



MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, October 10, 2018
7:00 PM

MEMBERS PRESENT: Harry Hardy, Chairperson; La Barbara Wigfall; Sara Fisher; Angie Danner

MEMBERS ABSENT: Connie Hamilton, Vice-Chairperson

STAFF PRESENT: Shauna Laauwe, Planner II; Ben Chmiel, Planner II

CONSIDER THE MINUTES OF THE SEPTEMBER 12, 2018, BOARD OF ZONING APPEALS MEETING.

Wigfall moved to approve the September 12, 2018 minutes, which was seconded by Fisher, and passed with a vote of 4 – 0.

TABLE A PUBLIC HEARING UNTIL NOVEMBER 14, 2018 TO CONSIDER A VARIANCE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW AN INCREASE IN THE MAXIMUM ALLOWED SQUARE FOOTAGE OF AN ELECTRONIC CHANGEABLE COPY SIGN FROM 16 SQUARE FEET TO 32 SQUARE FEET FOR AN EXISTING MANUAL COPY SIGN TO BE CONVERTED TO A PROPOSED ELECTRONIC CHANGEABLE COPY SIGN FOR A CHURCH IN A R, SINGLE-FAMILY RESIDENTIAL DISTRICT LOCATED AT 2121 BLUE HILLS ROAD. (APPLICANT/OWNER: THOMAS SIGN SERVICE.)

FILE NO. VAR-18-056

Danner moved to table the consideration of the request for a VARIANCE until November 14, 2018 to allow an increase in the maximum allowed square footage of an electronic changeable copy sign from 16 square feet to 32 square feet for an existing manual copy sign to be converted to a proposed electronic changeable copy sign for a church in a R, Single-Family Residential District, located at 2121 Blue Hills Road.

Wigfall seconded the motion, which 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 OFF-STREET PARKING REQUIREMENT FOR THE MULTI-FAMILY RESIDENTIAL USE OF A PROPOSED MIXED-USE STRUCTURE TO CONSIST OF BOTH

COMMERCIAL AND RESIDENTIAL UNITS IN THE C-3, AGGIEVILLE BUSINESS DISTRICT AND; TO ALLOW AN INCREASE TO THE THIRTY-FIVE (35) FOOT MAXIMUM STRUCTURE HEIGHT REQUIREMENT FOR THE PROPOSED STRUCTURE FOR THE PROPERTY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH 14TH STREET AND LARAMIE STREET. (APPLICANT/OWNER: CHEN PROPERTIES, LLC)

FILE NO. EXC-18-052

Laauwe presented the staff report for Exception and Variance located at the southeast corner of the intersection of North 14th Street and Laramie Street. Staff recommended approval of the Exception with six conditions of approval and approval of the Variance with three conditions of approval.

Fisher asked what this district would be called under the UDO.

Ben Chmiel replied the CA District, Commercial-Aggieville.

Fisher asked if all of the request are consistent with the UDO's CA District.

Chmiel said the UDO is in draft form so it is difficult to say what will be included but the current draft aligns with this development. The changes begin made through the UDO are reflective of the Aggieville Community Vision Plan.

Fisher asked if this development is consistent with the Aggieville Community Vision Plan.

Chmiel replied yes.

Hardy asked why the applicant did not choose to do a PUD.

Laauwe said the applicant is present to answer that question.

Hardy asked if that came up.

Laauwe said yes, the PUD allows customized zoning but does take more time and more items can be reviewed. She thinks the applicant wanted to save time but Staff did recommend a PUD process. Laauwe added that this route is even more structured than a PUD because they could seek an amendment for a PUD; with this process, if anything is different than what is currently proposed, they would have to return to the Board of Zoning Appeals.

Wigfall asked if this structure's height is comparable to the buildings to the north, but nothing immediately around it.

Laauwe said yes.

Hardy opened the public hearing.

Michael Chen, 2213 Woodridge Drive, said he is the property owner and welcomed any questions from the board.

Fisher asked what the 2.5 foot rear buffer yard will look like.

Chen said it is just the green space they have to work with. If it is any bigger they will not be able to have a parking lot.

Fisher asked what will be in the space.

Chen replied grass, bushes, or plants.

Danner asked if they ever considered three stores.

Chen said three stories has been considered but there is so much potential for restaurants and office space with four stories. The Chamber of Commerce has suggested potential companies that would like to have office space in Aggieville.

