenig said one tree would be removed and the others would be maintained.

Lavis asked if other alternatives that conformed to the existing zoning regulations had been considered. Koenig said they had, but did not meet the property owner's needs.

Chris Banner of 618 Osage spoke, remarking that the TNO was put in place for a reason and that the conditional use for the allowance of a larger structure does not comply with the intention of the TNO. By allowing this conditional use, it would establish a precedent for others to seek conditional use permits for even larger living units.

Mel Borst of 918 Humboldt, a former resident of the area and Sara Fisher, 811 Osage expressed similar opinions and opposition to the conditional use.

Betty Banner, 618 Osage commented on the plans to maintain the existing yard and trees, speculating that with a larger building it would damage the existing landscaping on the property.

Linda Glasgow stated her support for intentions of the TNO and dated the building back to 1907.

Hardy closed the public hearing.

Hamilton asked if the property was located in the current down zoning east of City Park. Johnson said that it was not.

Hamilton said she shared the concerns of the individuals who spoke in opposition. She thought the plan did a good job of addressing many concerns, and its attempt to fit in. Hamilton stated she had issues complying with standard (C) of the conditional use permit.

Danner did not agree with Hamilton's issues of standard (C). Hamilton acknowledged that several other neighboring properties have had conditional use permits prior to the establishment of the TNO.

Wigfall was concerned over the height and bulk of the proposed building and questioned if the density was necessary for the owner's intent.

Hardy acknowledged that conditional use standards are fairly easy to meet, but had the same comments as Hamilton on standard (C). Hamilton acknowledged that typically conditional uses are about the "use" rather than the size or the design, but the use could be considered in the process.

The Board made the following findings of fact for the Conditional Use at 910 Osage St.

PRESENT USE: Single-Family Residential

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The proposed Conditional Use complies with all applicable regulations of the R-M, Four-Family Residential District and TNO, Traditional Neighborhood Overlay District. The Conditional Use is required because the second dwelling unit of the proposed structure has a total floor area that is larger than six-hundred (600) square feet (approximately 954 square feet).

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The subject site and adjacent properties are zoned R-M/TNO, Four-Family Residential District with Traditional Neighborhood Overlay District. Properties to the west of the subject site and north of Osage Street are zoned R-3/M-FRO, Multiple-Family Residential District with Multi-Family Redevelopment Overlay District.

The overall character of the area is a medium-to-high density residential neighborhood, consisting largely of two-story, single-family structures, many of which have been converted to two-family and multiple-family dwellings. Four (4) of the Five (5) lots west of the subject site (916, 920 and 926 Osage Street & 402 N. 10 Street) are newer, two-family dwellings. All Four (4) properties have a total of eight (8) bedrooms. 916 and 926 Osage Street were granted Conditional Use Permits by the Board of Zoning Appeals in 2003, while 402 N. 10 Street was granted a Conditional Use Permit in 2010. The Conditional Use Permits were required in the R-M District because the structures were two-family dwellings with two habitable stories and met certain criteria that created the need to obtain a Conditional Use Permit. The Conditional Use is still a requirement in the R-M District, but is superseded by the TNO District. The area was rezoned to add the TNO District in April, 2004. 920 Osage Street did not require a Conditional Use Permit because the building permit was issued in February, 2001, prior to the R-M District being amended in May, 2001 to its current provisions. In addition, the property to the direct east of the subject site is a non-conforming nine (9) dwelling-unit garden style apartment building, built around 1972.

The proposed development will increase the number of bedrooms from two (2) to six (6) and a natural increase in density is expected in terms of potential occupants. The application documents state, "The residential structure has been designed to respect the scale and character of the neighborhood". The proposed two-family dwelling does not appear to be out of character when compared to many residences in the surrounding area in terms of the intensity of the use, the number of occupants, and the amount of off-street parking. In fact, the proposed redevelopment is of a higher quality and design than the minimum regulation standards. Several of the TNO building design standards have been exceeded with the proposed development. The window surface area requirement on the primary façade is exceeded by 15% or 39 square feet. In addition, both dwelling units are proposed to include front porches, which are encouraged in the TNO.

