

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, May 10, 2017
7:00 PM

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

MEMBERS ABSENT: None

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

CONSIDER THE MINUTES OF THE APRIL 12, 2017, BOARD OF ZONING APPEALS MEETING.

Hamilton moved to approve the April 12, 2017 minutes which was seconded by Wigfall and passed with a vote of 5 – 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)

Hamilton moved to approve the request for a 180-day extension of an approved Conditional Use at 1803 Laramie Street which was seconded by Danner and passed with a vote of 5 – 0.

A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE RENOVATION AND EXPANSION OF THE EXISTING PI KAPPA ALPHA FRATERNITY HOUSE, LOCATED IN AN R-M/UO, FOUR FAMILY RESIDENTIAL DISTRICT WITH UNIVERSITY OVERLAY, LOCATED AT 2021 COLLEGE VIEW ROAD. (APPLICANT: STAN F. MEYERS – OLSSON ASSOCIATES, OWNER: MANHATTAN STUDENT HOUSING, LLC; FILE NO. CUP-17-031)

A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR PARKING IN THE FRONT YARD AREA, AS WELL AS TO ALLOW FOR THE REDUCTION OF THE FRONT YARD SETBACK FROM

SIXTY (60) FEET TO FOURTEEN (14) FEET FOR A PROPOSED BASKETBALL COURT, AT THE EXISTING PI KAPPA ALPHA FRATERNITY HOUSE LOCATED WITHIN AN R-M/UO, FOUR FAMILY RESIDENTIAL DISTRICT WITH UNIVERSITY OVERLAY, LOCATED AT 2021 COLLEGE VIEW ROAD. (APPLICANT: STAN F. MEYERS – OLSSON ASSOCIATES, OWNER: MANHATTAN STUDENT HOUSING, LLC;)

May presented the staff report.

Wigfall asked if the vegetation on the south side of the property, near the basketball courts, would be maintained. The vegetation screening did not show up on the renderings of the proposal. May confirmed the vegetation would be kept on the property.

Hamilton asked if all of the parking area would be paved. May said yes.

Nelson asked if the concern of the neighbors about noise was for the use of the building or construction related to the requested renovation and addition. May said he interpreted it as noise related to the use as it would be adding 12 more occupants due to the addition to the facility.

Hardy opened the public hearing.

Stan Meyers, applicant, stepped to the podium to answer questions from the Board. Hamilton asked to confirm if the house was going to be “dry.” She said this could be something the applicant and owner could offer the neighborhood as a way to decrease any potential noise. Meyers said the house being a “dry” house has been in the plans from the beginning. Hamilton wanted to clarify that the house was going to stay “dry,” and this was not a part of the application to appease the neighborhood for the time being. Meyers said yes, the house will remain “dry” and this is a national trend for fraternity housing to be “dry.” Hamilton asked if the applicant and owner would be willing to include a condition of approval that the house remain a “dry” house as part of the Conditional Use request. Gary Robben, owner, Manhattan Student Housing, LLC, said his company acquired the house from a housing corporation in June 2016. He stated his company is a for-profit business, and as part of the rental agreement with the students, the house is “dry.” This was a fact reaffirmed during the neighborhood meeting related to the Conditional Use request. He also said he met with Pat Bosco and Ben Hopper of Kansas State University to ensure them this house will remain “dry.”

Danner asked, relating to the noise factor, if a 74-member fraternity house is big for Manhattan. Robben said he was not sure, but he believed some of the sorority houses were bigger. He thought the Pi Kappa Alpha house was close to being the largest fraternity. He said the additional students as part of this Conditional Use request help the “investment return to the investors.”

Hardy closed the public hearing.

Hamilton said this proposal was not pushing the Board in directions it did not want to go. She said City staff and the applicant have worked well together to accommodate the large nature of the lot. She liked the improved parking and drives were a part of the proposal.

Hamilton asked about lighting around the basketball court. Ron Shaffer, architect for the proposal, said the lights that appear in the renderings are actually telephone poles. Hardy asked if there were going to be any lights on the basketball court. Shaffer said there will not be any lights on the court, but there will be some low lighting in the parking areas.

Hamilton said she does not have a problem with the increased parking, and Hardy concurred. Hardy commended the applicant and owner for putting together a quality product by working with the City and neighborhood. He said the proposal addressed some of the concerns the Board has seen in the past as it relates to Greek housing, including inadequate parking; increasing the number of students housed on the site but not increasing the parking; the need for an Exception to address inadequate parking; and unpaved parking if any parking is added. Hardy also appreciated the new HVAC system as part of the proposal to help decrease the noise.

