

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

MEMBERS PRESENT: Angie Danner; Brandi Nelson; and La Barbara Wigfall

MEMBERS ABSENT: Harry Hardy, Chairperson; Connie Hamilton, Vice Chairperson

STAFF PRESENT: Carol Davidson, Senior Planner; and Chris Kutz, Planner

Kutz called the meeting to order and asked the Board to elect a Chairman Pro Tem due to neither the Chairperson nor Vice Chairperson being present. Nelson made a motion to elect Danner as the Chairman Pro Tem, which was seconded by Wigfall and passed with a vote of 2 – 0 – 1. Danner abstained from the vote.

**CONSIDER THE MINUTES OF THE OCTOBER 11, 2017, BOARD OF ZONING APPEALS MEETING.**

Wigfall asked City staff if it received any feedback from the absent Board members on the minutes. Kutz said no.

Wigfall moved to approve the October 11, 2017 minutes which was seconded by Nelson 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 AN ADDITION TO THE THETA XI FRATERNITY HOUSE ON THE CORNER OF LARAMIE STREET AND DENISON AVENUE AT 1803 LARAMIE STREET, WITHIN AN R-1/TNO/UO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH TRADITIONAL NEIGHBORHOOD OVERLAY AND UNIVERSITY OVERLAY. (APPLICANT: BRENT BOWMAN; OWNER: ALPHA IOTA ALUMNI ASSOCIATION)**

**FILE NO. ---**

Wigfall asked City staff if it anticipated another Extension request by the applicants or any future delays in construction of the project. Kutz said the applicants stated construction is anticipated to start soon. Wigfall said the Board does not like keep doing this and did not want to create a habit of granting multiple extensions.

Wigfall moved to approve the request, which was seconded by Nelson 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 A REDUCTION OF THE MINIMUM REQUIRED FRONT YARD SETBACK FROM TWENTY-FIVE (25) FEET TO TWENTY (20) FEET FOR A PROPOSED PORCH AT AN EXISTING HOME LOCATED IN THE R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT, LOCATED AT 2219 TAMARRON TERRACE. (APPLICANT/OWNER: MARK FARR)**

**FILE NO. EXC-17-090**

Kutz presented the staff report, which recommended approval with four conditions of approval.

Danner opened the public hearing.

Mark Farr, applicant, was present but elected not to speak.

Danner closed the public hearing.

Nelson said the request was reasonable.

Wigfall said the encroachment is minimal compared to the streetscape and tree coverage. She also said she appreciated the applicants anticipating future accommodations for ADA accessibility.

Nelson made a motion to approve an EXCEPTION to allow for a reduction of the minimum front yard setback from twenty-five (25) feet to twenty (20) feet for a proposed porch located at 2219 Tamarron Terrace in the R-1, Single-Family Residential District, with the following conditions of approval:

1. The Exception shall be limited to the proposed porch as outlined in the application documents and shown on the applicant's site plan.
2. Any ADA accessibility accommodations shall be added to the proposed porch as long as the Exception for the setback reduction as proposed (approximately 20 feet from the front property line) is not increased.
3. The porch shall be maintained in good condition.
4. 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 2219 Tamarron Terrace:

**PRESENT USE:** Detached single-family dwelling unit

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The property complies

with all applicable regulations except for the requested Exception.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The effect on adjacent properties for the requested Exception would be minimal in adversity. The proposed porch is open, which limits any impact of views down the road for the adjacent properties to the north and south. The order of the homes along the west side of Tamarron Place would be disrupted with the proposed porch, but the encroachment is minimal and it would be slightly noticeable by passers-by.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** The Snowbird Addition, Unit One Final Plat, which was filed in 1974, shows a utility easement in the rear yard – away from the location of the proposed porch. The porch also does not encroach into any vision clearance triangles. Meanwhile, the porch will match the character of the existing home and nearby properties. Therefore, the effects of the proposed porch are not adverse towards the public health, safety, morals, order, convenience, prosperity, or general welfare.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** Strict application would result in little loss or gain to the health, safety and general welfare of the community; therefore, it is unnecessary in this case. A little less than half of the encroachment into the front yard setback is to allow the porch's roof overhang to maintain a consistent look with the existing roof overhang of two feet. The proposed depth, meanwhile, is to help accommodate ADA accessibility in the future when the applicant anticipates such a need. The building footprint of the porch has about half of its depth within the allowed setback while the other half is a minimal encroachment into the minimum required distance of 25 feet. Tamarron Terrace is also a local street, meaning the speeds of vehicles traveling down the street are slower than higher-classified streets. The encroachment into the setback would not have a substantial impact on passers-by in vehicles or walking nor the home's residents and neighbors.

