



MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, August 8, 2018
7:00 PM

MEMBERS PRESENT: Connie Hamilton, Vice-Chairperson; Angie Danner; La Barbara Wigfall; Sara Fisher

MEMBERS ABSENT: Harry Hardy, Chairperson

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

CONSIDER THE MINUTES OF THE JULY 11, 2018, BOARD OF ZONING APPEALS MEETING.

Danner moved to approve the July 11, 2018 minutes, which was seconded by Fisher, 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 A REDUCTION IN THE MINIMUM REQUIRED LOT FRONTAGE AND MINIMUM REQUIRED LANDSCAPED OPEN SPACE FOR A RESIDENTIAL STRUCTURE TO HAVE A CIRCLE DRIVE WITH TWO (2) CURB CUTS. THE SUBJECT PROPERTY IS WITHIN AN R/AO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH AIRPORT OVERLAY LOCATED AT 4400 GRANDE BLUFFS COURT. (APPLICANT/OWNER: MICHAEL AND BETHANY DUFF)

FILE NO. EXC-18-038

Laauwe presented the staff report, which recommended denial of the request.

Fisher asked what the neighbors' concerns were. Laauwe stated that they voiced concerns about the amount of concrete and that other properties that are yet to be developed will also want circle drives when they do not have enough frontage.

Hamilton asked for clarification that there is not a regulation that requires a specific distance that driveways must be from a property line. Laauwe replied no, not for residential properties.

Danner asked if the applicant knew that City Administration intended to recommend denial of the request prior to the hearing. Laauwe replied yes, but they still wanted to submit the request since the driveway was already in place.

Hamilton opened the public hearing.

Ron Hageman, 606 Harland Drive, has been a contractor in the Manhattan area for 40 years and had never come across the ordinance being considered. He had always built homes to add to neighborhoods, not to distract from them. He thinks it would have harmed the integrity of home to have a large driveway and he was concerned with backing a vehicle out because of the large setback. The circle drive allows for a vehicle to enter and exit the property with full vision of the surrounding area. He understands that ordinances are important but they are based on the whole spectrum of the building industry and he is here to present the uniqueness of the property and why the ordinance does not account for some of the aspects of development. The ordinance does not account for cul-de-sac lots that start off narrow and get wider to the back. Since the house was placed far back on the property the circle drive is not crowding either property line; it was designed to intentionally provide green space between the circle drive and the property lines. The ordinance does not address the cul-de-sacs, it addressed general lots with 25 foot setbacks. He has not heard of any complaints and thinks the character of the homes fits with the circle drive and he hopes they approve the exceptions for the landscape requirement and the circle drive entrances.

Hamilton asked why the home was placed 78 feet back. Hageman replied that it was the most suitable place for the placement of the home. The lot is wide and deep and to accommodate more landscaping in front of the home they pushed it back. It is also at the end of the cul-de-sac on a mound; so they wanted to get the driveway into the garage at a less steep slope.

Hamilton asked if the configuration of the triangular lot was the reason for the home's placement 78 feet back. Hageman said he believes the setback helps the integrity of the home and makes the slope entering into the driveway safer. The entry ways do not have curb cuts but they have roll back curbs that connect. He mentioned that the home is so far back in the neighborhood that it requires fire sprinklers and there is limited traffic in the cul-de-sac.

Fisher asked if Hageman had stated that he did not know the zoning ordinance being requested. Hageman replied that he was only aware of the lot coverage of the home on the property and has not dealt with the ordinance against circle drives because it is not very common. There are other homes in Manhattan that have circle drives so he assumed it was allowed. He did not construct the circle drive to blatantly ignore the ordinance, he was unaware of it. It was after the code inspector noticed and the violation was found. He did it in the best interest of the neighborhood and the homeowners.

Wigfall asked Hageman if he considered a design that included a turnaround without exceeding the landscape requirements and how he came to the conclusion that the circle drive would be better for larger vehicles. Hageman said the larger vehicle was a consideration during the design. An alternative turnaround could have been designed but the circle drive and landscaping added personality to the property. The circle drive balances the concept of the lot rather than having one side dominated with a large, wide driveway.

Wigfall asked if Hageman considered an alternative turnaround that encroached on the side yard. Hageman said there are always other alternatives but it is difficult to see what they could be during the design process. He felt like the circle drive was the best case scenario.

