

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, August 12, 2015
7:00 PM

MEMBERS PRESENT: Harry Hardy, Chairperson; Connie Hamilton, Vice Chairperson; Angie Danner; Catherine Lavis; LaBarabara Wigfall

MEMBERS ABSENT:

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

CONSIDER THE MINUTES OF THE JULY 8, 2015 BOARD OF ZONING APPEALS MEETING.

Lavis moved to approve the July 8, 2015 minutes which was seconded by Danner and passed with a vote of (5-0).

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 SIX (6) FEET OFF OF GARY AVENUE; AND FOR THE REDUCTION OF THE MINIMUM REQUIRED TWENTY-FIVE (25) FOOT FRONT YARD SETBACK TO APPROXIMATELY FIFTEEN (15) FEET OFF OF SETH CHILD ROAD, ALL FOR A PROPOSED ADDITION TO AN EXISTING ATTACHED GARAGE LOCATED AT 3225 GARY AVENUE, IN THE R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT / OWNER: MARCIA YOUNT)

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

Hardy opened the meeting for public hearing.

The applicants were in attendance, but did not speak.

Hardy closed the public hearing and opened to board discussion.

Hamilton made a motion to 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 six (6) feet off of Gary avenue; and for the reduction of the minimum required twenty-five (25) foot front yard setback to approximately fifteen (15) feet off of Seth Child Road, all for a proposed addition to an existing attached garage located at 3225 Gary avenue, in the R-1, Single-Family Residential District, with the following conditions of approval:

1. The Exception request shall be limited to the proposed attached garage addition as explained in the application and shown on the site plan.
2. All applicable permits shall be obtained.

Danner seconded the motion which passed with a vote of (5-0).

The Board made the following findings of fact for the Exceptions at 3225 Gary Avenue.

PRESENT USE: Single-Family House

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: In 1995, approximately 570 square feet of lot area was purchased by the City of Manhattan and the Kansas Department of Transportation for improvements to Seth Child Road. Before the acquisition the existing home setback approximately thirty-two (32) feet from the north property line off of Gary Avenue. An Exception to reduce the front yard setback from twenty-five (25) feet to twenty-feet (20) was approved in 1999 to clear the title for the existing house. The existing home appears to be encroaching approximately ten (10) feet into the twenty-five (25) foot setback off of Seth Child Road. No other information could be found, but it appears to be a nonconforming condition of the existing property. The property complies with all applicable requirements of these regulations, other than the ones for which the Exception requests are for.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and the surrounding neighborhood are zoned R-1, Single-Family Residential District. To the west across Seth Child Road there are a range of zoning districts and land uses. These include professional offices and a church located in the C-1, Restricted Business District. The Brittnay Ridge Estates Residential PUD, which consist of single-family attached townhomes. R-3, Multi-family residential consisting of apartment complexes along Candlewood Drive. Farther to the west are additional property zoned R-1, Single-Family Residential District and R-2, Two-Family Residential District.

Impacts on adjacent properties should be minimal due to the location and design of the proposed addition to the attached garage. The properties located directly to the east of the subject site are oriented towards Terry Way and have functional side yards along Gary Avenue. The combination of the mature trees located within the subject site and the curvature of Gary Avenue appears to limit any adverse visual impacts of the proposed modifications. In addition, there is still a sufficient distance from the edge of curb to the proposed addition. The as-built garage would be setback approximately thirty-one (31) feet from the edge of curb, further adding to the appearance that the house is adequately setback.

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 addition to the attached garage will not affect the traffic along Gary Avenue or Seth Child Road, as the expansion is setback adequately from the street. In addition, the existing evergreen and deciduous trees are located within the right-of-way, screening the proposed addition from the driving public.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:

The strict application of the minimum front yard setback would prohibit the addition to the attached garage to be built as proposed. The shape of the lot as a result of the right-of-way acquisition reduces the subject property's front yard area. In addition, due to the original "pie shape" design of the lot, the house was located as close to the south of the lot as possible while still complying with the setback regulations. The subject site is limited in alternative options to redesign the proposed garage addition due to the irregular shaped lot.