The proposed two-family dwelling should have minimal negative impacts on adjacent properties. The applicant proposes to remove the existing dilapidated single-family dwelling structure in order to construct the proposed two-family dwelling. The proposed structure meets the minimum requirements of the TNO Building Design Standards. The applicant is also intending to preserve as many existing trees as possible during construction and planting new trees, shrubs and additional landscaping throughout the site. The existing and proposed landscaping will help to enhance the appearance of the property.

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 2,673 square feet, which is an increase to the existing structures floor area of 650 square feet. According to the application documents, the proposed building will measure approximately twenty-eight (28) feet tall, which is an increase to the existing structures height of eighteen (18) feet. Although the footprint and height of the proposed structure is larger than the previous single-family dwelling, the lot coverage and setbacks of the proposed structure are similar if not less than the dimensions of the surrounding structures in the neighborhood. 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 west property line. According to the site plan and application documents, the applicant plans to remove a few select trees only if it's absolutely necessary to facilitate construction. New trees, shrubs and additional landscaping will be provided with the proposed development. Screening is not required in the R-M/TNO District unless the site has more than six (6) off-street parking spaces. The site plan shows a six (6) foot tall privacy fence along the east and west property lines, screening the entire structure and off-street parking area.

ADEQUATE PROVISION OF PARKING AND LOADING: The applicant has proposed five (5) parking spaces in a concrete parking lot. The parking spaces will be angled at 90° and will be located to the rear of the proposed structure. The proposed two-family structure has a total of six (6) bedrooms. Potentially, if each bedroom within the dwelling was occupied, and each occupant had an automobile, one (1) vehicle would have to park on the street. However, the applicant is providing one (1) more off-street parking space than the minimum requirement of the Zoning Regulations, or two (2) parking spaces for each dwelling unit, for a total of four (4) off-street parking spaces. Although the parking area is required to at least consist of compacted gravel, it is proposed to be paved with a front curb edge. Adequate parking is provided for the use as proposed.

ADEQUATE PROVISION OF DRAINAGE, AND OTHER PUBLIC UTILITIES: Drainage on the site flows to the alley and to the storm sewer along Osage Street, which is adequate for the proposed use. Water, sewer, and other utilities currently exist on the site and are adequate for the proposed use.

ADEQUATE PROVISION OF ACCESS: Access is provided via an unimproved alley on the north side. The alley is in fair to good condition and should be adequate for the proposed use. No curb cuts are proposed off of Osage Street. Sidewalks in the neighborhood, and along the front lot lines of the property, provide for pedestrian access. The existing public sidewalk adjacent to the lot is to be repaired or replaced and new on-site walkways are proposed to connect the dwelling units to both the public sidewalk and the parking area to the rear. Adequate access is provided for the proposed use.

Hamilton made a motion to approve the conditional use, with significant reservation about the impact of the ability of the conditional use (especially standards b and c) to surpass the regulations of the TNO.

Wigfall seconded the motion which passed on a vote of 4-0.

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. 6TH STREET, IN A R-M/TNO, FOUR-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY.

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. 6TH STREET, IN A R-M/TNO, FOUR-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY.

Danner stepped down out of a conflict with the items.

Johnson presented the staff report for the exception with the recommendation of approval with four (4) conditions of approval and the staff report for the variance with the three (3) conditions of approval.

Hardy opened the public hearing.

David Miller, the applicant was there. The board did not have any questions for him.

Hardy closed the public hearing and opened to board discussion.

Hamilton said she supported the item and understood it was to clear existing problems. Hardy agreed.

The Board made the following findings of facts for the Exception at 214 S 6th St.

PRESENT USE: Single-family residential home

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject site is currently nonconforming in lot size at 5,500 square feet and lot depth at 75 feet. A request has concurrently been applied for a Variance to reduce the minimum lot area and lot depth 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: Surrounding the subject site is a mix of residential, religious and institutional uses within the R-M/TNO, Four-Family Residential District with Traditional Neighborhood Overlay. To the west of the subject site is Seven Dolores Catholic Church and to the south across Pierre Street, is the Manhattan Municipal Court. In addition, the surrounding properties to the north, south, east, and west are all located within the Houston-Pierre Historic District. A historic review of the existing deck will need to be retroactively administered by city staff before a building permit can be issued.

