

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, October 12, 2016**  
**7:00 PM**

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

MEMBERS ABSENT: Harry Hardy, Chairperson; LaBarbara Wigfall

STAFF PRESENT: Doug May, Planner

**CONSIDER THE MINUTES OF THE September 14, 2016, BOARD OF ZONING APPEALS MEETING.**

Danner moved to approve the September 14, 2016 minutes which was seconded by Nelson and passed with a vote of 3-0.

**A PUBLIC HEARING TO CONSIDER A VARIANCE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR TWO WALL SIGNS LOCATED ON THE SAME FACADE OF THE CARMIKE CINEMA AT MANHATTAN TOWN CENTER, LOCATED WITHIN THE C-4, CENTRAL BUSINESS DISTRICT, LOCATED AT 100 MANHATTAN TOWN CENTER (FORMER SEARS). (APPLICANT: RENAE HARTSELL, PROPERTY OWNER: CITY OF MANHATTAN TOWN CENTER).**

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

Hamilton asked for clarification on the regulation that prohibits two (2) signs of the same type per façade. She asked why the two (2) proposed signs are considered the same type.

May explained that they are both considered the same type because they are both classified as wall signs.

Hamilton opened the public hearing.

Renaë Hartsell, applicant, thanked the Board for hearing the Variance request and thanked May for the staff report. She added that the proposed signs will not create a cluttered appearance and that despite being on the same façade, each sign is on a different plane.

Hamilton asked if ‘Ovation’ is the brand name for the restaurant.

Hartsell responded that it is, and explained the reason for the two signs is because the applicants are committed to keeping the “Town Center” moniker in the name of the business.

She went on to explain that the business is a “hybrid” in that half of it is a standard theater and the other half will have a restaurant and five (5) of the auditoriums will serve food during the movie.

Hamilton closed the public hearing.

Danner stated that she didn’t have anything more to add and that the request seemed straightforward.

Nelson agreed.

Hamilton stated that she is impressed by the size of the building and that the applicant is not using all twenty (20) percent of the allowable square footage of the façade for a wall sign because that would result in a very large sign. She also stated she supports this item because of the way in which the signs are placed on the structure and the reasons for doing so.

Nelson made a motion to approve of a Variance under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for two wall signs located on the same façade of the Carmike Cinema at Manhattan Town Center, located within the C-4, Central Business District, with the following conditions of approval:

1. All applicable permits shall be obtained
2. The two wall signs shall be constructed and placed as outlined in the application and staff report
3. The variance shall only apply to the two wall signs described in the application

Danner seconded the motion, which passed 3-0.

The Board made the following findings of fact for the VARIANCE at 100 Manhattan Town Center:

**PRESENT USE:** Manhattan Town Center Mall

**CONDITIONS UNIQUE TO THE PROPERTY:** Manhattan Town Center Mall is a unique mall in that it is located downtown in the C-4 Central Business District. This district is typically composed of commercial buildings from the 19<sup>th</sup> to the mid-20<sup>th</sup> Century. Most of these buildings feature zero (0) foot side and front setbacks and have relatively small front facades. Manhattan Town Center, however, is a large sprawling shopping mall that merges with the downtown core but is surrounded by parking on three (3) sides and features expansive facades on all sides. The western façade, where the two wall signs are proposed has a length of approximately two hundred and ten (210) feet and a height of approximately thirty-two (32) feet, eight (8) inches. The zoning regulations do not allow the total area of all signs on any façade to not exceed twenty (20) percent, which would be approximately 1,372 square feet. The two proposed wall signs do not come close to approaching this maximum.

Additionally, the Town Center 13 movie theater is unique in that it serves entire meals and contains a bar in addition to showing movies. As such, the property essentially contains two

businesses: Town Center 13 and Ovation Grill. A large portion of downtown pedestrian traffic will be accessing the movie theater from 3<sup>rd</sup> Street. In order to advertize the businesses housed within the building, the applicants are requesting two wall signs to be located on the façade that faces 3<sup>rd</sup> Street, the western façade, in order to capture the downtown traffic.