Michael Duff, 3105 Bethany Circle, stated that he appreciates staff report and thinks the points made are valid but disagrees with the recommendation. He drives frequently for his job and his only accident was backing out of a driveway and he personally feels like the circle drive eliminates some of the safety concerns. The circle drive allows them to take more vehicles off the cul-de-sac because they can park in the drive and allows a driver to have better views of their surroundings. The circle drive is more aesthetically pleasing but his concern is for the safety of his children and the neighborhood. The adjacent property owner likes the aesthetic of the circle drive and thinks it does not take away from the beauty of the neighborhood. They have also had a big investment in the driveway. He stated that they did not intentionally build the circle drive to harm anyone.

Hamilton closed the public hearing.

Hamilton asked staff if the UDO addresses circle drives in a different fashion. Laauwe said it will remain the same.

Hamilton asked if it will be determined if you have enough frontage and landscaping. Laauwe said yes.

Danner said she does not agree with the City's assessment that the circle driveway is a safety issue, as it seems like an improvement. The home is large and it seems appropriate, even though it was a mistake. She does not feel like it hurts the property but improves it. It is a new development and it is difficult to make an exception because developers should be aware of the regulations but she can support the exception because she thinks she would have approved the case if it was presented before the concrete was laid.

Fisher asked staff to explain the process when an applicant request a building permit. Laauwe replied the applicant proposed to build his home and turned in a building permit to Code Services; where many of the BZA cases originate. If the applicant would have proposed the circle drive in October, the board probably would have seen the case in November after being flagged by Code Services. The original building permit did not show the circle drive and met zoning regulations. In May that the circle drive was discovered and the owner was informed to rip the driveway out or go to the Board of Zoning Appeals.

Fisher asked if it went from 2,700 to 3,900 square feet of concrete. Hamilton and Laauwe confirmed.

Wigfall said she understands the aesthetics of the drive but that is not what the board is ruling on. There are alternatives for a smaller turnaround without a second entrance. It may not be as aesthetically pleasing but it would be functional. She does not agree or disagree with the request but stated there are other possibilities.

Fisher said she is bothered by the fact that they are requesting an exception after the fact and the addition is significant with a 50% increase in concrete.

Hamilton said it is not uncommon to look at things that have already been constructed. She generally tried to evaluate the application on the merits as though the driveway was not already poured. She agrees with Hageman and the family that it looks more aesthetically pleasing. She fears that if the board approve this request then others may follow a similar reasoning to enhance their properties with circle drives. She does see how the topography of the lot influenced the placement of the home resulting in a long driveway that created the safety issues. This caused the property to have unique circumstance from the neighboring properties that have their homes setback 25 feet. She thinks it looks very nice but it is a lot of concrete.

Fisher made a motion to deny an the EXCEPTIONs under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for a reduction in the minimum required lot frontage and minimum required landscaped open space for a residential structure to have a circle drive with two (2) curb cuts for a property in an R/AO, Single-Family Residential District with Airport Overlay located at 4400 Grande Bluffs Court based on the information presented in the staff report.

Hamilton called point of order, if the vote is split 2-2 for the motion then the motion could not pass either way and does the board have the option to table the motion until all board members are present. Laauwe replied that a full board would not be present next month.

Motion was not seconded; motion failed.

Hamilton asked for an alternative motion.

Danner made a motion to approve an the EXCEPTIONs under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for a reduction in the minimum required lot frontage and minimum required landscaped open space for a residential structure to have a circle drive with two (2) curb cuts for a property in an R/AO, Single-Family Residential District with Airport Overlay located at 4400 Grande Bluffs Court based on the outstanding circumstances with the lot being so deep causing a 75 foot driveway that has created a unique safety concern due to the placement of the home to accommodate such a large lot, therefore, it is a unique situation. The following conditions of approval will apply to the motion:

1. The interior area of the circle driveway shall be maintained as a grass and landscape planted area.
2. Submit a new building application with the constructed driveway as shown in the application documents.

Fisher seconded the motion, which resulted in a 2 – 2 vote.

Hamilton asked staff if the motion could be tabled. Laauwe said the board can table the motion until a full board is present or until the end of the meeting while staff researches the Robert's Rules of Order.

Davidson said staff will verify with rules of order and state statutes that procedures are being followed. If staff is unable to find information that is sufficient then the motion will be tabled until the next meeting.

Hamilton asked if the board needed to make a motion or if it can be an administrative table. Davidson replied that it can be an administrative table.

Hamilton said further discussion of the motion will be administratively tabled until the end of the meeting.

