



MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, January 9, 2019
7:00 PM

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

MEMBERS ABSENT: None

STAFF PRESENT: John Adam, Senior Planner; Shauna Laauwe, Planner II

Staff called roll and a quorum was established.

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

Fisher commented that on page 33 of the meeting minutes that it stated she asked about emails between the applicant, the realtor, and city staff but she did not have any correspondence with the applicant. Laauwe clarified that referred to emails between the applicant and staff.

Hardy noted that on page 10 Cheryl Strecker's name was spelled incorrectly several times in the public comment section.

Wigfall commented that the minutes are very thorough.

Wigfall moved to approve the November 14, 2018 meeting minutes as correct, which was seconded by Hamilton, and passed with a vote of 5 – 0.

A PUBLIC HEARING TO CONSIDER A CONDITIONAL USE UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW FOR THE CONVERSION OF A TWO-STORY DUPLEX, THAT CONSISTS OF TWO LOTS, INTO OFFICES AND MEETING ROOMS FOR A RELIGIOUS ORGANIZATION WITHIN A R-3/UO, MULTI-FAMILY RESIDENTIAL DISTRICT WITH UNIVERSITY OVERLAY LOCATED AT 1810-1812 TODD ROAD. (APPLICANT/OWNER: ELCA LUTHERAN CAMPUS MINISTRY AT KSU, INC.)

FILE NO. CUP-19-004

Laauwe presented the staff report in conjunction with Item 3; an exception for the same property. The staff report recommended approval of the Conditional Use request with three conditions of approval.

Wigfall asked if there were plans for the second floor of the structure.

Laauwe replied she think it will remain the same but the architect is present to respond.

Fisher asked about the timing of the installation of the front yard parking spaces. She is wondering how they got there originally.

Laauwe said she is not familiar with when and how the front yard parking was installed. It was a residential use so usually you can park on driveways in the front yard for residential uses.

Fisher asked if this was installed at the same time as the super duplexes. Laauwe said no, super duplexes were developed around 2003.

Hamilton said this is not a duplex because it is split on two individual lots.

Fisher said they came before the board to get permission to park in the front yard.

Hamilton replied no, they came before the board for another reason previously and it was denied.

Laauwe said it was denied as a lodging house use prior but the super duplexes occurred in 2003-2004 and this was built in 1993.

Fisher said she is trying to figure out how the parking came to be in the front yard in the first place.

Hamilton commented that the structure it is on two different lots but happens to be combined. So each lot is entitled to have a driveway. It is an odd situation.

Laauwe agreed it is a unique layout.

Hardy opened the public hearing.

Emily Koenig, 6550 Harbour Haven, is the project architect and welcomed questions from the board.

Wigfall asked if there were any revisions made to the second floor of the structure.

Koenig said there may be some slight revision with the stair configuration because it enters into what is currently a bedroom. There will be some slight modification in regards to an opening to make that into a study area. Otherwise there is no additional work in the basement or upper level.

Wigfall asked what the upper levels will be used for.

Koenig said it will be used as meeting space and an office for the pastor.

Hardy closed the public hearing.

Wigfall asked staff if a landscape plan was submitted with the application.

Laauwe said it was not required to add landscaping; the board will have to refer to the site plan to see the trees.

Danner said these changes seem fine.

Wigfall said she appreciates the fact that they are combining the two structures and site to give it new life.

Hardy said he likes that they are not increasing anything; it is pretty much staying the same but making better use of the property.

Hamilton said it seems like a good use of the property and is very appropriate for this site. If it was a new development and were requesting the parking in the front it would be different but she has no issue with the adaptation of the site.

Hardy called to question the motion to approve a CONDITIONAL USE under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the conversion of a two-story duplex that consists of two lots, into offices and meeting rooms for a religious organization within an R-3/UO, Multi-Family Residential District with University Overlay located at 1810-1812 Todd Road, with the following conditions:

1. The concurrent Exception request for the nine (9) off-street parking spaces within the front yard shall be approved, or the item shall be tabled until a request for a reduction in the minimum off-street parking spaces can be sought.
2. Interior and exterior modifications shall be as described in the application and site plan documents.
3. All applicable permits shall be obtained.

