



**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
**City Commission Room, City Hall**  
**1101 Poyntz Avenue**  
**Wednesday, March 20, 2019**  
**7:00 PM**

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

MEMBERS ABSENT: None

STAFF PRESENT: Barry Beagle, Senior Planner; Shauna Laauwe, Planner II

Staff called roll and a quorum was established.

**CONSIDER THE MINUTES OF THE FEBRUARY 13, 2019, BOARD OF ZONING APPEALS MEETING.**

Hamilton announced she presented staff minor typographical errors. She added on page 19 there is a typo; she recalled taking three votes and four appear in the minutes. The third vote needs to be removed. The board and staff accepted the corrections.

Hamilton moved to approve the February 13, 2019 meeting minutes as correct, which was seconded by Danner, 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 AN INTERIOR RENOVATION TO A LEGALLY NONCONFORMING TWO-UNIT DWELLING IN A R-1/TNO/UO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH TRADITIONAL NEIGHBORHOOD AND UNIVERSITY OVERLAYS, LOCATED AT 1815-1817 LARAMIE STREET. (APPLICANT: CHRISTOPHER AND JILL WINNERS, WINNERS FAMILY TRUST)**

**FILE NO. CUP-19-013**

*Note: Agenda items 2 and 3 will be presented together for the property at 1815-1817 Laramie Street.*

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 four conditions of approval.

Hamilton asked Laauwe about the fourth condition for the conditional use permit; it currently says an amendment to the conditional use permit will be require for future renovations. Laauwe

replied it should state a “new” conditional use permit shall be required.

Hamilton clarified that Manhattan’s zoning ordinance requires that regardless if it is a condition of approval. The board has not put this kind of condition on conditional use request in the past. She does not oppose it; it helps the property owner understand future requirement. Laauwe said a new permit is required regardless but the condition gives the property owner a heads up.

Hamilton said she is not suggesting the condition be removed, she was just clarifying something had not changed in the zoning ordinance. Laauwe said the zoning ordinance had not changed. She has used that condition of approval in the past.

Hardy said he has seen a similar condition of approval like “if the use shall change an additional conditional use permit shall be required”.

Fisher clarified that the documents indicate that both structures were built in 1930. Laauwe said yes.

Fisher clarified that they later became nonconforming. Laauwe said the garage became nonconforming in 1965 and the use became nonconforming in 2003.

Fisher asked if the porch is 9 by 16 feet. Laauwe replied yes.

Hardy opened the public hearing.

Chris Winners, 2100 Yacht Mischief, said he is the owner of the property. All documentation for the property indicates that it was built as a two-family structure in 1930. He is asking to modify the interior. There are two large bedrooms and a full bath upstairs and the additional half-bath downstairs is to improve the property and make it better for tenants.

Fisher asked when Winners acquired the property.

Winner replied fall 2017; he is the third owner.

Hamilton applauded the fact that he only wanted to make a modest change. Sometimes new property owners want to make much larger adjustments. Hardy added there are often request to increase the density.

Winners commented that it is a very nice home. It was built very well, he is trying to clean it up and make it easier for people to live in. He also lives in the home in between tenants.

Shirly Unekis, 1822 Fairchild Avenue, commented that her property abuts the backyard of the property in question. She wanted to state that she has no problem with the changes they are requesting.

Hardy closed the public hearing.

Danner said she is familiar with the property; she knows the former owners and people who have rented there. This is a very modest change and there is no reason not to approve it.

Wigfall commented that it is a charming home and she applauds them for cleaning up the property.

Hamilton agreed; she would hate to see someone destroy the character of the home because it is essential to this neighborhood. Fisher agreed.

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 renovation and remodel of a legally nonconforming two-unit dwelling in a R-1/TNO/UO, Single-Family Residential District with Traditional Neighborhood and University Overlays located at 1815-1817 Laramie Street with the following conditions:

1. The concurrent Exceptions shall be approved.
2. The renovations shall be consistent with the submitted site plan and application documents.
3. All applicable permits shall be obtained.
4. An amendment to the Conditional Use Permit shall be required for any future renovations or additions to the structure.

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

The Board made the following findings of fact for the CONDITIONAL USE at 1815-1817 Laramie Street:

**PRESENT USE:** Two-family dwelling unit

### **Modifying Nonconforming Uses Utilizing a Conditional Use Application**

**1. The size of the zoning lot is not increased from that which currently exist:** The 60-foot by 151.8-foot zoning lot will remain the same size and configuration.