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

A PUBLIC HEARING TO CONSIDER A VARIANCE FROM THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR AN INCREASE IN THE MAXIMUM ALLOWED SIGN AREA FROM APPROXIMATELY SEVENTY-NINE (79) SQUARE FEET TO EIGHTY-NINE (89) SQUARE FEET FOR IMPROVEMENTS TO AN EXISTING PYLON SIGN LOCATED AT 2630 FARM BUREAU ROAD, IN THE C-2, NEIGHBORHOOD SHOPPING DISTRICT. (APPLICANT: SCHURLE SIGNS / OWNER: RILEY COUNTY FARM BUREAU ASSOCIATION)

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

Wigfall asked if the existing Farm Bureau sign had been considered in the new sign proposal. Johnson said he did not think that had been considered as the property is allowed one sign per street frontage, with the subject site possessing two.

Hardy opened the meeting for public hearing.

The applicants were in attendance, but elected not to speak.

Hardy closed the public hearing and opened to board discussion.

Hamilton commented that this seemed like a clear Variance Case. Hardy agreed, with all of the conditions, especially the hardship condition being met.

Lavis made a motion to approve the Variance to allow for an increase in the maximum allowed sign area from approximately seventy-nine (79) square feet to eighty-nine (89) square feet for improvements to an existing pylon sign located in the C-2, Neighborhood Shopping District, with the following conditions of approval:

1. The Variance shall only apply to the proposed sign as shown on the site plan and outlined in the application documents.
2. All applicable permits shall be obtained.

Danner seconded the motion which passed with a vote of (5-0).

The Board made the following findings of fact for the Variance at 2630 Farm Bureau Road.

PRESENT USE: Professional offices building

CONDITIONS UNIQUE TO THE PROPERTY: According to the Riley County Register of Deeds, approximately 2,946 square feet of land was acquired by the City of Manhattan in 1995 for improvements to the controlled access highway. Prior to the acquisition, the lot contained one-hundred (100) feet of linear street frontage along Seth Child Road, which is adequate for the proposed pylon sign improvements. Without the right-of-way acquisition in 1995, the subject site would not require a Variance for the proposed modification to the pylon sign. This condition appears to be unique to the subject property and was not created by the applicant.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site is zoned C-2, Neighborhood Shopping District. To the north of the site, property is zoned C-5, Highway Service Commercial District with existing land uses including a movie theater, day spa and lumber/home improvement store. To the west of the subject site, property is primarily zoned R, Single-Family Residential District with the Southwinds Office PUD along Seth Child Road. C-2, Neighborhood Shopping District continues to the south of the subject site across Farm Bureau Road which includes existing bank, office and church land uses. Redbud Estates is located farther to the east, which is zoned R-5, Manufactured Home Park District.

The Sign Regulations allow properties in the C-2, Neighborhood Shopping District to have a maximum gross surface area of a pylon sign to not exceed one (1) square foot for each one (1) foot of linear street frontage which abuts the zoning lot. The subject site has approximately seventy-nine (79) feet of linear frontage along Seth Child Road, which would allow 79 square feet of measured sign area. The ten (10) square foot difference between the proposed pylon sign area and the allowed sign area for the subject site is negligible when accounting for the adequate setbacks and acquired land for the adjacent right-of-way. In addition, property to the north of the subject site are zoned C-5, Highway Service Commercial District which allows a ratio of four (4) square feet for each linear foot of street frontage, provided no single sign shall be greater than two-hundred sixty (260) square feet in surface area. The lot directly adjacent to the north contains over seven-hundred and sixty (760) feet of linear street frontage off of Seth Child Road. This amount of street frontage is equivalent to three (3) pylon signs, each totaling approximately the maximum allowed square footage. For these reasons, no adverse impacts are anticipated on adjacent properties.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS: The strict application of the Sign Regulation would not allow the signs to be installed as proposed. The reduction of the linear street frontage along Seth Child Road, due to the acquisition of right-of-way in 1995, limits the amount of signage area for the proposed pylon sign by approximately twenty-one (21) square feet. The proposed sign addition is less than half of the reduced amount of maximum sign area available to the subject site. For this reason and the

fact that the site is a corner lot along a principal arterial where signage is at a higher demand, strict application of the regulations would cause an unnecessary hardship to the applicant.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed pylon sign is setback farther than the minimum requirements of ten (10) feet along both Seth Child and Farm Bureau Road. The proposed eighteen (18) square foot addition to the pylon sign should not impact the driving public. The modifications to the existing pylon sign will not impact any platted easements or vision clearance triangles. Due to the minimal size of the addition, the modifications should generally be unnoticed. Approving the Variance request should have minimal effects on the public health, safety, morals, order, convenience, prosperity or general welfare.

