



**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, May 9, 2018**  
**7:00 PM**

MEMBERS PRESENT: Harry Hardy, Chairperson; Brandi Nelson; Angie Danner; and La Barbara Wigfall

MEMBERS ABSENT: Connie Hamilton

STAFF PRESENT: Carol Davidson, Senior Planner; Shauna Laauwe, Planner II

**CONSIDER THE MINUTES OF THE MARCH 14, 2018, BOARD OF ZONING APPEALS MEETING.**

Wigfall moved to approve the March 14, 2018 minutes, which was seconded by Nelson, 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 MINIMUM REQUIRED FRONT YARD SETBACK FROM 25 FEET TO 3 FEET FOR AN EXISTING FENCE AND FOR REDUCTIONS OF THE MINIMUM REQUIRED FRONT YARD SETBACKS FROM 25 FEET TO 20 FEET FOR THE EXISTING LEGALLY NONCONFORMING DWELLING ASSOCIATED WITH A SINGLE-FAMILY RESIDENCE ON A CORNER LOT LOCATED WITHIN THE R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT, LOCATED AT 700 GRIFFITH DRIVE. (APPLICANT/OWNER: BRIAN PRATHER)**

**FILE NO. EXC-18-013**

Laauwe presented the staff report, which recommended approval with three conditions of approval.

Nelson asked if the property owner should have acquired a building permit before constructing the fence.

Laauwe said no because it is only 3.5 feet tall and a building permit was not required.

Hardy opened the public hearing.

Hardy noted that the applicant was in attendance.

There was no public input.

Hardy closed the public hearing.

Nelson commented that she does not think this is an issue since the property owners were not required to get a building permit to build the fence.

Hardy said he can support the request because they are just clear the property's title.

Danner said it seems like clean up so she can support it.

Danner made a motion to approve 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 25 feet to 3 feet for an existing fence and for reductions of the minimum required front yard setbacks from 25 feet to 20 feet for the existing legally nonconforming dwelling, located within a R-1, Single-Family Residential District, located at 700 Griffith Drive, with the following conditions of approval:

1. The Exceptions shall be limited to the existing fence and existing dwelling unit.
2. The fence shall be maintained in good condition.
3. All applicable permits shall be obtained.

Nelson seconded the motion, which passed 4 – 0.

The Board made the following findings of fact for the EXCPEITION at 700 Griffith Drive:

**PRESENT USE:** Single-family detached dwelling

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The property is in compliance with all applicable regulations other than the Exceptions requested through this application.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** No adverse effects on adjacent properties are expected by approving the Exception requests. The subject property and surrounding properties are within the same R-1, Single-Family Residential District. To the southwest, across Griffith Drive is the Manhattan United States Army Reserve Center and four (4) lots east on Griffith Drive is Northview Park. The Northview Addition neighborhood was established in the early 1950s and enjoys large canopy shade trees and other established vegetation that help obscure the view of the existing fence.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** No adverse impact to the public health, safety, morals, order, convenience, prosperity, or general welfare is expected by approving the Exception request. The existing fence is not located within any easements and does not obstruct the sight vision triangle at the Griffith Drive and Sloan Street intersection. The 1958 zoning regulations in which many of the existing homes were built that used percentages of lot width and depth to determine setbacks established homes that were not as uniform in structure placement as we see today. This leads to the existing home and fence to not seem visually out

of character to surrounding properties and passers-by. The fence is actually a replacement of a picket fence that was in place at the same location for many years. The new wood of the existing fence brought it to the attention to the Code Services Inspector that was doing routine neighborhood inspections.

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

If the existing fence was built at the minimum twenty-five (25) foot setback, it would need to be placed at a further setback than the existing structure and could only be approximately twenty (20) foot in width until it reached the existing detached garage then approximately twenty-three (23) feet in length to the utility easement. At setback regulations, the approximate 500 square footage of backyard would be much less than backyards of the surrounding neighborhood.

As for the requested reduction in the front-yard setbacks for the existing dwelling, given that it was constructed 60 years ago, it would be unreasonable to enforce the current twenty-five (25) foot front yard setbacks.