Wigfall said she appreciated the landscaping around the site as well as the applicant working with the City on the drainage and infrastructure.

Danner made a motion to approve a CONDITIONAL USE under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the renovation and expansion of the existing Pi Kappa Alpha fraternity house, located in an R-M/UO, Four-Family Residential District with University Overlay, located at 2021 College View Road, with the following conditions of approval:

1. A new utility easement shall be created for the new sanitary sewer line location.
2. Issuance of an approved building permit shall be contingent upon Public Works' receipt of an approved Drainage Study and a revision of the proposed drainage features to limit concentrated flow in the Right of Way.
3. No more than the proposed seventy-four (74) students shall reside in the fraternity house.
4. The associated Exception shall be approved concurrently.
5. The site shall be developed as proposed in the application documents.
6. All applicable permits shall be obtained.

Wigfall seconded the motion, which was passed 5 – 0.

The Board made the following findings of fact for the CONDITIONAL USE at 2021 College View Road:

PRESENT USE: Pi Kappa Alpha Fraternity house

A. Compliance with all applicable regulations: The property received an Exception from the Board of Zoning Appeals in 2005 to allow for the fence around the basketball court in the

front yard setback on the north side of the property, which will be removed as part of this proposal, and the basketball court will be relocated to the south side of the property. Additionally, the parking lots on both the north and south sides are within the front yard area which is prohibited by the Zoning Regulations. The applicants are requesting a concurrent Exception to allow for parking in these areas (see the Exception staff report for more details).

Apart from this Exception request, the property is compliant with all other applicable regulations.

B. Probable effect on adjacent properties: The subject property is zoned R-M, Four Family Residential District with University Overlay (UO). The underlying zoning district is a medium density residential district and the University Overlay is designed to allow for certain uses, in addition to those listed as permitted in conditional uses in the underlying zoning district, that are ordinarily located near a University. In this case, fraternities and sororities are listed as a conditional use in the University Overlay district.

The properties directly to the east and south are also zoned R-M, Four Family Residential District with University Overlay. Properties directly to the north and west are zoned R, Single Family Residential District. The neighborhood consists of a mixture of single family homes, many of which are rentals, apartment buildings, fraternities and sororities, and other university-related residential buildings such as the Kansas State University Honors House and K-State Wesley.

The applicants held the required neighborhood meeting on March 2, 2017 from 6:00 to 7:30 PM at the Manhattan Public Library. Five (5) people who own or manage property in the neighborhood attended the meeting. The primary concern brought up at the meeting was about the possibility for increased noise due to this proposal. The applicants state that the proposal addresses this concern by including new modern sound insulation methods in materials in the structure, as well as a new central HVAC system which will remove window-mounted AC units and reduce the need to open windows, and finally, the house will become a “dry house”, meaning alcohol will not be allowed on the premises.

The proposed addition and improvements would not have a substantial impact on adjacent properties. While the proposal would increase the number of students living at the house from sixty-two (62) to seventy-four (74), the proposed design accounts for this increase by increasing the number of parking spaces from the forty (40) existing spaces to fifty-nine (59) proposed spaces, which exceeds the minimum required number of parking spaces for a fraternity house.

C. Domination by use over neighboring properties:

- 1. Location, nature, and height of physical improvements:** The structure currently consists of a long two-story brick structure, with two wings on the east and west sides that angle south, towards College View Road. The proposed expansion would extend the eastern wing, on the north side, with a new two-story addition.

The lower level of the renovated structure will contain nine (9) four (4) person suites, a recreation room, a chapter room, a group study room, as well as rooms for storage, laundry, and mechanical. The upper floor is proposed to contain nine (9) more four (4) person suites, as well as an officers suite, a guest suite, a kitchen, and a living room. The porch on the south side of the structure will be accessed from the living room.

In addition to the new wing to the northeast side of the building, the proposal consists of generally improving the appearance of the north side of the building by giving it a “stately appearance of a traditional wood and brick mid-modern residence”, according to the application. Additionally, the applicants propose to remove the fence on the north side of the building and relocate the basketball court from the northeast portion of the lot to the south side to allow for this addition to take place.

Other improvements to the property include replacing the north gravel parking lot with a new paved parking area with an increase in the number of paved parking spaces from forty (40) to fifty-nine (59). The applicants also propose to improve the landscaping as well as installing a new modern central HVAC climate control system that will result in the elimination of the window A/C units.