Danner asked where customers would park to visit the businesses.

Chen replied in the parking garage or other public parking.

Danner asked if the business doors would be on the street side or in the parking lot.

Chen replied the street side.

Hardy clarified Laramie Street.

Chen confirmed and said business entrances would be on the north side. The office spaces would have two entrances; one on Laramie and one on North 14th Street.

Danner asked when the parking garage will be completed.

Chmiel said the city has been looking at the site for a long time and has paid a consultant to create a design for a parking garage. The proposed design is estimated to be between 462-560 parking spaces. The City would like to get started as soon as possible but that is dependent on establishing Tax Increment Financing District in Aggieville which they hope to have in place by the end of the year. If that happens, the City can bond out the funding to begin construction in 2019.

Danner asked what the proposed height of the parking garage is.

Chmiel said 5 decks is proposed; approximately 4-5 stores.

Wigfall commented that Aggieville will lose parking spaces while the parking garage is under construction.

Chmiel said yes; the City has been working with the Aggieville Business Association to help manage parking while it is being constructed. They are currently dealing with some similar issues with the hotel that is being built. There is some internal management strategies they having been working on; a similar process will have to occur during the construction of the parking garage.

Virginia Propp, 4914 Royal Lytham Columbia, MO, is the owner of Lamplighter Apartments which abuts the site's parking lot. She sold property to Chen for this project for a three story development. She is concerned that they are not including at least one parking spot per bedroom because students have cars. She is very concerned about 25 cars being dumped onto public streets as parking in Aggieville is already difficult. There are comparable building heights on Bluemont Avenue but the street is much wider; Laramie is a narrow two lane street and development will affect the street. Propp shared her concern about congestion this development could create. She understands a parking garage is supposed to be built but the plans are contingent on many components and it may not get built for 5-10 years. She is also concerned about the 2 feet of green space between the two parking lots because of possible drainage onto her abutting parking lot. If the proposed development is any higher in elevation; water will drain directly onto her property. She has no issue with development in Aggieville but is concerned about too much development for the area without infrastructure improvements.

Danner asked if Propp's apartments are garden level apartments.

Propp said no, they are at ground level but the elevation is lower.

Fisher asked if her concern was the building's height or the timing of the project.

Propp said her concerns include lack of parking and the height of the development. She can understand one floor of retail and two floors of apartments but an additional floor adds a lot of cars.

Fisher said it seemed like her concern was about the density.

Propp agreed.

Krista Brumhall, 1125 Moro Street, stated she was presenting on behalf of the Aggieville Business Association. She wanted to share that this will be a great addition to Aggieville and the future vision of the area, however, the Aggieville Business Association has a problem with the project being built ahead of the garage. Initially, the development will have a negative impact on the district and surrounding properties due to the timing, lack of zoning regulations being updated with the vision plan, the uncertainty of when the parking garage will be built. The group thinks that 25 less parking spaces than the requirement is excessive and feels the board should base their findings in the current regulations and not the future unwritten district regulations.

Jeff Hancock, SMH Consultants, said they will be required to submit a drainage plan for the site as it is included as a condition of approval and what the drainage study will show is that they

are not creating any adverse drainage problems for the City or adjacent property owners with the new development. It will then get reviewed and confirmed by the City Engineer. He added that any water that would shed towards the adjacent property will be contained by a curb in the parking lot that will drain onto the street rather than onto adjacent properties.

Wigfall asked if there will be a drainage system within the curb.

Hancock said that decision has not been made, the drainage study will influence that decision. If a drainage inlet is required than they will put one in and connect it to the City's system but they do not know if that is necessary. He just wanted to note that there would be an obstacle for the water to get onto adjacent properties.

Propp asked if there would be a curb, 2 feet of grass, then her parking lot.

Hancock said yes, and a fence.

Trent Armbrust, 501 Poyntz Avenue, said he is the Director of Economic Development for the Chamber of Commerce. He commented that it is a tough situation because this is a development for the future of Aggieville. He knows of people interested in commercial space in this building as Manhattan continues to grow its economy. Other college towns have similar development throughout the communities that work very well. As the board considers the item, they should consider the future as this has a long term impact on Aggieville. There will be short term pains but they are working diligently to get the parking garage built and they hope the vision of Aggieville can be realized during this process.

Fisher asked Brumhall which organization she represented.