**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 REQUIRED FRONT YARD SETBACK FROM 25 FEET TO 0 FEET FOR A PROPOSED PRIVACY FENCE ASSOCIATED WITH AN EXISTING SINGLE-FAMILY RESIDENCE ON A CORNER LOT LOCATED WITHIN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT, LOCATED AT 2920 PRINCETON PLACE. (APPLICANT/OWNERS: MICHEAL AND MARIE BARNETT)**

**FILE NO. EXC-18-014**

Laauwe presented the staff report, which recommended approval with three conditions of approval.

Wigfall asked if staff thought the 0 feet setback was a problem and why was it a problem.

Laauwe said she was concerned about the 0 feet setback because of the height of the fence and being close to the roadway.

Wigfall asked if she supported the 0 foot setback.

Laauwe said she feels the 12 feet setback is better and less impactful.

Hardy opened the public hearing.

Micheal Barnett, applicant/owner, 2920 Princeton Place, shared that he intends to build the fence at the 12 feet setback but wishes to build it 6.5 feet tall. He has intentions to construct an architectural style fence with an archway and masonry detailing.

Wigfall asked how close the new fence would be to the neighborhoods vegetation.

Barnett said it would be 6 feet due to the grade change between the properties.

Danner commented the application requested a 7 foot tall fence and city staff recommended a 6 foot tall fence but Barnett was now requesting a 6.5 fee tall fence.

Barnett said he initially intended to build a 7 foot tall fence at the 0 foot setback but now thinks a 6.5 foot tall fence would be sufficient at the 12 foot setback.

Danner asked if he would like to have a greater fence height.

Barnett said the fence will not be over 7 feet tall because he would be required to obtain a permit. The fence will be around 6 feet tall but thinks 6.5 feet is reasonable.

Hardy asked for staff comments on a 6.5 foot tall fence.

Laauwe said this is the first time she has seen the drawings. She said 6.5 feet is better than 7 feet but she still feels 6 feet is reasonable. She asked the applicant what the height of the existing fence is.

Barnett said the existing fence varies in height from 6 feet to 6.5 feet due to the terrain.

Nelson asked was the concern with the addition 0.5 foot is.

Laauwe said the concern is the impact of the fence. 6.5 feet will have less of an impact than 7; 6 feet was selected because it is a common height for a privacy fence.

Wigfall asked what the applicant requested for the fence height on the application.

Laauwe said he requested a 7 foot fence but she recommended 6 feet.

Hardy closed the public hearing.

Wigfall said the board has typically approved 6 feet for fences in the past. Assuming the land is not consistently flat; she can see how the applicant would request 6.5 feet.

Danner said a 7 foot fence would be noticeable but thinks 6.5 feet maximum height would be a good compromise.

Wigfall said there could be space between the bottom of the fence and the ground that make it 6.5 feet tall.

Nelson said it should be 6.5 feet tall from the ground and asked if the stone was included in the fence height.

Barnett said the fence height would be from the base of the stone wall to the top.

Nelson commented that should be specified in the conditions.

Hardy commented that he generally supports staff recommendations but thinks 6.5 feet is a good compromise. He thinks the drawings of the fence should be included in the staff report.

Wigfall said they need to be included in the staff report.

Laauwe said she may have recommended 6.5 feet if the additional drawings would have been submitted with the application.

Wigfall made a motion to approve 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 25 feet to 12 feet for a proposed privacy fence associated with an existing single-family residence on a corner lot located within a R-1, Single-Family Residential District, located at 2920 Princeton Place, with the following conditions of approval as amended, increasing six (6) feet to six and a half (6.5) feet tall and adding “including the masonry wall”:

1. The fence shall not exceed ~~six (6)~~ six and a half (6.5) feet tall, including the masonry wall.
2. The fence shall be maintained in good condition.
3. All applicable permits shall be obtained.

Nelson seconded the motion, which passed 4 – 0.

