

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, February 10, 2016**  
**7:00 PM**

MEMBERS PRESENT: Connie Hamilton, Vice Chairperson; Angie Danner; Brandi Nelson; LaBarbara Wigfall

MEMBERS ABSENT: Harry Hardy, Chairperson

STAFF PRESENT: Chad Bunger, Senior Planner; Amelia Lewis, Planning Intern

**CONSIDER THE MINUTES OF THE JANUARY 13, 2016 BOARD OF ZONING APPEALS MEETING.**

Danner moved to approve the January 13, 2016 minutes which was seconded by Wigfall and passed with a vote of (4-0).

**TABLE A PUBLIC HEARING TO CONSIDER A AN EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK FOR AN EXISTING FENCE FROM TWENTY-FIVE (25) FEET TO ZERO (0) FEET ALONG PLYMOUTH ROAD AT 1901 AND 1903 PLYMOUTH LANDING IN THE PLYMOUTH LANDING PUD, RESIDENTIAL PLANNED UNIT DEVELOPMENT (APPLICANT: LARIE SCHOAP OWNER: LARIE SCHOAP AND MARILYN TAYLOR)**

Wigfall moved to table the item until the March 9, 2016 meeting which was seconded by Danner and passed with a vote of (4-0).

**A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK FOR AN EXISTING DETACHED GARAGE FROM TWENTY-FIVE (25) FEET TO ONE (1) FOOT AND FOR AN EXISTING HOUSE FROM TWENTY-FIVE (25) FEET TO TWENTY-THREE (23) FOOT, BOTH ALONG THACKREY STREET AT 727 SUNSET AVENUE IN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT/OWNER: ROSELLA RAINBOLT TRUST, ROSELLA RAINBOLT)**

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

Hamilton asked how many buildable lots would result of the future subdivision, which the Exception is required for. Bunger said it would be two lots.

Hardy opened the public hearing.

Fred Gibbs, BG Consultants, came forward to answer the question. The Board had none.

Mark Knackendoffel, 726 Sunset, came forward to present the opinions of the surrounding neighborhood. These included concerns over the proposed structure, the nature of the exception and if the approval of this Exception would prohibit the re-platting of the lot.

Hamilton clarified the exception tonight was for the existing structures on the lot and said that it does fit the standards of the exception. The granting of this exception was not likely to affect the subdivision of the lot.

Bunger stated that for the lot to be subdivided it needed to be in conformance.

Sharon Reilly, 2024 Thackery, said she shared Knackendoffel's concerns. She wanted to voice additional concerns including the provision for the exception only being applicable to the existing structures on the lot. Bunger said that was a condition of approval.

Reilly said the gravel driveway is still being used, and said she wanted to know if the curb cut on Sunset would be filled, preventing access to the driveway.

Gibbs asked if the existing structures were damaged over 50% if they would be allowed to rebuild with this exception. Bunger said most likely yes if it was damaged by natural causes and would need to examine the non-conforming use regulations to provide a definite answer.

Hamilton closed the public hearing.

Danner said she appreciated the neighborhood's concern over the potential development on the future subdivided lot, however she felt the exception and the conditions applied to the existing structures on this lot and she could support it.

Hamilton asked about the condition of curb cut removal along Sunset Avenue. Bunger said the City would work with the property owner to enforce the curb cut. She asked if it would be used during construction of the second lot. Bunger said it would be likely that the second lot would have its own driveway.

Wigfall asked if the gravel space would be vegetated as opposed to being left as gravel and if the second condition considered this. Bunger said it was the intent and the condition said the gravel should be removed.

Danner 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 front yard setback for an existing detached garage from twenty-five (25) feet to one (1) foot and for an existing house from twenty-five (25) feet to twenty-three (23) foot, both along Thackrey Street in the R, Single-Family Residential District, with the following conditions of approval.

1. The Exception request shall be limited to the existing single-family home and

- detached garage, as explained in the application and shown on the site plan.
2. The existing gravel driveway and curb cut onto Sunset Avenue should be removed.

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

The Board made the following findings of fact for the Exception at 727 Sunset Avenue.

**PRESENT USE:** Single-Family Detached House

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** There is an existing gravel driveway that extends from the east side of the detached garage to Sunset Avenue. It appears that the driveway is original to the garage. In 1998, the garage was altered to install a garage door on the west side of the garage along with a new driveway off of Thackrey Street. It appears that the east side of the garage was also altered to remove its opening for a vehicle and replaced with a standard door. The existing driveway is extremely close to the intersection of Sunset Avenue and Thackrey Street and does not meet the City's current access management standards. This gravel driveway should be removed to eliminate any potential traffic hazards at the intersection, which is a condition of approval recommended by City Administration.