In addition, the intent of the regulations is to establish a visually uniform line of buildings along the right-of-way. Although the porch slightly disrupts this order, it is a minimal encroachment while the openness of the porch, the limitations on views of adjacent properties, and the potential to provide ADA accessibility all make the strict application of the regulations 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 MORE THAN ONE (1) WALL SIGN PER ESTABLISHMENT PER FAÇADE IN THE C-2, NEIGHBORHOOD SHOPPING DISTRICT, LOCATED AT 3270 KIMBALL AVENUE. THE REQUEST IS FOR A PROPOSED ELECTRONIC CHANGEABLE COPY SIGN ON THE EAST-FACING FAÇADE OF THE DARA'S CORNER MARKET CONVENIENCE STORE. (APPLICANT: CHRIS DARA, DARA'S CORNER MARKET; OWNER: CM BRASS, LLC)**

**FILE NO. VAR-17-092**

Kutz presented the staff report, which recommended denial.

Nelson asked how the site was able to have four wall signs on east façade prior to the new signage. Kutz said the previous signs were legally nonconforming as they were installed prior to the current sign regulations were in place.

Danner asked what would prevent another business owner in the same shopping center to request the same type of Variance. Kutz said any future applications would have to be considered against the same Variance standards but nothing would stop a future business owner from making the same type of request.

Danner opened the public hearing.

Steve Lee, 121 N. 8th Street, gave an overview of the rebranding of the Candlewood Center. He said there was “no room” for future business owners to add additional wall signs, which was a follow-up response to Danner’s previous question. He said when the previous four signs on the east façade were removed, the applicants tried to incorporate the other panel into the larger wall sign displaying the business name. He showed a mock-up of what the electronic changeable copy sign looks like as requested and what could be an option if it was connected to the “Dara’s Corner Market” wall sign. He shared printed out mock-ups with the Board. He said by connecting them, though, it would not “meet the spirit” of what they intended to do with the signage update. He said “every other convenience store in Manhattan has some sort of movable sign.” He said the proposed sign would keep the tenant in comparison with every other convenience store in town.

Nelson asked Kutz if it was true that if the electronic changeable copy sign was connected to the business name wall sign would it all be considered one sign. Kutz said he was unclear but could guess it being true based on the applicant saying it was. He added that type of signage, however, would be considered during the sign permitting process. Kutz said he could speculate further, but the Variance requested did not include that type of proposed signage. Wigfall asked to clarify that the connected signs was not submitted with the Variance request. Kutz confirmed, saying what was submitted with the application was two separate wall signs.

Wigfall said all the businesses were able to display their respective names through the wall signs, but she wanted to know what was the purpose of the additional signage. Lee said the previous signage included two changeable copy signs. Wigfall asked if that same information would be displayed with the requested electronic changeable copy sign. Lee said that was correct. Wigfall asked if that type of information by the tenant could be communicated in a different way. Lee said they could have put a message center on the monument sign, but he thought that was inappropriate.

Wigfall asked if the applicants considered putting a wall sign on the south façade. Lee said they could put a message center on the south and west side, but he did not believe that was appropriate either. Lee said Manhattan has a good sign ordinance, but it does not address every situation. He said he did not want to put a “goofy line” underneath the signage and tie it all together.

Susan Zoeller, 1510 Fair Lane, said she works for Thomas Sign Service, and they have been fabricating all the signage for the Candlewood Shopping Center. She said the requested sign is simplistic and it would follow any further regulations for the type of sign. She also said it would be safer for store employees and the general public since there would be no need to manually change the letters and message on the sign.

Wigfall asked for clarification on what would be communicated through the proposed sign. Zoeller gave examples of what was communicated through the previous signage. Wigfall said she was curious on what additional information would need to be communicated by the tenant through the additional signage.

Danner closed the public hearing.