The Board made the following findings of fact for the EXCPETION at 2920 Princeton Place:

**PRESENT USE:** Single-family detached dwelling

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The property is in compliance with all applicable regulations other than the Exception requested through this application.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The property and all of the adjacent properties are located within an R, Single-Family Residential District. No adverse effects on adjacent properties is anticipated by approving the Exception request. The adjacent property to the west shares the property line that the proposed fence would be located. The adjacent property, however is lower in elevation and has a dense tree line that would reduce visibility of the proposed fence. The request for a zero (0) foot setback may have less of a visual impact to neighbors across the street as the width of the fence would be twelve (12) feet across, as opposed to the given alternative of a twelve (12) foot setback that would result in a fence twenty (20) feet across from the west property line to the driveway. The proposed height of the fence does cause concern regarding the visual impact to the neighbors to the south, directly across South Dartmouth Drive.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE,**

**PROSPERITY, OR GENERAL WELFARE:** No adverse impact to the public health, safety, morals, order, convenience, prosperity, or general welfare is expected by approving the Exception request. Due to the fifteen (15) foot right-of-way along South Dartmouth Drive, even at a zero foot setback, the proposed fence should not interfere with the vision clearance triangle for the driveway accesses located on the subject property or the adjacent west property. While fences along South Dartmouth Drive are not common, the limited length of the fencing should not dominate or have a negative effect on the order of the neighborhood.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** The strict application of the regulations is reasonable, but minimal impact is expected to the surrounding neighborhood and public. The proposed fence will not impede the vision clearance triangle for either the subject property or the property to the west. In addition, the fence is within only a small portion of the front-yard and will not visually dominate the frontage along South Dartmouth Drive to adjacent neighbors or passers-by.

**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 REQUIRED FRONT YARD SETBACK FROM 25 FEET TO 5 FEET FOR AN EXISTING PRIVACY FENCE ASSOCIATED WITH A SINGLEFAMILY RESIDENCE ON A CORNER LOT LOCATED WITHIN THE R-2, TWO-FAMILY RESIDENTIAL DISTRICT, LOCATED AT 400 NORTHFIELD ROAD. (APPLICANT/OWNERS: DEREK AND MAKENZIE TALBOTT)**

**FILE NO. EXC-18-012**

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

Danner asked how many feet the fence would be from the house with the proposed setback.

Laauwe said around 20-25 feet.

Hardy opened the public hearing.

There was no public input.

Hardy closed the public hearing.

Nelson said it is a shame to have them move the fence now when it may not be a problem.

Hardy said there is more of an issue than just the utility easement; it is also the visual impact of the fence. Moving the fence back 5 feet will make a big difference.

Wigfall agreed.

Hardy said he can support staff's recommendation.

Wigfall said it should not be a hardship for the applicant to move the fence 5 feet.

Hardy said you build at your own risk if you do not ask questions.

Wigfall commented that you shouldn't be driving more than 25 miles per hour with the curve but the fence does obstruct the vision somewhat. The board cannot control vegetation but she would like to see vegetation in front of the fence to soften the visual impact.

Danner made a motion to approve 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 25 feet to 10 feet for an existing wooden privacy located within an R-2, Two-Family Residential District, located at 400 Northfield Road, with the following conditions of approval as amended:

1. The existing fence shall be moved out of the utility easement.
2. The Exception shall be limited to the existing fence.
3. The fence shall be maintained in good condition.
4. All applicable permits shall be obtained.

Wigfall seconded the motion, which passed 4 – 0.

The Board made the following findings of fact for the EXCPEITION at 400 Northfield Road:

**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 CONDITIONAL USE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW PROPOSED BUILDING ADDITIONS TO AN EXISTING STRUCTURE, SITE IMPROVEMENTS, AND A NEW OFF-STREET PARKING AREA FOR THE EXISTING DELTA UPSILON FRATERNITY LOCATED IN A R 1/UO, SINGLE-FAMILY RESIDENTIAL WITH UNIVERSITY OVERLAY DISTRICT, LOCATED AT 1425 UNIVERSITY DRIVE. (APPLICANT: PATRICK SCHAUB-BBN ARCHITECTS, INC, OWNER: DELTA UPSILON FRATERNITY C/O DAVID FRITCHEN)**

**FILE NO. CUP-18-019**

Laauwe presented the staff report, which recommended approval with six conditions of approval.