Due to the location and design of the existing deck addition, adverse impacts on adjacent properties should be minimal. The existing deck has similar design qualities of a fence and since the west property line is considered the rear lot line, a typical privacy fence could be located as close as zero (0) feet. The property that would be impacted the most from the proposed Exception is the property directly to the west of the subject site. The application documents state, “[The] Deck has been in place for almost 3 years and has had no adverse effects or complaints. Large amount of existing shrubbery and the decks unique design disguise the construction as a typical fence on the west property line. The overgrown bushes also create a strong visual boundary to the adjacent property. The adjacent property is also oriented perpendicular to the construction allowing for the contact point to be in the underused backyard of the adjacent property.”

In regards to the Exception for the existing garage, it has been in its location and a part of the neighborhood since 1941, according to the Riley County Appraiser’s Office. It is apparent that the existing home has not impacted adjacent properties.

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 1941, 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 deck, home, or detached garage to comply with the current zoning regulations. The encroaching structures would need to be relocated or partially removed and redesigned under strict application. The Exceptions are to bring the

property in to conformance with the Zoning Regulations so a clear title may be obtained. In addition, the size of the lot and the location of the existing home restrict the available buildable area. The applicant states that, “at [the] time of construction the thought was meeting the same regulations as adjoining garage. With the small lot size the opportunity for exterior space is limited.”

Considering these factors and that the existing house and detached garage will have a limited impact on the adjacent properties and the general public, the strict application of these regulations seems unreasonable.

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

Wigfall seconded the motion which passed with a vote of (3-0-1).

The Board made the following findings of fact for the Variance at 214 S 6th 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 75 feet of Lot 625 and a section of Lot 626, Ward 1. Originally, both Lots 625 and 626 were 50-ft. by 150-ft. lots. According to the Riley County Appraisers Office the house was built in 1941, before the current minimum lot area of 6,500 square feet and minimum lot depth of 100 feet was established.

PROBABLE EFFECT ON ADJACENT PROPERTIES: Surrounding the subject site is a mix of residential, religious and intuitional uses within the R-M/TNO, Four-Family Residential District with a Traditional Neighborhood Overlay. To the west of the subject site is Seven Dolors Catholic Church and to the south across Pierre Street, is the Manhattan Municipal Court. In addition, the surrounding properties to the north, south, east, and west are all located within the Houston-Pierre Historic District. A historic review of the existing deck that is a part of the Exception requests will be retroactively administered by city staff.

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 1941 and the lot area has been in its current nonconforming state since at least 1962, 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 75 feet of Lot 625 and a section of Lot 626, Ward 1 is an improved existing nonconforming lot with a single-family. 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 and detached garage do 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 1941, 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.

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

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

Wigfall seconded the motion which passed on a vote of (3-0-1).

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 A BUSINESS ENGAGED IN THE BOARDING (KENNEL), TRAINING, AND GROOMING OF DOGS WITHIN AN EXISTING BUILDING LOCATED AT 2505 STAGG HILL ROAD, IN THE C-5, HIGHWAY SERVICE COMMERCIAL DISTRICT.

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 ELEVEN (11) FEET FOR AN EXISTING OFF-STREET PARKING LOT ASSOCIATED WITH A NEW PROPOSED CONDITIONAL USE LOCATED AT 2505 STAGG HILL ROAD, IN THE C-5, HIGHWAY SERVICE COMMERCIAL DISTRICT.

A PUBLIC HEARING TO CONSIDER A VARIANCE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO NOT PAVE AN EXISTING GRAVEL OFF-STREET PARKING LOT ASSOCIATED WITH A NEW PROPOSED CONDITIONAL USE LOCATED AT 2505 STAGG HILL ROAD, IN THE C-5, HIGHWAY SERVICE COMMERCIAL DISTRICT.

Johnson presented the staff report with the recommendation of approval with the eight (8) conditions of approval for the conditional use, four (4) conditions of approval for the exception and four (4) conditions of approval for the variance.

Hardy opened the public hearing.

Bruce McMillan, applicant addressed some of the main issues that were included in the staff report. He presented another option for an increased number of parking stalls to share between the two businesses on the property.

