

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, JANUARY 11, 2017**  
**7:00 PM**

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

MEMBERS ABSENT: None

STAFF PRESENT: Doug May, Planner

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

Hamilton moved to approve the December 14, 2016 minutes which was seconded by Wigfall and passed with a vote of 5-0.

**REMOVE FROM THE TABLE AND CONDUCT THE PUBLIC HEARING TO CONSIDER AN EXCEPTION, TO ALLOW FOR THE REDUCTION OF THE MINIMUM REQUIRED PARKING SPACES FROM FIFTY (50) TO SIXTEEN (16) FOR AN EXISTING OFF-STREET PARKING LOT ASSOCIATED WITH THE EXISTING MOUNT ZION CHURCH OF GOD IN CHRIST, LOCATED IN AN R-2, TWO FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY (TNO), LOCATED AT 916 YUMA STREET. (APPLICANT: ONDRE MILES/OWNER: MOUNT ZION CHURCH OF GOD).**

Hamilton asked if the presentation included a diagram of the lot with dimensions.

May responded that the presentation includes the original site plan with dimensions and an aerial image that shows the lot lines, but does not show the dimensions. He said the dimensions are listed in the staff report.

Hamilton responded that only the square footage is listed in the staff report, but not the dimensions of the lot or the building. She said the square footage listed in the staff report of the building and the lot would mean that the building take up roughly a third of the lot, which does not seem accurate. She asked if the property was several ward lots combined.

May responded that the subject property is a combination of several ward lots.

Hamilton moved to remove the item to consider an Exception from the table, which was seconded by Wigfall and passed with a vote of 5-0.

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

Hardy opened the public hearing.

Carl Taylor, applicant, gave a brief history of the reasons behind the parking deficiency. He said the when the church was under construction in 2002, the Masonic Lodge to the west sold ten (10) feet of their property to Mt. Zion Church in order to construct a parking lot. He said on the day of construction of the parking lot, someone from the Masonic Lodge told Mt. Zion Church that they could not install a parking lot on their property. He said the reason they are requesting an Exception is because the Masonic Lodge will not let Mt. Zion Church use part of their property to build the rest of the parking lot. He stated that the parking lot would not have cost the Masonic Lodge anything and they would not have any responsibility for it. He stated that the day this item was originally supposed to go before the Board, the Masonic Lodge told Mt. Zion Church that part of the existing parking lot was on their property. So, the next day, a surveyor was hired by the Church to determine if this were the case. It turns out that the parking lot was not on the Masonic Lodge's property. He stated that Mt. Zion deals with the same parking problems that churches across the city deal with. He stated he is not able to fix this problem.

Ondre Miles, applicant, stated the one of the reasons that lead to them installing a parking lot was because of problems with Douglass Center parking. He stated that parents used to park in the Douglass Center parking lot and access the side door of the church for the daycare, but were told that they had to park on the street, which was difficult for elderly and families with young children. He stated that there used to be a sidewalk that connected the Douglass Center Parking lot with the side entrance of the Church, which was torn up when the Douglass Center parking lot was reconstructed. He stated that there has been discussion with city officials that this sidewalk will be reconstructed.

Hardy closed the public hearing.

Hamilton stated that she was grateful for the history. She said that she takes to heart that all the churches in town, especially those downtown, have parking issues, which causes her to be generous with this request. She stated that the applicants are doing the right thing by applying for a new Exception since the requirements of the previous Exception could not be satisfied. She stated that she would feel more comfortable if a condition of approval were added that says the parking lot can only be used for the church.

Hardy agreed and added that the events that led to this request are unfortunate, but the applicants were doing the right thing by applying for a new Exception.

Wigfall commented that she appreciates that the applicants have looked for solutions with their neighbors on both sides.

Danner stated that she agrees with Hamilton.

Hamilton made a motion to City Administration recommends approval of an EXCEPTION under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the reduction of the minimum parking spaces from fifty (50) to sixteen (16) for an

existing off-street parking lot associated with the existing Mount Zion Church of God in Christ, located in an R-2, Two Family Residential District with a Traditional Neighborhood Overlay (TNO), with the following conditions of approval:

1. The Exception shall only apply to the existing off street parking lot.
2. The required sight-obscuring screening located within the required twenty-five (25) front yard setback shall consist of hedges, berms, evergreen trees or any combination thereof.
3. The required sight-obscuring screening shall be maintained in good condition.
4. The parking lot shall only be used by Mt. Zion Church for church service functions only.