(Discussion tabled at 1:00:30)

(Discussion resumed at 1:52:51)

Hamilton asked staff for an update about their findings.

Laauwe said that the bylaws only speak of a majority vote, therefore it would take a 3 – 1 vote to approve the motion. An alternative would be to table the motion, have the applicant return to the board with an alternative request, or the board could change the conditions or findings until a majority vote is reached. A 2 – 2 vote would result in a denial of the motion.

Hamilton asked if the board tables the motion, then at next month's meeting, even if they don't have a full board, the make-up will be different so the vote could be different.

Laauwe said they can wait until there is a full board. Her understanding is that the owner has not moved in yet and Code Services could give them temporary occupancy of the home until a decision is made about the driveway.

Hamilton asked for preference of the owner and applicant.

Hageman asked if an absentee vote was an option on this board. Hamilton and Danner said no, that has never been done. Davidson said proxy votes are not allowed.

Hageman asked if the request would have to go through the hearing process again. Davidson said yes. Laauwe said they would not be required to pay another application fee but it has to be a full public hearing with board discussion.

Hamilton told Hageman and Duff that tabling the matter would give them the opportunity to gather neighbors to speak on their behalf.

Danner made a motion to table EXCEPTIONS under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for a reduction in the minimum required lot frontage and minimum required landscaped open space for a residential structure to have a circle drive with two (2) curb cuts for a property in an R/AO, Single-Family Residential District with Airport Overlay located at 4400 Grande Bluffs Court until the next Board of Zoning Appeals meeting.

Wigfall seconded the motion.

Hamilton asked if they were tabling the public hearing or the exception. Davidson said the public hearing was already closed. Hamilton asked staff to direct the board next month on the application proceedings.

Duff asked to speak. Davidson said the public hearing is closed but if the board can hear his comment. Hamilton said she would like to hear Duff's comment.

Duff asked the board members if there was landscaping alternatives or recommendations to detract from the concrete.

Hamilton said there are two issues; the 120 foot frontage requirements and the required landscape.

Wigfall said she recognized that the owner has already spent money on the driveway but the width of the driveway could have been smaller even if the two entrances remained.

Danner said the best thing Duff can do is work with City staff to address the conditions for an exception.

Danner restated the motion to table the discussion and vote for EXCEPTIONs under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for a reduction in the minimum required lot frontage and minimum required landscaped open space for a residential structure to have a circle drive with two (2) curb cuts for a property in an R/AO, Single-Family Residential District with Airport Overlay located at 4400 Grande Bluffs Court until the next Board of Zoning Appeals meeting.

Wigfall seconded, motion passed 4 – 0.

The Board made the following findings of fact for the EXCPETION at 4400 Grande Bluffs Court:

PRESENT USE: Single-family detached dwelling under construction

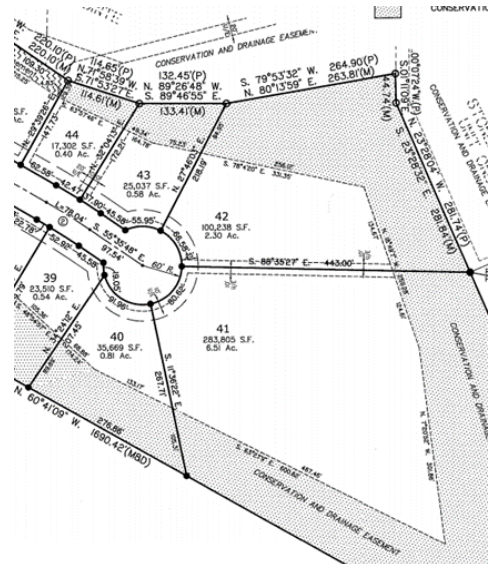
COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject property is in compliance with all other applicable regulations other than the Exceptions requested through this application.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject property and the properties to the north, northwest, and east are located within an R/AO, Single Family Residential District with Airport Overlay. The adjacent properties to the east and southeast are outside the Manhattan city limits. The Grande Bluffs at Mill Pointe Unit 4 is a new unit to the subdivision and comprises of nineteen lots along Grande Bluffs Court. Besides the subject property, only one other lot has been built upon. Though the adjacent lots have yet to be developed, there is concern that the circular drive curb cuts will have an adverse effect upon the future owners of the said properties. The bulb of Grande Bluffs Court has a radius of 60 feet