The zoning regulations currently allow two signs per façade. However, the signs must each be of a different type. The applicants are not proposing any more than two signs on this façade. Additionally, the signs proposed are within the allowable size limits as determined by the zoning regulations.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject property is zoned C-4, Central Business District, as are the properties directly to the west. To the north of the Town Center Mall is the Manhattan Marketplace PUD. To the east of the Town Center Mall, along Tuttle Creek/Fort Riley Boulevard, is zoned LM-SC, Light Manufacturing-Service Commercial District. To the south is zoned LM-SC and C-5 Highway Service Commercial District, which mostly consists of Pierre Street right of way and the Fairfield Marriot Hotel.

The proposed signs would have minimal effect on adjacent properties. The downtown area is a dense area with dozens of businesses, each with their own sign. The signs described in this staff report would not overwhelm the district, but instead helps to increase business in the area, which benefits all businesses downtown.

**UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS:** This property is unique both in terms of its large physical size in the downtown district as well as the fact that it is one business that essentially contains two businesses: a movie theater and a restaurant. The strict application of the regulations in this case would prevent the applicants from advertising both businesses using wall signs which is the most logical type of sign to use and creates aesthetic balance on the western façade of the building. The applicants wish to capture the downtown traffic by placing the signs on the west side of the structure, facing 3<sup>rd</sup> Street.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:**

The proposed signs would have minimal effect on public health, safety, morals, order, convenience, prosperity, or general welfare. The two wall signs are proposed to be located on the façade of a very large building, and would not create a cluttered look.

**RELATIONSHIP TO INTENT OF REGULATIONS:**

The zoning regulation that does not allow more than one sign of a given kind per façade is intended to prevent cluttering and proliferation of signs on building facades. Since the Manhattan Town Center Mall is so unique in the downtown setting due to its large size, having more than one sign of the same type would not create the cluttered look that the zoning regulation was intended to prevent. Additionally, the majority of commercial buildings in the C-4 Central Business District feature a zero (0) foot setback, and as such the number of signs on the façade of the building can seem overwhelming due to their proximity to the public right of way. However, in this case, the building is set back from 3<sup>rd</sup> Street approximately one

hundred sixty (160) feet at the furthest extent of the western façade.

**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 FRONT YARD SETBACK FROM TWENTY-FIVE (25) FEET TO TWENTY (20) FEET FOR A PROPOSED FRONT PORCH GABLED ROOF OVERHANG ON AN EXISTING HOME LOCATED WITHIN AN R, SINGLE FAMILY RESIDENTIAL DISTRICT, LOCATED AT 2121 GRIFFITH TERRACE. (APPLICANT: EVERETT ADKINS, PROPERTY OWNER: KELLY & NANCY UMSCHIED).**

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

Danner asked if there are any other homes in the neighborhood which have the same type of addition.

May responded that he was not aware of any, but stated that the addition would fit in well in the neighborhood architecturally.

Hamilton asked if the proposed gabled roof would have supports.

May responded that it would have support beams on each side of the gabled roof.

Hamilton asked if the gabled roof would be enclosed.

May responded that it would not be enclosed.

Hamilton stated that in the past, Exceptions and Variances ran with the land, and that people would sometimes enclose a covered porch that had been approved by the BZA, changing the nature of the approved Exception or Variance. She requested that a condition be added that stipulates that the proposed gabled roof remain open and not be enclosed.

May responded that he would add a condition requiring that the gabled roof addition remain open.

Hamilton opened the public hearing.

Everett Adkins, applicant, stated that he is the contractor on the project and that he had no intention of ever enclosing the proposed gabled roof overhang. He also stated that his primary concern with the project is to redirect rainwater. The existing roof overhang is an extension of the roof and gutters cannot be installed on it due to the angle. He stated that the purpose of the gabled roof is to direct rainwater into a gutter system.

Hamilton closed the public hearing.

Danner stated that with the additional condition of approval that the gabled roof overhang

remain open and not enclosed, then she does not have a problem with it.

Nelson agreed.

Hamilton commented that this project may inspire others to take on similar projects, but those projects might be worth doing if they are having similar rainwater runoff problems.

Danner made a motion to approve of an Exception under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the reduction of the front yard setback from twenty-five (25) feet to twenty (20) feet for a proposed front porch gabled roof overhang on an existing home located within an R, Single Family Residential District, with the following conditions of approval:

1. All applicable permits shall be obtained
2. The gabled roof shall be constructed as proposed in the application
3. The exception shall only apply to the proposed gabled roof described in the application
4. The proposed gabled roof shall never be enclosed with walls

Nelson seconded the motion, which passed 3-0.