Roll call vote was taken; motion passed 5 – 0.

The Board made the following findings of fact for the CONDITIONAL USE at 1810-1812 Todd Road:

PRESENT USE: Vacant two-family residential structure

STANDARDS FOR A CONDITIONAL USE

A. Compliance with all applicable regulations: The applicant is seeking a concurrent Exception to allow nine (9) of the existing off-street parking spaces within the front yard. Excluding the exception request for parking within the front yard, the subject property complies with all applicable regulations and the conditions and requirements of the Conditional Use. The combined lot size is 11,769 square feet, with the existing structure having a front yard setback

of 27 feet, a 32 foot rear yard setback, an 8 foot west side yard setback and a 35 foot east side yard setback. The lot coverage of the approximately 2,300 square foot structure is 19.5 percent.

The 1810 Todd Road site was denied a Conditional Use on December 14, 2011 to allow for a lodging/boarding house in what was then an R-2, Two-Family Residential District. The Board of Zoning found that the proposed 8 bedroom, 4 bathroom with one kitchen use would have an adverse effect on surrounding properties. They were also denied a concurrent request to allow a Variance for a reduction in the minimum 10,000 square foot lot size for a Conditional Use in an R-2 District.

Due to the current request consisting of both 1810 and 1812 Todd Road, the subject site meets the 10,000 square foot lot size minimum for a Conditional Use property.

B. Probable effect on adjacent properties:

- a. NORTH & WEST: The subject property and the adjacent properties to the north and west are located within an R-3, Multi-Family Residential District. The area is comprised of mostly single and two-family rental units.



- b. SOUTH: The properties to the south, across Todd Road are within an R-3/UO, Multi-Family Residential District with University Overlay District. The three properties across Todd Road are fraternity and sorority houses, with Gamma Phi Beta house located directly across the subject site and adjacent to the southwest the Pi Beta Phi and Alpha Chi Omega houses.
- c. EAST: The adjacent property to the east at 1501 Denison, is within an R-3/UO, Multi-Family Residential with University Overlay District and is developed as the Manhattan Church of Christ student ministry. The use, similar to the current application request, received a Conditional Use Permit in May 2002 for offices and meeting rooms for a partial conversion of a two-story, three-family dwelling unit into offices and meeting rooms for a religious organization within a then R-2/UO, Two-Family Residential District with University Overlay. Similarly, the adjacent religious organization requested and received a concurrent variance in May 2002 to allow off-street parking within the front yard.

Further to the east across Denison Avenue, is the two-acre Kansas State University (KSU) Greenhouse Facilities complex located on the KSU campus.

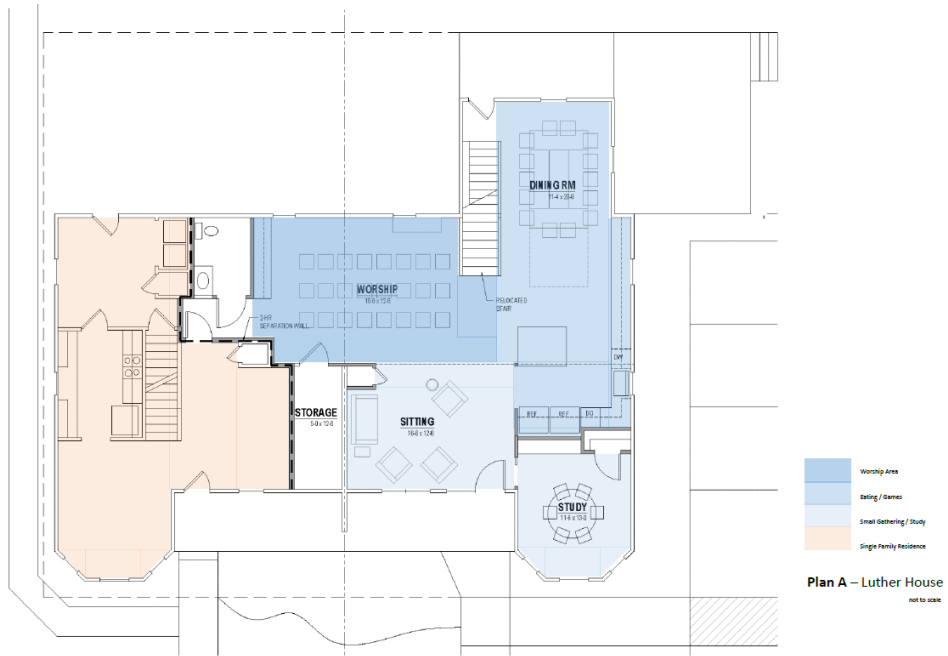
STAFF FINDING: No adverse effects are expected as the proposed use is comparable or less intense than those found in the adjacent and surrounding properties.