Danner asked Kutz if this was an owner-driven issue because the property owner requested the removal of the four previous signs. Kutz said that was correct. Danner asked if the applicants could re-apply for another sign permit if changes were made to what was requested while also meeting the signage regulations. Kutz also confirmed this, saying if the signs were connected, it would have to go back through the sign permit review. He said he was not sure how that type of signage (connected electronic changeable copy sign and another wall sign) fits within the sign regulations. Danner wanted to clarify that the applicants had other options.

Zoeller asked to speak one more time, and Danner summoned her to podium. Zoeller said she believed the sign regulations stated that there could be two sign types per façade in the C-2 zoning district. Kutz read the details of the zoning regulations for signage in the C-2 district, and it stated one sign per establishment per façade.

Nelson said the request does not meet all standards for a Variance and it could lead to similar future requests.

Wigfall questioned whether there was a hardship creating the need for a Variance. Danner said she does not hear a hardship either. Nelson said the sign requested is a mode of marketing, and that mode is now gone. She asked if this loss of marketing was a hardship. Wigfall said there are other options. Danner said part of this request was driven by the property owner wanting less signage.

Wigfall said she understands the proposed sign with the current wall sign is “cleaner” from previous signage. She added it was great the sign was not obtrusive, but there are other issues with the request weighed against the standards.

Wigfall made a motion to deny a VARIANCE under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for an additional wall sign located within a C-2, Neighborhood Shopping District because the request did not meet the standard found in Section 14-504(A)(3) of the Manhattan Zoning Regulations and the Board said strict application of the regulations did not result in unnecessary hardship.

Nelson seconded the motion, which passed 3 – 0.

The Board made the following findings of fact for the VARIANCE at 3270 Kimball:

**PRESENT USE:** Convenience store

**CONDITIONS UNIQUE TO THE PROPERTY:** There are few conditions unique to the property, but the need for the Variance request is self-created by the applicant. It is a standard rectangular lot in the corner of a large shopping center on relatively flat land. The convenience store faces the east-northeast, which does limit the extent of its visibility to passers-by moving east along Kimball Avenue and both directions along Candlewood Drive. The building on the site is also buffered from the sidewalk and street by more than 60 feet. While the shape of the lot is not unique, the orientation and placement of the convenience store is not typical in the same zoning district. However, for the purposes of the Variance request – more than one sign per façade of the establishment – there are no unique conditions of the property that create the need for the request.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The probable effect on adjacent properties would be minimal in adverse nature. The proposed sign is directed away from residential properties and public parkland. The total sign area of the proposed sign is also a decrease from the previous signage on the convenience store's façade, which improves the conditions for neighboring properties. The illumination of the proposed sign is minimal in nature and is not expected to have an adverse effect on nearby properties.

**UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS:** Strict application of the regulation would not create an unnecessary hardship on the applicant. The east-facing façade is still enabled to have its approved signage displaying the business name. The visibility of the by-right signage is also adequate. Although the proposed electronic changeable copy sign reduces the total signage area currently on the façade and is below the maximum allowed signage area for all electronic changeable copy signs, denying the Variance request does not result in unnecessary hardship.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** The proposed wall sign would have little to no impact on the public health, safety, morals, order, convenience, prosperity, or general welfare. It does not hinder any easements or vision clearance triangles while the projection of the sign from the wall is minimal (half an inch). The type of sign, electronic changeable copy, will cause minimal safety impacts on traffic moving along Kimball Avenue due to its size and limited illumination.

**RELATIONSHIP TO INTENT OF REGULATIONS:** The intent of the regulations concerning the number of signs per façade in the C-2, Neighborhood Shopping District is to limit the location, size, and placement of signs. Granting the Variance for the proposed sign would oppose the intent of the regulations because it would allow more than one wall sign per façade due to an action created by the applicants and property owners as well as the lack of unnecessary hardship caused by strict application.

Electronic changeable copy signs also have their own set of regulations, as listed in Section 6-110(C) of the Manhattan Zoning Regulations. The proposed Variance does not oppose the spirit and intent of these regulations. However, the Variance goes against the intent of the overall sign regulations.

Danner adjourned the meeting at 7:39 p.m.

Respectfully submitted by,  
Chris Kutz, Planner

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