The Board made the following findings of fact for the EXCEPTION at 2121 Griffith Terrace:

**PRESENT USE:** Single Family Home

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** Apart from the proposed roof for which this exception is requested, the subject property is compliant with all applicable regulations.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject property is zoned R-1, Single Family Residential, as are properties to the southeast, northeast, and northwest. To the southwest is the Prairie Glen Planned Unit Development (PUD). Surrounding properties are all single family detached homes, apart from the PUD which is a development that consists of thirty-three (33) sets of townhomes.

The proposed gabled roof is a small cosmetic project that would have very little, if any, effect on adjacent properties. The homeowners wish to create a larger stoop area that is protected from the elements, as well as create a better system for rainwater runoff, and increase the curb appeal of their home. While the proposed gabled roof would encroach on the required twenty-five (25) foot front yard setback, it would still have a setback of approximately thirty-five (35) feet from Griffith Terrace.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** The proposed project would have no effect on public health, safety, morals, order, convenience, prosperity, or general welfare. The project is small in scale and would benefit the homeowners and the subject property.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR**

**UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:**

The proposed project described in this staff report is small in scale and would have no negative impacts on the site nor the surrounding community. Considering the low impact of the project and the reasons for the project such as to increase the size of the covered stoop area and to increase curb appeal, and considering the fact that the home currently sits right at the twenty-five (25) foot setback, and leaves the applicants no opportunity to create a front stoop area that is protected from the weather without violating the front setback regulations, then the strict application of these regulations seems unreasonable considering all these circumstances.

**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 FRONT YARD SETBACK FROM TWENTY-FIVE (25) FEET TO TWENTY-ONE (21) FEET FOR AN EXISTING FRONT PORCH ON A HOME LOCATED WITHIN AN R, SINGLE FAMILY RESIDENTIAL DISTRICT, LOCATED AT 2000 PARKWAY DRIVE. (APPLICANT/PROPERTY OWNER: SEAN AND JESSI RUTH).**

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

Hamilton asked if the subject property was grandfathered because it was built before the zoning ordinance applied to it.

May explained that the zoning existed, but the property was already constructed when it was annexed into the city, and so the applicant is seeking to make the property compliant with the zoning regulations.

Hamilton asked that if the Exception was needed to do the platting described in the staff report.

May responded that the Exception was needed to do the platting.

Hamilton opened the public hearing.

Sean Ruth, applicant, stated that he was willing to answer any questions.

Hamilton closed the public hearing.

Danner stated that this is an easy Exception request to support.

Nelson agreed.

Nelson made a motion to approve of an Exception under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the reduction of the front yard setback from twenty-five (25) feet to twenty-one (21) feet for an existing front porch on a home located within an R, Single Family Residential District, with the following conditions of approval:

1. All applicable permits shall be obtained
2. The exception shall only apply to the existing front porch as described in the application materials

Danner seconded the motion, which passed 3-0.

The Board made the following findings of fact for the EXCEPTION at 2000 Parkway Drive:

**PRESENT USE:** Single Family Home

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** Apart from the existing front porch, for which this exception is requested, the subject property complies with all applicable regulations.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject site is zoned R, Single Family Residential District as are properties directly to the north, south, east, and west. The subject properties as well as all surrounding properties are single family detached homes.

The front porch, which extends approximately three and a half (3 ½) feet into the front yard setback has existed on the home since it was built in 1960 with no adverse effects on adjacent properties or the neighborhood. The covered front porch is simply intended to create a covered area that is protected from the elements on the front of the home. While the existing covered front porch does encroach on the twenty-five (25) foot front yard setback, it is still set back from Parkway Drive approximately thirty-two (32) feet, and has not adverse impacts on the neighborhood.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** The existing front porch is small in size and has had no effects on the public health, safety, morals, order, convenience, or general welfare of the neighborhood, or the community.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** Considering the fact that this small covered front porch as existed on this home since it was constructed in 1960 with no negative impacts on adjacent properties, the neighborhood, or the community, then the strict application of these regulations seems unreasonable.

Hamilton adjourned the meeting.

Respectfully submitted by,  
Doug May, Planner

