

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, November 9, 2016
7:00 PM

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

MEMBERS ABSENT: Harry Hardy, Chairperson; Angie Danner

STAFF PRESENT: Doug May, Planner

CONSIDER THE MINUTES OF THE October 12, 2016, BOARD OF ZONING APPEALS MEETING.

Nelson moved to approve the October 12, 2016 minutes which was seconded by Wigfall and passed with a vote of 3-0.

TABLE THE PUBLIC HEARING TO CONSIDER A CONDITIONAL USE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR A PROPOSED BED AND BREAKFAST HOME AT AN EXISTING HOUSE IN AN R-1, SINGLE FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY (TNO), LOCATED AT 331 NORTH 14TH STREET. (APPLICANT/OWNER: BARB HOLSTE)

Wigfall moved to table the public hearing to consider a Conditional Use, which was seconded by Nelson and passed with a vote of 3-0.

TABLE THE 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 PARKING SPACES FROM FIVE (5) SPACES TO FOUR (4) SPACES FOR A PROPOSED BED AND BREAKFAST HOME LOCATED WITHIN AN R-1, SINGLE FAMILY RESIDENTIAL DISTRICT, WITH A TRADITIONAL NEIGHBORHOOD OVERLAY (TNO), LOCATED AT 331 NORTH 14TH STREET. (APPLICANT/OWNER: BARB HOLSTE)

Nelson moved to table the public hearing to consider an Exception, which was seconded by Wigfall and passed with a vote of 3-0.

CONSIDER A REQUEST FOR A 180 DAY EXTENSION OF AN APPROVED 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 AN R-1/TNO/UO, SINGLE-FAMILY

**RESIDENTIAL DISTRICT WITH TRADITIONAL NEIGHBORHOOD OVERLAY
AND UNIVERSITY OVERLAY, LOCATED AT 1803 LARAMIE STREET.
(APPLICANT: DAN CROUCH, OWNER: ALPHA IOTA ALUMNI ASSOCIATION)**

Nelson moved to approve a request for a 180 day extension to an approved Conditional Use for a property located at 1803 Laramie Street, which was seconded by Wigfall 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 FRONT YARD SETBACK
FOR ACCESSORY USES FROM SIXTY (60) FEET TO SIXTEEN (16) FEET, AS
WELL AS TO ALLOW FOR THE REDUCTION OF THE FRONT YARD SETBACK
FROM TWENTY-FIVE (25) FEET TO SIXTEEN (16) FEET FOR A PROPOSED
DETACHED SINGLE CAR GARAGE ASSOCIATED WITH AN EXISTING HOME
ON A CORNER LOT LOCATED WITHIN AN R, SINGLE FAMILY RESIDENTIAL
DISTRICT, LOCATED AT 1902 BLUE HILLS ROAD. (APPLICANT/OWNER:
RONALD R. AND DIXIE L. WEST).**

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

Hamilton opened the public hearing.

Dixie West, applicant, said she hopes the Board is agreeable to the proposal. She stated that in four years, the home could be eligible for the Nation Register of Historic Places. She stated that the strict application of the sixty (60) foot setback would require the construction of the garage in the valley behind the home, which would require backing her car up the hill and around the side of the house, which would pose difficulties. Regarding the gravel paving, she stated that there are two other homes in the neighborhood that have their original gravel driveways. She stated that her neighbors have expressed their support of the proposal and the need for storage at the property. She also stated that rainwater runoff drains to her property and that she discussed drainage issues City Stormwater Engineer, BJ Edmonston. She stated that she does not want blacktop paving in front of her home and that the proposed garage will be attractive and small.

Hamilton asked if the purpose of the garage is to more safely exit and enter the property in a vehicle.

West responded that the orientation of the garage will allow her to back up her vehicle in front of the house and then exit onto the street moving forward, rather than backing into the street, which is safer.

Wigfall asked for clarification about what kind of historic designation the house could qualify for in a few years.

West responded that the house is a mid-century modern house that was designed by a

prominent architect, and that there are few mid-century modern houses in the National Historic Register. She stated that she used to live at 1014 Houston Street, and she got that house added to the National Historic Register, and that in four years her current house will be 50 years old, which would qualify the house to be added to the register. She added that the garage proposal would be an accessory structure that wouldn't impact the house. She stated that if the garage were to be attached to the house it would ruin the integrity of the house.

Hamilton closed the public hearing.