C. Domination by use over neighboring properties: The proposed offices and meeting rooms for a religious organization will likely not dominate over neighboring properties. The proposed use parallels with the adjacent property to the east that serves as the Manhattan Church of Christ student ministry and is less intense than the fraternity uses to the south. The 1812 Todd side will continue to be utilized as a residence similar to the other single and two-family homes located to the west and north of the subject property. The Luther House will host small groups of students, ranging in number from 3-40 for fellowship. Luther House would also give students a place for respite between classes and relax in the library or living room areas. The Luther House currently located at 1745 Anderson Avenue holds events on Friday and Sunday nights from 5pm to 10pm that are typically attended by no more than 25 students at any given time. It is anticipated that if the Conditional Use is approved, the new Luther House site will hold the same or similar events, but they do hope to grow to as many as 40 participants for their Friday and Sunday night activities. The applicant states that the current schedule and activity level at the current location has been the following:

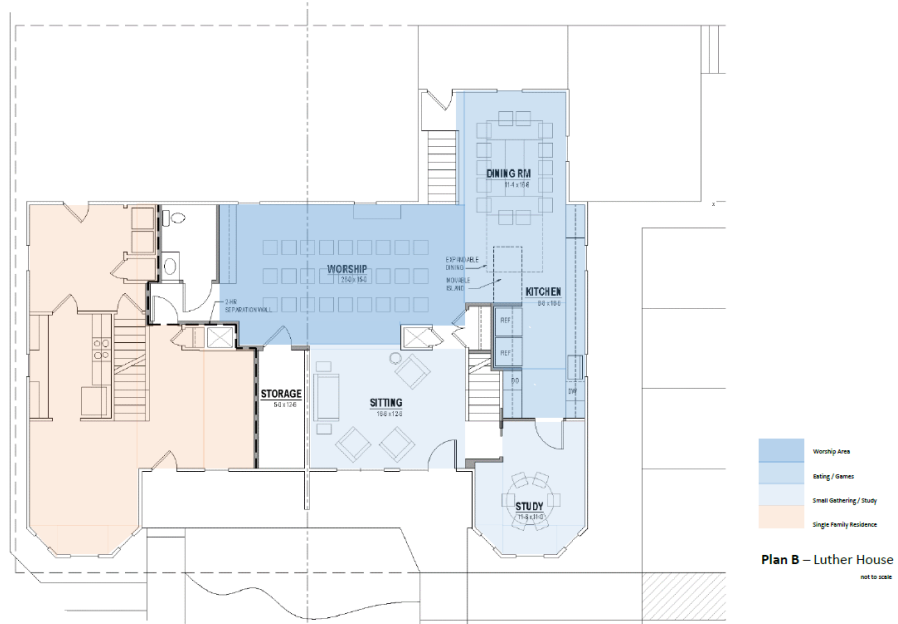
- **Sundays, 5pm-** Free Home Cooked Meal for Students- 5 to 25 participants
- **Sundays, 6pm-** Informal Worship Service for Students- 5 to 25 participants
- **Tues/Wed/Saturday-** Drop in respite. Typically no more than 5 people at any given time.
- **Thursday, 3:30pm-** Meet at Luther House to carpool for Disc Golf
- **Fridays- 6:30pm-** Bible Study, 3-15 students
- **Fridays- 7:45pm-** Evening Prayer, 3-15 students
- **Fridays- 8pm-** Game Night, 3-20 students.