Cyndi Peters, property owner spoke, clarifying some of the issues that are addressed in her business plan including handling and training the dogs to be quiet, cleaning up the waste as soon as possible and sound testing.

Hamilton asked Peters about the 36 dog limit proposed by City staff. Peters said the limit would keep her business from running at a for profit level.

Nicole Meyer, 4600 Miller Parkway; Kristyn Ward, 417 W 1st St, Junction City; Ryan Ley, 212 N 5th St; Brian Weisbender; Vicki Slack; Debbi Figge; Susan Fechter; voiced their support for Rollover U, especially the unique business plan that offered a wide range of services.

There were many residents of the Brierwood and surrounding neighborhoods in attendance to voice their concerns. These concerns included the potential noise and smell, 24 hour operations and a potential increase of traffic in the area. These residents included: Mellissa Rundus, 917 Brierwood; Kevin Blake, 808 Brierwood; Randy Martin, 904 Brierwood; Rich Jensen, 912 Brierwood; Larry Weigel, 1809 Kingwood Rd; Lisa Henry, 828 Brierwood ; Hal Kissler, 804 Brierwood; Ron Irvine, 2876 Bentwood.

Morgan King, 3000 Tuttle Creek Blvd said she is Cyndi's daughter and elaborated on the sound research they had conducted. Their research showed the sound to the neighborhood would be minimal. She also stated that Cyndi had already leased the property.

James Slaymaker, owner of 2505 Stag Hill Rd said he and Peters have gone to great lengths to make the physical property work for Rollover U and encouraged the board to approve the conditional use.

Hardy closed the public hearing.

After a brief recess, Hardy opened the board discussion.

Danner said that her decision is outside of the economics of the business and that she does feel that the proposed use would impact the residential property.

Hamilton remarked that no one said that the services Rollover U provided would be unnecessary, she did not feel this location was suitable for the business.

Wigfall addressed the comments from the neighborhood and said that noise is always going to be a part of a neighborhood. She then commented on the number of details that are being discussed during the item and it makes making a decision very difficult.

Hardy agreed with the comments of the other board members and said that a decision on the item is not easy but he is leaning towards recommending denial.

Johnson and the board then discussed the standards that are not satisfied and concluded that standard B, C and D were not satisfied.

The Board made the following findings of fact for the Conditional Use at 2505 Stagg Hill Road.

PRESENT USE: Commercial service shop and vacant space

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: A request has concurrently been applied for a Variance to not be required to pave the existing gravel off-street parking and an Exception to allow for the reduction of the minimum required front yard setback from twenty-five (25) feet to eleven (11) feet for the existing off-street parking lot (*See the Variance and Exception Staff Reports*). Other than the Conditional Use, Exception and Variance requests, the property complies with all applicable requirements of these regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and properties adjacent to the north, south, east and west are zoned C-5, Highway Service Commercial District. Property adjacent to the subject site have various uses including warehousing and storage facilities, automobile maintenance shops, automobile dealerships, custom cabinetry shop and a bar. Farther to the east, south and west of the subject site, properties are zoned R-1, Single-Family Residential including along Galaxy Drive. To the north, across Stagg Hill Road are some nonconforming residential uses in the C-5, Highway Service Commercial District.

The applicants held a neighborhood meeting on May 8, 2015 on the subject site. There were several concerns raised during the meeting from adjacent property owners. These concerns generally revolved around noise, the number of dogs, and the temperature of the building. The applicant has made several provisions to address these concerns including additional sound batt insulation beyond the existing insulation on all walls surrounding the kennel area, sound dampening screening around the outdoor play area, and operational policies to minimize adverse impacts. In addition, several letters of opposition as well as letters of support were received by City Staff, including the closest residential property to the east across Galaxy Drive (*See application packet*).

