

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, September 14, 2016
7:00 PM

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

MEMBERS ABSENT: Brandi Nelson.

STAFF PRESENT: Chad Bunger, CFM, AICP, Senior Planner

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

Hamilton moved to approve the October 10, 2016 minutes which was seconded by Hardy 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 FRONT YARD SETBACK FROM FIFTY (50) FEET TO ZERO (0) FEET FOR A PROPOSED CHAIN LINK FENCE WITH PRIVACY SCREENING, LOCATED WITHIN A I-2, INDUSTRIAL PARK DISTRICT. (APPLICANT/OWNER: U.S. ENGINEERING REAL ESTATE HOLDINGS – SCOTT HAGER).

Bunger explained that Doug May prepared the staff report but was unable to attend the hearing due to a family emergency.

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

Bunger commented that the proposed fence would not be directly on the property line, but close enough that it made sense to request a reduction in the front yard setback to zero (0) feet.

Hamilton asked for clarification on where the property lines were and where the proposed fence was on the site plan in the presentation.

Hardy opened the public hearing.

Scott Hager, applicant, gave some background information about U.S. Engineering and explained that the company has plans to do work in the Manhattan area. He complimented Bunger on the presentation and stated he had no other information to add.

Hardy closed the public hearing.

Danner stated that she was initially concerned about the visibility of motorists exiting the driveway of the property to the north due to the presence of a fence in the front yard setback of the subject property. However, she stated after seeing the photos in the presentation, she is comfortable with the amount of visibility.

Hamilton stated that while she supports the exception request, there have been several requests for fences in the setback in industrial districts, using the rationale of increasing the amount of space that can be used for storage. She stated that if that reason becomes the rationale, then the setback requirement becomes ineffective. She stated that despite the fact that the applicant has not proposed a building in the front yard setback, a six (6) foot tall fence with privacy screening is still significant.

Hamilton stated that using other examples of nonconformity with the setback regulation in the area is not a convincing argument. Instead, Hamilton said the argument to allow for this exception should be based on the irregularity of the lot shape which pushes available storage space to the front of the lot.

Hardy agreed with Hamilton.

Wigfall stated that she had initially wanted to ask what the floor area ratio is because the building consumes such a large amount of usable space.

Hamilton stated that the exception request is an answer to making the subject site a viable industrial site.

Hardy stated that the irregularity of the lot shape is stated in the exception description, but is missing from the "Strict Application" section of the staff report. Hardy requested that the staff report be amended to include information about the irregularity of the lot shape in the "Strict Application" section of the staff report.

Bunger stated an amendment to the staff report that includes a statement about the irregularity of the lot shape and the curved rear lot line which forces usable land for outdoor storage to be pushed towards Kretschmer Drive.

Hamilton added that it is unreasonable to apply the front yard setback regulation.

Hardy added that no other reasonable alternative exists.

Hamilton made a motion to approve an Exception under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the reduction of the minimum front yard setback from fifty (50) feet to zero (0) feet for a proposed chain link fence with privacy screening, located within a I-2, Industrial Park District, with the following conditions of approval:

1. The Exception request shall be limited to the fence as outlined in the application materials
2. All applicable permits shall be obtained

Wigfall seconded the motion, which passed 4-0.

The Board made the following findings of fact for the EXCEPTION at 1200 Kretschmer Drive:

PRESENT USE: Warehouse and office

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject site is compliant with all applicable regulations apart from the proposed fence, which is the exception being requested.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site is zoned I-2, Industrial Park District, as are properties directly to the north south, east, and west. Directly to the north of the subject site is Gillmore Rentals, to the west is McCall Pattern Company, to the south is Western Extralite Company, and to the east is a strip warehouse development that houses FedEx Ship Center and Baker Distributing. This property to the east is screened from the subject site by a row of vegetation along the railroad right of way.

Minimal adverse impacts on adjacent properties are anticipated by approving the Exception request. The subject site is located in a primarily industrial area. The area of the subject site that is proposed to be fenced in is currently not being utilized and the construction of this proposed fence with privacy screening would create more functional space for the applicants' storage needs while also aesthetically screening this use from the surrounding properties and increasing safety by creating a more secure environment. There are also several, similar fences located along Kretschmer Drive.

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 with privacy screening. The fence will not inhibit the views of motorists and still maintains approximately thirty (30) feet from the street, which would allow anyone walking or biking ample room. In addition, the proposed location of the fence will not inhibit any vision triangle requirements.

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 for accessory uses would require that the proposed screening fence be setback at least fifty (50) feet from the front lot line. This would cut down on the amount of usable storage space for the property. Since the surrounding neighborhood is industrial in nature and since the proposed fence would be used not only for aesthetic purposes in screening the storage uses of the lot, but also for safety purposes. The strict application of the regulations would render a large portion of the north side of the applicant's property as unusable as it relates to the business located on the subject site. The irregularity of the shape of the lot causes most of the usable storage space to be pushed

towards the front of the lot, which is the reason for this exception request. Due to the curved rear lot line, the applicants propose to fence in a portion of the front yard area for storage purposes. Since no other reasonable alternative exists, it is unreasonable to strictly apply the twenty-five (25) foot front yard setback regulation.

Hardy adjourned the meeting.

Respectfully submitted by,
Doug May, Planner