

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, May 11th, 2016
7:00 PM

MEMBERS PRESENT: Harry Hardy, Chairperson; Connie Hamilton, Vice Chairperson; La Barbara James Wigfall; Brandi Nelson

MEMBERS ABSENT: Angie Danner

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

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

Wigfall moved to approve the April 13, 2016 minutes until the May meeting which was seconded by Nelson and passed with a vote of (4-0).

REMOVE FROM THE TABLE AND CONSIDER THE MINUTES OF THE MARCH 10, 2016, BOARD OF ZONING APPEALS MEETING.

Hamilton moved to remove the minutes of the March 10, 2016, Board of Zoning Appeals meeting from the table which was seconded by Wigfall and passed with a vote of (4-0).

CONSIDER THE MINUTES OF THE MARCH 10, 2016 BOARD OF ZONING APPEALS MEETING.

Wigfall moved to approve the March 10, 2016 minutes which was seconded by Nelson and passed with 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 SIDE FRONT YARD SETBACKS FOR A CORNER LOT FROM TWENTY-FIVE (25) FEET TO APPROXIMATELY TWENTY-THREE (23) FEET ON THE EASTERN SIDE OF THE PROPERTY AND FROM TWENTY-FIVE (25) FEET TO APPROXIMATELY TWENTY (20) FEET ON THE NORTHERN SIDE OF THE PROPERTY FOR TWO PROPOSED BAY WINDOW ADDITIONS. THESE EXCEPTIONS ARE FOR AN EXISTING RESIDENTIAL HOME LOCATED AT 1025 COLLEGE AVENUE, IN AN R, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT/PROPERTY OWNER: PAUL SCHEELE)

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

Hardy opened the public hearing.

The applicant was present but declined to speak.

Hardy closed the public hearing.

Hamilton said she could support the item but primarily because the bulk regulations were not significantly affected.

Hamilton made a motion to approve an EXCEPTION to allow for the reduction of the minimum required twenty-five (25) foot front yard setback to approximately twenty-three (23) feet on the east side of the property and twenty (20) feet on the north side of the property for two proposed bay windows on an existing residential home located at 1025 College Avenue in the R, Single-Family Residential, with the following conditions of approval:

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

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

The Board made the following findings of fact for the EXCEPTION at 1025 College Avenue.

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.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The properties surrounding the subject site are primarily residential and also lie within the R, Single-Family Residential District. The proposal is intended to increase the aesthetic value of the home.

Since the proposed project is small, there would be no probable effect on adjacent properties.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The Exception requested does not encroach upon easements. The proposal is very small in scope and would have no anticipated adverse effect on public health, safety, morals, order, convenience, prosperity, or general welfare. The applicants wish to improve the aesthetic value of their home by adding the proposed bay windows.

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

The exception request is for two small bay window additions, which encroach on the existing setback. However, the bulk of the home will remain outside of the existing twenty-five (25) foot setback on the north and east sides of the property.

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

REMOVE FROM THE TABLE FROM THE APRIL 13, 2016, BOARD OF ZONING APPEALS MEETING A CONDITIONAL USE TO ALLOW FOR THE ADDITION OF A LIMESTONE MONUMENT SIGN TO A LEGALLY NON-CONFORMING OFFICE BUILDING, ON THE CORNER OF SUNSET LANE AND SUNSET AVENUE, AT 320 SUNSET AVENUE, WITHIN THE R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT. (APPLICANT: POTTRUFF LAW OFFICE, PROPERTY OWNER: RAINMAKER LITIGATION SERVICES, LTD.)

Hamilton made a motion to remove the item from the table, Wigfall seconded and the motion passed on a vote of (4-0).

A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW FOR THE ADDITION OF A LIMESTONE MONUMENT SIGN TO A LEGALLY NON-CONFORMING OFFICE BUILDING, ON THE CORNER OF SUNSET LANE AND SUNSET AVENUE, AT 320 SUNSET AVENUE, WITHIN THE R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH TRADITIONAL NEIGHBORHOOD OVERLAY DISTRICT. (APPLICANT: POTTRUFF LAW OFFICE, PROPERTY OWNER: RAINMAKER LITIGATION SERVICES, LTD.)

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

Hardy opened the public hearing.

