

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, May 10, 2006**  
**7:00 PM**

MEMBERS PRESENT: Chuck Jackson, Chair Person; Calvin Emig, Connie Hamilton, Harry Hardy

MEMBERS ABSENT: Dan Morin

STAFF PRESENT: Steve Zilkie, Senior Planner, AICP; Jeremy Frazzell, Planner

**CONSIDER THE MINUTES**

Hardy moved to approve the April 12, 2006 minutes which was seconded by Emig and passed with a vote of 3-0. Hamilton abstained from the vote as she was absent from the April 12, 2006 meeting.

**A PUBLIC HEARING TO CONSIDER AN EXCEPTION FOR 225 WALTERS DRIVE IN THE R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT, TO ALLOW A REDUCTION IN THE MINIMUM TWENTY-FIVE (25) FOOT FRONT YARD SETBACK ALONG BROOKPARK DRIVE TO TEN (10) FEET FOR A PROPOSED FENCE. (APPLICANT/OWNER: WILLIAM AND JILL GOODMAN)**

Frazzell presented the Staff Report with a recommendation for approval of the Exception.

Hamilton clarified that if the gas line utility easement was not present, the fence could be placed at the twenty-five foot setback which would give a longer, deeper lot. She continued by stating the proposed area encroaching into the setback does not appear to be greater than what would have been allowed if the setbacks were met and the easement was not present.

Jackson opened for Public Hearing.

William Goodman, 225 Walters Drive, stated the main reason for the fence was privacy.

Jackson closed for Public Hearing and opened for Board discussion.

Hardy said he could support the request based on the staff report and the fact the Kansas Gas Service easement was addressed.

Hamilton stated she could support the request but addressed a concern that the area is new and wanted to highlight that the main reason for considering the request was based on the restriction the gas line easement has on the property. She continued by stating homeowners have a duty to understand the restrictions placed on their property and the Exception process should not be used as a replacement.

Emig stated he could support the request. He stated that the corner lot condition reduces the amount of usable yard, yet the owner would be responsible for maintenance. He continued by stating he could support the request given no objection from Kansas Gas Service.

The Board made the following findings of fact for the Exception at 225 Walters Drive with two conditions:

**A.** The property currently complies with all applicable regulations except for what the Exception is being requested.

**B.** Lot 176, Brookfield Addition Unit 5 is a corner lot with two front yards, Walters Drive to the north, and Brookpark Drive to the west. The house is situated on the lot with the front entrance and driveway access off of Walters Drive. The side of the house faces to the west, along Brookpark Drive, and this area is utilized as the side yard. The rear of the house faces the south and this area is utilized as the rear yard. Directly north, south, east, and west are lots zoned R-1, Single-Family Residential with recently constructed single-family homes. Further to the west is the Brookfield Residences Planned Unit Development which will consist of 11 apartment buildings, and to the southwest is the Prairie Lakes Addition which is zoned R-3, Multiple-Family Residential and R-2, Two-Family Residential District. The proposed fence is a six (6) foot high, cedar wood, privacy fence which is not uncharacteristic of what would be found in any of the aforementioned districts.

**C.** The proposed location for the fence will not affect the Walters Drive and Brookfield Park Street thirty foot vision clearance triangle. The proposed fence will not encroach into the ten (10) foot utility easements along the north and west property lines. A fifty (50) foot gas line easement crosses the property east to west, from the south property line. Development is restricted within the gas line easement; however Kansas Gas Service has allowed fences to encroach the easement by twenty (20) feet, provided the fence is not closer than thirty (30) feet from the actual location of the natural gas pipeline. Kansas Gas Service did not have an objection to the proposed location for the fence. The proposed location of the fence is not anticipated to have an adverse effect on the health, safety, or general welfare of the community at large.

**D.** The corner lot has frontage along Walters Drive and Brookpark Drive, with two minimum front yard setbacks of twenty-five (25) feet. Along Brookpark Drive, (the functional side yard) the existing house is located along the building setback. A fence along this portion of the lot would be required to be generally in line with the west façade of the house. A fifty (50) foot gas line easement crosses the property east to west along the south property line. From the rear of the existing house, southward, there is approximately ten (10) feet of space before reaching the northern extent of the gas line easement. The extent of the gas line easement restricts the amount of usable space for the proposed fence or any other types of structures, such as playground equipment in the yard south of the house. The applicant recently purchased the property with the intent of enjoying the large functional rear yard, and did not have knowledge of the restriction the gas line easement might impose. The applicant did not create the condition on the lot which requires the proposed Exception. The proposed setback reduction will enable the applicant to have a usable fenced yard which will provide safety, privacy, and enjoyment to the applicant and family. To require strict application of the regulations is unreasonable and unnecessary when all facts and circumstances are considered.