Wigfall stated that the request seems reasonable. She said the reason she asked about the National Historic Register designation is because she did not want the proposal to eliminate the property's eligibility. She added that the site seems difficult regarding ingress and egress, and that the applicants have made a good choice with their proposal. She stated that she does not have a problem with the proposal.

Nelson agreed.

Hamilton stated that the proposal is reasonable considering the site, and that she is glad that the neighbors have shown support, and that she thinks the proposal will create safer conditions for the applicant.

Wigfall 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 for accessory uses from sixty (60) feet to sixteen (16) feet, as well as to allow for the reduction of the front yard setback from twenty-five (25) feet to sixteen (16) feet for a proposed detached single car garage associated with an existing home on a corner lot located within an R, Single Family Residential District, with the following conditions of approval:

1. The Exception shall only apply to the proposed garage described in the application and staff report.
2. The garage shall be constructed as described in the application
3. All applicable permits shall be obtained.

Nelson seconded the motion, which passed 3-0.

The Board made the following findings of fact for the EXCEPTION at 1902 Blue Hills Road:

PRESENT USE: Single Family Home

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The existing home is compliant with all applicable zoning regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The garage will have minimal effect on adjacent properties. The proposed structure has a small footprint and would only affect the owners of the subject property. The subject site is zoned R, Single Family Residential, as are properties directly to the north, south, east, and west. The subject property is in the Keen Addition subdivision, which was platted in 1962. The surrounding

neighborhood is entirely residential.

The proposed garage adds a level of convenience for the homeowners, so their vehicle is protected from the elements. The garage is proposed to be sided with the same cedar siding as the principal home structure as well as have the same overhangs and roof pitch. The garage is proposed to be setback approximately thirty (30) feet from the street on both the south and west sides, that it does not inhibit vision clearance triangle requirements. Additionally, the proposed garage will be screened from the street by existing foliage.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed garage will have little to no effect on public health, safety, morals, order, convenience, or general welfare. The garage is proposed to only serve the subject property. It does not increase the number of vehicles accessing the property, but only serves as protection to keep the applicants' vehicle out of the elements.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: Considering the topography of the subject lot, which features a substantial slope down to the north, and the thick vegetation that exists there, the location chosen by the applicants seems logical for the proposed one car garage. Additionally, while the proposed garage would be built within existing setbacks, the structure would still be set back approximately thirty (30) feet from the street on both the southern and western sides.

Additionally, the garage is proposed to be built in the same architectural style as the house, which would consist of the same cedar siding, and matching roof pitch and overhangs.

Considering all these factors and circumstances, the strict application of the zoning regulations seems unreasonable.

A PUBLIC HEARING TO CONSIDER A VARIANCE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR AN EXISTING GRAVEL DRIVEWAY LEADING TO A PROPOSED DETACHED SINGLE CAR GARAGE ASSOCIATED WITH AN EXISTING HOME ON A CORNER LOT LOCATED WITHIN AN R, SINGLE FAMILY RESIDENTIAL DISTRICT, LOCATED AT 1902 BLUE HILLS ROAD. (APPLICANT/OWNER: RONALD R. AND DIXIE L. WEST).

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

Hamilton opened the public hearing.

Hamilton closed the public hearing.

Wigfall 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 an existing compacted gravel

driveway leading to a proposed detached single car garage associated with an existing home on a corner lot located within an R, Single Family Residential District, with the following conditions of approval:

1. The Variance shall only apply to the existing gravel driveway described in the application and staff report.
2. All applicable permits shall be obtained.

Nelson seconded the motion, which passed 3-0.

The Board made the following findings of fact for the VARIANCE at 1902 Blue Hills Road:

PRESENT USE: Single Family Home

CONDITIONS UNIQUE TO THE PROPERTY: The subject site has experienced rainwater runoff issues due to the sloping nature of the site. The lot slopes to the north, towards the house. During heavy rains, rainwater accumulates along the front of the home. The houses across the street have yards that slope to the south toward the subject property. Many of these houses feature concrete driveways that contribute to rainwater runoff issues.