Nathan Karlin, 320 Sunset Avenue, representative of Pottroff Law Office said the site plan has changed since the last meeting and the company will replace the existing wooden sign with a limestone sign.

Mel Borst, 1918 Humboldt Street, said he lives in the neighborhood and supports the item.

Hardy closed the public hearing.

Hardy commended the applicant for working with city staff and the public and addressing their concerns from the previous meeting.

Hamilton made a motion to approve a CONDITIONAL USE to allow for the addition of a limestone monument sign to a legally non-conforming office building on the corner of Sunset Lane and Sunset Avenue, located at 320 Sunset within the R-1/TNO, Single-Family Residential District and Traditional Neighborhood Overlay District, with the following conditions of approval:

1. The proposed sign will be constructed as outlined in the application materials
2. The proposed sign complies with 10' sign setback requirements
3. In the event the use upon the site changes to a use permitted at that location by these regulations, the Conditional Use shall expire and shall not be re-established.
4. All applicable permits shall be obtained.

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

The Board made the following findings of fact for the Conditional Use at 320 Sunset:

PRESENT USE: legally non-conforming office building

1. **SIZE OF ZONING LOT:** The zoning lot currently measures approximately 100 feet by 185 feet. The size of the lot has not changed since the current property was constructed in 1964 and the lot size is not proposed to increase from what currently exists.

2. (A) EITHER, THE CURRENT EXISTING USE HAS NO SIGNIFICANT ADVERSE IMPACT ON EITHER THE SURROUNDING NEIGHBORHOOD OR PUBLIC, HEALTH, SAFETY OR GENERAL WELFARE AND THE PROPOSAL WILL NOT WORSEN THE IMPACT:

(B) OR, THE CURRENT EXISTING USE HAS A SIGNIFICANT ADVERSE IMPACT AND GRANTING THE PROPOSAL WILL MORE LIKELY REDUCE OR ELIMINATE THE IMPACT COMPARED TO A DENIAL OF THE REQUEST:

The subject site and surrounding properties are zoned R-1 Single Family Residential District, with a Traditional Neighborhood Overlay (TNO). Directly to the north of the subject site is St. Luke's Lutheran Church. To the east of the subject site, across Sunset Avenue is Sunset Cemetery. Directly to the south of the subject site is the Cemetery Shop, owned by the City of Manhattan. Additionally, several Fraternity and Sorority houses are in the area. So while the area is zoned R-1, Single Family Residential, there is currently a mix of uses in the immediate area.

The current use does not have a significant adverse impact upon the surrounding neighborhood or the public health, safety or general welfare. When the subject property was built in 1964, a special exception was allowed by zoning ordinance to allow a medical/professional office building, giving it the status of legal nonconformity.

The zoning regulations indicate that a legally nonconforming use shall be deemed a conditional use of the zoning district in which it is located (8-501).

3. COMPLIANCE WITH ALL APPLICABLE REGULATIONS, EXCEPT EXISTING LEGALLY NONCONFORMING CONDITIONS AND ANY NECESSARY EXCEPTION OF THE REGULATIONS: The proposed sign addition to the existing office building complies with 8-501(F): An applicant may request an exception as part of the conditional use, and the Board of Zoning Appeals may grant an exception to these regulations as to any of the following: (2) Any regulation dealing with signage.
4. THE EXISTING USE WILL CONTINUE IN SIMILAR FORM, OR IN A FORM THAT IS ALTERED ONLY TO MAKE THE PROPOSED USE MORE MODERN OR EFFICIENT: The proposed sign addition to the existing office building maintains the character of the property as it does not physically alter the structure, nor does it impact the use of the property as a law office building. There are no other modifications proposed to the subject site at this time.

