

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, September 9, 2015**  
**7:00 PM**

MEMBERS PRESENT: Harry Hardy, Chairperson; Angie Danner; LaBarbara Wigfall

MEMBERS ABSENT: Connie Hamilton, Vice Chairperson; Catherine Lavis

STAFF PRESENT: Chase Johnson, Planner

**CONSIDER THE MINUTES OF THE AUGUST 12, 2015 BOARD OF ZONING APPEALS MEETING.**

Danner moved to approve the August 12, 2015 minutes which was seconded by Wigfall and passed with a vote of (3-0).

**TABLE THE PUBLIC HEARING FOR AN APPEAL OF THE DIRECTION BY THE ZONING ADMINISTRATOR OR HIS/HER DESIGNEE FOR THE REMOVAL OF THE BILLBOARD AT 2657 EUREKA TERRACE, MANHATTAN, KANSAS. THE BILLBOARD IS LOCATED UPON THE LAND MORE SPECIFICALLY DESCRIBED AS LOT 3 OF THE PENNY'S ADDITION, UNIT TWO INDUSTRIAL PLANNED UNIT DEVELOPMENT ADDITION TO THE CITY OF MANHATTAN, RILEY COUNTY, KANSAS. (APPLICANT: WHITE GOSS, P.C / OWNER: THOMAS OUTDOOR ADVERTISING, INC)**

Wigfall moved to table the public hearing for the removal of the billboard at 2657 Eureka Terrance which was seconded by Danner and passed with a vote of (3-0).

**A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED TWENTY-FIVE (25) FOOT FRONT YARD SETBACK TO APPROXIMATELY ONE (1) FOOT; AND TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED EIGHT (8) FOOT SIDE YARD SETBACK TO APPROXIMATELY FOUR (4) FEET ALL FOR PROPOSED ADDITIONS TO AN EXISTING SINGLE-FAMILY HOME LOCATED AT 320 S. DELAWARE AVE, IN THE R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT: TIMBER & STONE**

**ARCHITECTURE AND DESIGN LLC / OWNER: PAMELA KEMPTON AND DAVID WRIGHT)**

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

Hardy opened the public hearing.

Michael Mecseri, Timber & Stone, wanted to clarify that the additional space requested on the north property line is for the roof overhang and not an extension of the structure. In addition, he said the north elevation will have windows.

Steve Heitman, 310 Delaware, the property north of the subject site, said he has no objections to the project. His previous concerns over utility easements and access were addressed through conversations with the property owner and city staff.

Hardy closed the public hearing.

Danner said the project seemed very straightforward. Hardy agreed and commended the applicant, the applicant's representative and information included in the staff report. With the topography and extreme setback, the addition does not appear to encroach on the property line.

Wigfall made a motion to approve the Exception to allow for the reduction of the minimum required twenty-five (25) foot front yard setback to approximately one (1) foot; and to allow for the reduction of the minimum required eight (8) foot side yard setback to approximately four (4) feet all for proposed additions to an existing single-family home located at 320 S. Delaware Ave, in the R-1, Single Family Residential District with the following conditions:

1. The Exceptions shall be limited to the additions 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.

The Board made the following findings of fact for the Exception at 320 S. Delaware Avenue.

**PRESENT USE:** Single family home

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** According the Riley County Appraiser's Office, the principal structure was constructed in 1958 as a single-family home. At that time the property was located in the "A" First Dwelling House District, which required a front yard setback of twenty-five (25) feet, with a provision that no building should project beyond an existing established setback line—which City Administration believes to be the reason why the building was allowed to be constructed where it was, roughly twenty-three (23) feet from the front property line. In addition, there was a provision in the "A" First

Dwelling House District regulations that allowed sideyard setback to not be less than six (6) feet. The property's zoning designation changed from "A" to "A-A" Single-Family Dwelling District in 1964, which required a minimum front yard setback of twenty-five (25) feet, thus creating a nonconforming condition. In 1969, the subject site's zoning classification changed to R-1, Single-Family Residential District, which requires a minimum side yard setback of eight (8) feet, which creates the additional nonconformity.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject site and surrounding properties to the north, east and south are zoned R-1, Single-Family Residential District. To the west are properties zoned R, Single-Family Residential District. To the east are properties zoned R-1, Single-Family Residential District and R-1 with a Traditional Neighborhood Overlay. Farther to the southeast are properties zoned R-2, Two-Family Residential District, with a Traditional Neighborhood Overlay along with the Orchard PUD. The area is a mix of single-family and two-family dwellings, with the majority being owner-occupied units. The only major non-residential use within the general neighborhood of the subject site is the Manhattan High School West Campus, located to the northwest along Poyntz Avenue.

The proposed additions to the south and north side of the existing property are unlikely to have any adverse impacts on adjacent properties. The addition is designed with similar architectural features as the existing residence and will maintain the traditional character of the surrounding neighborhood. There are several properties along Delaware Avenue that are encroaching into the minimum required setbacks including properties adjacent to the north, northeast and southeast. There is approximately forty (40) feet from the edge of curb on Delaware Avenue to the proposed addition due to the street's wide right-of-way. This distance gives the appearance that the house is significantly setback, thus diminishing any visual impacts of the proposed addition. In addition, due the large lot the south side and rear yard setbacks will maintain a large separation between the structure as proposed and the adjacent properties.

The property most impacted by the proposed additions is the property directly adjacent to the north. Due to the significant grade change between the two sites, views are already limited to the adjacent property to the north. An existing retaining wall and mature vegetation currently screen the subject site from the north. In addition, the applicant has submitted a form letter from twenty (20) of the adjacent neighbors offering their support for the proposed addition, including the property directly adjacent to the north. As a result, the effect to the surrounding neighborhood from granting the Exception for the proposed addition should be minimal.

**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 additions will be outside of all known utility easements and vision clearance triangles. In addition, the proposed additions will be in character with the house itself and also a number of other properties in the neighborhood.

**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

existing home as proposed. The topography of the lot and the existing access limits the available area to construct additions to the home without relief from the zoning regulations. Due to the original site design of the house relating to the slopes of the lot, the house was located as close to the east and north sides of the lot as possible while still complying with the setback regulations. In order to conform to the required minimum setbacks, the design and location of the house would need to be reconfigured entirely due to the topography.

Considering these factors and that the proposed additions will have a limited impact on the adjacent properties or the general public and that several neighbors have signed a support letter for the project, the strict application of the minimum front and side yard setback seems unreasonable.

Hardy adjourned the meeting.

Respectfully Submitted by,

Amelia Lewis, Planning Intern