that is typically generous, however the bulb area provides a total of five lots partial or full frontage and driveway access. As shown in Figure 5 below, the two west lots have partial frontage along the bulb and may take driveway access on the straight portion of Grande Bluffs Court, however the subject property and

the two adjacent properties will rely on the cul-de-sac for access. The subject property has 80.62 feet of frontage, the adjacent property to the north has 66.58 feet of frontage, and the adjacent property to the west has 91.96 feet of street frontage. Each of the properties are allowed a single curb-cut and driveway width of 24 feet for a one-car or two-car wide garage, or a curb-cut and driveway width of 36 feet for a three or more-car garage. The requirement for a minimum of 120 feet of street frontage for two curb-cuts is to ensure safety in the distance between the number of points that cars will enter and exit the roadway.

Figure 5



Regarding the reduced amount of landscaped open space in the front yard of the subject property, the abundance of pavement may adversely affect the residential character of the single-family residential neighborhood. The applicant has submitted a landscape plan that shows the intention to have grass and plantings to visually enhance the center of the circle drive. The applicant contends that the circle drive would be more visually appealing than a single large driveway.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: Adverse effects to the public safety are a concern. The requirement for a minimum of 120 feet of street frontage for two curb-cuts is to ensure safety in the distance between the number of points that cars will enter and exit the roadway. Spacing requirements for curb cuts are utilized for both residential and commercial properties. Instances of curb cuts less than 120 feet can be found throughout the City as platted properties must give each lot at least one access to a roadway. For example, adjacent smaller lots may result in access points less than 120 feet apart, however they are avoided, and other alternatives are sought. In the older Ward district neighborhoods in the City, where lots are generally 50 feet or 75 feet in width, access is mostly given via alleys other than driveways to avoid multiple entrance and exit points on the residential streets. Each entrance or exit point along a roadway is a safety concern as following traffic may have an unexpected stop or an unexpected vehicle enter the roadway. On the landscape plan submitted by the applicant, it shows the west 18-foot curb cut to end at the shared property point with the adjacent property to the west.

The applicant states that because the length of the driveway to the street is over 80 feet, a turn-around area was needed for safety and that is why the contactor deviated from the original single driveway plan. City Administration contends that the 36-foot driveway width is sufficient room for a 3-point turn around or to reverse out of the driveway safely.

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

The Zoning Regulations allow for a 36-foot wide driveway and curb-cut for one dwelling unit homes with a 3-car garage. The original building permit site plan that depicted a driveway to this full allowance was near the maximum allowable landscape open space in the front yard area. The subject property is large and the structure has an ample 78-foot front yard setback, however the landscape requirements are to ensure that residential properties do not have an abundance of concrete that will take away from the residential character of the neighborhood. Restricting the amount of concrete also reduces storm water drainage concerns.

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 MORE THAN SEVEN (7) FOOT REDUCTION TO THE MINIMUM REQUIRED EIGHT (8) FOOT SIDE-YARD SETBACK FOR A PROPOSED GARAGE AND RETAINING WALL ADDITION TO A SINGLE-FAMILY HOME IN AN R, SINGLE-FAMILY RESIDENTIAL DISTRICT LOCATED AT 2333 GRANDVIEW TERRACE. (APPLICANT/OWNER: DAVID MILLER)

FILE NO. EXC-18-040

Laauwe stated that the applicant met with concerned neighbors this evening and has requested to table the item to the September 12, 2018, Board of Zoning Appeals meeting after further discussion.

Wigfall moved to table the consideration of an EXCEPTION to allow for a more than seven (7) foot reduction to the minimum required eight (8) foot side-yard setback for a proposed garage and retaining wall addition to a single-family home in an R, Single-Family Residential District located at 2333 Grandview Terrace.

Fisher seconded the motion, which passed on 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 A SIX (6) FOOT REDUCTION TO THE MINIMUM REQUIRED TEN (10) FOOT REAR-YARD SETBACK FOR AN ACCESSORY STRUCTURE ALONG AN ALLEY FOR A PROPOSED CARPORT SERVING A SINGLE-FAMILY HOME IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH TRADITIONAL NEIGHBORHOOD OVERLAY LOCATED AT 1215 HOUSTON STREET. (APPLICANT: WEISBENDER CONTRACTING, INC./OWNER: JOHN KUENZI)

FILE NO. EXC-18-039

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

Fisher asked Davidson to view a photo of neighboring accessory structures.