Noise generated by dogs at the proposed facility could potentially be a nuisance to neighboring properties. Barking dogs within the facility could potentially be heard outside the facility. According to the applicant, a car alarm was tested within the occupied space next door during the neighborhood meeting and not many people heard the alarm. There appears to be existing sound attenuation batt insulation within the facility, with additional insulation

proposed. According to the application documents, “The sound restricting insulation listed in the initial submittal is to be placed in the separation wall between the dog kennels and the Interior play areas. The wall is intended to be of 2x4 wood frame construction and will achieve an approximate Sound Transmission Coefficient (STC) rating of 45-49 that will help reduce sound transmission between interior spaces”. The Technical Services Information Bureau’s October 2012 Bulletin describes a STC rating of 50 as, “Very loud sounds such as musical instruments or stereo can be faintly heard” (*See the attached bulletin*).

Similarly, barking dogs utilizing the outdoor exercise area could potentially have an adverse effect on adjacent properties. According to the applicant, “dogs will only be in the outside exercise area in supervised groups of no more than 10 temperament compatible dogs, no more than 30 minutes per group.” The applicant has stated that the dogs will only be outside during the daytime and will be kept indoors with all exterior doors closed. The site plan and application documents propose a six (6) foot tall wooden sound dampening shadowbox screening fence accompanied by vegetation to minimize the noise impacts. In addition, the application documents state that, “Rollover U specializes in training dogs how to behave in public, one of the core training behaviors RolloverU instills in the dogs is not to bark while in public.” Several of these training and operational policies have been included in the application documents.

In regards to the concerns over the thermal comfort of the dogs within the facility, the application has proposed the following: “Rollover U is regulated by KDOA on the conditions of the kennel and thermal comfort of the dogs. The regulations mandate that the kennel temperature remain below 85°. Once above 85°, fans, ventilation, or air conditioning is required. Rollover U is providing cooling fans and portable air conditioning units to maintain the regulated temperature for the dogs.” A license from both Riley County Health Department and the City of Manhattan is required for all kennels within the City boundaries. There are specific standards and requirements for these licenses including animal and facility care, annual inspections, right of entry and public nuisance law (*See the attached Ordinance No. 4481*).

Noxious odors potentially generated by the proposed use will likely be minimal with dogs’ limited amount of time in the proposed outdoor exercise area to the south of the existing structure. In addition, the applicant states that waste will be disposed of promptly and properly into a trash container.

The surrounding neighborhood currently has several uses that are allowed by right within the C-5, Highway Service Commercial District. These uses include warehouses, storage facilities, automobile maintenance shops, automobile dealerships, custom cabinetry shops, bars and restaurants. Potentially these permitted uses could have adverse effects on adjacent residential properties to the east, south and west, but seem to be accepted in the area.

The applicant has proposed to have a maximum of 50 dogs on site at any one time. Although provisions have been made to the proposed use to help manage and mitigate any adverse impacts, the intensity of the proposed use at 50 dogs may cause adverse impacts to the adjacent properties, especially in regards to overnight hours.

DOMINATION BY USE OVER NEIGHBORING PROPERTIES: There are no external modifications to the existing structure for the proposed use. The existing building is within the allowable building area of the site. The C-5, Highway Service Commercial District has a long list of medium to high intensity permitted uses. The general hours of operation for the proposed facility are no more extensive than the hours of operation for the surrounding uses, outside of the overnight boarding services. The noise reducing modifications proposed by the applicant should reduce noise generated during the overnight hours.

There is an anticipated increase in traffic associated with the drop-off and pick-up times outlined in the application documents. There may be conflicts associated with the increased traffic and the surrounding residential land uses in regards to the gravel streets that provide access to the site and adjacent properties.

1. LOCATION, NATURE, AND HEIGHT OF PHYSICAL IMPROVEMENTS: The subject property is an existing half acre lot with a 10,431 sq. ft. structure built within the allowable building area of the site. The proposed addition of a 1280 sq. ft. enclosed outdoor area adjacent to the south side of the structure is outside of the required front yard setback off of Polaris Avenue. In addition, the enclosed outdoor area is screened by the existing adjacent structure located to the east.

2. LANDSCAPING AND SCREENING: The applicant has proposed a six (6) foot tall shadowbox fence to enclose the outdoor exercise area from view of the adjacent properties. The applicant states that screening vegetation including vines will be planted along the fence to provide screening of the fence to assist with noise reduction. The ground surface material within the outdoor play area is proposed to be mulch ground cover. According to the application documents, “it was decided that using mulch would be the best option as it is a softer surface for the dogs to exercise on, easily cleaned and or replace, will reduce the heat impact on the dogs much like grass, and will also assist with sound control.” Sight-obscuring screening is proposed to enclose the refuse containers located to the southwest of the building.