**2. (a) The current existing use does not have a significantly adverse impact upon either the surrounding neighborhood or the public health, safety or general welfare, and the proposed modifications, additions and deletions will not worsen such impact:** The existing structure was built in 1930 and records indicate that the structure was



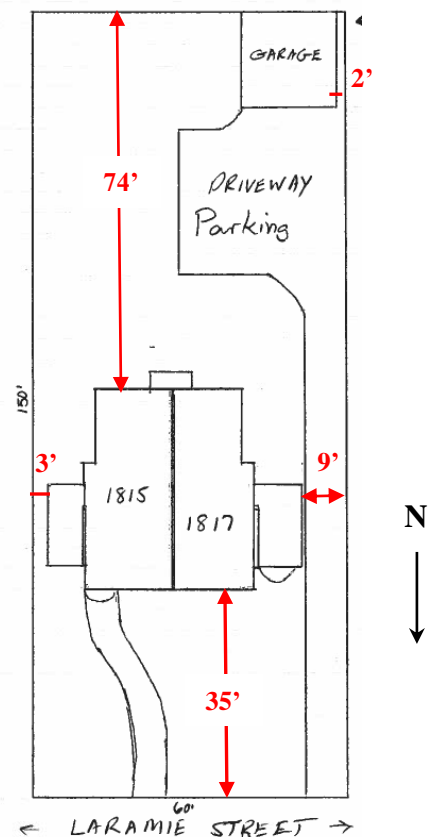
built and consistently utilized as a two-unit structure. The subject lot and the adjacent properties to the west, east, and north are located within an R-1/TNO/UO District, while the adjacent properties to the south are also within an R-1/TNO, but do not have the University Overlay designation. The surrounding area consists of a mix of single family, two-family and fraternity and sorority homes. The existing structure and use are within character of the surrounding neighborhood and **does not** have a significantly adverse impact on the public health, safety, or general welfare. The minor addition of the half bathroom to each unit is unlikely to worsen the impact of the two-family use within the surrounding R-1/TNO/UO neighborhood.

**(b) The current existing use does have such a significantly adverse impact and granting of the proposed modifications, additions and deletions will be more likely to reduce or eliminate such impact than a denial of such proposal:** The current existing use **does not** have a significantly adverse impact on adjacent or surrounding properties that a denial of the request would reduce.

- 3. The proposed conditional use complies with all applicable provisions of these regulations, except for those existing conditions that are legally nonconforming;** The proposed conditional use is in compliance in regards to lot size (9,000 sf vs 6,500 sf), front yard and rear yard setback and the west side yard setback. The existing principal structure has a front yard setback of thirty-five (35) feet, a west side-yard setback of nine (9) feet and a rear-yard setback of sixty-eight (68) feet from the rear porch and seventy-four (74) feet from the main structure.

However, the screened-in porch on the east side for 1815 Laramie Street encroaches five (5) feet into the minimum required eight (8) foot side yard setback. It is unknown when the porch additions were constructed to know if they are legally nonconforming. In addition, the accessory detached garage is positioned at a zero (0) foot rear yard setback and approximately two (2) feet from the west side-yard setback and thus encroaching five (5) feet into the minimum rear yard setback and one (1) foot into the minimum side yard setback for accessory structures. The applicant is seeking a concurrent Exception for these existing setback encroachments.

- 4. The existing use continues in a substantially similar form, or in a form that is altered only to make it more modern or efficient.** The existing use will remain as a two-family



dwelling with two bedrooms in each unit. The applicant proposes to add a half bath to each unit to give residents and guests bathroom access on the main floor. The addition of the half bath will help modernize the units by bringing the structure up to date with the desires of present-day residents. The proposed minor alterations are to make the units a more habitable place to live by bringing the interior to modern and more efficient standards.

**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 SCREENED PORCH; AND EXCEPTIONS TO THE MINIMUM REQUIRED FIVE (5) FOOT REAR-YARD SETBACK AND THREE (3) FOOT SIDE-YARD SETBACK FOR AN EXISTING ACCESSORY GARAGE STRUCTURE FOR A PROPERTY LOCATED IN AN R-1/TNO/UO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH TRADITIONAL NEIGHBORHOOD AND UNIVERSITY OVERLAYS, LOCATED AT 1815-1817 LARAMIE STREET. (APPLICANT: CHRISTOPHER AND JILL WINNERS, WINNERS FAMILY TRUST)**

**FILE NO. EXC-19-022**

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

*See Item 2 for the public hearing and board discussion.*

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 for a five (5) foot reduction in the minimum required eight (8) foot east side yard setback for an existing screened-in porch; and a five (5) foot reduction to the minimum required five (5) foot rear-yard setback and a one (1) foot reduction in the minimum three (3) foot side-yard setback for an existing accessory garage structure for a property in an R-1/TNO/UO, Single-Family Residential District with Traditional Neighborhood and University Overlays located at 1815-1817 Laramie Street with the following conditions:

1. Any additions to the existing porch or accessory garage structure that result in additional footprint into the setback area shall seek an Exception from the Board of Zoning Appeals.
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 EXCEPTION at 1815-1817 Laramie Street:

**PRESENT USE:** Two-Family dwelling unit

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The subject property is in compliance in regards to lot size, front yard and rear yard setbacks and the west side yard setback. The existing principal structure has a front yard setback of thirty-five (35) feet, a west side-yard setback of nine (9) feet and a rear-yard setback of sixty-eight (68) feet from the rear porch and seventy-four (74) feet from the main structure. The applicant is seeking a concurrent Conditional Use to allow the renovation and remodel of the legally nonconforming structure in order to add a half bathroom on the first floor of each unit.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:**

The subject property, and the adjacent properties to the west, east, and north are located within an R-1/TNO/VO District, Single-Family Residential District with Traditional Neighborhood and University Overlays, while the adjacent properties to the south are also within an R-1/TNO, but do not have the University Overlay designation. The surrounding area consists of a mix of single family, two-family and fraternity and sorority homes. The existing structure and use is within character of the surrounding neighborhood. No expansion to the footprints of the encroaching structures are proposed, but are necessary to be addressed due to the concurrent Conditional Use request.