A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE TO ALLOW FOR TO ALLOW FOR THE RENOVATION AND ADDITION TO THE THETA XI FRATERNITY HOUSE LOCATED AT 1803 LARAMIE STREET , WITHIN AN R-1/TNO/UO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH TRADITIONAL NEIGHBORHOOD OVERLAY AND UNIVERSITY OVERLAY (APPLICANT: BRENT BOWMAN, PROPERTY OWNER: ALPHA IOTA ALUMNI ASSOCIATION)

A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR A DECREASE IN THE MINIMUM SIDE YARD SETBACK FROM FIFTEEN (15) FEET TO SIX (6) FEET. ADDITIONALLY, AN EXCEPTION IS REQUESTED FOR THE REDUCTION IN THE MINIMUM NUMBER OF PARKING SPACES FROM A TOTAL NUMBER OF SPACES EQUAL TO SEVENTY-FIVE PERCENT (75%) OF TOTAL OCCUPANTS TO FOUR (4) SPACES, AS WELL AS TO ALLOW FOR PARKING WITHIN THE FRONT YARD SETBACK FOR THE THETA XI FRATERNITY HOUSE LOCATED AT 1803 LARAMIE STREET, IN AN R-1 SINGLE FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY AND A UNIVERSITY OVERLAY FOR THE THETA XI FRATERNITY HOUSE (APPLICANT: BRENT BOWMAN, PROPERTY OWNER: ALPHA IOTA ALUMNI ASSOCIATION)

May presented the staff report recommending approval for the items with three (3) conditions for the Conditional Use and three (3) conditions for the Exceptions.

Hardy opened the public hearing.

Dan Crouch, BBN Architects said the renovations will increase the amount of sleeping and studying spaces for residents as well as bring the property up to code by improving the sprinkler system. Crouch said the total occupancy of residents in the house will not change.

Wigfall asked for clarification that since occupancy was not increasing that the number of required parking spaces would not going to increase. Crouch confirmed that no parking will be added and the site will maintain its current four (4) parking spaces.

Hardy asked if the reason for the Exceptions was a result of pre-existing conditions and would just bring the property into conformance with the zoning code. Crouch said this was the case, when the property was rezoned from R-3 to R-1 many things became non-conforming.

Brian Hardeman, 1822 Laramie, lives in the neighborhood and supports the project but with a few reservation about parking and increased pressure on infrastructure.

Hardy acknowledged the concern.

Shirly Unekis, 1822 Fairchild, lives in the neighborhood and supports the project for not increasing its occupancy and also expressed concern over parking.

James Lindemuth, 500 Denison Avenue, lives across the street from the project and supports the project plan.

Hardy closed the public hearing.

Hamilton complimented the sensitivity of the project to maintaining the character of the neighborhood and appreciated the concerns of the neighbors.

Hamilton mentioned a desire for additional wording in the staff report expressly saying, any future additions or expansions, including occupancy, shall require a new conditional use permit.

May commented that he will add the condition to the staff report.

Wigfall mentions neighbors' response to the project is a great example of living in a community. Hardy agreed with Wigfall's comment and commended the reputation of the fraternity house within the neighborhood.

Hardy made a motion to approve a CONDITIONAL USE to allow for the renovation and addition to the Theta Xi fraternity house on the corner of Laramie Street and Denison Avenue, within a R-1/TNO/UO, Single-Family Residential District with Traditional Neighborhood Overlay and University Overlay, with the following amended conditions of approval:

1. The Conditional Use Permit shall be limited to the Theta Xi Fraternity House. Any future additions or expansions, including changes to the allowed occupancy, shall require a new Conditional Use Permit.
2. The applicant shall obtain all necessary permits.
3. The site shall be constructed as proposed.

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

The Board made the following findings of fact for the Conditional Use at 1803 Laramie:

PRESENT USE: Theta Xi Fraternity house

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The proposal complies with all applicable regulations, apart from the minimum side yard setback on the west side of the property. Zoning regulations require a minimum of 15 feet for conditional uses in an R-1 Single Family Residential district. However, the existing Theta Xi fraternity house, including a fire escape added in 1983, has a six (6) foot, seven (7) inch setback. Applicants are requesting an exception from the minimum side yard setback (see Exception staff report).

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The subject site and surrounding properties are located in an R-1 Single Family Residential District with Traditional Neighborhood Overlay and University Overlay. The subject site is located in the Eugene Field neighborhood, which is an older neighborhood located south of the Kansas State University campus, and contains a mix of single family homes and fraternity and sorority houses. Directly to the north, east, and west of the subject site are single family homes. To the south of the subject site is the Lambda Chi Fraternity house.

The applicants held a neighborhood meeting on March 21, 2016, including many of the fraternity members and the house mother. However, no neighbors attended the meeting. Applicants held an additional meeting with Tim Lendemuth, president of the Eugene Field Neighborhood Association, and he expressed his support of the project.