The applicant states that the building addition will not change the intensity and nature of the current operation, although the total number of students residing on site will increase. The applicant also states that the addition will “blend in with the existing building and fit in better with the residential character” of the existing house and neighborhood.

The current structure is setback from the north lot line approximately eighty-two (82) feet, and setback from the east lot line approximately seventeen (17) feet, and set back from the south lot line approximately 103 feet, and set back from the west property line approximately twenty-nine feet. The only setback that will change as part of this proposal is the north setback, which will be reduced from eighty-two (82) feet to thirty-one (31) feet, which is within the minimum setback of twenty-five (25) feet. All other existing setbacks are also compliant with the zoning regulations.

- 2. Landscaping and screening:** The property is currently screened on the west, north, and east sides with fencing and plantings. The proposal will retain this screening as well as including new landscaping that consists of trees along College View Road, as well as new landscaping around the perimeter of the building. Proposed plant species include Grey Owl Juniper, Redbud, Daylily, Karl Foerster Grass, Spartan Juniper, Red Drift Rose, Maiden Grass, and Little Princess Spirea.

Additionally, the proposal includes a trash enclosure area on the west side of the property accessed from the driveway that connects the north and south sides of the property. The application documents show this being screened with privacy fencing.

D. Adequate provision of parking and loading: The proposal increases the existing number of parking spaces from forty (40) to fifty-nine (59). The zoning regulations for fraternity and sorority houses require at least twenty (20) parking spaces or enough parking spaces for 75% of the occupants, whichever is greater. In this case, 75% of the seventy-four (74) proposed occupants is fifty-five (55) parking spaces, and so the proposed amount of parking spaces exceeds the minimum requirement. The new parking area will replace the existing gravel parking area on the north side of the property with a paved and landscaped parking lot.

E. Adequate provision of drainage, and other public utilities: The proposal disturbs greater than one acre of the site for the construction of these improvements. Public Works Department will need to analyze a drainage report to assess the local impacts of the changes including an assessment for Post-construction Water Quality features, as well as detention of the increased rate of runoff for the site. Public Works discourages concentrating flows into the Right of Way due to the potential for erosion around public streets and utilities. Concentrated flows within lanes of travel also can cause a hazard in the roadway. It is recommended to locate discharge points within the property lines and slow water down before reaching Right of Way.

The site currently contains a sanitary sewer line and associated utility easement that runs through the site to the north of the existing structure. As part of this proposal, this sanitary sewer line is proposed to be moved further north in the site and with connections on both the east and west sides of the lot to the existing sanitary sewer line. The applicants will have to create a new utility easement for this relocated sanitary sewer line.

F. Adequate provision of access: The property is currently accessed via two driveways from College Heights Road and one driveway from College View Road. This is not proposed to change. However, the driveway from College View will be repaved and lead to a new paved parking lot, which replaces the existing gravel parking area on the west side of the lot. Additionally, a driveway runs along the west side of the property and connects the north and south parking lots, which is proposed to remain.

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 parking in the front yard area, as well as to allow for the reduction of the front yard setback from sixty (60) feet to fourteen (14) feet for a proposed basketball court, at the existing Pi Kappa Alpha Fraternity house, located in an R-M/UO, Four-Family Residential District with University Overlay, located at 2021 College View Road, with the following conditions of approval:

1. The associated Conditional Use request shall be approved concurrently.
2. The site shall be developed as proposed in the application documents.
3. All applicable permits shall be obtained.

Danner seconded the motion, which was passed 5 – 0.

The Board made the following findings of fact for the EXCEPTION at 2021 College View Road:

PRESENT USE: Pi Kappa Alpha Fraternity House

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: Apart from the existing parking in the front yard area, the property is compliant with all applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The proposed addition and improvements are not anticipated to have a substantial effect on adjacent properties. While the proposal would increase the number of students living at the house from sixty-two (62) to seventy-four (74), the proposed design accounts for this increase by increasing the number of parking spaces from the forty (40) existing spaces to fifty-nine (59) proposed spaces, which exceeds the minimum required number of parking spaces for a fraternity house.

The property received an Exception in 2005 to allow for a reduced front yard setback to allow for the basketball court on the north side of the building. This Exception has caused no known adverse effects on adjacent properties, and this similar Exception is not anticipated to have any adverse impacts either.