Other than the issue with the existing gravel driveway, the subject site complies with all applicable Zoning Regulations, other than for what the Exception requests are for.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** There should be no adverse impacts on adjacent properties by approving the Exception request. The existing home and detached garage have been in this condition since at least 1933. The Exception request is to bring the existing conditions into conformance with the Zoning Regulations to give clear title of the property and to allow for the applicant to subdivide the land. The subdivision process is an administrative action by the Manhattan Urban Area Planning Board and is scheduled to be considered on March 7, 2016.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** Minimal effects on public health, safety or general welfare are anticipated from approval of Exception request. The house and detached garage has been in this configuration for over 80 years.

The existing driveway may cause traffic hazards due to its location near the intersection of Sunset Avenue and Thackrey Street. Sunset Avenue is a busy collector street, which requires access management standards that generally prohibits driveways from being located near intersections. The gravel driveway and existing curb cut onto Sunset Avenue should be removed. The concrete driveway off of Thackrey leading to the detached garage is present

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** The strict application of the required setbacks for the existing house and detached garage are unreasonable. The house has been in this location since 1933 and the detached garage is

assumed to have been built in the same era. The only alternatives to correct the setback issue to move or remove the existing structures.

The purpose of the Exception request is to bring the property into conformance with the Zoning Regulations to give clear title of the property and allow for the land to be subdivided.

**A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW FOR THE INCREASE OF THE MAXIMUM ALLOWED DRIVEWAY WIDTH FROM TWENTY-FOUR FEET (24) TO THIRTY-FOUR (34) FEET AND TO REDUCE THE MINIMUM LANDSCAPED OPEN AREA REQUIRED IN THE FRONT YARD FROM SEVENTY-FIVE (75%) PERCENT TO APPROXIMATELY SIXTY-FIVE (65%) PERCENT FOR A PROPOSED ADDITION TO THE PAVED DRIVEWAY FOR A 2-CAR GARAGE IN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT/OWNER: BRADY TOPLIFF)**

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

Danner asked about existing exceptions in this neighborhood. Bungler said there might be some in the general area.

Hamilton opened the public hearing.

Brady Topliff, applicant and property owner came forward and said it was a problem that he inherited with the property.

Wigfall commented there might be additional run off caused by the paving, though the applicant said he was willing to do more landscaping on the property.

Hamilton said she felt uncomfortable approving something that has been illegal, and a resistance by the previous owner to comply with the code. Though the current owner followed the appropriate procedures, this could cause an increase in application by surrounding neighbors in the PUD and said because of those reasons, and because the home owner has a reasonable alternative, she could not support the item.

Nelson said she had the same concerns over cumulative consequences and the possibility of it affecting the total amount of green space in the neighborhood.

Hamilton closed the public hearing.

Danner made a motion to deny an EXCEPTION to allow for the increase of the maximum allowed driveway width from twenty-four feet (24) to thirty-four (34) feet and to reduce the minimum landscaped open area required in the front yard from seventy-five (75%) percent to approximately sixty-five (65%) percent for a proposed addition to the paved driveway for a 2-

car garage at 2728 Brookpark Drive in the R, Single-Family Residential District, on the decision that the standard of strict application has not been met because a reasonable alternative exists.

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

**A PUBLIC HEARING TO CONSIDER A VARIANCE TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED LOT AREA FROM 6,000 SQUARE FEET TO APPROXIMATELY 5,000 SQUARE FEET FOR THE PROPOSED CONSTRUCTION OF A SINGLE-FAMILY RESIDENTIAL HOME AT 430 LARAMIE STREET LOCATED IN AN R-2/TNO, TWO-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY. (APPLICANT/OWNER: CRAIG LAUPPE, ADVANCED PROPERTY MANAGEMENT)**

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

Hamilton opened the public hearing.

No one spoke.

Hamilton closed the public hearing.

Nelson asked if the structure would fit on the lot. Lewis said it complies with the required setbacks. Bunger noted that with a corner lot, the northern property line is only required to have an eight (8) foot side yard setback, however the property has a twenty-three (23) foot side yard setback.

Wigfall asked about the finish of the house. Craig Lauppe, property owner and applicant said it would be siding.

Hamilton wanted to revise the second condition to ensure for a single-family home to protect the neighborhood.

Wigfall made a motion to approve the VARIANCE under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the proposed construction of a single-family residential home located in an R-2/TNO, Two-Family Residential District with a Traditional Neighborhood Overlay, with the following conditions:

1. The Variance granted is only applicable to the reduction of the lot size.
2. The proposed single family home shall adhere to the TNO Design Guidelines as shown on the application documents.
3. All applicable permits shall be obtained.

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

The board made the following findings of fact for the property at 430 Laramie Street.

**PRESENT USE:** Vacant Lot

**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 a division of Lot 284 of Ward 2.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject site and surrounding properties are zoned R-2/TNO, Single-Family Residential District with the Traditional Neighborhood Overlay District. One block to the south and one block to the west is zoned R-M/TNO, Multi-Family Residential with the Traditional Neighborhood Overlay. One block to the east of the site is the Manhattan Marketplace Planned Unit Development. 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.

