



**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, June 13, 2018**  
**7:00 PM**

MEMBERS PRESENT: Harry Hardy, Chairperson; Connie Hamilton; Angie Danner; and La Barbara Wigfall

MEMBERS ABSENT: None

STAFF PRESENT: Carol Davidson, Senior Planner; John Adam, Senior Planner; Shauna Laauwe, Planner II; Lesley Frohberg, Planning Intern

**CONSIDER THE MINUTES OF THE MAY 9, 2018, BOARD OF ZONING APPEALS MEETING.**

Wigfall moved to approve the May 9, 2018 minutes, which was seconded by Danner, and passed with a vote of 4 – 0.

**A PUBLIC HEARING TO CONSIDER AN VARIANCE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR A GRAVEL PARKING SURFACE FOR VEHICLES AT AN EXISTING AUTOMOBILE SALES BUSINESS IN A C-6/AO, HEAVY COMMERCIAL DISTRICT WITH AIRPORT OVERLAY DISTRICT LOCATED AT 2600 EUREKA TERRACE. (APPLICANT: REDLINE AUTO CONSULTING, LLC/MATT BUTLER, OWNERS: WILLIAM AND MARY BUTLER)**

**FILE NO. VAR-18-027**

Laauwe presented the staff report, which recommended denial.

Danner asked if the 19 vehicles currently parked on the site are for sale.

Laauwe said the applicant stated that they are being stored for future sale. She added that stickers were not present on the cars.

Hardy opened the public hearing.

Matt Butler, 2600 Eureka Terrace, commented that he is requesting a Variance because many other lots of similar size in Manhattan use gravel lots to park their cars. He said he does not understand the regulations that require him to pave his lot but do not require other lots. If he was allowed to keep the gravel he would make improvements to the lot. The other businesses in his area have gravel lots but they have used darker gravel so it is not apparent that it is gravel. He added that the cars in the lot are for sale.

Hamilton asked if customers can view the cars if they are interested in purchasing them.

Butler said yes.

Hamilton asked what other car lots he was referring to that have gravel lots without screening.

Butler said there is a lot on Fort Riley Boulevard and one by the Shell Gas Station that is all gravel. He'd like to stay in the area but may outgrow the site in the future. If he paves the site then later outgrows the area, he would leave the owners with a piece of pavement.

Hardy commented that Butler does not have to pave the lot; he could put a fence around the storage area to be in compliance.

Butler said he understands and that was the first he was told of the option to screen the lot.

Hardy said Butler has two options; to pave it or put a fence around the area.

Butler said the fence would cause some difficulty navigating the vehicles within the storage area.

Hardy asked staff if the fence would have to be around the entire parameter of the storage area.

Laauwe said the fence has to obscure the sight of the storage lot.

Hamilton asked Staff if Butler could put a fence along Eureka Terrace, the two sides that are perpendicular to Eureka Terrace, and not along the rear side of the storage area.

Laauwe said yes.

Hamilton asked if the fence only had to be sight obscuring from outside of the property.

Laauwe said yes.

Hamilton suggested putting a three-sided fence up and have a drive thru lane at the rear.

Butler questioned if he had to put a fence along the north side of the storage lot.

Davidson said a "U" shaped fence is required but screening is not required in the rear.

Butler said it would be helpful to leave the north side open.

Hamilton asked if there was a difference between the cars parked in the various locations on the site.

Butler said no; he said he sells about 50 vehicles per month so if he would have to construct a fence, he is concerned that would hinder his ability to move the vehicles around the storage area.

Hamilton said Butler could control the width of the opening to get into the storage lot but it will

still need to remain screened from Eureka Drive and Eureka Terrace.

Davidson said there can be an opening to the storage area but it would need to be setback from Eureka Terrace so screening is still provided.

Hardy closed the public hearing.

Wigfall commented that the only other concern she may have had was erosion control and that does not seem to be an issue. The applicant also has multiple options available; they are both costly but there are options. She does not feel that there is a hardship and she concurs with the City to deny the Variance but allow the option to use screening.

Danner commented that there is a financial hardship but that does not qualify as a standard for a Variance.