The subject property currently has a compacted gravel driveway, which has existed with the house since it was constructed in 1970. In order to alleviate some of the rainwater runoff issues, the applicants met with the City Stormwater Engineer to determine some solutions to the runoff problem. The compacted gravel driveway has a positive effect on rainwater runoff because gravel is a permeable surface and will allow some runoff to be absorbed into the ground. Additionally, the applicants created a low berm along the south and west sides of the house as well as a berm across the driveway in an effort to redirect rainwater runoff to the drainage area on the east side of the property, which flows to the north.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The rainwater runoff is currently distributed to a drainage area on the east side of the subject property which flows to the north. The compacted gravel driveway has had no negative impacts on adjacent properties. And in fact, has a positive effect because it helps to alleviate some rainwater runoff issues because the gravel allows rainwater to be absorbed into the ground easier.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS: The strict application of the regulations would result in an unnecessary hardship in that it would exacerbate an existing problem of rainwater runoff. Additionally, considering that the compacted gravel driveway has existed with the home since it was constructed in 1970 and considering the topography of the subject lot, which features a substantial slope down to the north, and the thick vegetation that exists there, then the strict application of the zoning regulations seems unreasonable.

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

The compacted gravel driveway will have little to no effect on public health, safety, morals, order, convenience, or general welfare. The permeability of the gravel surface decreases the

amount of rainwater runoff in the area, which has a positive effect on the area.

RELATIONSHIP TO INTENT OF REGULATIONS: The zoning regulation that dictates that all driveways in the front yard area must be paved was intended to contribute to a clean, uniform appearance to the front yard areas of properties in Manhattan. However, the owners of the subject property have maintained the gravel driveway that has existed with the home since it was constructed in 1970. Additionally, the zoning regulation does not necessarily take into account unique circumstances, such as this, where rainwater runoff may be an issue that a paved driveway would contribute to.

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 ZERO (0) FEET FOR A PROPOSED PRIVACY SCREENING FENCE LOCATED WITHIN A C-5 HIGHWAY SERVICE COMMERCIAL DISTRICT, LOCATED AT 2121 ELM LANE. (APPLICANT/OWNER: ROGER SEYMOUR – ROCK SPRINGS RENTALS, LLC).

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

May added that an adjacent property owner submitted several photos of the subject site. He showed the Board the photos and stated that the person who took the photos can further explain them.

Wigfall asked if the lot pins have been found or if new ones have been installed.

May responded that a survey of the site has not yet been performed.

Wigfall asked if the staff report included a condition that stated a survey must be performed.

May responded that he could add that as a condition of approval.

Hamilton asked for clarification about what issue was before the Board. She asked if it was a reduction of the front yard setback.

May responded that that was correct, the applicant is requesting a reduction from twenty-five (25) feet to zero (0) feet.

Hamilton asked if the Exception request was about the screening requirement.

May responded that the Exception request was because the fence was proposed within the front yard setback.

Hamilton stated that the fence will run along both side lot lines, but only the first 25 feet of the fence is within the front yard setback.

Nelson asked if there would be any problem with sight lines with drivers entering the street from the adjacent property.

May responded that there should be enough space between the fence and the curb to not create any Vision Clearance Triangle problems.

Hamilton asked for clarification about whether the fence is proposed along the rear lot line or not.

May responded that the applicant and Code Services Department agreed that a fence along the rear lot line is not necessary.

Hamilton opened the public hearing.

Gwen Mikinski, 438 Shelle Road, explained the photos she submitted. She stated that the reason for the photos was to show her concern about the nature of the storage that may go within the proposed fenced area or adjacent properties also owned by the applicant. She stated that her main concern is to have a clean neighborhood. She stated that her neighborhood is not a place she wants storage. She stated that before the applicant cleaned up his property, there were a lot of items being stored that were hazardous to health. She added that by allowing the proposed fence, she asked whether the City is allowing a "junk yard feel". She asked whether the allowed storage uses will have an effect on property values.

Nelson asked whether the mixture of zoning districts in the neighborhood existed that way when Mikinski moved in.

Mikinski responded that she thought that it was that way when she moved in, but she was not certain. She stated that there were two adjacent properties also owned by the applicant that she did not know the zoning. She added that she was aware of the mixture of zoning districts when she purchased the home, but it did not look the way it does today when she moved in.

Nelson asked if the subject property is zoned commercial.

May said that it is.

Nelson asked Mikinski if she is opposed to the fence.

Mikinski responded that she is not opposed to the fence. However, she does not think the fence should have a zero (0) foot setback. She added that the applicant should follow the regulations that the rest of the city has to follow.