Brumhall replied the Aggieville Business Association.

Fisher asked who is involved.

Brumhall said it is a board made up of representatives of 96 businesses in the district.

Fisher asked what her position is.

Brumhall replied the treasurer of the board.

Fisher asked what the board's position was in regards to the project.

Brumhall said the board agrees with the project but they would like to see more parking.

Hardy closed the public hearing.

Wigfall asked Staff what the future of the streetscape will look like on Laramie Street. She asked if there will still be street parking with development or does Staff anticipate the parking to be moved elsewhere.

Chmiel said it is a difficult question because it is speculation but the City has received a proposal for the streetscape of Aggieville that will go to the City Commission later this month. The preliminary design proposed Laramie Street turn into a three lane road with a center turning lane to give access to the parking garage. The City realizes they lose 12 parking spaces on the street by doing that and are looking for alternative places to recover those spaces elsewhere.

Wigfall assumed that it is not meant to increase speed but reduce speed and create more turn opportunities.

Chmiel said a traffic signal and general intersection improvements are also proposed. The idea is that Laramie Street will become more urban with buildings up to the sidewalk.

Danner said that she is opposed to the Aggieville Vision Plan, she does not like density and prefers the current state of Aggieville. She agrees with many of the items Propp spoke about as she also has concerns about the height and limited parking. She does not think the development fits with the site. She will get on board with the Aggieville Plan eventually but not today.

Wigfall commented that density will increase around campus and Bluemont Avenue opened the door to that but the request is further south than expected. She is concerned about less than one parking space per bedroom; it seems like a reasonable request given the fact that not all students will use their vehicles around town but they will probably have one that they need to store. She is concerned about the parking; it is not that far off but it is an issue. She is also concerned about the two feet of grass, fence, and shrubs because of the runoff.

Fisher commented that she is not a fan of the Aggieville Vision Plan but she has come to accept it as the future. She has an issue with the parking but she recently attending a focus group for the parking garage and it seems that the parking problem is a perception and not a reality. She has yet to not be able to find a parking space in Aggieville and thinks the issue is that people want to parking in a specific location so they do not have to walk. She is concerned that the Aggieville Business District is opposed to the development, it is problematic to her because she feels strongly about listening to the neighbors, but if their concern is parking then she is less concerned because it is a perception that there is no parking. She commented the 2.5 feet of landscaping is very small and it needs to be thoughtful.

Hardy said his comments are more pragmatic as he is focusing on the existing zoning regulations. He has a hard time speculating what might be passed in the future and so the board only considers the existing zoning ordinances. He mentioned the PUD route because they do not have to abide by current regulations but it will take longer. Both the parking and height request are extremely excessive. There is some flexibility with the board, with variances and exceptions, if they meet the conditions but it must be considered against the existing zoning ordinances not potential future changes. He is not against the Aggieville Vision Plan, he thinks it is positive that the City is being more progressive and allowing for more development and businesses growth in the district because it means more growth for the City. They also do not know when the parking garage will be built.

Danner commented that this is the cart before the horse today. If different regulations were

adopted it probably would not be so hard.

Fisher asked if the Aggieville Plan was adopted in 2017, why has that not affected zoning.

Chmiel said right after the plan was adopted the City did make some short term changes to the zoning regulations including eliminating drive-thru's as a permitted use, they disallowed parking in front of a building, and removed the possibility of curb cuts on Moro Street. Long term goals like building heights and design requirements take longer to accomplish.

Fisher asked if the zoning changes had been approved or adopted in March 2017, the board would not necessarily having this conversation.

Chmiel replied yes. The long term zoning goals were going to take more time because they had to do with design requirements and Staff wanted to vet those properly.

Wigfall commented that the parking garage poses an issue because parking will be removed for a period of time. It is a large bank of parking that people do use and this project could exacerbate the issue. We need more housing and commercial in this area but the question is what the right mix is.

Hardy said he struggles with the parking; he understands that the residents are close to campus so they can walk to school but there are not many college students going to college without a car.

Danner commented that Manhattan is not a walking town.

Wigfall commented that, in time, she hopes that Manhattan does become a more urban place and people walk rather than drive. Sometimes the lack of parking makes that happen.

Hardy called for a motion; hearing none the item died due to lack of a motion.