DOMINATION BY USE OVER NEIGHBORING PROPERTIES:

The proposal includes a three (3) story addition to the south side of the structure that would include a library on the first floor, a fourteen (14) man sleeping room on the second floor, and a ten (10) man room on the third floor. The proposed addition would have a building footprint of approximately 630 square feet. Apart from the minimum side yard setback requirement on the west side of the property, the proposal is compliant for all bulk regulations, and therefore, should not dominate adjacent properties.

1. LOCATION, NATURE, AND HEIGHT OF PHYSICAL IMPROVEMENTS:

The subject property is an existing 12,276 square foot lot with an existing 3,123 square foot fraternity house. The proposal includes an addition on the south side of the structure with a building footprint of 630 square feet, and a height of 35 feet, to match the existing structure. The low retaining wall on the east side of the property along Denison Avenue is also proposed to be extended with a masonry house sign at the corner of Denison and Sunset.

2. LANDSCAPING AND SCREENING:

The proposal does not include any screening. The landscaping is proposed to consist of a courtyard renovation on the south side of the structure as well as a new front terrace leading into the covered porch, on the southeast corner of the house.

3. ADEQUATE PROVISION OF PARKING AND LOADING:

The existing house contains four (4) parking spaces, and the proposal does not include any

additional off-street parking.

4. ADEQUATE PROVISION OF DRAINAGE, AND OTHER PUBLIC UTILITIES:

The proposed site increases the amount of impervious surfaces. However, 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.

5. ADEQUATE PROVISION OF ACCESS:

The proposal does not change access or circulation on the site.

Hamilton made a motion to approve an Exception to allow for the reduction of the minimum side yard setback from fifteen (15) feet to six (6), as well as an Exception for the reduction of the minimum number of parking spaces from a total number of spaces equal to seventy-five percent (75%) of total occupants to four (4) spaces, as well as to allow for parking within the front yard setback feet at 1803 Laramie Street in an R-1 Single Family Residential District with Traditional Neighborhood Overlay (TNO) and University Overlay (UO) to allow for the renovation and addition to the Theta Xi Fraternity house, with the following conditions of approval:

1. The Exception request shall be limited to the Theta Xi Fraternity House. Any future additions or expansions shall require a new Exception Request.
2. The applicant shall obtain all necessary permits.
3. The site shall be constructed as proposed.

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

Wigfall acknowledged the thoroughness of the information provided by the applicant on the application.

The Board made the following findings of fact for the Exception at 1803 Laramie:

PRESENT USE: Theta Xi Fraternity House

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The proposal complies with all applicable regulations, apart from the required conditional use permit (see Conditional Use staff report), and apart from the minimum side yard setback on the west side of the property. Zoning regulations require a minimum of 15 feet side yard setback for conditional uses in an R-1 Single Family Residential district. However, the existing Theta Xi fraternity house, including a fire escape added in 1983, has a six (6) foot, seven (7) inch setback. Additionally, the house does not comply with the minimum parking requirements for a fraternity, which requires a parking space for at least seventy-five percent (75%) of the occupants. This house currently only contains four (4) parking spaces. Additionally, the current parking lot is within the front yard setback.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site and surrounding

properties are located in an R-1 Single Family Residential District with Traditional Neighborhood Overlay and University Overlay. The subject site is located in the Eugene Field neighborhood, which is an older neighborhood located south of the Kansas State University campus, and contains a mix of single family homes and fraternity and sorority houses. Directly to the north, east, and west of the subject site are single family homes. To the south of the subject site is the Lambda Chi Fraternity house.

The applicants held a neighborhood meeting on March 21, 2016, including many of the fraternity members and the house mom. However, no neighbors attended the meeting. Applicants held an additional meeting with Tim Lendemuth, president of the Eugene Field Neighborhood Association, and he expressed his support of the project.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: Minimal effects on the public health, safety, morals, order, convenience, prosperity, or general welfare is anticipated, since the structure was built with the current setbacks before the current zoning regulations were in place.

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

The structure was originally built in 1920, before current zoning regulations were in place. Since the structure has existed in its current location since 1920 with no harm to the neighborhood, there is no reason its continued existence would have an adverse effect on the neighborhood.