The subject property is zoned R-M, Four Family Residential District with University Overlay (UO). The underlying zoning district is a medium density residential district and the University Overlay is designed to allow for certain uses, in addition to those listed as permitted in conditional uses in the underlying zoning district, that are ordinarily located near a University. In this case, fraternities and sororities are listed as a conditional use in the University Overlay district.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposal would have little effect on the health, safety, morals, order, convenience, prosperity, or general welfare. The subject site has existed with parking in the front and rear setback since it was constructed or an undetermined time since then with no adverse impacts on the neighborhood. The applicants propose to improve the parking area on the north side of the building by replacing the existing gravel with pavement and increasing the number of parking spaces from forty (40) to (59) to account for the expansion of the fraternity house, as well as landscaping the area.

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

Considering that the parking areas described in this report have existed at the house with no adverse impacts on the neighborhood and considering the fact that this property is bounded on two sides by streets, and therefore has two front yards as defined by the zoning regulations, and finally, considering that the applicants are making an effort to improve the existing parking areas through paving and landscaping and adding parking stalls to account for the building addition, then the strict application of the regulations seems unreasonable in this instance.

Additionally, due to the layout of the site and the fact that the fraternity house is located directly in the middle of the lot which is bounded on both the north and south by streets, it leaves little room for the applicants to include an accessory use and still be compliant with the setback regulations for accessory uses. Considering all these factors, then the strict application of the regulations seems unnecessary in this instance.

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 FOR ACCESSORY USES FROM SIXTY (60) FEET TO FIFTY-TWO (52) FEET FOR A PROPOSED DETACHED GARAGE LOCATED WITHIN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT, LOCATED AT 2120 BLAKER DRIVE. (APPLICANT: TIM WEISBENDER – WEISBENDER CONTRACTING, OWNER: JENNIFER WHALEN; FILE NO. EXC-17-028)

May presented the staff report.

Hardy opened the public hearing. No one spoke, and Hardy closed the public hearing.

Hardy said the Board rarely sees an applicant replace a garage with a smaller garage in the same location.

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 minimum front yard setback for an accessory uses from sixty (60) feet to fifty-two (52) feet for a proposed detached garage located within an R-1, Single-Family Residential District, located at 2120 Blaker, with the following conditions of approval:

1. The garage shall be built according to the application documents.
2. All applicable permits shall be obtained.

Wigfall seconded the motion, which was passed 5 – 0.

The Board made the following findings of fact for the EXCEPTION at 2120 Blaker Drive:

PRESENT USE: Single Family House

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: Apart from the existing and proposed garage's encroachment on the front yard setback for accessory uses, the subject property is compliant with all applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The existing garage has stood at its current location since it was constructed in 1952 with no adverse impacts on the neighborhood. The proposed garage will be built in the same location as the existing garage

with the same front yard setback. This proposal is not anticipated to have any adverse impacts on the neighborhood or the community.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: Due to the small scale of the proposal and the fact that it is replacing an existing structure in the same location with the same setbacks, then it is not anticipated to have any negative effects on the public health, safety, morals, order, convenience, prosperity, or general welfare. The existing garage has structural deficiencies, and the applicants are attempting to remedy this by replacing the garage, which should have a positive affect the subject site as well as the property directly to the north by creating a safer and more secure environment.

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

The subject site is a relatively small lot that leaves little space for a garage to be compliant with setbacks in the zoning regulations. Regardless of whether the applicants were to build an attached or detached garage, it would violate a setback requirement due to the size of the lot. Additionally, since the applicants are rebuilding an existing structure that has encroached on the front yard setback since it was built with no adverse effects on the neighborhood, then the strict application of the zoning regulations seems unreasonable in this instance.

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 FEET (25) TO TWENTY-TWO (22) FEET FOR AN EXISTING RESIDENCE WITHIN AN R, SINGLE-FAMILY RESIDENTIAL DISTRICT, LOCATED AT 3115 CHIC CIRCLE. (APPLICANT: CALEB RUBASH – SCHWAB-EATON, OWNER: CHARLES AND PATRICIA HUGHES; FILE NO. EXC-17-033)

Kutz presented the staff report.

Hardy opened the public hearing.

Caleb Rubash, applicant, stepped to the podium to field any questions from the Board. The Board had none.

Hardy closed the public hearing.

The Board said it had no issues with the application.

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 front yard setback from twenty-five (25) feet to twenty-two (22) feet for an existing residence

within an R, Single-Family Residential District, located at 3115 Chic Circle, with the following condition of approval:

1. The Exception shall be limited to the existing house and its layout.

Nelson seconded the motion, which was passed 5 – 0.

