

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, MARCH 8, 2017
7:00 PM

MEMBERS PRESENT: Harry Hardy, Chairperson; Angie Danner; Brandi Nelson; and LaBarbara James Wigfall

MEMBERS ABSENT: Connie Hamilton, Vice Chairperson

STAFF PRESENT: Doug May, Planner; Chris Kutz, Planning Intern

CONSIDER THE MINUTES OF THE FEBRUARY 8, 2017, BOARD OF ZONING APPEALS MEETING.

Wigfall moved to approve the February 8, 2017 minutes which was seconded by Danner 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 FRONT YARD SETBACK FROM FOURTEEN (14) FEET TO ELEVEN (11) FEET FOR AN EXISTING HOUSE AS WELL AS 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 FOURTEEN (14) FEET TO SIX (6) FEET FOR A PROPOSED FENCE AT AN EXISTING HOUSE LOCATED WITHIN AN R-2/TNO, TWO-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY, LOCATED AT 530 MORO ST. (APPLICANT/ OWNER: MATTHEW & STEVEN MCCRANE)

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

Hardy opened the public hearing.

Matthew McCrane, applicant/owner, said the fence would provide privacy as well as add value to the home and Moro Street.

Hardy closed the public hearing.

Danner said the exceptions were straightforward, and she did not see any issues.

Wigfall stated since the structure was built right at that 14-foot setback line, it made things more difficult for the property owner.

Hardy said where the applicant is putting the fence, it aligns with the rest of the property. He said the other Exception is to clear title. He also mentioned the other thing to take into consideration was the duplex to the north of the applicant's property across the alley has a parking lot. The applicant's property currently does not have any screening from this parking lot, so allowing the fence helps. It also falls in line with the intentions of the Traditional Neighborhood Overlay (TNO).

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 fourteen (14) feet to eleven (11) feet for an existing house as well as 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 fourteen (14) feet to six (6) feet for a proposed fence at an existing house located at 530 Moro Street within an R-2/TNO, Two-Family Residential District with a Traditional Neighborhood Overlay, with the following conditions of approval:

1. The Exception shall be limited to the existing house and proposed fence.
2. The fence shall be constructed as described in the application and shown in the site plan and maintained in good condition.
3. All applicable permits shall be obtained.

Wigfall second the motion, which was passed 4-0.

The Board made the following findings of fact for the EXCEPTION at 530 Moro St:

PRESENT USE: Single-family detached dwelling

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: Since this property is located within a Traditional Neighborhood Overlay (TNO), the minimum front yard setback is fourteen (14) feet. However, the existing house encroaches into this setback by three (3) feet and was built before the zoning classification was put in place. Therefore, the subject site is designated as legally nonconforming.

PROBABLE EFFECT ON ADJACENT PROPERTIES: There should be no adverse impacts on adjacent properties by approving the Exception requests. The house, built in 1920, already encroaches upon the minimum setback requirement by three (3) feet. This exception request is to bring the property into conformance with Zoning Regulations. As for the proposed fence, it does not visually inhibit the views of any surrounding property owners and is meant to improve the curb appeal and appearance of the property while also adding privacy to the back yard of the dwelling unit.

Along 6th Street, there are no properties that front the street. Therefore, the proposed fence would not disrupt the line of sight for neighboring properties.

As for other properties in proximity to the subject site, the property to the north from the subject site, across the alley at 730 6th Street, was approved for a conditional use for a duplex

in 2015, which resulted in the construction of a parking lot in the rear yard and across from the subject site. The proposed fence would have no adverse effect on this site and would provide the subject site with rear yard privacy from the parking lot.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: Minimal adverse effects on the general health, safety or welfare of the public are anticipated. Both the existing structure and proposed fence will be outside of any utility easements and vision clearance triangles located on the subject site. In addition, the fence is proposed to improve the appearance of the property.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The front yard setback requirement of fourteen (14) feet currently extends into the dwelling unit along 6th Street, making it unreasonable to comply with existing regulations in a Traditional Neighborhood Overlay (TNO). The house is approximately eleven (11) feet from the lot line.

The strict application of the front yard setback would require that the proposed fence be located at a minimum of fourteen (14) feet from the property line along 6th Street. This requirement limits the rear yard area to be fenced in due to the lot being narrow. Considering this factor and that the proposed fence should not adversely impact the adjacent properties or the general public, it appears the strict application of the front yard setback regulation seems unreasonable.

Hardy adjourned the meeting.

Respectfully submitted by,
Chris Kutz, Planning Intern