Wigfall asked if the area that needs to stay vegetated would be on the west edge of the property.

Laauwe said yes.

Wigfall asked if a photo of the vegetation was shown in the presentation.

Laauwe said yes but they will need to add more hedges as shown on the site plan.

Nelson asked if a correction was sent for the incorrect public notice.



Laauwe commented that the notice said “a setback reduction from 8 feet to 3 feet”<sup>0</sup> but should have said “15 feet to 3 feet” and since the 3 feet was the same, staff felt it was still in the spirit of the legal notice and the legal notices are not required to be that detailed.

Danner asked if staff could refer to a past condition of approval for lighting for a fraternity before the board deliberates to be consistent.

Hardy commented that he did not think the past conditional of approval stated a time which the lights had to be turned off.

Nelson commented that she thinks 11 pm is too late.

Laauwe said they proposed having a light switch for the lights.

Hardy opened the public hearing.

Patrick Schaub, BBN Architects, Inc., commented that the concern about noise is not necessary because there is an existing basketball court that is used and the proposed design moves the basketball court further away from residential areas. Currently the basketball court is lit by flood lights, which are on all the time, that shines out towards the street. The down cast lights will allow more control of the lights which they currently do not have. If they need to have them shut off overnight that would be better for the neighbors.

Wigfall asked if it would be on a timed system or controlled with a switch.

Schaub said the current proposal has it on a switch but it could be changed per the recommendation on the staff report. The other concern they have is the requirement for the sidewalk along University Drive. It would be very expensive to construct due to the terrain and would also require the removal of existing stairs and hand rails and a storm water drain that would all have to be rebuilt. That will be the only piece of sidewalk in that residential neighborhood which is out of character with the rest of it.

Wigfall asked if they have setup a turning radius for a fire apparatus to navigate.

Schaub said yes, the city has reviewed and approved it. They are also removing the curb cut that exists on Claflin Road.

David Fritchen, Delta Upsilon Alumni Representative, commented that the sidewalk issue came up during the 1999 addition but after looking at the terrain and the expense to construct it; they came to an agreement to put the sidewalk along Claflin Road, rather than along University Drive.

Hardy closed the public hearing.

Nelson said that requiring a sidewalk along University Drive seems unnecessary but the lights being on until 11 pm in a single family residential area seems too late because there is lights and noise associated with it.

Danner said she does not think they put those restricts on past applicants.

Hardy said he agrees and the board needs to be consistent. He said he recalls the agreement that Fritchen mentioned about the sidewalk on University Drive. The topography and what will be required to extend the sidewalk along University Drive is onerous so he supports striking that condition.

Danner agreed and commented that it is concerning that it was a surprise to the applicant.

Wigfall said students do walk on the sidewalks and they are important but Claflin Road is a more likely route than University Drive.

Hardy said if the current lights are on all the time and the proposed lights are facing down and have a switch, he would like to think that they will turn the lights off when the basketball court is not in use.

Davidson shared that the previous Conditional Use case for a fraternity did not have any conditions for the lights.

Nelson commented that she does not think the current conditions of the lights should influence this decision, it should be corrected.

Hardy said the condition states that the lights should be directed at the basketball court and that should be enough.

Danner agreed.

Wigfall said it is setback on the site and there would be an opportunity for motion sensors on the lights.

Danner said she can support the request if Condition 3 was struck and Condition 4 was modified.

Hardy agreed.

Wigfall asked if they were striking all of Condition 3 because she feels Claflin Road should be required to have a sidewalk.

Hardy said there is already a sidewalk along Claflin Road.

Laauwe commented that the previous fraternity was not surrounded by single family homes and the board should consider all cases separately.

Danner said the previous fraternity was much closer to the road and closer to surrounding single family homes.

Nelson asked Danner how she would modify Condition 4.

Danner said she would strike the last sentence which states “The lights shall be turned off by 11pm.”

Wigfall agreed.

Nelson said she is concerned about the noise it may cause.

Hardy said they cannot regulate noise.