Fisher asked Davidson if the applicant is asking for a 4 foot setback and staff is suggesting 6 feet. Davidson said yes.

Fisher asked if staff had information about the neighboring accessory structure that appears to be encroaching on the right of way. Davidson said staff did not find any information on the accessory structure that is on the property line, she said it is common with these properties, but there is a BZA case on the other adjacent accessory structure that is 10 feet from the rear property line.

Hamilton asked if the case of the adjacent accessory structure was asking for a setback or lot coverage exception. Davidson said just lot coverage. The reason she presented the case is to provide evidence that it is not unreasonable to ask the applicant to meet the requirements but there are other facts and conditions to consider.

Fisher asked if Davidson knew the setbacks of the other adjacent structures. Davidson said they are approximately 3 feet from the rear property line.

Fisher asked if staffs compromised recommendation would be between the distances of the various surrounding accessory structures. Davidson said yes.

Danner asked Davidson what happens to the carport that appears to be hanging over the property line. Davidson said the City will not take action because there is a lot of nonconforming issues in the ward districts.

Hamilton commented that it could be legal nonconforming. Davidson agreed and said the City does not seek out issues. It would be addressed if the property every wanted to make improvements.

Hamilton opened the public hearing.

Tim Weisbender, 1451 East Lane, said the homeowner gather several ideas about what to do in along the ally and one of them was to build a car port because he was concerned about parking on the narrow street. They cleaned the area up and saw the adjacent garages along the ally and assumed it was acceptable. There is a large cedar tree that would have to have been removed if the carport would be moved any further north. That was considered when determining its requested location. In order to move it, they would have to remove the existing fence, move the shed, and remove the tree.

Fisher asked if Weisbender went with the suggested staff compromise he would have to remove the existing fence. Weisbender said yes, the fence and tree would have to be removed. The area had been neglected and a lot cleanup had to be done because there was an area behind the adjacent fences that he considered a "no man's land". If they were to move further north with the carport they would lose a lot of their backyard and have to remove the existing fence, tree, and move the shed.

Fisher asked how deep the parking spaces are currently. Davidson said they are 24 feet deep. Weisbender said the concrete pad is 20 feet deep and 42 feet across to hold 4 cars.

Hamilton asked if people were parking in the ally in the “no man’s land” he was referring to. Weisbender said there was space for one car because the fence went up to the ally with a drive-thru gate but that was all removed to accommodate the carport.

Hamilton closed the public hearing.

Fisher said she does not have any strong feelings about the request as she spent more time looking at the carport that encroached into the ally than the proposed carport. She lives in an area that has many accessory structures up against the ally.

Wigfall said she would like to avoid removing the tree. The compromise is very minimal so she would like to keep the tree.

Hamilton said she would also like to keep the tree since the carport is still setback 4 feet. She can support the application.

Danner agreed.

Hamilton said she understands staff’s compromise but she does not think removing the tree is worth the compromise.

Davidson commented that she did not see a tree that would be in the way of the carport but the compromise may cause the shed to be moved, ultimately forcing them to remove a tree. She supports keeping trees and staffs compromise was not meant to put any trees at risk.

Wigfall said she was assuming the applicant was referring to the tree on the west side of the carport.

Wigfall made a motion to approve an EXCEPTION under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow a reduction of the minimum required rear yard setback of an accessory structure from an alley from 10 feet to four feet for a proposed carport in an R-1, Single-Family Residential District, with the TNO, Traditional Neighborhood Overlay, located at 1215 Houston Street with the following conditions:

1. The Exception shall be limited to the size and type of carport detailed in the application.
- ~~2. The posts of the carport shall be set back no closer than ten feet from the rear property line.~~
- ~~3. The Roof overhang of the carport shall be set back no closer than six feet from the rear property line.~~
4. All applicable permits shall be obtained.

Danner seconded the motion.

Davidson asked the board if the board wanted to adjust the conditions of approval to reflect the changes.

The board removed conditions two and three.

Motion as amended, with conditions of approval number 1 and 4, passed 4 – 0.