There will likely be some adverse impacts on adjacent properties with the addition of a new structure on the subject site. The properties most affected are likely to be the properties to the north and to the east of the subject site. The proposed structure adheres to the required setbacks along the north and east lot lines and is a single story, single family home, which should minimize the visual impact.

The proposed structure adheres to the design requirements of the TNO, ensuring some compatibility with the existing properties. In addition, the proposed house as single-family structure, will not create a significant increase in light, noise or traffic.

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

The existing tract size is a condition created by previous owners of the property sometime before 1964, and is not a condition created by the applicant. As it currently exists at 5,000 square feet, the current tract size prohibits any sort of dwelling unit or other structure from being constructed on the tract and would likely remain vacant. The Variance request is to allow the construction of a new home.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** The Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare. The proposed home does not encroach upon any utility easements or vision clearance triangles. In addition, the proposed home offers more housing for Manhattan residents.

**RELATIONSHIP TO INTENT OF REGULATIONS:** The intent of the regulations regarding minimum lot size is to sustain densities and to maintain 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%).

**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 ZERO (0) FEET OFF OF HOLIDAY DRIVE FOR A PROPOSED ADDITION TO AN EXISTING STRUCTURE AT 1601 TUTTLE CREEK BOULEVARD, LOCATED IN THE C-5, HIGHWAY SERVICE COMMERCIAL DISTRICT. (APPLICANT: MICHAEL CARSON & STONE ASSOCIATES OWNER: REDI SYSTEMS INC.)**

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

Hamilton asked for clarification on the parking, if the required number of spaces was correct with the increased square footage of the addition and said there was no mention that the spaces would be within the zero (0) foot setback. She raised concerns over the parking being in that setback.

Hamilton opened the public hearing.

Mike Carson, applicant, said that with the exception being granted, the two additional parking stalls would be within the front yard setback. The parking requirements for warehouse space is minimal.

Wigfall asked if they were at their max for parking right now. Carson said that was correct, the 2007 remodel added some additional spaces.

Bunger said it was advertised in a way that did not totally express the parking in the setback. While the addition does not get to zero (0) feet, the required parking is and is still tied in with the exception as it is a result of the proposed building expansion.

Hamilton asked if Bunger felt comfortable with the two (2) additional spaces and if that was enough for the number of staff. Carson said the calculation for spaces did take into consideration the existing facilities and the remodeling, which is sufficient. Bunger said he felt comfortable with it as it meets the minimum parking standards, the exception would just apply to the setback.

Hamilton requested the first condition could be modified to say that the exception should be limited to the addition and parking as outlined in the application documents.

Wigfall asked if circulation for the trucks was sufficient on site with the addition of the parking spaces. Carson clarified that the trucks used by the business are smaller and the two additional spots would not be in the way.

Hamilton closed the public hearing.

Danner 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 zero (0) feet off of Holiday Drive for a proposed addition to an existing structure located in the C-5, Highway Service Commercial District, with the following conditions:

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

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

The board made the following findings of fact for the property at 1601 Tuttle Creek Boulevard.

**PRESENT USE:** Business, Redi Systems Inc.

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** In 2002, the property was granted an exception for an accessory structure located in the front yard setback. For the proposed addition, two (2) additional parking spaces are required due to the increased square footage. These spaces have been added at the south end of the parking lot. Other than this previous exception and the exception being requested, the property complies with all applicable requirements of the zoning regulations.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject site and surrounding properties to the south are zoned C-5, Highway Service Commercial. Within this zone, two hotels are located across Holiday Drive. To the east, across Tuttle Creek Boulevard are properties zoned I-2, Industrial Park. To the north and east are properties zoned R, Single-Family Residential District and PUD, Planned Unit Development. The area is primarily used for commercial and industrial businesses with some residential further along Tuttle Creek Boulevard.

The proposed addition to the west side of the existing property is unlikely to have any adverse impacts on adjacent properties as there are no properties located to the west of the subject site. The properties most affected by the setback would be the properties located across the street, along the south side of Holiday Drive. The two hotels directly to the south and to the south west of the subject site are placed well away from the front lot lines along Holiday Drive and are buffered from the subject site by large parking lots and trees.

The addition is designed with similar architectural features as the existing structure and is compatible with surrounding properties. 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 addition will be outside of all known utility easements and vision clearance triangles.



**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 building as proposed. Due to the shape of the lot and surrounding growth limitations, the area for expansion on the existing site is limited.

The land immediately to the west, north, and east are undevelopable due to the steep hillside and the highway. Due to the original site design of the building relating to the slopes of the lot, the building 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 setback, the expansion of the business would not be possible.

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.

Hamilton adjourned the meeting.

Respectfully Submitted by,

Amelia Lewis, Planning Intern