The Board made the following findings of fact for the EXCEPTION at 3115 Chic Circle:

PRESENT USE: Single-family residence

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: All bulk regulations are in compliance except for the Exception request through this application. The home was built in 1975 and has always been located within an R, Single-Family Residential District since its original construction. However, the nonconformity was not discovered until a 2008 topographic survey conducted by the applicant and not shared with the property owner until both parties began a subdivision process of the lot this year.

PROBABLE EFFECT ON ADJACENT PROPERTIES: There appears to be no adverse effect on adjacent properties. The existing structure is not being altered in any way for the Exception request. Therefore, current neighborhood conditions will be maintained. Also, the current nonconformity of the front yard setback is not substantially visible to neighbors due to it being 2.7 feet over the minimum front yard setback of twenty-five (25) feet.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: No adverse effects on public health, safety, morals, order, convenience, prosperity or general welfare are anticipated. No changes to the existing structure are being made. The Exception is needed to bring the property into compliance and obtain clear title for the property owner.

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 regulation for an R, Single-Family Residential District in this case is unreasonable. The existing residence was built in 1975 and neither the applicant nor property owner are altering the structure in any way for this Exception request. The Exception is required to bring the property into conformance with the Manhattan Zoning Regulations and allow the property owner to obtain clear title.

A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE CONVERSION OF AN EXISTING SINGLE-FAMILY DWELLING UNIT INTO A TWO-FAMILY DWELLING UNIT WITHIN AN R-M/TNO, FOUR-FAMILY RESIDENTIAL DISTRICT WITH A TRADITIONAL NEIGHBORHOOD OVERLAY, LOCATED AT 517 FREMONT STREET. (APPLICANT/OWNER: CHRISTOPHER URBAN; FILE NO. CUP-17-032)

Kutz presented the staff report.

Hardy opened the public hearing.

Chris Urban, applicant/owner, stepped to the podium to answer questions from the Board. Hamilton asked if the privacy fence in the rear yard allowed access from the off-street parking area to the front door on Fremont. Urban confirmed there was a gate near the detached garage along with a sidewalk that goes from the rear yard to the front.

Hardy closed the public hearing.

Danner said it meets all the standards. Hamilton said it was nice to have the two units meet the requirements. Hardy agreed and said this was “another one of the unusual ones.” He said typically, the Board hears requests related to smaller units, inadequate parking or structural changes to an older home.

Danner made a motion to approve a CONDITIONAL USE under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the conversion of an existing single-family dwelling unit into a two-family dwelling unit within an R-M/TNO, Four-Family Residential District with a Traditional Neighborhood Overlay, located at 517 Fremont Street, with the following conditions of approval:

1. The proposal shall be maintained as explained in the application documents.
2. All applicable permits shall be obtained.
3. The existing detached garage located in the rear yard abutting the alley shall be used as parking for at least one vehicle.

Wigfall seconded the motion, which was passed 5 – 0.

The Board made the following findings of fact for the CONDITIONAL USE at 517 Fremont Street:

PRESENT USE: Single-family dwelling unit

A. Compliance with all applicable regulations: The proposed Conditional Use complies with all applicable regulations of the R-M/TNO, Four-Family Residential District with Traditional Neighborhood Overlay. The Conditional Use is applicable for this zoning because there are no more than two (2) dwelling units per structure, both of the proposed dwelling units are greater than 600 square feet in floor area, and the use is under the allowable (permitted or conditional) uses in the underlying district.

As it relates to bulk regulations, use limitations and performance standards for an R-M/TNO, Four-Family Residential District with Traditional Neighborhood Overlay, the proposed Conditional Use meets all the requirements. The proposed use would be two (2) units on the 7,500 square foot lot – or 2.4 units per 9,000 square feet. This is less than the maximum of

four (4) dwelling units per structure on a single lot and at a density no greater than four (4) dwelling units per 9,000 square feet. Meanwhile, the front yard setback is currently twenty-five (25) feet and both side yards meet the minimum of eight (8) feet. The detached garage in the rear yard meets the minimum rear yard setback of ten (10) feet for an accessory use that abuts an alley. Lot coverage of the proposed Conditional Use (25.8 percent) is less than the maximum of 30 percent.