1. **Location, nature, and height of physical improvements:** The proposed remodel of the existing two-family structure will be primarily interior in nature with no changes to the existing footprint. The residential portion will only incur basic renovations to update the interior. The Luther House religious meeting space side will be remodeled by moving walls to create a study, a sitting area, a library, and the existing kitchen and laundry room being renovated into a warming kitchen and large dining room. The applicant has proposed two different floor plans for the Luther House, which are essentially the same except for different kitchen and dining room layouts.

Plan A



Plan B



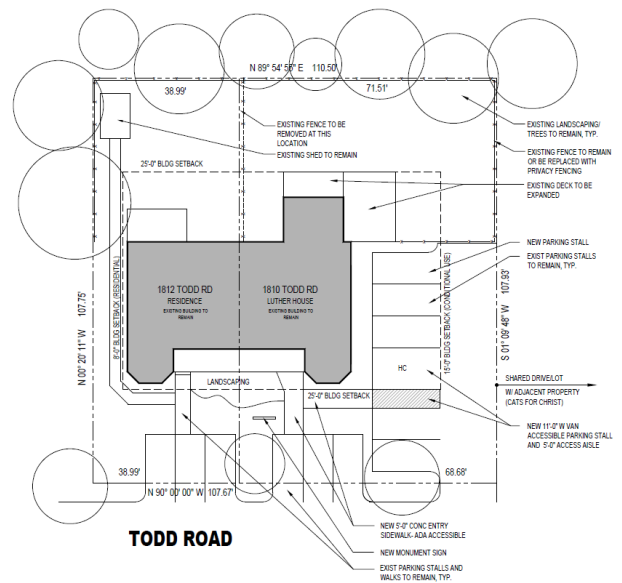
2. Landscaping and screening: Screening of the off-street parking is required due to more than six (6) parking spaces being located within twenty-five (25) feet of adjacent property in a residential district. The owners plan to remove the existing fence that separated the two lots and replace it with a privacy fence along the rear property line. The site does have mature trees, shrubbery and decorative landscaping. The Luther House owners do intend to improve the landscaping by creating outdoor gathering areas.

STAFF FINDING: Surrounding and adjacent uses are similar or more intense than the proposed use. The proposed use will not dominate over neighboring properties.

D. Adequate provision of parking and loading: The existing site has twelve off-street parking spaces. Six (6) parking spaces are located on the south side of the lot in front of the structure along Todd Road and six (6) parking spaces are located on the east side of the property. A van accessible handicap stall will be added for a total of thirteen (13) parking spaces. The residence portion of the structure is required to have four (4) off-street parking spaces, while the Luther House religious organization side that is 1,660 square feet in area is required to provide one parking space per 200 square feet for a total of eight (8) parking stalls. Therefore, the site is required to provide a total of twelve (12) off-street parking spaces and the proposed thirteen (13) parking spaces meet the regulations. However, the applicant is seeking a concurrent Exception for nine (9) of the parking spaces to include those on the south side of the property and three (3) on the east portion of the property as they are located within the front yard setback and without approval, the site would not meet the minimum off-street parking requirement.

E. Adequate provision of drainage, and other public utilities: The subject property has adequate drainage and existing public utilities.

F. Adequate provision of access: The subject property has adequate access via a driveway and parking area off of Todd Road. The property will be utilized mainly by Kansas State University students who come to the site from campus directly to the east, across Denison Avenue and the Kansas State University dormitories. The location is suitable for vehicular, bicycle and pedestrian traffic.