Hardy moved to approve an EXCEPTION at 225 Walters Drive, in the R-1 Single Family Residential District, to reduce the minimum twenty-five (25) foot front yard setback along Brookpark Drive to ten (10) feet for a proposed six foot high fence with the following

conditions:

1. The fence shall be maintained in good condition.
2. The fence shall be constructed as proposed in the site plan and application documents.

Hamilton seconded, which passed with a vote 4-0.

**A PUBLIC HEARING TO CONSIDER A VARIANCE FOR 1001 WILSON CIRCLE IN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT, TO ALLOW PARKING IN FRONT OF THE FURTHEST POINT BACK ON THE FAÇADE FACING WILSON DRIVE AND THE FRONT LOT LINE; TO ALLOW A DRIVEWAY TO BE GREATER THAN TWENTY-FOUR (24) FEET IN WIDTH AND 960 SQUARE FEET IN AREA; AND, REDUCE THE MINIMUM LANDSCAPED AREA IN THE FRONT YARD, ALL FOR A PROPOSED PAVED ADDITION TO AN EXISTING DRIVEWAY. (APPLICANT/OWNER: JIM ZENGER)**

Frazzell presented the Staff Report with a recommendation for approval of the Variance with three conditions.

Hamilton asked how a driveway located on Wilson Drive, going up to the side of a house, could be defined as a driveway and an alternative to the proposed driveway addition. She commented the condition to her would be a parking space located in the front yard and that the driveway width and area requirement would be applied per lot and not per driveway.

Jackson opened for Public Hearing.

Jim Zenger, 1001 Wilson Circle, stated he was not interested in a driveway off of Wilson Drive, but a parking pad on the north side of the driveway would be beneficial. He stated there will be five vehicles at the house, one of which is provided by his employer. The parking pad would allow vehicles to be off the street.

Jackson closed for Public Hearing and opened for Board discussion.

Hamilton stated she did not think she could support the request. She said she understood the reason for the extra parking addition, however she said the area is new and there are restrictions on the amount of pavement and greenspace. She did not find any conditions which were unique enough to the property to support the request and she did not find any unnecessary hardship.

Hamilton did not find that the fire hydrant in the front yard was a sufficient condition unique to the property and she did not find unnecessary hardship. She said she was not able to support the request.

Hardy said he did not find an unnecessary hardship. He said the proposed alternative to a second driveway was not a viable option. He said aside from being a corner lot with a fire hydrant, he did not find a unique condition to the lot.

Emig said the applicant has additional parking requirements and is trying to accommodate for that. He said four cars could park on the driveway which could create an inconvenience or require some maneuverability. He said he did not find that the proposed addition would have an adverse effect on the health and safety or adjacent properties. He recommended looking at each standard and taking a vote.

Jackson said this is an opportunity to remove vehicles off of the street. He said the probable effect on the neighbors should be minimal and also recommended going through each of the standards. He commented there was not a fifth member present to break a tie.

Frazzell addressed the board could table the item until the following meeting when the fifth member could be present.

The board discussed amongst themselves about previous decisions made about similar additions and the fact that this was a new housing area. The board then asked the applicant if he would be in favor of tabling the item until the next meeting when the other board member could be present. The applicant agreed.

Hamilton moved to Table the item until the next meeting, which was seconded by Hardy and Approved with a vote 4-0.

**A PUBLIC HEARING TO CONSIDER A VARIANCE FOR 902 FAIR LANE IN THE LM-SC, LIGHT MANUFACTURING SERVICE COMMERCIAL DISTRICT, TO NOT PROVIDE SIGHT OBSCURING SCREENING OF NOT LESS THAN SIX (6) FEET IN HEIGHT FOR PURPOSES OF SCREENING OUTSIDE STORAGE. (APPLICANT/OWNER: RONALD PARRICK JR., KENT CORMACK, AND WILLIAM PUGH/ KENT CORMACK, AND WILLIAM PUGH)**

Frazzell presented the staff report recommending Denial for a Variance to not provide the screening.