B. Probable effect on adjacent properties: The proposed conversion will increase the number of dwelling units on the site from one (1) to two (2), but it should have minimal negative impacts on the adjacent properties or cause substantial injury to the value of other property in the neighborhood. The applicant is not making any structural or landscaping changes to the property and provides adequate off-street parking in the rear yard. The overall character of the neighborhood is a mix of low- to medium-density in a residential neighborhood, which is intended by the R-M, Four-Family Residential District.

As for the uses of the properties near the subject site, there are single-family residences and apartment complexes up to three-story buildings with twelve (12) units. The property adjacent to the subject site on west side is a single-family dwelling while on the east is a duplex rental property. To the south across the alley is a twelve (12)-unit, three-story apartment complex. On the south side of Fremont, which is the same side of the block as the subject site, there are two (2) single-family residences, two (2) apartment complexes (one 12-unit and the other 9-unit), one (1) former dwelling converted into a four apartments, and one (1) former dwelling converted into two apartments. Across Fremont Street, to the north of the subject site, there are six (6) single-family residences and two (2) former dwellings converted into two apartments each.

Due to the conversion of the existing residence increasing the density of the subject site, it is required per Manhattan Zoning Regulations that single-family and two-family dwellings have at least two (2) parking spaces for each dwelling unit. Therefore, since the subject site will have two (2) dwelling units, the required off-street parking spaces for this Conditional Use shall be four (4). The subject site already contains an off-street gravel parking area and detached garage in the rear yard with access to an unfinished alley between Fremont and Osage Streets. The combination of these two elements will satisfy the four (4) off-street parking spaces requirement for the proposed two-family use of the subject site: one (1) parking space in the detached garage and three (3) in the gravel parking lot. Maintaining the detached garage as one off-street parking space is a condition of approval for this application.

As required by Conditional Use applications, the property owners held a neighborhood meeting on March 17, 2017 on the front porch of the residence. The applicant notified the property owners within 200 feet of the subject site with a meeting notice sent on March 7, 2017. The meeting summary, supplied by the applicant, stated two neighbors attended the meeting. One person expressed concerns with parking and the possibility of “two or three cars taking up too much of Fremont Street, especially in front of his home.” The applicant assured the concerned neighbor that there is dedicated parking for the renter in the rear yard parking lot and if a parking issue arose, “we could ask and (ultimately require in the lease) the tenant to utilize the rear parking spot before parking a car on the street.”

Another property owner, who was unable to attend the neighborhood meeting, emailed support of the Conditional Use application.

C. Domination by use over neighboring properties:

- 1. Location, nature, and height of physical improvements:** The footprint and exterior of the existing structure will not change with the conversion of the single-family dwelling unit into a two-family dwelling unit. The existing second story in the structure is being converted into a rental unit and already features a kitchen, bathroom, bedroom, living area, and access via the front door of the residence.
- 2. Landscaping and screening:** Since this property will not contain more than two (2) dwelling units, no landscaping or screening is required per the Manhattan Zoning Regulations (7-102(E)(2)). The applicant has built a wood privacy fence in the rear yard to maintain some privacy and screening from the parking area and alley.

D. Adequate provision of parking and loading: The Manhattan Zoning Regulations (7-103(A)(2)) state for single-family and two-family dwellings, at least two (2) parking spaces for each dwelling unit shall be provided. Therefore, this property would need four (4) off-street parking spaces for the two dwelling units through this Conditional Use application. The subject site meets the parking requirements through one (1) space being allotted to the detached garage and three (3) spaces available in the rear yard gravel parking lot. No parking spaces are to be constructed in the front yard along Fremont Street, which is compliant with 7-102(C)(2) of the Manhattan Zoning Regulations.

E. Adequate provision of drainage, and other public utilities: Drainage on the site flows to the alley and to the storm sewer along Fremont Street, which is adequate for the proposed use. The footprint and exterior of the house are not proposed to change. Water, sewer, and other utilities currently exist on the site and are adequate for the proposed use.

F. Adequate provision of access: The subject property has frontage along Fremont Street and off-street parking access via the alley located to the south of the property. An existing gravel parking area and detached garage are located in this southern portion of the property. The parking area is not proposed to change and will not need an increase in size to accommodate any additional parking as long as the existing garage is concurrently utilized for parking. The existing public sidewalk adjacent to the lot along Fremont Street is in good condition and no new walkways are proposed for access from the public sidewalk or parking area to the rear. Adequate access is provided to this site and for the proposed use.

A 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 ELECTRONIC CHANGEABLE COPY SIGN AT THE FIRST EVANGELICAL LUTHERAN CHURCH, LOCATED IN A C-1, RESTRICTED BUSINESS DISTRICT, LOCATED AT 930 POYNTZ AVENUE.