ADEQUATE PROVISION OF PARKING AND LOADING: The proposed site plan layout provides an area for sixteen (16) off-street parking spaces, including one (1) handicap accessible stall. Clients are anticipated to be in the building a few minutes a day to drop off and pick up their dogs at the proposed facility. The application documents state that the proposed facility will provide an employee ratio of 1 employee per 7 to 8 dogs and will be on site between the hours of 7:00am to 9:30pm. The zoning regulations do not define parking requirements for “kennel” uses. It is possible and justified to compare and surrogate parking requirements for this use with the parking requirements for the “Group day care centers and nursery schools” use in Section 7-103(C)(4) of the Zoning Regulations requiring “at least one (1) parking space for each employee and one (1) parking space for each five (5) children.” The applicant has stated that there will be a ratio of 1 employee per 7-8 dogs, depending on how many there are at one time. Based off of these ratios, sixteen (16) parking spaces would allow for a total of forty-seven (47) dogs for the facility not accounting for the other tenant occupying space ($47 \text{ dogs} / 5 = 9 \text{ spaces}$; $47 \text{ dogs} / 7 \text{ employees} = 7 \text{ spaces}$).

The other tenant located at the subject property, Ka-Comm., Inc., could be classified as “Automobile Service and/or Repair”, although the current operations appear to be less intensive as a traditional service shop. The parking requirements for the “Automobile Service and Repair” use in Section 7-103(C)(4) of the Zoning Regulations requires “at least four (4) parking spaces plus two (2) parking spaces for each service bay. Service bays shall not be counted as required parking.” Based off of these ratios, Ka-Comm would require fourteen (14) spaces (5 bays x 2 =10 parking spaces). According to the applicant, “vehicles whose service or upgrade has been completed are relocated to the KaComm Inc. main office located at 2321 Skyvue Lane Manhattan, KS 66502. Vehicles are then picked up by the client. No vehicles are stored outside at 2505 Stagg Hill Road and only vehicles currently under service are located inside the KaComm service shop.” Under the City’s Zoning Regulations, off-site parking for a site is allowed to be counted if it is within the same Zoning District and within 600 feet of the site. The KaComm main office location satisfies these criteria.

While the allocation of parking is permitted under the Zoning Regulations, it seems that allocating all parking to the main office location may be inappropriate. Without sufficient parking, KaComm employees would need to either drive service vehicles or walk from the the main office location. This approach does not seem logical for everyday use. Requiring the four (4) base parking spaces appears to be reasonable based on the existing operations of Ka-Comm’s service shop. Under this parking requirement, thirty-six (36) dogs would be allowed, allocating twelve (12) spaces to Rollover U and four (4) spaces to Ka-Comm, Inc (*36 dogs / 5 = 7 spaces; 36 dogs / 7 employees = 5 spaces*).

ADEQUATE PROVISION OF DRAINAGE, AND OTHER PUBLIC UTILITIES: The site generally slopes from west to east and storm water flows to an open ditch along Stagg Hill Road. No provision of drainage or other public utilities is required for this proposed use different from the means of drainage and public utility service that already exists. Adequate utility, drainage, and other such necessary facilities already exist.

ADEQUATE PROVISION OF ACCESS: Access is provided to the site from Polaris Avenue and Stagg Hill Road. The proposed use will likely generate an increase in traffic during the morning and evening hours as owners drop off and pickup their dogs. Adequate access is provided to the site.