The Board made the following findings of fact for the EXCPEITION at 1215 Houston Street:

PRESENT USE: Single-family detached dwelling

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The existing house sits about six feet from the eastern property line. The current zoning regulations do require eight foot side yard setbacks; however, at the time this house was built, the required side yard setbacks were only at three feet. Therefore, other than the legally-nonconforming side yard, the property is in compliance with all other applicable regulations other than the Exception requested through this application.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject property and the



adjacent properties are located within the Traditional Neighborhood Overlay District which consists of older neighborhoods, most of which have existing alleys. This property does abut an alley, and the alley is paved. In this particular alley section (between South Manhattan Avenue and South 12th Street), there are 15 properties that abut the alley. 10 of the properties have accessory buildings in their rear yards. Out of the 10 lots, it appears four of them have

structures that are set right on the property line. It also appears that three of them are setback less than the required 10 foot setback. And the accessory structures on the final three properties appear to be setback at least 10 feet or more. This averages out to be 70% of the existing structures within this alley section that have accessory buildings are not meeting the current setback regulations. This does not necessarily make it right to allow this Exception, but it does lessen the impact on adjacent properties. In addition, the proposed accessory structure is a carport, meaning it will be open on all sides, this will lessen the visual impact within the alley. If this request is granted it is expected that there will be little impact on adjacent properties.

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

The granting of this Exception could have effects on the public health, safety, morals, order, convenience, prosperity, or general welfare. One possible effect is the new carport could remove as

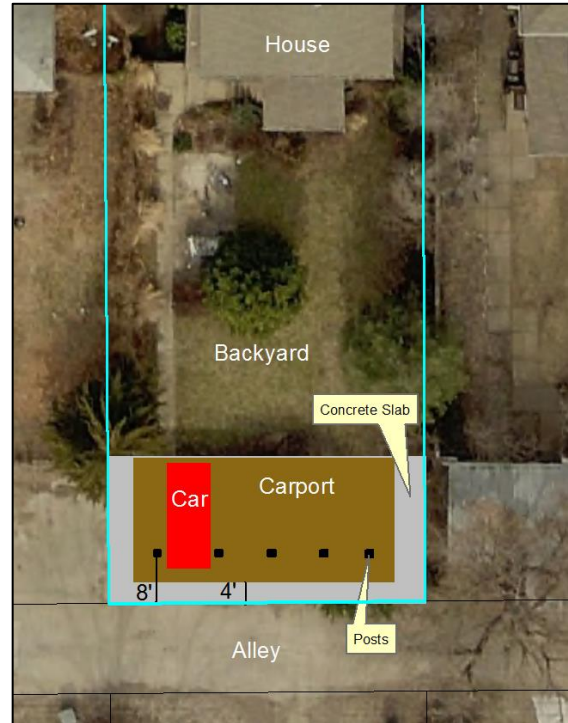


much as four cars from the street. Having cars parked on the public right-of-way is typically a

good thing. It slows down traffic which increases the safety for all. However, too many vehicles parked along the street could present a challenge for emergency vehicles gaining access to the homes, and it could also increase danger to children as it makes more obstacles.

But, on the other hand, this proposed carport could present safety issues in the alley. Even though it will be visually open, having it closer to the alley line will give less room for the drivers to maneuver their vehicles in the alley. This could present safety issues or could lead to damage to adjacent property. In the City's *Off-Street Parking Lot Configuration Standards*, it requires that parking stalls within parking lots that are accessed directly from an alley be set back at 11' from the alley line. These standards have been created for public parking lots, and while this Exception request is not for a public parking lot, it is important to note the distances, as they were developed with safety in mind.

The overhang of the proposed carport is to be four feet from the alley line. The posts supporting the carport will be back an additional four feet. Therefore, at the surface level, the structure will be set back eight feet. Eight feet does give a more room for maneuverability which does help with the safety issues.



THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: When considering all facts and circumstances, the strict application of these regulations does not appear unreasonable or unnecessary. However, this request is complicated, and a good argument could be made either for or against the Exception. While the possible effect on the neighboring properties is expected to be minimal, there does appear to be reasonable alternatives for this carport. The applicant could push the carport back further into the rear yard. But, the property directly to the east does have an existing carport that appears to directly abut the alley line (see image to the right). Staff was unable to find any BZA cases in reference to this structure. On the other



hand, the property two houses down, to the east, has an accessory structure in their backyard as well. They have a garage that was built in 2011 that does meet the setback requirements. The owners were required to go to the Board of Zoning Appeals, and did receive an Exception for the lot coverage, but followed the required setbacks for their garage.