(APPLICANT: SHARLA GAMINO – SCHURLE SIGNS, INC., OWNER: DAN RUSSELL – FIRST EVANGELICAL LUTHERAN CHURCH; FILE NO. CUP-17-030)

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 SETBACK FROM TEN (10) FEET TO THREE (3) FEET FOR A PROPOSED ELECTRONIC CHANGEABLE COPY SIGN AT THE FIRST EVANGELICAL LUTHERAN CHURCH, LOCATED IN A C-1, RESTRICTED BUSINESS DISTRICT, LOCATED AT 930 POYNTZ AVENUE. (APPLICANT: SHARLA GAMINO – SCHURLE SIGNS, INC., OWNER: DAN RUSSELL – FIRST EVANGELICAL LUTHERAN CHURCH; FILE NO. EXC-17-029)

May presented the staff report.

Hardy opened the public hearing.

Robbie Golden, representing the applicant and owner, said the sign will come out of the factory meeting all of the standards set forth by the City of Manhattan.

Lana Oleen, 3000 Stagg Hill Road, said the First Evangelical Lutheran Church has spent quite a bit of time on this sign, and it has gone through several committees at the church. She said the funding for the sign has been through an established memorial. She also said the current sign at the church has some deterioration, which prompted this process for a new sign that started about nine months ago.

Hardy closed the public hearing.

Hamilton said she was first alarmed at the height of the sign being 11 feet tall, considering the character of signs on the north side of Poyntz Avenue being smaller. She did say, though, that the applicant and owner did not propose a sign to the maximum height allowed. Therefore, they are within their rights to build the sign at its proposed height. She said this is the tallest she would like to see signs along this part of Poyntz Avenue. Oleen said the church had similar concerns about the height, and the fact that it comes to a peak—and is not a full 11 feet in rectangular fashion—allowed the sign to gain full support from its members.

Danner said the height is reasonable relative to the size of the structure.

Hardy said the electronic changeable portion of the sign could have been bigger, but it was not in this proposal.

Wigfall appreciated the proposed sign being at the same location as the existing one.

Wigfall made a motion to approve a CONDITIONAL USE under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for an electronic changeable copy sign at the First Evangelical Lutheran Church, located in a C-1, Restricted Business District, located at 930 Poyntz Avenue, with the following conditions of approval:

1. The associated Exception shall be approved concurrently.
2. The messages on the electronic changeable copy sign shall remain station for a period of not less than sixty (60) seconds.
3. The transition from one message to the next shall be direct and immediate, without any special effects including but not limited to, dissolving, fading, scrolling, starbursts and wiping.
4. The electronic changeable copy sign shall have a pitch not greater than twenty (20) millimeter between each pixel.
5. Between sunrise and sunset the maximum luminance shall be five thousand (5,000) nits and between sunset and sunrise the maximum luminance shall be five hundred (500) nits.
6. The sign shall be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's brightness.

Danner seconded the motion, which was passed 5 – 0.

The Board made the following findings of fact for the CONDITIONAL USE at 930 Poyntz Avenue:

Present Use: First Evangelical Lutheran Church

A. Compliance with all applicable regulations: The existing monument sign sits approximately three (3) feet from the front property line, along Poyntz Avenue. The zoning regulations require a minimum sign setback of ten (10) feet for signs in the C-1, Restricted Business District. The applicants are requesting a concurrent Exception to bring the existing sign into conformance with the zoning regulations as well as to allow the proposed electronic changeable copy portion to encroach on the setback as well.

The zoning regulations allow one monument or pylon sign per zoning lot per street frontage in the C-1, Restricted Business District. Since the proposed electronic changeable copy sign will be built on top of the existing monument sign, it will be considered one sign structure. The maximum sign height is thirty (30) feet. This proposed sign measures eleven (11) feet in height.

B. Probable effect on adjacent properties: The subject site is zoned C-1, Restricted Business District, as are properties directly to the east, west, and south. Directly to the north is zoned R-1, Single Family Residential District with a Traditional Neighborhood Overlay (TNO). The neighborhood consists of a combination of business and professional office uses, institutional uses, as well as single family and some multi-family residential uses. Directly to the south, across Poyntz Avenue, is the 9th grade center of Manhattan High School.