A PUBLIC HEARING TO CONSIDER A VARIANCE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR A REDUCTION IN THE MINIMUM REQUIRED EIGHT (8) FOOT SIDE-YARD LANDSCAPE BUFFER REQUIRED WHEN A PROPERTY LOCATED IN THE C-3, AGGIEVILLE BUSINESS DISTRICT HAS A COMMON BOUNDARY WITH PROPERTY IN A RESIDENTIAL DISTRICT, FOR A PROPERTY WITHIN THE C-3, AGGIEVILLE BUSINESS DISTRICT LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH 14TH STREET AND LARAMIE STREET. (APPLICANT/OWNER: CHEN PROPERTIES, LLC)

FILE NO. VAR-18-053

Laauwe presented the staff report in conjunction with the previous agenda item, which recommended approval with three conditions of approval.

Refer to previous agenda item for board discussion and public hearing for the variance request located at the southeast corner of the intersection of North 14th Street and Laramie Street.

Hardy called for a motion; hearing none the item died due to lack of a motion.

A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW A 2 FOOT 8 INCH REDUCTION OF THE TWENTY-FIVE (25) FOOT REAR-YARD SETBACK FOR A PROPOSED DECK ADDITION FOR A PROPERTY WITHIN A R-1, SINGLE-FAMILY RESIDENTIAL DISTRICT LOCATED AT 2709 ST. CHRISTOPHER CIRCLE. (APPLICANT: I BUILD DECKS, OWNER: DAVID KOHAKE)

FILE NO. EXC-18-054

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

Hardy opened the public hearing.

Dave Kohake, 2709 St. Christopher Circle, commented his current deck is screened in but it was not built to code and the stairs are beginning to rot so he would like to replace the deck for the safety of his children. They want to make it a larger and choose to extend the length of the deck for added safety. The request is for 2.5 feet over the setback, but the surrounding decks are much larger than what is proposing. The main purpose of the deck is to improve safety and allow for less steep stairs.

Hardy closed the public hearing.

Wigfall said she has no problem with the request. She sees it as a safety concern.

Fisher commented that the application letter requested 32 inches and she is okay granting 32 inches.

Hardy said he was on the board when the neighbor's deck was granted an exception. The current request is less and clearly meets the standards.

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 2 foot 8 inch reduction of the twenty-five (25) foot rear-yard setback for a proposed deck addition on a property within an R-1, Single-Family Residential District located at 2709 St. Christopher Circle, with the following conditions of approval:

1. The deck shall be built as outlined in the site plan and application documents.
2. All applicable permits shall be obtained.

Fisher seconded the motion, which passed 4 – 0.

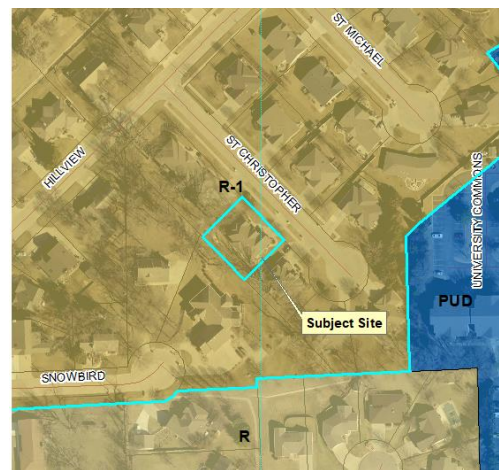
The Board made the following findings of fact for the EXCPETION at 2709 St. Christopher Circle:

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. The existing structure with and without the proposed deck is below the maximum lot coverage regulations and the side-yard setbacks will remain greater than the minimum required 8-feet.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The subject property, adjacent properties and the surrounding area are located within an R-1 Single-Family Residential District. An R, Single-Family Residential District is located further to the south and a Planned Unit Development, developed as the University Commons Apartments is located further to the east. The surrounding R-1 neighborhood is comprised of single-family detached homes. The topography and drainage area that spans the area between St. Christopher Circle and Snowbird Circle homes limits the usable back yard area and has resulted in several of the homes constructing decks in the back yard area. The adjacent property to the east, 2705 St. Christopher Circle, was granted an Exception on June 12, 2013 to reduce the required rear yard setback from 25 feet to 10 feet to build a similar deck. The adjacent property to the south has a large deck as well that is within the setback requirements.