Wigfall said light is a noise; it is just a visual noise. She commented that there have been regulations to require softer lights.

Laauwe asked what conditions the board wished to change.

Wigfall said they are debating striking the last sentence of Condition 4.

Hardy added they would also like to strike Condition 3.

Danner made a motion to approve an CONDITIONAL USE under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow proposed building additional to an existing structure, site improvements, and a new off-street parking area for the existing Delta Upsilon fraternity located in a R-1/UO, Single- Family Residential with University Overlay District, located at 1425 University Drive, with the following conditions of approval as amended, striking Condition 3 and the last sentence of Condition 4:

1. Exceptions to allow a reduction of the minimum required side yard setback from fifteen (15) feet to three (3) feet for a proposed addition to an existing structure as well as to allow off-street parking between the front lot line of the building and a line parallel to the front lot line drawn through a point which is on the side of the principal structure furthest from the front lot line, yet still facing the front lot line, respectively, should be approved, prior to construction
2. Access to Claflin Road should not be allowed from the off-street parking areas.
3. ~~A sidewalk shall be constructed along the length of the Claflin Road and University Drive right-of-ways.~~
4. The four (4) lights around the basketball court shall be directed towards the court and should provide minimal light spillage to adjacent properties. ~~The lights shall be turned off by 11pm.~~
5. All necessary building permits should be obtained prior to construction of the proposed additions and modifications.
6. The parking lots, landscaping and all other improvements should be maintained in good condition.

Wigfall seconded the motion, which passed 3 – 1.

The Board made the following findings of fact for the CONDITIONAL USE at 1425 University Drive:

**PRESENT USE:** Fraternity

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The current lot size of 1.66 acres exceeds the minimum lot size requirements and the width and depth of the lot exceed the minimums. The lot coverage maximum for this property is thirty-five (35) percent and the coverage in the proposed arrangement is 11.9 percent. The subject property is a corner lot with a required front yard setback of twenty-five (25) feet on all sides abutting a street and a minimum conditional use side yard setback of fifteen (15) feet to the north and west property lines. The structure meets the front yard setback requirements. The current structure and the proposed dining room addition encroach into the west yard side setback. The existing encroachment received an Exception from Board of Zoning Appeals in January 1999, and the applicant is seeking an additional Exception for the dining room expansion that is proposed to also be located three (3) feet from the west side property line. In addition, the applicant is seeking an Exception to allow three (3) of the proposed off-street parking spaces to encroach into the twenty-five (25) foot front yard setback along University Drive. These Exceptions are being considered in conjunction with the Conditional Use request, (please refer to case EXE-18-020).

One of the conditions placed on the Conditional Use granted in 1999, states “A sidewalk should be constructed in the Claflin Road right-of-way.” This condition was never met and thus the property is in violation of Section 14-705 of the Manhattan Zoning Regulations. Section 14-705: Conditions and Restrictions “. . . Failure to comply with all of the conditions, safeguards and restrictions placed on a conditional use shall constitute a violation of these regulations.”

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject property and the adjacent properties to the north and east are zoned R-1, Single Family Residential and comprise of single-family homes. The subject property does have the additional University Overlay District with the R-1 zoning designation while the adjacent R-1 properties do not. The adjacent property to the west is zoned as a PUD, Planned Unit Development, and is developed as Chase Manhattan Apartments. To the south, across Claflin Road, the area is zoned R, Single-Family Residential with the Isaac Goodnow House located on the property directly across the street. The probable effects on adjacent properties should be minimal as the addition will be located to the rear of the existing structure and will be buffered from the single family residences to the east. The west property boundary is screened by a seven (7) foot concrete retaining wall that separates the fraternity and Chase Manhattan Apartments.

The parking encroachment is proposed to be screened by a row of existing evergreen hedges, a new limestone retaining wall, and three (3) nearby existing trees that will help buffer the visual effect from the south. The additional parking will help alleviate on-street parking in the single family neighborhood. As for the proposed basketball court, the noise and lighting associated with the court may have some adverse impact to the apartment complex to the west. The single family homes to the north should have no adverse effects from the court as the existing structure will serve as a buffer from the lights and potential noise, whereas the single-family homes to the east may have some light spillage effect. A restriction to the hours of use

for the basketball court may be a consideration.