Hamilton made a motion to deny a CONDITIONAL USE under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for a business engaged in the boarding (kennel), training, and grooming of dogs within an existing building located in the C-5, Highway Service Commercial District

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

The Board made the following findings of fact for the Variances at 2505 Stagg Hill Road

PRESENT USE: Commercial service shop and vacant space

CONDITIONS UNIQUE TO THE PROPERTY: The subject property was platted in 1951 with the existing building constructed in 1960. Polaris and Galaxy Drive are currently gravel streets and have been since the property and surrounding area was annexed in 1966. There is only a small fraction of the street network within the City of Manhattan that is not paved. Polaris Avenue, Galaxy Drive and Dipper Lane are three (3) gravel streets concentrated within the same general area. The lot abutting an existing gravel street is a unique condition to the subject property.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and properties adjacent to the north, south, east and west are zoned C-5, Highway Service Commercial District. Property adjacent to the subject site have various uses including warehousing and storage facilities, automobile maintenance shops, automobile dealerships, custom cabinetry shop and a bar. Farther to the east, south and west of the subject site, properties are zoned R-1, Single-Family Residential including along Galaxy Drive. To the north, across Stagg Hill Road are some nonconforming residential uses in the C-5, Highway Service Commercial District.

Currently there are three (3) unpaved roads in the Star-Vue Shopping Center subdivision. These unpaved roads abut residential and commercial lots that have unpaved parking areas. Due to the presence of the unpaved roads and the other unpaved parking areas, no adverse affects are anticipated on adjacent properties by granting of the Variance.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS: The strict application of the regulations would require the property owner to pave an existing parking area that abuts a graveled, Polaris Avenue, which connects to another gravel street, Galaxy Drive. There are also other lots within the same subdivision that have unpaved parking areas as well. Requiring the property owner to pave the portion of the existing parking area for which the Variance is being requested would be an unnecessary hardship based on the unique conditions of the property and street.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed Variance to allow the existing parking area to remain unpaved is not anticipated to adversely affect the health, safety, or general welfare of the neighborhood or community at large. The subject site has been unpaved and a part of the neighborhood since the property was constructed in 1960. It is apparent that the existing condition of the off-street parking lot has not impacted adjacent properties.

RELATIONSHIP TO INTENT OF REGULATIONS: The intent of the regulations is to require the paving of “parking areas, parking spaces, travelways, driveways” to guarantee a high quality linkage between new construction and the public right-of-way. The street to which the existing parking area connects is gravel and a unique condition of the public right-of-way. An equivalent material is found between the existing gravel parking lot and street, which is the intent of the regulations. When all of the circumstances regarding the paving of the parking area are considered, the intent of the regulations is met without requiring the parking area to be paved.

STAFF COMMENTS: The denial of the Variance request is based off of the condition of approval that the concurrent Conditional Use was approved.

Hamilton made a motion to deny a VARIANCE from the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to not pave an existing gravel off-street parking lot associated with a new proposed Conditional Use in the C-5, Highway Service Commercial District.

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

The Board made the following findings of fact for the Exception at 2505 Stagg Hill Road

PRESENT USE: Commercial service shop and vacant space

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: A request has concurrently been applied for a Conditional Use to allow for a business engaged in the boarding (kennel), training, and grooming of dogs and a Variance to not be required to pave the existing gravel off-street parking (*See the Conditional Use and Variance Staff Reports*). Other than the Conditional Use, Exception and Variance requests, the property complies with all applicable requirements of these regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and properties adjacent to the north, south, east and west are zoned C-5, Highway Service Commercial District. Property adjacent to the subject site have various uses including warehousing and storage facilities, automobile maintenance shops, automobile dealerships, custom cabinetry shop and a bar. Farther to the east, south and west of the subject site, properties are zoned R-1, Single-Family Residential including along Galaxy Drive. To the north, across Stagg Hill Road are some nonconforming residential uses in the C-5, Highway Service Commercial District.

Due to the location and design of the proposed off-street parking layout adverse impacts on adjacent properties should be minimal. The existing parking area located within the required front yard has been a part of the neighborhood since the property was constructed in 1960. It is apparent that the existing off-street parking area has not impacted adjacent properties. The applicant has proposed to add parking bumpers to the existing gravel lot and a paved handicap accessible space to create an organized parking system. In addition, there are several other properties in the area with parking stalls or structures within the required front yard area.