Staff Finding: *The proposed deck and location would not adversely affect the adjacent properties as it will not be out of character with the area or appear to be closer to the property line than the similar decks constructed by neighboring property owners.*

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed deck will be not be visible from St. Christopher Circle and the adjacent neighbors that will be able to see the deck have similar decks of their own. The adjacent neighbor to the east has similar topography and drainage easement issues and was granted an Exception to encroach further into the setback than requested by the applicant. In addition, the deck will not encroach any utility or drainage easements.

Staff Finding: *Due to the proposed deck not being out of character with the adjacent properties and seeing no harm to the public health or welfare; no adverse effects to the public health, safety, morals, order, convenience, prosperity, or general welfare are expected by the proposed deck having a reduced rear yard setback of 22 feet 3 inches.*

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, however minimal impact to the public is expected when all facts are considered and appears to be permissible. Due to the sloping topography of the rear yard, the subject property has minimal outdoor backyard space. The deck is similar, but not as large as those constructed on adjacent properties and thus would not visually dominate or be out of character with the surrounding properties.

Staff Finding: The strict application of these regulations is unreasonable, or unnecessary when all facts and circumstances are considered.

A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW A 4 FOOT 3 INCH REDUCTION OF THE TWENTY-FIVE (25) FOOT FRONT-YARD SETBACK FOR A PROPOSED GARAGE ADDITION ON A PROPERTY WITHIN A R, SINGLE-FAMILY RESIDENTIAL DISTRICT, LOCATED AT 2112 LONDONDERY DRIVE. (APPLICANT/OWNER: HUBERT W. SCIPIO)

FILE NO. EXC-18-057

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

Hardy opened the public hearing.

Hurbert and Marcie Scipio, 2112 Londondery Drive, stated that they have lived in the home for 16 years and he would like to park his 1995 Jaguar inside. He often has to use his neighbors three car garage when the weather gets bad.

Hardy closed the public hearing.

Wigfall said she is good with the request.

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 4 foot 3 inch reduction of the twenty-five (25) foot front-yard setback for a property located in an R, Single-Family Residential District for a proposed garage addition located at 2112 Londondery Drive, with the following conditions:

1. The garage expansion shall be built as outlined in the site plan and application documents.
2. All applicable permits shall be obtained

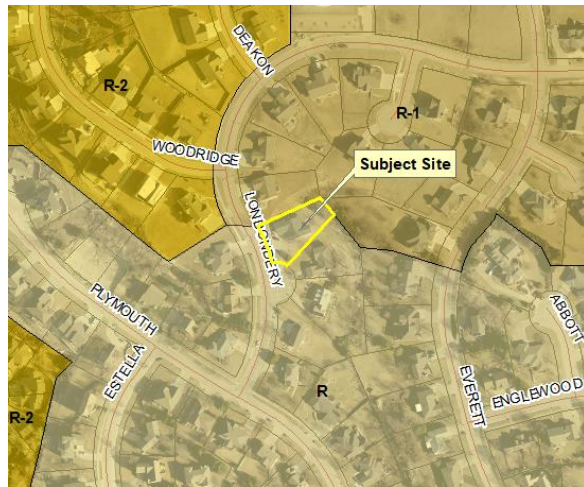
Danner seconded the motion, which passed 4 – 0.

The Board made the following findings of fact for the EXCPETION at 2112 Londondery Drive:

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. The existing structure with and without the proposed garage extension is below the maximum lot coverage regulations and the side-yard setbacks will remain greater than the minimum required 8-feet.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject property and the adjacent properties to the south and across Londondery Drive to the west are located within an R, Single-Family Residential District. The adjacent properties to the north and east are located within an R-1, Single-Family Residential District. To the northwest, across Londondery Drive is an R-2, Two-Family Residential District. The adjacent properties and surrounding area is generally made up of single-family residences. Given the topography of the subject property, the garage sits below street-grade level and is not noticeable unless driving north on Londondery Drive. In addition, the retaining wall visually screens the existing garage and would also do so for the proposed extension.



Staff Finding: *The topography of the subject property and the existing retaining wall will visually screen the garage expansion from adjacent property owners and passers-by. No*

adverse effects are expected to the adjacent properties.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed garage expansion is below street-grade and will not be readily visible from Londondery Drive due to the topography of the site. Given this, the proposed garage expansion will not dominate the streetscape or the surrounding neighborhood. Lastly, the proposed expansion will not encroach into any utility or drainage easements.