Roger Seymour, applicant, explained that at one time the Code Department allowed storage of tools and equipment was generally allowed anywhere in a residential district. He said that by the late 1980s or early 1990s, the Code Department determined that items being stored should be on pallets or trailers in residential district. Later, another regulation was added that required storage in residential areas be covered. Then, he said, storage had to be on pavement. He

added that now, the City does not allow storage in residential areas at all. He said that limits him to one property within the City that is acceptable for storage uses. However, Code Department has requested the applicant install a fence. However, he said the zoning regulations would not allow him enough room to turn around trailers on his property, which is the reason he is requesting the Exception. He added that he owns the adjacent properties and has no opposition to the fence proposal. He said that he has also talked with several other adjacent property owners who have no objections to the fence. He said the strict application of the regulations places a burden on him, when it comes to storing and turning equipment around on his property. He said that the property has historically been used as an ice cream shop, a plumbing store, and a maintenance building for a mobile home park.

Wigfall asked what types of items are stored on the property, and how long they are stored there.

Seymour responded that he stores skid loaders, trailers, a back hoe, two-ton trucks, a semi trailer, lawn mowers, snow removal equipment, and construction and property maintenance equipment. He said he may also have appliances stored there.

Katie Harkin, 1610 Humboldt Street, said that while the subject property is being called storage, she thinks it looks more like a dump site, where items are not being retrieved or used.

Hamilton closed the public hearing.

Hamilton asked if there is a screening requirement in the zoning district.

May responded that the C-5 District does requires that storage uses be screened and that Code Services Department has requested that the screening be installed.

Hamilton asked if the options were to install screening or request an Exception to not require screening.

May said that was correct.

Hamilton said that she is happy Code Services Department and neighbors have been looking into this issue. She said that Code Department is the remedy for the neighborhood because the Board of Zoning Appeals does not have any say about what a property owner can and cannot store.

May said the issue stems from neighborhood complaints and Code Services Department trying to come up with a solution to that problem.

Hamilton said this is a positive solution.

Nelson said she does not see a problem with the proposed fence.

Wigfall said that the Board is not there to debate whether the site needs screening or the right

of a property owner to store equipment on their land

Hamilton said the Board has dealt with many Exception requests to allow storage in the front yard, but rarely are they in a residential area. She said that 10 or 15 years ago, Exceptions were created to make it easier for proposals such as fences.

Nelson asked if Hamilton had an objection to the proposed fence.

Hamilton stated that she does not have an objection, and the proposed fence will be more appealing to the residential neighborhood. She said that the subject property easily meets the standards that allow for the approval of Exceptions, considering the steep slope of the lot. She said the proposal will allow the property owner to use the property the way that it is zoned.

Wigfall asked if the Board does not grant the Exception, how much space would exist between the existing structure and the 25 foot setback.

May responded that he wasn't sure exactly how far back the building is setback, but that it is roughly situated in the southern third of the lot.

Hamilton asked if the applicant followed the 25 foot front yard setback, if the area in front of the fence could be used for parking since it is already paved.

May responded that it could be.

Wigfall said that she wanted to make sure there was a reasonable amount of space behind the 25 foot setback for storage.

Nelson said that the extra space wasn't necessarily for storage, but to turn vehicles around.

Hamilton requested that conditions of approval be modified so that it says the fence shall be maintained.

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 zero (0) feet for a proposed privacy screening fence located within a C-5 Highway Service Commercial District, with the following conditions of approval:

1. The Exception shall only apply to the fence described in the application and staff report.
2. The fence shall be constructed and maintained as described in the application documents
3. All applicable permits shall be obtained.

Wigfall seconded the motion, which passed 3-0.

The Board made the following findings of fact for the EXCEPTION at 2121 Elm Lane:

PRESENT USE: Maintenance/Storage

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject property currently complies with all applicable zoning regulations. However, the Code Services Department is requesting that the storage use of the property be screened with a privacy fence from the surrounding residential uses, which is the reason for this Exception request.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject property is zoned C-5 Highway Service Commercial District, which is somewhat unusual for this neighborhood. The proposed privacy fence would have little effect on adjacent properties. The purpose of the fence is to screen the storage of vehicles and machinery from nearby residential properties. The proposed fence is an aesthetic improvement over what is there currently.