Emig stated that within this district as well as others to the west, there are other businesses that face Fair Lane. He stated those are currently providing screening along Fort Riley Boulevard.

Jackson asked if cars within used car lots along Fort Riley Boulevard are considered storage.

Frazzell said in the zoning regulations, a car lot in the district would not be required to be screened.

Jackson clarified that car lots specifically would not be required to provide screening, but cars themselves could be storage.

Jackson opened for Public Hearing.

William Pugh, owner of 902 Fair Lane, stated there have been many thefts around the area and providing the required screening would block visibility. He stated a concern about increased insurance rates by providing the screening. He stated there is a door on the east side of his building, which provides access. He stated the access is necessary and eliminates an option of selling the east portion of the lot. He expressed a concern that vandals might be able to enter the building if the screening was provided. He stated two local businesses were asking to store truck toppers on a fenced parking lot. He does not expect the Variance to transfer to the next owner, and stated there was not anyone out to speak against the Variance.

Hamilton asked if the applicant had proposed the screening mentioned in the insurance letter.

Pugh stated he had not and mentioned he would be happy in doing that. He stated he would be interested in placing ornamental grasses along each fence post. He stated he would like to have a street tree along 9<sup>th</sup> Street. He stated he would like to use natural vegetation as it would look better. He stated the previous slating in the chain link fence had begun to rust and it was pulling the fence down, which had to be replaced.

Bart Thomas, stated what the applicants have done is an improvement to the area. He stated he believed the reason behind the screening was to eliminate any negatives on the surrounding neighbors and cars passing by. He stated the change of ownership has improved the conditions on the property and the screening should not be required.

Ronnie Parrick, owner of Film at Eleven, stated when he realized there was a problem, he removed the bedliner product which was previously stored on the site. He stated he would like to store the truck caps on this site. He stated he will keep his product in an orderly fashion with trash picked up. He stated he is concerned with vandalism that might occur if the product was behind a screen.

Jackson closed for Public Hearing and opened for Board discussion.

Hardy stated the board has to address the Variance request based on the standards. He stated the unnecessary hardship standard was addressed primarily as a financial hardship.

Emig asked the applicants if the chain link fence was gated and secured and if additional lighting would help. He further stated he did not see how having the yard screened would prevent vandalism if the site was currently fenced, gated, and locked.

Pugh stated Howies has plenty of lighting, but they still have had problems. He stated the locks could be cut with bolt cutters, but without having the screening vandals could be identified from Fort Riley Boulevard.

Parrick stated that having increased vision around the building would deter criminal behavior.

Hamilton reiterated the property owner's statement that they are willing to limit the Variance to their ownership. She stated the owners seem to be good property owners that have made an

improvement to the property and seem to be genuinely interested in addressing concerns on their own. She asked for clarification whether the screening requirement is only required along Fort Riley Boulevard or would be required along 9<sup>th</sup> Street as well.

Frazzell read 4-306(E)(1) from the zoning regulations which states the LMSC District requires all outdoor storage and display areas except automobile sales lots shall be enclosed by sight obscuring screening of not less than six feet in height.

Hamilton stated the property owners were trying to tackle the screening requirement in unique ways and she suggested tabling the item to allow the property owners to work with City Staff to see if there was a creative screening option, especially with landscaping, that could satisfy the insurance and City's concerns without using slats in the chain link fence. She said there was a concern that the conditions being applied could be satisfied.

Pugh stated that as he understood the ordinance, the fence has to be screened and that the board was the only ones who could make an exception to that. He further asked how he could go to City Staff and work out a solution that is acceptable when staff is tied to the ordinance.

Hardy stated the applicant could propose something to the City, perhaps some plantings, to see if it can satisfy the screening standard which would prevent him from having to go before the board again.

Hamilton explained the screening the City would be looking for might not provide the visibility the applicant was looking for, but encouraged a compromise with the City to satisfy the screening requirement.

Hardy moved to Table the item until the next meeting, which was seconded by Emig and Approved with a vote 4-0.

Respectfully Submitted,

Jeremy Frazzell, Planner

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