Hamilton said she agrees with City Staff that this application does not meet the requirements for a Variance but agrees that the applicant should have the option to use screening or paving the site

Hardy commented he agrees with Hamilton and that the standards for a Variance are more strict than an Exception. He also commented that other businesses in the area may use gravel but the city may be unaware of them. The applicant can report the other properties so they can be reviewed. There may also be other zoning requirements that allow those businesses to keep their current configuration.

Hamilton made a motion to deny a VARIANCE under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for a gravel parking surface for vehicles at an existing automobile sales business located in a C-6/AO, Heavy Commercial District with Airport Overlay District located at 2600 Eureka Terrace.

Danner seconded the motion, which passed 4 – 0.

The Board made the following findings of fact for the VARIANCE at 2600 Eureka Terrace:

**PRESENT USE:** Used automobile sales

**CONDITIONS UNIQUE TO THE PROPERTY:** While there are no conditions unique to the property, it is limited in size for the existing uses and is located within an area not frequently utilized by the public. The gravel area does sustain water and the applicant states that paving would exacerbate the existing drainage issue. City Administration contends that paving could redirect the water and that the standing water in the gravel after heaving rains also contributes to erosion.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** Minimum effect on adjacent properties is expected. Except for The Flint Hills Job Corps Center located to the north, across Eureka Drive and zoned U, University District, the properties to the east, west, and south are generally industrial. The property to the east is zoned C-6, Heavy Service Commercial District

and is currently Star Lumber and Supply Company, while the properties to the west and south are zoned I-3, Light Industrial with the west property appearing to be vacant office space and the south property utilized as the office for Larson Construction Company. The gravel area is out of character with the adjacent and surrounding properties as, even though an industrial area, none of the other surrounding businesses utilize open gravel areas for storage or parking.

**UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS:**

Strict application of the regulation would not create an unnecessary hardship on the applicant. The applicant may pave the existing gravel area and widen the south driveway by as much as 8 feet (total driveway neck of 24 feet) to meet the business needs and the Zoning Regulations, or utilize the existing paved off-street parking located on-site. The applicant also has the option of screening the gravel parking area with a sight obscuring fence of no less than 6 feet in height.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:**

The effects of granting the Variance on the public health, safety, morals, convenience, prosperity, or general welfare would be minimal. Besides Flint Hills Job Corps, the area is not frequented by the public and is not in route to residential properties. The open gravel parking area, however is out of character and order from the surrounding area. The properties to the east, southeast, and south utilize sight-obscuring fencing spanning their street frontage property lines to block the view of storage and parking on the individual sites.

**RELATIONSHIP TO INTENT OF REGULATIONS:** The intent of the Regulations regarding the pavement requirement of parking surfaces is to provide erosion control, protect the ground from oil and other pollutants that may drip from automobiles and machinery, and to be more aesthetically pleasing.

**A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW TO FOR A REDUCTION OF THE MINIMUM REQUIRED REAR YARD SETBACK FROM TWENTY-FIVE (25) FEET TO TEN (10) FEET FOR A PROPOSED GARAGE EXTENSION FOR AN EXISTING STRUCTURE WITHIN AN R, SINGLE-FAMILY RESIDENTIAL DISTRICT LOCATED AT 2122 IVY DRIVE. (APPLICANT/OWNERS: BRAD AND KAREN POLSON)**

**FILE NO. EXC-18-028**

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

Hardy opened the public hearing.

Tom Eakes, 2122 Ivy Drive, commented that two trees were removed from the hillside causing the retaining wall to be necessary. They are currently allowed to add a five foot

extension to the garage but after meeting with the Code Department; they were directed to request an Exception to extend the garage to the retaining wall. The concrete that has already been poured has been permitted and inspected by the city.

Hardy closed the public hearing.

Danner asked if the garage was an afterthought to the project.

Hamilton clarified that the retaining wall was necessary and they intended to extend the garage 5 feet but the exception will allow the applicant to extend the garage 10 feet to the retaining wall.

Hamilton commented that there is a unique circumstance with the steep hillside at the back of the site. Additionally, no one will see it and it should not adversely affect the neighbors.