A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW OFF-STREET PARKING SPACES OPEN TO THE SKY TO BE LOCATED WITHIN THE FRONT YARD FOR PROPOSED OFFICES, MEETING ROOMS, AND OTHER FACILITIES FOR A RELIGIOUS ORGANIZATION IN AN R-3/UO, MULTI-FAMILY RESIDENTIAL DISTRICT WITH UNIVERSITY OVERLAY LOCATED AT 1810-1812 TODD ROAD. (APPLICANT/OWNER: ELCA LUTHERAN

CAMPUS MINISTRY AT KSU, INC.)

FILE NO. EXC-19-005

Laauwe presented the staff report in conjunction with Item 2, a conditional use request for the same property, which recommended approval with three conditions of approval.

See Item 2 for discussion and public hearing.

Hardy called to question the motion to approve the EXCEPTIONS under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow off-street parking spaces open to the sky to be located within the front yard for proposed offices, meeting rooms, and other facilities for a religious organization in an R-3/UO, Multi-Family Residential District with University Overlay, located at 1810-1812 Todd Road with the following conditions:

1. The concurrent Conditional Use application for the student religious organization to have proposed offices, meeting rooms and other facilities be approved.
2. The off-street parking shall be utilized and located as shown on the application site plan.
3. All applicable permits shall be obtained.

Roll call vote was taken; motion passed 5 – 0.

The Board made the following findings of fact for the EXCEPTION at 1810-1812 Todd Road:

PRESENT USE: Vacant two-unit residential structure

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The applicant is seeking a concurrent Conditional Use for the east 1810 Todd Road unit to be utilized as proposed offices, meeting rooms, and other facilities for a religious organization. The subject property complies with all applicable regulations and the conditions and requirements of the Conditional Use. The combined lot size is 11,769 square feet, with the existing structure having a front yard setback of 27 feet, a 32 foot rear yard setback, an 8 foot west side yard setback and a 35 foot east side yard setback. The lot coverage of the approximately 2,300 square foot structure is 19.5 percent.

The 1810 Todd Road site was denied a Conditional Use on December 14, 2011 to allow for a lodging/boarding house in what was then an R-2, Two-Family Residential District. The Board of Zoning found that the proposed 8 bedroom, 4 bathroom with one kitchen use would have an adverse impact on surrounding properties. They were also denied a concurrent request to allow a Variance for a reduction in the minimum 10,000 square foot lot size for a Conditional Use in an R-2 District. Due to the current request consisting of both 1810 and 1812 Todd Road, the subject site meets the 10,000 square foot lot size minimum for a Conditional Use property.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

d. NORTH & WEST: The subject property and the adjacent properties to the north and west are located within an R-3, Multi-Family Residential District. The area is comprised of mostly single and two-family rental units.



e. SOUTH: The properties to the south, across Todd Road are within an R-3/UO, Multi-Family Residential District with University Overlay District. The three properties across Todd Road are fraternity and sorority houses, with Gamma Phi Beta house located directly across the subject site and adjacent to the southwest the Pi Beta Phi and Alpha Chi Omega houses. Both the Gamma Phi Beta house, directly to the south, and the Pi Beta Phi house were granted Variances to allow parking within the front yard setback in January 1985 and June 1989, respectfully.

f. EAST: The adjacent property to the east at 1501 Denison, is within an R-3/UO, Multi-Family Residential with University Overlay District and is developed as the Manhattan Church of Christ student ministry. The use, similar to the current application request, received a Conditional Use Permit in May 2002 for offices and meeting rooms for a partial conversion of a two-story, three-family dwelling unit into offices and meeting rooms for a religious organization within a then R-2/UO, Two-Family Residential District with University Overlay. Similarly, the adjacent religious organization requested and received a concurrent variance in May 2002 to allow off-street parking within the front yard.

Further to the east across Denison Avenue, is the two-acre Kansas State University (KSU) Greenhouse Facilities complex located on the KSU campus.