Nelson seconded the motion, which passed with a vote of 5-0.

**PRESENT USE:** Mount Zion Family Worship Center

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** Apart from the minimum required parking spaces, the subject property is compliant with all applicable regulations.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** There would be some effect on adjacent properties by allowing the exception to reduce the minimum required parking considering the subject site does not contain enough space to fulfill the parking requirement of the zoning regulations. However, when combining the amount of parking the site does contain (16 spaces) with the number of parallel parking spaces on the south side of Yuma Street, there should be an adequate amount of parking for the church.

The structure has existed at the current location since 2004 with no adverse effects on the neighborhood. The church has existed at this site since 1932. Over time, the church's size and the City's parking regulations have changed. The church made an attempt in 2014 to bring the property into conformance as much as possible with the off-street parking lot. While the parking lot that was constructed does not contain as many parking spaces as originally agreed, it does contain as many spaces as will fit on the site.

The subject property is zoned R-2, Two Family Residential with a Traditional Neighborhood Overlay (TNO), as are properties directly to the east, south, and west. Properties to the north are zoned R-1/TNO, Single Family Residential/Traditional Neighborhood Overlay District. The general neighborhood is primarily residential with some institutional uses such as the Douglass Community Center which surrounds the subject site directly to the east and south. Directly to the west of the subject site is the Kaw Blue Lodge. The subject site sits just to the northwest of the Pilgrim Baptist Church historic site.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** The Exception request would have little effect on the public health, safety, morals, order, convenience, prosperity, or general welfare. The current church building has existed at this location since 2004 and the current parking configuration has existed since 2014 with no detrimental effects on the neighborhood.

The existing parking lot was created in an effort for the site to comply, at least partially, with the minimum off-street parking requirements of the zoning regulations. However, the site is currently at capacity and has no additional space for all the parking that was agreed upon at the 2014 Board of Zoning Appeals meeting.

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

The Mount Zion Church has existed at its current location since 1932. The current building was constructed in 2004, and the current off-street parking lot was constructed in 2014. The strict application of the zoning regulations would require the church to remove 136 seats in order for the current parking lot to be adequate.

Additionally, the south side of Yuma Street allows parallel parking on Sundays when parking for the Mount Zion Church would be needed most. The 16 existing parking spaces in combination with the street parking provide an adequate amount of parking for the church's needs.

**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 (2) PROPOSED MONUMENT SIGNS IN ADDITION TO AN EXISTING MONUMENT SIGN PER ZONING LOT PER STREET FRONTAGE FOR AN EXISTING OFFICE COMPLEX LOCATED WITHIN A C-2, NEIGHBORHOOD SHOPPING DISTRICT, LOCATED AT 2803 CLAFLIN ROAD. (APPLICANT: ANDY CARSON/OWNER: W&W ENTERPRISES – BILLIE WOODWARD, BILL WOODWARD, SUZIE BAXTER).**

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

Hamilton asked the difference between a monument sign and a sign that is attached to a building.

May responded that according to the Zoning Regulations, that is considered a 'wall sign'.

Hamilton asked if there would be any restrictions on a wall sign on the building in the rear of the site.

May responded that there is a limit on how many wall signs there can be per zoning lot, but he could not remember off hand.

Hamilton asked if a wall sign would be permitted in addition to a monument sign.

May responded that that was correct.

Hamilton asked that since the subject property is one lot, it can only have one monument sign, and that the existing monument sign could be larger.

May responded that that was correct.

Wigfall asked where the new monument signs will be located compared to the existing monument sign.

May showed the site plan that shows that the existing monument sign is in front of the front building and the new monument signs are proposed to be located in the northwest corner of the property and in front of the building in the rear.

Wigfall asked why there is a need for another monument sign in the front of the property.

May responded that the new sign would have the real estate business on it, whereas the existing sign does not.

Hamilton responded that the existing sign does not yet have the real estate business on it, but it lists all the businesses in the complex.

May responded that the existing sign only lists the businesses in the front building.

Wigfall asked if the proposed sign in the front of the property will contain all the businesses in the complex.

Hardy responded that the proposed sign will only be for the real estate business.

Hamilton asked if the request is to treat the subject property as two lots because it consists of separate buildings that are removed from one another.

May responded that it is a unique property in the C-2 district. He stated that he looked throughout the city to find another similar example, but could not find one.