Hardy said it is a uniquely configured lot.

Hamilton added that she can support request based on the reasons listed in the staff report.

Wigfall commented that she is thankful they added a notch in the addition to keep it out of the utility easement. She does not have an issue with the request.

Danner made a motion to approve an EXCEPTION under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow to for a reduction of the minimum required rear yard setback from twenty-five (25) feet to ten (10) feet for a proposed garage extension for an existing structure located in an R, Single-Family Residential District, located at 2122 Ivy Drive with the following conditions:

1. The Exception shall be limited to the garage extension as detailed in the application.
2. The garage shall be maintained in good condition.
3. All applicable permits shall be obtained.

Hamilton commented that this is an example of the difference between an Exception and a Variance because a financial hardship can be considered for an Exception.

Wigfall seconded the motion, which passed 4 – 0.

The Board made the following findings of fact for the EXCPETION at 2122 Ivy Drive:

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

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** A property survey was done to assist with the site plan logistics for the proposed expansion and found that the north side of the home is setback only 4 feet instead of the required minimum side-yard setback of 8 feet. The home was constructed in 1959 before the subdivision was annexed in August 1963. While an official letter of nonconformity could not be found, the side-yard encroachment is

likely legally nonconforming. The property is in compliance with all other applicable regulations other than the Exception requested through this application.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** No adverse effect on adjacent properties is expected by granting the requested Exception. The subject property and all adjacent properties are zoned R, Single-Family Residential District. The adjacent properties to the north, south and west consist of single-family homes, while the adjacent property to the east is the heavily wooded north section of the Manhattan Country Club Golf Course. The established neighborhood has mature trees that will shield the view of the proposed garage from the residential properties to the north and south. The existing house itself will buffer the proposed garage from residential properties to the west. The east property boundary with the Manhattan Country Club Golf Course has a steep embankment and is extremely wooded, as such the garage will not be visible.

**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 applicant has taken measures to indent the generally rectangular structure to insure that the proposed garage will avoid encroaching into the east utility easement. The ample front-yard setback of 85 feet for the existing structure, as well as the mature vegetation will provide generous screening of the proposed garage from adjacent properties and passers-by.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** The strict application of these regulations is reasonable as the applicant could build a smaller extension, however minimal impact to the public is expected when all facts are considered and appears to be permissible. The existing dwelling has a considerable front-yard setback and the surrounding vegetation and substantial grade change along the east property line will seclude the proposed garage extension from neighboring properties.

**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 AN ACCESSORY USE FROM SIXTY (60) FEET TO THREE (3) FEET FOR A PROPOSED DETACHED CARPORT AND TO ALLOW FOR A FRONT YARD SETBACK REDUCTION FROM SIXTY (60) FEET TO THIRTY-EIGHT (38) FEET FOR AN EXISTING ACCESSORY STRUCTURE FOR A PROPERTY WITHIN AN R, SINGLE-FAMILY RESIDENTIAL DISTRICT LOCATED AT 2130 STILLMAN DRIVE. (APPLICANT: ASHLEY STEWART OF STEWART FAMILY RENTALS, LLC, OWNER: ROD AND KANNETTE STEWART)**

**FILE NO. EXC-18-029**

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

Danner asked if the applicant submitted a picture of what the carport would look like.

Frohberg replied yes; it is a 20 by 21 square foot carport with six legs and a covered roof.

Hardy opened the public hearing.

Ashley Stewart, Applicant, 2130 Stillman Drive, commented that the purpose of the carport is to provide protection for her vehicle from the weather. She believes it should be allowed because of the low visibility of the carport. It will be a prefabricated structure. It is ordered from the company, delivered, and then set up. It is semi-permanent meaning that it is secured to the ground but could be moved if necessary.

Hardy closed the public hearing.

Hamilton commented that there are few opportunities on the site to place the carport due to the topography and supports the approval. She stated she does not have an issue with the existing shed.

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 front yard setback for accessory uses from 60 feet to 3 feet for a proposed detached carport **and** to allow for a front yard setback reduction from 60 feet to 38 feet for an existing accessory structure, located in an R, Single Family Residential District, with the following conditions of approval:

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.