A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW AN INCREASE TO THE MAXIMUM ALLOWED THIRTY PERCENT (30%) LOT COVERAGE FOR A PROPOSED SCREENED-IN PORCH ADDITION TO A SINGLE-FAMILY HOME IN AN R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH TRADITIONAL NEIGHBORHOOD OVERLAY, LOCATED AT 1002 HOUSTON STREET. (APPLICANT: GEORGE MATTHEWS/OWNER: JESSICA MARIE FALCONE)

FILE NO. EXC-18-036

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

Wigfall asked if there is much vegetation between the proposed porch and the existing fence. Laauwe said there would be the 8 foot strip between the two. Wigfall asked if there was anything other than grass in that zone. Laauwe said there is a lot of vegetation along 10th Street. Wigfall was asking as she did not see any vegetation in the photos or an attached planting plan. Laauwe said a planting plan was not included.

Hamilton opened the public hearing.

Jess Falcone and George Matthews, 1002 Houston Street, shared that the property was split up in 1949 and was later purchased by the school district in 1989. They have lived in the home for 5 years and they have been interested in purchasing a section of the parking lot back from the school district. After the November bond issue the school will get back to the property owners if they would be willing to sell a portion of it back. The owners are interested in buying back half of the lot to have additional green space to elevate the lot coverage issue, while the school district could keep the single row of parking. They stated that the shed was placed on the property when they purchased the home but it was placed on an existing concrete slab.

Isabella Vardaman, she is a student at K-State and knows the applicants. She frequently pet sits for the applicants and thinks that the screened in porch would be beneficial to the owners and the property.

Hamilton closed the public hearing.

Danner said it does not seem like an unreasonable request and does not see any reasons to not approve it.

Fisher agreed and said it would be normal if it was a regular size lot.

Hamilton said she can support the request and appreciates that the lot is fenced in. She wants the residential use and character is maintained and this request strengthens that.

Wigfall made a motion to approve an EXCEPTION under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow a 5.1% increase to the maximum allowed 30% lot coverage for a proposed screened-in porch with roof addition to a single-family home located within an R-1, Single-Family Residential District with Traditional Neighborhood Overlay located at 1002 Houston Street, with the following conditions of approval:

1. Construction shall be limited to the drawing and building plans for the deck addition as submitted with 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 EXCPEITION at 1002 Houston Street:

PRESENT USE: Single-family detached dwelling

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject property received a Variance to the front yard setback in November 1985 for the existing fence that runs along a portion of the east property line that fronts onto 10th Street. As shown in the calculations above, the existing structures have a nonconforming lot coverage of 31.89 percent.

The subject site was part of the mass rezonings and overlay placements that took place in 2003. In December 2003, the subject property and surrounding properties were downzoned from R-2, Two-Family Residential District to R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay. The R-2 District had a lot coverage maximum of 35 percent. If the shed was placed before the Traditional Neighborhood Overlay designation in December 2003, then the 31.89% lot coverage would be considered legally conforming. If placed afterwards, the 44 square foot shed tipped the lot coverage over the Traditional Neighborhood Overlay 30% maximum. Sheds of this size are not required to obtain a building permit and it is unknown when the shed was placed on the property.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject property and the properties to the west, east, and south are zoned R-1/TNO, Single-Family Residential with Traditional Neighborhood Overlay. The surrounding properties to the west and south are mostly comprised of single and two family unit dwellings that make up one of the City's original neighborhoods. The abutting lot to the north is a 50-foot by 75-foot lot that is currently owned by USD 383 and utilized as a staff parking area for the Manhattan High School 9th Grade Campus. Further north, is Poyntz Avenue and a C-1, Restricted Business District that is generally developed as office use, but does have a remaining legally nonconforming dwelling on the west corner of South 10th Street and Poyntz Avenue. Directly to the west, across South 10th Street, is a R-1/TNO property that is developed as the Manhattan High School 9th Grade Campus.



No adverse effect on adjacent properties is expected by granting the requested Exception. The subject property is a corner lot and thus has a 14-foot front yard setback along South 10th Street and Houston Street and an 8-foot side yard setback from the west and north property lines. The proposed deck will span along the 23-foot width of the existing structure and extend 10 feet to the minimum required 8-foot side yard setback to the north. An addition of this size being 8-feet from the property line would usually cause a concern regarding a potential adverse effect, however the adjacent lot is used as an off-street parking area and is too small to develop as a residential property in the R-1/TNO District. Minimal effect to the adjacent residential property to the west is expected as the proposed deck will be constructed at the same side yard setback of approximately 14 feet from the west property line.