Hardy commented that the only other similar example he could think of is an office complex near Colbert Hills and Kimball Avenue.

Danner asked if the same person owns all three buildings.

May responded that that is correct.

Hardy opened the public hearing.

Andy Carson, applicant, stated that the reason for the Variance request is because of visibility issues at the site. He stated that the intersection of Browning and Claflin is an issue and if that intersection is ever changed, it could cause more problems with accessibility and visibility of the property.

Hardy closed the public hearing.

Nelson stated that she does not have a problem with the proposal.

Danner stated that the subject property is a challenging lot.

Hardy stated that the orientation of the buildings and the fact that there are multiple buildings on lot create challenged and add to the unique conditions of the property.

Hamilton stated that the argument for the proposed signs is because of visibility and that the staff report says that the existing monument sign is difficult to read from the street, but the business question is not on that sign, and so it makes no difference. She stated that she does not want to open the door for all the businesses on the property to request new signs, but this request is to give visibility and direction to the business in the rear of the site.

Wigfall asked if the applicant had considered combining the proposed signs with the existing signs to reduce the total number of signs at the site.

Carson responded that the existing sign is only for the front building and the reason for proposing two additional signs is because of the unique conditions of the intersection and site configuration.

Hamilton stated that she appreciates that the proposed signs are understated in appearance.

Danner made a motion to approve a VARIANCE under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for two (2) proposed monument signs in addition to an existing monument sign per zoning lot per street frontage for an existing office complex located within a C-2, Neighborhood Shopping District, with the following conditions of approval:

1. All applicable permits shall be obtained.
2. The signs shall be constructed as described in the application documents.

Wigfall seconded the motion, which passed with a vote of 5-0.

**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 FROM TWENTY-FIVE (25) FEET TO TEN (10) FEET FOR A PROPOSED FENCE AT A HOME LOCATED WITHIN AN R-2, TWO-FAMILY RESIDENTIAL DISTRICT, LOCATED AT 414 NORTHFIELD ROAD. (APPLICANT/OWNER: JOSEPH A. & COLETTE M. PEABODY).**

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

Hardy stated that the houses across the street to the north of the subject site would face a fence rather than a house.

Hamilton responded that even though the applicants proposed to stay outside of the ten (10) foot utility easement, all the houses along Half Full Drive are at a twenty-five (25) foot setback, which disrupts the order.

May responded that regardless whether the fence was at a ten (10) foot or twenty-five (25) foot setback, the applicants would be allowed to install a privacy fence.

Hamilton responded there is usable yard on the northwest side of the house that could be fenced in with a modest setback intrusion.

Nelson commented that the back doors to the house are on the north side, where the applicant has requested a setback reduction.

Hardy commented that the northwest corner of the house is close to the existing setback line.

Hardy opened the public hearing.

Joe Peabody, applicant, stated that he is concerned about visibility into his house, since Half Full Drive directly abuts the back of his house and people might be able to see inside his house. He said he is also concerned about security and intruders breaking into the back of his house from Half Full Drive.

Wigfall asked if the applicant had considered using a natural barrier such as a hedge, and whether he looked at fencing in the side yard area.

Peabody responded that he had not considered fencing in the side yard.

Hardy asked if Peabody would be willing to lessen the setback reduction request slightly. He stated that the closer in to the house he is willing to go, the more it would maintain the order of the neighborhood.

Peabody responded that he is willing to bring the setback reduction closer to the house.

Hardy asked if Peabody would be willing to bring the fence five (5) feet closer to the house than what he originally requested.

Peabody agreed to this change.

May asked if Peabody would be able to fence in part of the side yard as well.

Hamilton responded that if the applicant wanted to fence in the side yard, that it would have to be a separate BZA action since it was only advertised for a setback reduction on the north side.

Wigfall stated that some vegetation in front of the fence would soften the visual impact of it.

Hamilton stated that she was impressed how much the setback regulations for fences were being honored in this neighborhood, and she only found one property that had a fence setback violation.

Nelson 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 front yard setback from twenty-five (25) feet to fifteen (15) feet for a proposed fence at a home located within an R-2, Two-Family Residential District, with the following conditions of approval:

1. The fence shall be constructed as described in the application and shown in the site plan and maintained.
2. All applicable permits shall be obtained.

Danner seconded the motion, which passed with a vote of 5-0.

Hardy adjourned the meeting.

Respectfully submitted by,  
Doug May, Planner