**DOMINATION BY USE OVER NEIGHBORING PROPERTIES:** The fraternity use should not dominate the neighborhood as it has existed on this site since it was constructed in 1965.

**1. LOCATION, NATURE, AND HEIGHT OF PHYSICAL IMPROVEMENTS:**

The existing structure will be expanded in the form of a one-story addition to the current dining room located on the west side of the building and extending to the south. A two-story library addition will be added to the south end of the building. The additions are designed to blend with the existing architecture, maintaining similar scale, roof heights, windows, and materials. The proposed library addition will be located within the existing basketball court space. The applicant proposes moving the court to the south and west and adding the light fixtures described above. The site plan also details a dry-laid limestone retaining wall ranging from one (1) feet to two (2) feet in height at the east edge of the proposed new parking lot, and a dry laid limestone retaining wall a maximum of four (4) feet in height at the west edge of the proposed new parking lot.

**2. LANDSCAPING AND SCREENING:** The existing site has mature trees and modest foundation plantings around the house, some mature trees along the west property line, and shrubs and trees along the east property line in the area of the existing parking. The applicant states that the intent of the project is to maintain as many of the trees and plantings as possible and to provide a similar level of landscaping around the proposed new construction. The site plan does indicate the required landscape screening of the new proposed off-street parking area.

**ADEQUATE PROVISION OF PARKING AND LOADING:** The applicant proposes to reconfigure and expand the existing off-street parking area to provide sixty-seven (67) parking spaces for residents and guests. Two existing parking spaces are also provided on the north side of the house via the north driveway access. The parking capacity is in excess of the required 75 percent of the residents plus the House Mother by eight (8) spaces. The applicant states that the existing parking areas will be cleaned and striped and that a planted hedge designed for a mature height of at least three (3) feet will be added along the east side of the expanded parking. The east side of the parking area is already screened by dense vegetation and the neighboring retaining wall. As stated previously, the applicant is seeking an Exception to allow three (3) of the proposed off-street parking spaces to encroach into the twenty-five (25) foot front yard setback along University Drive.

**ADEQUATE PROVISION OF DRAINAGE, AND OTHER PUBLIC UTILITIES:** Current utilities, drainage, and necessary facilities are adequate for the proposed use and will be substantially unchanged. The City Engineer has reviewed the proposed drainage plan for the development. The plan conforms to the requirements of the City's Stormwater Management Master Plan.

**ADEQUATE PROVISION OF ACCESS:** Vehicular access to the site is from two existing curb cuts located along University Drive. The southern access point will provide access to

sixty-seven (67) of the sixty-nine (69) off-street parking spaces. The off-street parking lot will be screened by existing hedges and an additional hedge along the east side of the property as previously detailed. The northern curb cut and driveway is used primarily by delivery vehicles and the trash company. Sidewalks should be provided along both frontages, in the public rights-of-way, to provide adequate pedestrian access to and from the site, and for the general public. The Conditional Use granted in 1999, stated a condition that “A sidewalk should be constructed in the Claflin Road right-of-way.” This condition was never met. Staff Administration recommends that not only should this previously required sidewalk be placed, but one along University Drive as well.

**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 SIDE YARD SETBACK FROM 15 FEET TO 3 FEET FOR A PROPOSED ADDITION TO AN EXISTING STRUCTURE AS WELL AS TO ALLOW OFF-STREET PARKING BETWEEN THE FRONT LOT LINE OF THE BUILDING AND A LINE PARALLEL TO THE FRONT PAGE 2 AGENDA/BZA}050918 LOT LINE DRAWN THROUGH A POINT WHICH IS ON THE SIDE OF THE PRINCIPAL STRUCTURE FURTHEST FROM THE FRONT LOT LINE, YET STILL FACING THE FRONT LOT LINE IN THE R-1/U-O, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH UNIVERSITY OVERLAY, LOCATED AT 1425 UNIVERSITY DRIVE. (APPLICANT: PATRICK SCHAUB-BBN ARCHITECTS, INC, OWNER: DELTA UPSILON FRATERNITY C/O DAVID FRITCHEN)**