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 part of one of the original ward/neighborhood districts in Manhattan, lot shapes and sizes vary widely. While the subject property has the typical lot size for the neighborhood of 7,500 square feet, it has less depth than the surrounding properties. With the parking located on the adjacent north lot abutting the alley, most passersby likely will perceive the properties as one lot and would not notice any dominance of the proposed deck that an abundance of lot coverage would typically create.

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

Please refer to the aerial photograph to the right. The strict application of these regulations is unreasonable as maximum lot coverage standards are put in place to help ensure that a structure does not overwhelm or dominate the property itself and the surrounding neighborhood. While the 75 foot width of the property is greater than the typical 50 foot width of the surrounding lots, the lot depth of 100 feet is shallow compared to the 150 foot lot depths found in the area. Given this and the use of the north lot as a parking area, the additional lot coverage will likely go unnoticed. The adjacent property to the west is the same size the subject property would be if the lot had not been split and uses the north portion of the property as a parking area for residents. If the existing structure to the west added the same proposed deck, the lot coverage for the similar property would be approximately 21 percent.



A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, FOR A TWENTY (20) INCH REDUCTION TO THE MINIMUM REQUIRED TWENTY-FIVE (25) FOOT FRONT-YARD SETBACK FOR A PROPOSED PORCH ADDITION TO A SINGLE-FAMILY HOME IN AN R, SINGLE-FAMILY RESIDENTIAL DISTRICT, LOCATED AT 1817 ALABAMA LANE. (APPLICANT: VEXSPA, LLC./OWNER: WILLIAM AND JULIE WITT)

FILE NO. EXC-18-037

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

Fisher commented that she anticipated the 20 inch was a typo.

Hamilton said she appreciates that the applicant is extending the porch to provide room for the steps.

Hamilton opened the public hearing.

Nick Beneke, 1817 Alabama Lane, shared a prayer with the board and staff. He thanked Laauwe for the staff report. When he went through the permit process, he was aware of the 20 inches but there were very few viable alternatives. The only two options included having steps that did

not meet building code or request an exception.

Hamilton applauded requesting an exception before construction. Beneke said they did pour the piers but have not begun construction yet.

Hamilton closed the public hearing.

Danner said she does not see a reason not to approve 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 for a twenty (20) inch reduction to the minimum required twenty-five (25) foot front-yard setback for a proposed porch addition to a single-family home in an R, Single-Family Residential District located at 1817 Alabama Lane, with the following conditions

1. The porch shall be built as proposed in the application documents.
2. All applicable building permits shall be obtained.

Fisher seconded the motion, which passed 4 – 0.

The Board made the following findings of fact for the EXCPEITION at 1817 Alabama Lane:

PRESENT USE: Single-family detached dwelling

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject property is in compliance with all applicable regulations other than the one for which the Exception is being requested. The existing home exceeds the minimum required 8 foot side-yard setback, with a north side-yard setback of 11 feet 9 inches and a south side-yard setback of 9 feet. The proposed porch will align with the existing north wall and thus the existing side-yard setback will remain the same. The subject property meets the minimum lot size and lot coverage regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject property and surrounding area are located in an R, Single-Family Residential District. No adverse impacts to the adjacent properties are expected. The 20-inch front setback encroachment is minimal and would likely go unnoticed by the neighbor to the east, across Alabama Lane, and to passersby. No adverse effect to the adjacent property to the north is expected as both properties exceed the side yard setback from the adjoining property line. The proposed porch is also not expected to dominate the subject property as the lot coverage with the addition will be approximately 24 percent, well below the 30 percent maximum for the R, Single-Family Residential District.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: No adverse effects to the public health, safety, morals, order, convenience, prosperity, or general welfare is expected. The proposed encroachment was caused by the need to extend the width of the stairs to the minimum building code requirement of 36-inches. The building code regulations is a safety requirement, especially for those with disabilities. Furthermore, the covered porch addition will match the character of

the existing home and surrounding properties.

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

Without the Exception, the applicant would have to remove the existing front wall of the home to build the porch in a similar design with a roof and decorative railing. Alternatively, the applicant could remove the roof and decorative railing for the proposed porch to meet the Zoning Regulations as structures less than 30 inches in height, excluding rails, are allowed in the front yard setback. Removing the roof however, would remove the consistency of character with the existing roof of the home and surrounding properties.

Hamilton adjourned the meeting at 9:06 p.m.

Respectfully submitted by,
Lesley Frohberg, Urban Planning Intern