Staff Finding: No adverse effects on the public health, safety, morals, order, convenience, prosperity, or general welfare is expected.

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, however minimal impact to the public is expected when all facts are considered and appears to be permissible. Due to the topography of the site and that the garage portion of the structure sits below grade, the garage expansion will likely go unnoticed by adjacent properties and be unseen by passers-by on Londondery Drive.

Staff Finding: The strict application of these regulations is unreasonable, or unnecessary when all facts and circumstances are considered.

A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW A TWENTY-THREE (23) FOOT REDUCTION OF THE TWENTY-FIVE (25) FOOT FRONT-YARD SETBACK FOR A PROPOSED FENCE FOR A PROPERTY WITHIN AN R-2, TWO-FAMILY RESIDENTIAL DISTRICT, LOCATED AT 508 STONEMONT DRIVE. (APPLICANT: PAYTON DORAMUS; OWNER: ASHLEY DISHON)

FILE NO. EXC-18-055

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

Fisher clarified that Staff is recommending the fence be setback 10 feet rather than the requested 2 feet.

Laauwe said yes, that would put the fence out of the utility easement.

Fisher said the applicant would gain 15 feet.

Laauwe said yes.

Hardy opened the public hearing.

Ashley Dishon, 508 Stonemont Drive, she said they would like to put up a 6 foot cedar privacy fence for her dogs and family. If built to the 25 foot setback she would lose a lot of their yard since it is a corner lot and it would only be 8 foot from the home. Staff made it clear that they could not recommend anything less than a 10 foot setback due to the utility easement and she is okay with that. She initially requested a 2 foot setback but she will still gain a lot of square yards with a 10 foot setback.

Fisher asked if she was okay with the 15 foot exception.

Dishon said yes.

Hardy closed the public hearing.

Danner said the yard would look funny if they were forced to build the fence that close to the home and she supports moving the setback to 10 feet.

Wigfall said she appreciates that Staff and the owner have made a compromise that satisfies both parties.

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 in the front yard setback from twenty-five (25) feet to ten (10) feet for a proposed wooden privacy fence in a R-2, Two-Family Residential District located at 508 Stonemont Drive, with the following conditions:

1. The fence shall not encroach the utility easement.
2. The fence shall be maintained in good condition.
3. 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 508 Stonemont Drive:

PRESENT USE: Single-family attached 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 subject property and the adjacent properties to the north, west, and east are located within an R-2, Two-Family Residential District. The surrounding R-2 neighborhood is comprised of attached single-family homes. To the south, across Stone Drive, is an R-1, Single-Family Residential District portion of the neighborhood. Single family homes on the south side of Stone Drive directly face the subject property and the proposed fence location. In general, fences are uncommon within the surrounding neighborhood and a fence in close proximity as requested to the property line and Stone Drive could visually dominate adjacent properties and drivers.



Staff Finding: The proposed fence location will likely have some adverse effects on adjacent properties and thus, an increased setback than the requested 23-foot reduction is recommended.

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

The proposed fence location will not be within the sight-vision triangle for the Stone Drive/Stonemont Drive intersection. Fences are allowed within a utility easement; however, the City nor utility entities will be held responsible if repairs cause damage to, or require the removal, of the fence. In addition, placing the fence less than 10 feet from the property line would potentially visually dominate the neighborhood, especially the single-family homes to the south that face the subject property.

Staff Finding: Due to the potential visual impact of placing the fence two (2) feet from the property line and seventeen (17) feet from Stone Drive, some adverse effects to the order and convenience are expected by approving the Exception request. To simplify access to the easement and to reduce the visual impact of the fence, City Administration recommends that the fence be placed outside of the ten (10) foot easement, with a condition of approval to restrict the fence to at least ten (10) feet from the property line along Stone Drive.

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, however minimal impact to the public is expected when all facts are considered and appears to be permissible. The fence is far removed from the vision clearance triangle area. If the existing fence was built at the minimum twenty-five (25) foot setback, it would be in close proximity to the home and leave a much smaller back yard area. The subject property is an irregular pie-shaped lot that further reduces the amount of back yard area for the residents.

Staff Finding: The strict application of these regulations is unreasonable, or unnecessary when

all facts and circumstances are considered.

Hardy adjourned the meeting at 8:42 p.m.

Respectfully submitted by,
Lesley Frohberg, Urban Planning Intern