The proposal is not anticipated to have any adverse effects on adjacent properties. While the C-1 district does allow some residential uses as conditional uses, the district is primarily commercial in nature, in which an electronic changeable copy sign is

appropriate. The sign would not encroach on any vision clearance triangles. Additionally, the Manhattan Zoning Regulations contains provisions intended to prevent electronic changeable copy signs from disturbing neighboring properties by limiting the brightness of the image, the length of time each message is on screen, as well as the types of transitions between messages.

Electronic changeable copy signs must adhere to the following provisions:

The message shall remain static for a period of not less than (60) seconds. The transition from one message to the next shall be direct and immediate, without any special effects including but not limited to, dissolving, fading, scrolling, starbursts and wiping. Between sunrise and sunset the maximum luminance shall be five thousand (5,000) nits and between sunset and sunrise, the maximum shall be five hundred (500) nits. The sign must also be equipped with an automatic dimmer control or other mechanism that automatically controls the sign's brightness.

The application documents indicated that the proposal will be compliant with all these requirements.

C. Domination by use over neighboring properties:

1. Location, nature, and height of physical improvements: The proposed wooden structure that would house the electronic changeable copy sign would measure eleven (11) feet tall, by seven (7) feet wide, by eight (8) inches deep. The electronic changeable copy portion of the sign would measure twenty-nine (29) inches tall, by four (4) feet, five (5) inches wide, a total of ten point seven (10.7) square feet, which is under the maximum size of sixteen (16) square feet for electronic changeable copy signs. The viewing area of the sign will measure two (2) feet tall by four (4) feet wide. The sign is proposed to be double-faced, as is the existing monument sign.

2. Landscaping and screening: The existing monument sign contains some landscaping consisting of stacked limestone, flowers, and grasses. The proposed electronic changeable copy sign will not change the existing landscaping.

D. Adequate provision of parking and loading: The sign does not affect the existing parking for the First Evangelical Lutheran Church, which is adequate.

E. Adequate provision of drainage, and other public utilities: The sign is not large enough to affect drainage. The site is also adequately served by utilities presently.

F. Adequate provision of access: The proposed sign does not affect the existing access to the First Evangelical Lutheran Church, which is adequate.

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 setback

from ten (10) feet to three (3) feet at the First Evangelical Lutheran Church, located in a C-1, Restricted Business District, located at 930 Poyntz Avenue, with the following conditions of approval:

1. All applicable permits shall be obtained.
2. The sign shall be constructed as proposed.

Wigfall seconded the motion, which was passed 5 – 0.

The Board made the following findings of fact for the EXCEPTION at 930 Poyntz Avenue:

PRESENT USE: First Evangelical Lutheran Church

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: Apart from the setback encroachment of the existing sign, the subject site complies with all applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject site is zoned C-1, Restricted Business District, as are properties directly to the east, west, and south. Directly to the north is zoned R-1, Single Family Residential District with Traditional Neighborhood Overlay (TNO). The neighborhood consists of a combination of business and professional office uses, institutional uses, as well as single family and some multi-family residential uses. Directly to the south, across Poyntz Avenue, is the 9th grade center of Manhattan High School.

The existing monument sign has existed with its encroachment on the setback without any known adverse impacts on adjacent properties. While the proposal does increase the size and intensity of the sign that is encroaching on the setback, it is not anticipated to have any negative impacts on the neighborhood. The only property that will have a direct view of the sign is the 9th grade center across the street. Most properties that front on Poyntz in the vicinity are commercial or institutional in nature, which would not likely be negatively impacted by the encroachment on the setback. Additionally, despite the encroachment on the setback, the sign does not inhibit any vision clearance triangle requirements.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The setback encroachment and the proposed sign with the same encroachment is not anticipated to have any negative impacts on the public health, safety, morals, order, convenience, prosperity, or general welfare. The current and the proposed sign are within the parameters of the zoning regulations, apart for the setback. The brightness and frequency of messages on the electronic changeable copy sign will adhere to the provisions set forth in the Manhattan Zoning Regulations so as to not disturb the neighborhood or create a distraction to motorists or bicyclists on the street.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: Considering that the monument sign has existing in its current location without any known negative effects on the neighborhood, and considering that the electronic changeable copy sign is proposed to be constructed on top of the existing sign, with the same setback then the strict

application of the regulations seems unnecessary. Additionally, considering that there is limited space in which to place a sign and still comply with the sign setback regulation then the strict application of the zoning regulations seems unreasonable.

Hardy adjourned the meeting at 7:51 p.m.

Respectfully submitted by,
Chris Kutz, Planner