A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR MAINTAINING THE REDUCED MINIMUM SIDE YARD SETBACK FOR AN ACCESSORY STRUCTURE OF THREE (3) FEET TO APPROXIMATELY ONE (1) FOOT FOR A PROPOSED DETACHED GARAGE FOR AN EXISTING RESIDENTIAL HOME LOCATED AT 1822 LARAMIE IN AN R-1/TNO/UO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY AND A UNIVERSITY OVERLAY. (APPLICANT: MICHAEL MECSERI – TIMBER & STONE ARCHITECTURE AND DESIGN LLC; PROPERTY OWNER: BRIAN HARDEMAN & JAYME MORRIS-HARDEMAN)

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

Hardy opened the public hearing.

Michael Mecseri, applicant from Timber & Stone Architecture and Design LLC was present for any questions. The Board did not have any questions.

Brian Hardeman, property owner explained the reasoning behind the project, stating that the proposed project would allow them to keep two cars off the street.

Hardy closed the public hearing.

Wigfall applauded the projects ability to work within the constraints to come up with a solution for reducing cars on the street.

Hamilton said she supported the item, acknowledging the many constraints on the project. She said she identified two issues with the project. The first is that the intrusion into the setback is increased and the second that a portion of the backyard is being developed, and primarily affects a neighboring parking lot as opposed to another residential property. Wigfall commented on the loss of softscape.

Nelson made a motion to approve an EXCEPTION to allow for the reduction of the minimum required three (3) foot side yard setback to approximately one (1) foot for a proposed fence for an existing residential home located at 1822 Laramie in the R-1/TNO/UO, Single-Family Residential District with a Traditional Neighborhood Overlay and University Overlay, with the following conditions of approval:

1. The Exception shall only apply to the proposed garage outlined in the application documents.
2. The garage shall be constructed according to the application and site plan documents.
3. No accessory dwelling unit shall be constructed in the proposed garage
4. 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 Exception at 1822 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 proposal, which includes a proposed mud room addition onto the home as well as a new detached garage has a total lot coverage of twenty point six (20.6) percent, which is still under the maximum lot coverage of thirty-five (35) percent.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The properties surrounding the subject site are primarily residential and also lie within the R-1/TNO/UO, Single-Family Residential District with Traditional Neighborhood Overlay and University Overlay. Directly to the west of the subject property is Delta Delta Delta Sorority. Additionally, several other fraternities and sororities reside in the neighborhood. The proposed garage would not harm the existing character of the neighborhood, and replaces a deteriorating existing garage. The proposal is sensitive to the historic and aesthetic character of the neighborhood.

Since the proposal is replacing an existing garage with a one (1) foot side yard setback, the effect on adjacent properties is expected to be minimal. Since the garage only serves the property in question, it would not increase the amount of vehicles parked at the property, nor would it increase traffic in the neighborhood.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE,

PROSPERITY, OR GENERAL WELFARE: The Exception requested does not encroach upon any utility easements. The proposed garage has a rear yard setback of nine point six (9.6) feet, which is outside of the four (4) foot right of way easement. Additionally, the applicants state that the proposal will increase the public safety and convenience as there is currently a high demand for parking in this neighborhood due to the presence of several fraternity and sorority houses. By constructing this garage which has an additional parking space compared to the existing garage, it will decrease the demand for parking on the street slightly. Additionally, the existing garage is in poor condition and has structural concerns, so this proposal will increase the safety and aesthetics of the site. 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 will maintain the existing one (1) foot side yard setback for an accessory use on this site. Additionally, there is a high demand for parking in this area due to the fraternity and sorority houses located in this neighborhood, and this proposal is meant to decrease the amount of cars parked on the street and guarantee parking for the residents of this property. The applicants hired a consultant to determine the most reasonable solutions to this issue, and the exception request was chosen as the most reasonable. The applicants also state that this proposal will increase the property value and have a positive impact on the neighborhood because of a deteriorating building being replaced with an architecturally sensitive structure and reducing the demand for parking on the street.