The applicant owns the property directly to the east of the subject property, as well as the two vacant lots directly to the west of the subject property. The properties directly to the north and east of the subject site are zoned R, Single Family Residential. The properties directly to the south, across Fort Riley Boulevard, are zoned C-5 Highway Service Commercial District and I-3 Light Industrial District. The general neighborhood contains a mix of zones, including: C-5 Highway Service Commercial District; R, Single Family Residential District; R-2, Two-Family Residential District; Planned Unit Development (PUD); and C-1, Restricted Business District. Land uses reflect this mix of zones. The neighborhood contains a mix of single family and two-family residential uses, commercial uses, and light industrial uses.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed fence would have little, if any, effect on public health, safety, morals, order, convenience, prosperity, or general welfare. The fence would screen the storage of vehicles and machinery as well as create a safer environment in the neighborhood by securing the equipment and tools behind a privacy fence.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The City of Manhattan Code Services Department has requested the applicant install the proposed privacy screening fence in order to screen and secure the equipment and vehicles from view of the neighborhood, which is primarily residential. Additionally, considering the slope of the lot and the placement of the existing structure, the front yard area is the most logical place to use as storage. The lot slopes to the south and roughly twenty (20) feet behind the structure, there is a sharp drop down to Fort Riley Boulevard. Considering all these facts and circumstances, the strict application of the regulations seems unreasonable.

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 ADDITION TO AN EXISTING ATTACHED GARAGE ON A HOME LOCATED WITHIN AN R, SINGLE FAMILY RESIDENTIAL DISTRICT, LOCATED AT 1020 NORTH MILL POINT CIRCLE. (APPLICANT: KRISTY JOHNSON – BEN MOORE STUDIO, LLC; OWNER: JOE & CARRIE URGIN).

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

Nelson asked if the garage and the driveway are proposed to be expanded.

May said that was correct, but the curb cut would not be widened.

Nelson asked if it is proposed to be concrete.

May said that it is.

Hamilton asked if the setback was reduced to 20 feet, there would still be another 22 feet of right-of-way between the proposal the curb.

May said that is correct.

Hamilton opened the public hearing.

Kristy Johnson, applicant, stated that she is an architect with Ben Moore Studio and that the subdivision the subject property is located in has covenants that do not allow a detached shed. Additionally, the applicants have two children that are nearing high school age and will soon be driving and so the applicants will have one or two more cars. She said the covenants do not allow street parking in the neighborhood and the street in front of the home is a busy street that the applicants wouldn't want to park on anyway. She added that the six adjacent property owners whose signatures she obtained support the project because it will add value to the neighborhood. She added that most of the houses in the neighborhood already have three car garages.

Hamilton closed the public hearing.

Hamilton stated she supports the proposal. She said the staff report explained it well. She said the intrusion into the setback is relatively modest, and that the impact will be mitigated because the house is located on an extensive right-of-way.

Wigfall said that the five foot encroachment is minor considering the size of the homes and lots in the neighborhood.

Wigfall 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 addition to an existing attached garage 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 garage expansion described in the application and staff report.
3. The garage expansion shall be constructed as described in the application documents.

Nelson seconded the motion, which passed 3-0.

The Board made the following findings of fact for the EXCEPTION at 1020 North Mill Point Circle:

PRESENT USE: Single Family Home

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject property is relatively new, and was built in compliance with the zoning regulations. As such, there are no nonconformities currently associated with the property.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject property is zoned R, Single Family Residential, as are properties directly to the north, south, east, and west. The property is located in the Miller Ranch subdivision, which is comprised of almost entirely residential single family homes. However, just to the west of the subject property are two Planned Unit Developments (PUDs) which consist of townhomes. This increases the residential density of the area somewhat.

The proposed garage expansion would have minimal effect on adjacent properties. It is simply meant to add a level of convenience and security to the property owners by giving them more space to store lawn equipment and tools. While the proposal would encroach on the existing front yard setback by three (3) feet, six (6) inches, the structure would still be set back from the street approximately forty-two (42) feet.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed garage expansion would have little, if any, effects on public health, safety, morals, order, convenience, prosperity, or general welfare. The proposal is setback far enough from the intersection of North Mill Point Circle and Miller Parkway that it would not create any vision clearance triangle violations.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: Considering the small scale of this proposal, and the fact that it would have no adverse impacts on surrounding properties or the neighborhood, and also considering that the proposed garage expansion would be set back from the street approximately forty-two (42) feet, then the strict application of the zoning regulations in this circumstance is unreasonable.

A PUBLIC HEARING TO CONSIDER: AN EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK TO ALLOW FOR A PROPOSED GARAGE ADDITION ONTO THE EXISTING DETACHED GARAGE FROM SIXTY (60) FEET TO TWENTY-FIVE (25) FEET FOR A PROPERTY LOCATED IN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT, LOCATED AT 221 WESTWOOD ROAD. (APPLICANT: MICHAEL CARSON – MICHAEL CARSON & ASSOCIATES).