The Luther House currently located at 1745 Anderson Avneue holds events on Friday and Sunday nights from 5pm to 10pm that are typically attended by no more than 25 students at any given time. It is anticipated that if the concurrent Conditional Use application is approved, the new Luther House site will hold the same or similar events, but they do hope to grow to as many as 40 participants for their Friday and Sunday night activities. The applicant states that the current schedule and activity level at the current location has been the following:

- | | |
|--|---|
| • Sundays, 5pm- | Free Home Cooked Meal for Students- 5 to 25 participants |
| • Sundays, 6pm-
participants | Informal Worship Service for Students- 5 to 25 |
| • Tues/Wed/Saturday- | Drop in respite. Typically no more than 5 people at any given time. |
| • Thursday, 3:30pm- | Meet at Luther House to carpool for Disc Golf |
| • Fridays- 6:30pm- | Bible Study, 3-15 students |

- **Fridays- 7:45pm-** Evening Prayer, 3-15 students
- **Fridays- 8pm-** Game Night, 3-20 students.

Many of the students that attend the Luther House events either walk or bike to the site from nearby dorms, classes at the University, or the surrounding neighborhoods. The existing twelve (12) off-street parking spaces as well as parking being allowed on both sides of Todd Road will also lessen the effects of the use from adjacent properties. In addition, the adjacent similar student ministry use to the east and the fraternity house located directly across Todd Road to the south have been approved for a parking within the front yard setback.

Staff Finding: The existing nine (9) off-street parking spaces located within the front yard setback will cause minimal to no adverse impacts to adjacent properties. Several surrounding similar and more intense uses have been granted Variances or Exceptions to allow off-street parking within the front yard setback.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The off-street parking located within the front yard setback has existed since the site was developed in 1993 with no adverse effect.

Staff Finding: The existing nine (9) off-street parking spaces located within the front yard setback will have minimal adverse impacts on the public health, safety, morals, order, convenience, prosperity, or general welfare.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The strict application of these regulations are unreasonable, or unnecessary when all facts and circumstances are considered. The strict application of the regulations would require the demolition of a majority of the existing parking area and leave the site in noncompliance with the minimum parking requirement. The parking is existing and the need for the Exception was not created by the property owner. In addition, keeping the existing parking allows for more of the landscaped lot to be available for adequate drainage and green space.

Staff Finding: The strict application of the regulations in unreasonable, or unnecessary when all facts and circumstances are considered. The encroaching parking spaces have existed since the site was developed in 1993 and removal of the parking would cause additional strain on the on-street parking availability near the University. Similar and more intense uses located adjacent and near the subject property have also been granted Exceptions to allow parking within the front yard setback.

A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO ALLOW A REDUCTION IN THE MINIMUM REQUIRED EIGHT (8) FOOT SIDE YARD SETBACK FOR AN EXISTING STAIRWAY AND STRUCTURE LOCATED WITHIN AN R-M/TNO, FOUR-FAMILY RESIDENTIAL DISTRICT WITH TRADITIONAL NEIGHBORHOOD OVERLAY LOCATED AT 709

BLUEMONT AVENUE. (APPLICANT: RE:DONE, LLC./OWNER: CHRIS PAYNE)

FILE NO. EXC-19-006

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

Hamilton clarified that there is only one unit facing the side yard.

Laauwe said there is another door facing that side yard into a different unit but believes that is the secondary entrance to that unit.

Fisher asked if there are consequences for getting a building permit after the fact.

Laauwe said the Fire Marshal is present. She understands they have to pay an additional fee and the incident is recorded. After so many offenses you could lose your license to build within the city.

Hardy opened the public hearing.

John Stamey, 501 Laramie Street, was the general contractor for the project. He built the staircase in 2009, replacing the staircase that had been there prior. Mr. Courtright lived nearby and informed them a building permit was required for that work; Stamey did not know that at the time. He then obtained a permit and completed building the stairs without an appeals process. He does not know why the appeals process was not executed; he assumed it was because it was the only ingress and egress for the unit. He was recently contacted by the owner to repair the stairs and applied for a building permit but continued with the work prior to being granted the permit as they feared for the safety of the stairs. It was then identified that there was a zoning issue and the repair was already completed. He stated that it was not his intent to get out of the building permit process; he was trying to avoid potential safety issues. There were basic improvement to the stairs but otherwise it remained in the same footprint and footings.