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

A PUBLIC HEARING TO CONSIDER AN EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM FRONT YARD SETBACKS FOR FIVE (5) LOTS FROM (60) FEET TO TWENTY-FIVE (25) FEET TO RETAIN THE SETBACK OF AN EXISTING FENCE, AS WELL AS FOR A PROPOSED FENCE WITH THE SAME SETBACK. APPLICANTS ARE ALSO REQUESTING AN EXCEPTION FOR A REDUCTION OF THE MINIMUM FRONT YARD SETBACK FROM SIXTY (60) FEET TO TWENTY-FIVE (25) FEET FOR A PROPOSED TRASH ENCLOSURE. THESE EXCEPTIONS ARE REQUESTED AS PART OF A PROPOSED ADDITION TO AN EXISTING WAREHOUSE AND OFFICE LOCATED IN THE I-3, LIGHT INDUSTRIAL DISTRICT. (APPLICANT: LARSON CONSTRUCTION; PROPERTY OWNER: BATA LLC)

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

Hamilton inquired why does the industrial zone has such a strong setback requirement of sixty (60) feet.

Bunger added that the setback more so addresses aesthetic issues of keeping accessory uses

behind the principal structures and maintains a standard of front yard.

Wigfall expressed concern that the proposed fence may reduce vehicle visibility especially around the curve.

Hardy opened the public hearing.

Matthew Kohls, BG Consultants and applicant, noted that the property owner, at time of purchase, did not know there would be a setback issue with the fence and wanted to maximize their maneuverability in their storage area.

Hardy closed the public hearing.

Hamilton said she could support the item but was concerned with the last sentence under strict application that the language would transfer to other sites that aren't as unique as this item. Hamilton commented that she would like to strike or modify the strict application because it comes across as giving the site additional space which applies to almost all exceptions.

Bunger added that without the exception the site would make a significant portion of the site unusable.

Hardy commented a clause could be added stating, given the unique nature of the site using the strict application would greatly reduce the amount of usable space.

Hamilton made a motion to approve an Exception to allow for the reduction of the minimum front yard setbacks for five (5) lots from (60) feet to twenty-five (25) feet to retain the setback of an existing fence, as well as for a proposed fence with the same setback. Applicants are also requesting an exception for a reduction of the minimum front yard setback from sixty (60) feet to twenty-five (25) feet for a proposed trash enclosure. These Exceptions are requested as part of a proposed addition to an existing warehouse and office located in the I-3, Light Industrial District, with the following conditions of approval and amendment to the strict application portion of the staff report:

1. The Exception request for the fence shall be limited to Lots 24, 25, 26 and 27 as explained in the application and shown on the site plan.
2. The proposed trash enclosure on Lot 28 must be screened on all sides by a sight obscuring screening of not less than six (6) feet in height.
3. All applicable permits shall be obtained.

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

The Board made the following amended findings of fact for the Exception at 2716 Eureka Terrace:

PRESENT USE: Existing construction business

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

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site is zoned I-3, Light Industrial and the surrounding properties along Eureka Terrace are zoned I-2, Industrial Park; C-6, Heavy Commercial; and PUD, Planned Unit Development. To the west is Landmark Self Storage, to the east is Penny's Concrete and an auto detailer, to the north is a car detailing business and across Eureka Drive is Flint Hills Job Corps Center. There are no properties located to the south.

Minimal adverse impacts on adjacent properties are anticipated by approving the Exception requests. The subject site is located in a primarily industrial area, located at the end of a street that is not used frequently by people working in the area. In addition, the proposed fence and the proposed trash enclosure are not directly adjacent to property owned by others. The proposed fence adds additional screening from neighboring properties.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: Minimal negative impacts are anticipated on the general public health, safety and general welfare by approving the Exception for the proposed fence and for the proposed trash enclosure. The fence will not inhibit the views of any motorists and still maintains twenty-five (25) feet from the street. The proposed trash enclosure is also to be located twenty-five (25) feet from the street and will be screened as regulations typically require of trash enclosures.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: Application documents state that the intent of the exception is to allow for the greatest maneuverability for Larson's vehicles, protecting the safety of the property and the crew. Given the unique nature of the site, adhering to the strict application by an additional increase in the required setback of sixty (60) feet for both the fence and the trash enclosure would greatly reduce the amount of usable space on the property, especially when the setback affects all the lots associated with the site.

Hardy adjourned the meeting.

Respectfully Submitted by,

Alicia Hunter, Planning Intern
Amelia Lewis, Planning Intern