RELATIONSHIP TO INTENT OF REGULATIONS: The design of the C-2 District is to provide a broad range of retail shopping facilities and services located to serve one or more residential areas. The intent of the District is to provide a range of low to medium intensity uses. The Sign Regulations for the C-2 District carry out the intent of the District by limiting the maximum area of a pylon or monument sign to a one-to-one (1:1) ratio, in order to keep associated signage to scale with the size of the lot. When accounting for the loss of the approximate twenty-one (21) feet of street frontage related to the acquisition of right-of-way, the intent of the regulations are met.

A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED FOURTEEN (14) FOOT FRONT YARD SETBACK TO APPROXIMATELY FOUR (4) FEET FOR A PROPOSED FENCE. THESE EXCEPTIONS ARE FOR AN EXISTING RESIDENTIAL HOME LOCATED AT 801 LARAMIE STREET, IN A R-M/TNO, FOUR-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY. (APPLICANT / OWNER: BRIAN LONDON)

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

Hardy opened the meeting for public hearing.

Hamilton asked the applicant if the fence would extend to the ends of the garage and the house. Brian London, the applicant said it would only extend about four feet from the end of the house and eight feet from the garage.

Hardy closed the public hearing and opened to board discussion.

Hamilton commented that while fence requests for corner lots are common, she could support the item based on the facts that the proposed fence would not block the views of the neighbors or extend too far into the lot.

Hamilton made a motion to approve the Exception under the terms of the Manhattan Zoning Ordinance to allow for the reduction of the minimum required fourteen (14) foot front yard

setback to approximately four (4) feet for a proposed fence for an existing residential home located at 801 Laramie in the R-M/TNO, Four-Family Residential District with a Traditional Neighborhood Overlay, with the following conditions of approval:

1. The Exception shall only apply to the proposed fence outlined in the application documents.
2. The fence shall be constructed according to the application and site plan documents.
3. All applicable permits shall be obtained.

Danner seconded the motion which passed with a vote of (5-0).

The Board made the following findings of fact for the Exception at 801 Laramie.

PRESENT USE: Single-family residential home

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The property complies with all applicable requirements of these regulations, other than the one for which the Exception is being requested. The subject site is currently conforming in lot size at 7,500 square feet, measuring 50 feet wide and 150 feet in depth. This lot size is greater than the minimum lot requirement for the zoning district and is consistent with traditional ward lots in the neighborhood in addition the lot coverage falls under the 30% maximum.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The properties surrounding the subject site are primarily residential and also lie within the R-M/TNO, Four-Family Residential District with Traditional Neighborhood Overlay. A couple blocks west of the subject site are City Park and Aggieville. Hyvee and the Manhattan Marketplace are located four blocks to the east. Aggieville and Moro Street are one block to the north. The immediate surrounding properties are also detached single family homes, and similar in design. The proposed fence would not harm the existing character of the neighborhood.

Due to the location and design of the proposed fence, adverse impacts on adjacent properties should be minimal. The proposed fence has similar design qualities of the existing fence, only extending out further. The property that would be impacted the most from the proposed Exception is the property directly to the east of the subject site. Since this property is also oriented facing Laramie Street, the proposed fence is does not obstruct or alter their existing views. The property diagonally across, on the northeast corner of Laramie and 8th has a similar fence. Many of the other properties along 8th Street, including the properties directly to the north and south have similar back yards abutting the street but do not have the area fenced in. The existing fence seems to have not impacted adjacent properties; and it is likely that the proposed fence will not have a negative effect on adjacent properties.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The Exception requested does not encroach upon any utility easements or vision clearance triangles. The fence is still four (4) feet away from the sidewalk and is relatively low in height at six (6) feet and should not affect pedestrian or vehicular traffic or safety. The Exception will not adversely affect 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 Exception is to allow the property owner more private space in his back yard. The corner location of the property requires that the side of the home, along 8th Street have the same setback requirements as the front of the home along Laramie. There is a concrete pad between the house and the garage which takes up a majority of the existing backyard space. The extension of the fence allows the property owner to enclose more back yard area that would include grass and green space. The minimum required front yard setback is larger than that of the minimum side yard setbacks. The property complies with all other regulations in the R-M/TNO district other than the one for which an exception is being requested.

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

Hardy adjourned the meeting.

Respectfully submitted by,

Amelia Lewis, Planning Intern