Danner seconded the motion, which passed 4 – 0.

The Board made the following findings of fact for the EXCPEITION at 2130 Stillman Drive:

**PRESENT USE:** Single-Family 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:** The effect on adjacent properties for the requested Exceptions would be minimal. The proposed detached carport is at the western edge of the property, along Stillman Drive, but due to the abundance of vegetation surrounding the site, views of the carport would be concealed from the north and south properties. The Happy

Valley Addition was developed in the 1960s so there is an abundance of mature vegetation that obscures views to the subject site. The subject property and all surrounding properties are within the same zoning district, R, Single-Family Residential. There are single-family residences to the north, east, and south of the subject site. To the west of the subject site is the rear yard of the First Baptist Church of Manhattan which is at a higher elevation, separating the two sites with a steep incline that is heavily vegetated.

The proposed carport is a freestanding, prefabricated structure that will cover an existing parking area. Due to the nature of this, construction of the carport will be minimal and not cause disturbance to surrounding homes as it does not require electricity, plumbing, or other utilities. The location of the proposed carport is currently used as two gravel, uncovered parking stalls for the residence. The use of the area would not change, still housing two vehicles, so this would not result in insufficient parking on the site.

Stillman Drive is a gravel road without any pedestrian infrastructure and appears to be rarely traveled by non-residents of the neighborhood. There are 4 other residences that have access off of Stillman Drive. It will be noticeable that the carport exist but due to the orientation of the existing home (facing north), the elevation change, and the vegetation; the carport does not seem intrusive to Stillman Drive or neighboring residences.

**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 requests. The impacts appear to be minimal as the proposed carport does not impede existing pedestrian infrastructure and is outside any vision clearance triangles and utility easements. The existing accessory storage structure has minimal impacts as it is not located within any easements and does not obstruct any sight vision triangles.

**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. Due to low visibility of the proposed and existing structures from the surrounding area and the limited area on the site for the carport due to elevation change it would seem unnecessary for strict application of these regulations.

**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 AN EXISTING DWELLING WITHIN AN R-1/AO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH AIRPORT OVERLAY LOCATED AT 5019 BRAMBLEWOOD DRIVE. (APPLICANT: SMH CONSULTANTS, OWNER: DUSTIN MONDLOCH)**



**FILE NO. EXC-18-030**

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

Hardy opened the public hearing.

Hardy noted that the applicant was present. There was no public input.

Hardy closed the public hearing.

Danner said she has no problem supporting it.

Wigfall said she can support the request.

Hamilton said that was a very complicated issue. Hardy agreed.

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 twenty-five (25) feet to twenty (20) feet for an existing single-family dwelling within an R-1/AO, Single-Family Residential District with Airport Overlay located at 5019 Bramblewood Drive with the following condition:

1. Shall be limited to the portion of the existing structure as detailed in the application.
2. All applicable permits shall be obtained.

Danner seconded the motion, which passed 4 – 0.

The Board made the following findings of fact for the EXCEPTION at 5019 Bramblewood Drive:

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

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

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** No adverse effect on adjacent properties is expected by granting the requested Exception. The subject property and all adjacent properties are zoned R-1/AO, Single-Family Residential District with Airport Overlay. No adverse effects are expected as the home has been in the current configuration since it was built in 2013 without any issues.

**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 granting of the Exception will not adversely impact the order of the neighborhood as the home has been in the current configuration since it was built in 2013 and many of the surrounding homes are also very close to the required setbacks due to the construction error. The Exception will enhance the prosperity of the area as it will give the dwelling clear title for real estate sale for a condition not brought upon by the owners of the subject property.

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

The strict application of these regulations is unreasonable as the front-yard setback encroachment is due to a construction error that was not brought upon the property owners themselves. It would be unreasonable to remove the encroaching portion of an existing structure and while side lot lines were able to be moved, altering the front property lines is impossible due to the existing street.

Hardy adjourned the meeting at 8:01 p.m.

Respectfully submitted by,  
Lesley Frohberg, Planning Intern