A PUBLIC HEARING TO CONSIDER: AN EXCEPTION TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED REAR YARD SETBACK FROM TWENTY-FIVE (25) FEET TO FIFTEEN (15) FEET TO ALLOW THE EXISTING HOUSE TO COME INTO COMPLIANCE WITH THE ZONING REGULATIONS LOCATED IN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT, LOCATED AT 221 WESTWOOD ROAD. (APPLICANT: MICHAEL CARSON – MICHAEL CARSON & ASSOCIATES).

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

Hamilton asked for clarification about whether the two car garage addition would result in a four car garage.

May said that was correct.

Hamilton asked if the driveway will be expanded.

May said the driveway would be expanded in front of the garage expansion.

Hamilton asked what the garage is being used as.

May said the garage is used to keep all the applicant's vehicles out of the elements.

Hamilton asked if there is an issue with lot coverage or the amount of impervious surface.

May responded that since the lot is so large, the proposal does not create any issues with lot coverage.

Hamilton said that she could not see the property at all from Westwood Road.

Hamilton opened the public hearing.

Michael Carson, applicant, made it known that he was in attendance, but did not say anything.

Hamilton stated that the Board received a letter from Tracy and Bob DeBruyn, 2030 Pierre Street, which stated they are opposed to the Exception request, although they did not explain why or which Exception request they are opposed to.

Wigfall asked if the applicant had looked at runoff regarding the existing paved driveway.

Carson said he had not.

Wigfall stated that she was curious about the form of the addition, but since it is so well screened it does not matter as much. She also stated that she hoped the driveway expansion was permeable, to reduce runoff.

Nelson asked if this was something City staff would take into account.

May responded that it is, but since this project is small in scale it did not warrant any additional provisions.

Hamilton said that since the site is so large and well screened and since the proposal would be compliant if the garage were attached, then she is supportive of the proposal.

Nelson made a motion to approve an EXCEPTION to allow for the reduction of the minimum required front yard setback to allow for a proposed garage addition onto an existing detached garage from sixty (60) feet to twenty-five (25) feet along Westwood Road; and allow for the reduction of the minimum required rear yard setback from twenty-five (25) feet to fifteen (15) feet to allow the existing house to come into compliance with the zoning regulations located in the R, Single-Family Residential District., with the following conditions:

1. The Exceptions shall only apply to the garage addition and existing house as described in the application
2. All applicable permits shall be obtained

Wigfall seconded the motion, which was approved 3-0.

The Board made the following findings of fact for the EXCEPTION at 221 Westwood Road:

PRESENT USE: Single-family home

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

Other than for what the Exception requests are for, the subject site complies with all applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The subject site is zoned R, Single-Family Residential District, and is located in a predominantly single-family neighborhood. To the north of the subject site is Manhattan High School and to the west of the subject site is Sunset Zoo.

The impacts on the adjacent properties should be minimal. There is substantial vegetation that separates the house from Westwood Road and the adjacent properties. Due to the location of the proposed garage addition, the new addition should not be visible on the west side of the existing house.

With regards to the Exception to allow for the reduction of the minimum required rear yard setback from twenty-five (25) feet to fifteen (15) feet, the existing house has been in its location and a part of the neighborhood since 1974. This Exception request is merely to bring the subject into conformance with the Zoning Regulations.

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

No impacts on the public health, safety or general welfare is anticipated from approving the

Exception requests. The garage addition is not located within any specific utility easements and vision clearance triangles located on the subject site.

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

No viable option exists to remove the existing house to comply with the current Zoning Regulations. The encroaching portion of the structure would need to be relocated or partially removed and redesigned under strict application. The Exception to allow for the reduction of the minimum required rear yard setback from twenty-five (25) feet to fifteen (15) feet is to bring the property into conformance with the Zoning Regulations.

Because of the nature of the existing house floor plan and site layout, the existing garage was built as detached garage, thus triggering the accessory use regulation for minimum front yard setback. Had the existing garage been attached to the house then it would be a part of the primary structure and the setback would be twenty-five (25) feet and would not have required an Exception for the proposed garage addition. The garage addition is proposed to be setback from the front property line resulting in a setback that is more consistent with other properties nearby. The property has a reasonable amount of land, however, much of it is unbuildable due to the grade and vegetation of the site, thus no other viable option exist for the construction of the proposed garage addition.

Considering the existing house was built in 1974 and the applicant did not create the characteristics of the property or the position of the structures on it, the strict applications appear to be unreasonable.

Hamilton adjourned the meeting.

Respectfully submitted by,
Doug May, Planner