Fisher asked the Fire Marshal, Ryan Courtright, what the consequences are for people who do not obtain building permits.

Courtright explained that anytime a project commences prior to a building permit being issued then the permit fee is doubled. Smaller projects do not take a big hit but it is more significant for larger projects. If that occurs multiple times for a contractor, their license can be taken before a Code Appeals Board which could result in suspension or revocation.

Fisher said she does not have issues with the case she was just curious about the process.

Hardy closed the public hearing.

Hamilton said it is unfortunate but it is an understandable response. Repair falls into a gray area. Sometimes permits are not required for repairs but since there was not a permit to begin it makes

the case more complicated.

Wigfall said there are some unfortunate things that happen when there is a second floor unit with exterior ingress and egress.

Hardy called to question the motion to approve the EXCEPTION under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow a 4 foot 6 inch reduction in the minimum required eight (8) foot side yard setback along the east property line for an existing stairwell and a 1 foot 6 inch reduction in the same side yard setback for an existing structure within an R-M/TNO, Four-Family Residential District with Traditional Neighborhood Overlay, located at 709 Bluemont Avenue with the following conditions:

1. That the stairway is constructed as described and shown in the application site plan and documents.
2. All applicable permits shall be obtained.

Roll call vote was taken; motion passed 5 – 0.

The Board made the following findings of fact for the EXCPEITION at 709 Bluemont Avenue:

PRESENT USE: Three-family dwelling.

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject property is legally nonconforming in regards to minimum lot area and minimum lot width. Three-family dwellings within the R-M District are required to have a minimum lot size of 9,000 square feet and a lot width of sixty (60) feet. The subject property has a lot area of 7,500 square feet and a lot width of fifty (50) feet. The subject property was granted legal nonconforming status for the lot width and size in March 1986.

The subject property has a front yard setback of 38 feet and a rear yard setback of 61.5 feet, both far exceeding the minimum required 14 foot front yard setback and 25 foot rear yard setbacks required for the R-M/TNO District. The structure is set 8 feet from the west property line and meets the side yard setback along the west portion of the lot.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject property, adjacent properties and surrounding area are located within an R-M/TNO, Four-Family Residential District with Traditional Neighborhood Overlay. The adjacent properties to the west and east are single-family rental properties. Directly to the south, across the alley is a 9 unit multi-family structure. To the north, across Bluemont Avenue, is Bluemont Elementary School.



The property to the east that is closest to the stairway would be the most impacted, however the

neighboring structure is positioned further north and is only partially within the line of sight. The existing dwelling blocks the view of the stairway from the adjacent property to the west.

Staff Finding: Due to the positioning of the structure to the east and that the stairway will not be visible from the property to the west, minimal adverse impact to adjacent properties is expected.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The staircase does not encroach into any easements. The staircase serves as the only entrance and exit to the upstairs unit and is 36 inches in width as required by Building Code Regulations to insure the safety of the residents.

Staff Finding: No adverse effects on 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 are unreasonable, or unnecessary when all facts and circumstances are considered. The new staircase was constructed in the same location as the previous staircase that became dangerously in disrepair after being in place for several years. The staircase is necessary as it serves as the only ingress/egress for the second floor unit. As for the side yard setback for the residential structure, it is unreasonable to require the removal of a portion of the building. The existing side yard setback of the residence is legally nonconforming, the Exception request is to allow the Board of Zoning to approve the encroachment concurrently with the stairway request.

Staff Finding: It is unknown if an alternative ingress/egress could be constructed for the second floor unit. At this time, it is necessary to provide a safe passage for tenants of the second floor unit. The structure was built in 1930 when the minimum required side yard setback was six (6) feet.

Hardy adjourned the meeting at 7:50 p.m.

Respectfully submitted by,
Lesley Frohberg, Urban Planning Intern