**FILE NO. EXC-18-020**

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

Danner made a motion to approve 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 side yard setback from fifteen (15) feet to three (3) feet for a proposed addition to an existing structure as well as to allow off-street parking between the front lot line of the building and a line parallel to the front lot line drawn through a point which is on the side of the principal structure furthest from the front lot line, yet still facing the front lot line in the R-1/U-O, Single-Family Residential District with University Overlay with the following conditions:

1. Applicant must first obtain a Conditional Use Permit for the Fraternity to allow for the proposed additions, off-street parking lot and accessory basketball court.
2. The Exceptions shall be limited to the new expanded dining room addition and off-street parking as shown in the application documents.
3. The hedges and plantings buffering the off-street parking shall be maintained in good condition.
4. All applicable permits shall be obtained.

Wigfall seconded the motion, which passed 4 – 0.

The Board made the following findings of fact for the CONDITIONAL USE at 1425 University Drive:

**PRESENT USE:** Fraternity and associated off-street parking lots.

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The proposed additions and improvements to the structure and site require the fraternity use to gain a new Conditional Use (please refer to case CUP-18-019). Otherwise, the property is in compliance with all applicable regulations other than the Exceptions requested through this application.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject property and the adjacent properties to the north and east are zoned R-1, Single Family Residential and comprise of single-family homes. The subject property does have the additional University Overlay with the R-1 zoning designation while the adjacent R-1 properties do not. The adjacent property to the west is zoned as a PUD, Planned Unit Development, and is developed as Chase Manhattan Apartments. To the south, across Claflin Road, the area is zoned R, Single-Family Residential with the Isaac Goodnow House located on the property directly across the street. The probable effects on adjacent properties should be minimal as the addition will be located to the rear of the fraternity and will be buffered from the single family residences to the east. The west property boundary is screened by a seven (7) foot concrete retaining wall that separating the fraternity and Chase Manhattan Apartments. The parking encroachment is proposed to be screened by a row of existing evergreen hedges, a new limestone retaining wall, and three (3) nearby existing trees that will help buffer the visual effect from the south.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** The proposed building and parking lot additions should have minimal impact to the public health, safety, morals, order, convenience, prosperity, or general welfare of the neighborhood. The building addition will be seamless in nature from the previous addition and will not be visible from the single-family homes to the north and east as it will be behind the front portion of the structure. While only a gain of two (2) off-street parking spaces will be gained overall, the additional parking will ease some of the parking concerns caused by the fraternity. The order of the neighborhood will be minimally effected. The building is large and is at a higher elevation than properties located to the east side of University Drive. The proposed screening and the elevation should help reduce the impact on the neighborhood.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** The proposed dining room addition that encroaches into the side yard setback is an extension of the building configuration approved by the Board of Zoning Appeals in 1999. While over twenty-four (24) feet of length will be added within the setback area, it will not be visible from University Drive or from the single-family property to the north. A large retaining wall and elevation differences also shield the building from the adjacent apartment complex to the west. The applicant would meet the off-street parking requirements without the proposed three (3)

spaces that are within the front yard setback, however the extra spaces do help alleviate the amount of on-street parking in the neighborhood. Adding the three (3) spaces to the west portion of the existing parking area would require the removal of mature trees that lessen the visual impact of the off-street parking lot and large fraternity structure from the adjacent property to the west and to passers-by on Claflin Road.

Hardy announced that this would be Nelsons' last meeting as a board member and thanked her for her service to Manhattan.

Wigfall commented that many of the cases involved corner lots and she hopes the UDO will help decrease the number of those cases that come to the board.

Davidson said there are provisions concerning corner lots to minimize side yard setbacks.

Laauwe said that even with the decrease of the side yard setback requirement, all the cases this evening would have still come before the board.

Hardy adjourned the meeting at 8:23 p.m.

Respectfully submitted by,  
Lesley Frohberg, Planning Intern