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. As previously mentioned, similar parking areas and other structures are located in the required front yard along Polaris Avenue, Stagg Hill Road and Galaxy Drive. The location of the off-street parking in the front yard setbacks will not impact platted easements or any vision clearance triangles. The design of the off-street parking conforms to the City's off-street parking standards. The additional off-street parking could be seen as a benefit to the public by taking an existing area and creating an organized parking lot that is now located outside of any vision clearance triangles and the addition of a

handicap accessible parking space.

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 regulations would not allow the off-street parking to be used as proposed. The off-street parking would need to be redesigned or reduced under strict application. There appears to be enough area in the existing parking lot to accommodate the sixteen (16) parking spaces if the outdoor play area was removed or reduced. However, it appears that the applicant has requested the Exception to maximize the outdoor play area for the dogs.

Considering these factors and that the location of the off-street 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: The denial of the Exception request is based off of the condition of approval that the concurrent Conditional Use was approved.

Hamilton made a motion to deny an EXCEPTION from 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 eleven (11) feet for an existing off-street parking lot associated with a new proposed Conditional Use located in the C-5, Highway Service Commercial District.

Wigfall 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 STREET FRONTAGE FROM 120 FEET TO APPROXIMATELY 113 FEET FOR A CIRCLE DRIVE, ASSOCIATED WITH A NEW SINGLE-FAMILY HOME LOCATED AT 1301 LEONE RIDGE DRIVE, IN THE R/AO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH AN AIRPORT OVERLAY.

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

Hardy opened the public hearing.

Emily Koenig, the applicant stood for questions from the board.

Hamilton asked if any of the other properties in the neighborhood had circle drives. Koenig said they did not.

Hamilton acknowledged that the unique shape of the lot was in part why the circle drive

worked on the property.

The Board made the following findings of Exception for the Exception at 1301 Leone Ridge Dr.

PRESENT USE: Vacant Lot

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject site complies with all applicable regulations, other than for what the Exception request is for. Lot 31 exceeds the minimum dimensions (75'-0" width/113.75' actual, 100'-0" depth/approx. 490'-0" actual). The home has been placed outside of the setback limits of 25'-0" front and rear, 8'-0" each side and is significantly under the maximum 30% lot coverage. The circle drive maintains adequate widths and depths, including the 75'-0" separation between the two (2) curb cuts. Seventy-five percent (75%) of the front yard has been designed as a landscaped open space per 7-102(C)(4)(b).

PROBABLE EFFECT ON ADJACENT PROPERTIES: Minimal adverse impacts are anticipated on adjacent properties. The subject site and surrounding properties are zoned R (Single-Family Residential) with an Airport Overlay (AO). The area is a relatively new residential development with neighboring lots being either vacant, under construction or recently constructed single-family dwellings.

The properties in Grande Bluffs are comfortably spaced, and the design of the circle drive does not compromise or distract from the character of the neighborhood. It would provide additional off street access and parking for guests of the property owner, reducing on street parking. This better supports traffic flow along the street and is less disruptive to the neighborhood.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed addition would not alter the order of the neighborhood or impact the health, safety and welfare of the general public. The Exception request does not impact any known utility easement or vision clearance triangles on the property. In addition, the proposed Exception request maintains adequate separation between the two (2) curb cuts.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: Under the current zoning regulations two curb cuts are allowed for circle drives provided that there is a minimum street frontage of one-hundred twenty (120) feet along the street in question and at least seventy-five percent (75%) of the front yard area is maintained as landscaped open space. The street frontage currently measures at 113.72', making it 6.28' short of the required street frontage. However, adequate front yard open space is maintained in accordance to zoning regulations and thus does not impact the existing landscaped open spaces on other properties within the neighborhood.

According to the application documents in part, "Located on Lot 31, just inside the

subdivision entry, this new home has been designed for entertaining. This approach not only makes the home more readily accessible to guests, but also provides additional off-street parking for the home when entertaining.” The option of adding a circle drive is available to the property owner to allow additional off street parking for guests and improving access to the home. Seventy-five (75%) percent of the front yard has been designed as landscaped open space.

Considering these factors and that the proposed second curb cut will not adversely impact adjacent property owners or the general public, the strict application seems unreasonable when all of the facts and circumstances are considered.

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

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

Hardy adjourned the meeting.

Respectfully Submitted by,

Amelia Lewis, Planning Intern