**Staff Finding:** The applicant does not propose expanding the footprint of the porch or garage and thus, no adverse effects are expected as the attached screened-in porch and accessory garage have been in their present configurations for many years.

**EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** The subject property does have an 8 foot utility easement along the west property line that is encroached upon by the existing garage. Records indicate that the garage has been at the present location since 1930 without adverse effects regarding access within the easement. Any damage to the garage while city or utility crews attempt to access lines within the easement would be the owner's expense. The existing structures on the subject property are in character with the surrounding residential and university character of the neighborhood. Due to the longevity of both the screened-in porch and accessory garage structure, no adverse effects in regards to the setback encroachments are anticipated.

**Staff Finding:** No adverse effects to 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:** Setback regulations are utilized as a tool to create space between structures for fire safety and

to reach a desired density in any given zoning district. The strict application of these regulations for the side-yard setback for the 1815 Laramie screened-in porch and the rear and side yard setbacks for the existing accessory garage are unreasonable when all facts and circumstances are considered. The existing porch and garage have been in place for several years and it would be unreasonable to require the removal of a portion, or all of the structures. No expansion of the porch or garage is proposed with the interior renovations of the legally nonconforming two-family dwelling unit.

*Staff Finding:* The strict application of these regulations is unreasonable 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 AN INCREASE IN THE MAXIMUM ALLOWABLE THIRTY PERCENT (30%) LOT COVERAGE IN ORDER FOR A PROPOSED ACCESSORY STRUCTURE TO BE CONSTRUCTED ON A PROPERTY LOCATED IN AN R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH TRADITIONAL NEIGHBORHOOD OVERLAY, LOCATED AT 1510 LEAVENWORTH STREET. (APPLICANT: JASON WOLCOTT)**

**FILE NO. EXC-19-021**

Laauwe presented the staff report for an exception, which did not recommended approval.

Wigfall commented that she is finding dimensions of the square footage and the height of the new garage of 13'6". She asked what the height of the existing garage is. Laauwe said she does not know the height of the existing garage but the applicant is presence.

Wigfall commented that the height can change the visual impact. Laauwe said she spoke to the applicant and thinks it is the same height.

Danner asked if there were any photos of the notch is in the parcel. Laauwe pointed out where the notch was on photos in staff's presentation.

Hamilton asked if this was one of the properties that allowed the garage to be over the property line if the neighbor agreed but later got formalized. Laauwe said she looked back at all the maps and they show a standard 50 by 150 foot lot. It used to be a street right of way. She found the original ordinance that vacated the right-of-way but could not find when the lot was configured that way.

Hardy opened the public hearing.

Jason Wolcott, 1510 Leavenworth Street, said he has owned of the property since June 2008. It is the second home in the neighborhood that he has owned. He likes the traditional neighborhoods; that is why he chooses to live there. The current garage barely fits one car and leaves no room for additional items. He has some classic vehicles and rents a shop to store them.



He currently has two vehicles and two children that will be of driving age soon. He would like to stay in the neighborhood but make the property more accommodating. He would like to get his vehicles off the street as he has experienced instances of vandalism in the past. He accepts that as that comes with living in near Aggieville but he would like to get his vehicles more secure if possible. He does understand that the size he is requesting is much different than what a lot of the neighbors have but wants to maintain the neighborhood character. If the lot was 50 by 150 foot like everyone else he would not need the exception. The current garage will need to be removed due to its condition and a three car garage for his family would be great to alleviate some of the street parking.

Hardy asked if he had considered a two car garage. He knows he would prefer three but a two car garage would eliminate the need for an exception.

Wolcott said he has designed and redesigned the garage and used an architect to develop renderings showing what it will look like. He has tried to configure something that would fit within the 30% but would like to build larger. He would really like to stay in the neighborhood and he does not want to move to find something more suitable. The proposed height of the new garage is one foot taller than the current garage but it is still not as tall as the house. You would not be able to see the garage from the front of the house, maybe from the side, but it would be most visible from the alley. There have not been any new accessory structures built in the neighborhood recently; most of the neighbors have been there for several decades.

Hamilton asked if the garage across the alley, which looks pretty significant, is a two car garage. Wolcott said he is not sure how many square feet that is.

Hamilton commented that it is a large garage and asked if it was for two cars. Wolcott said it has two doors.

Hamilton commented that she is unsettled by the renderings of the garage. The rendering looks like it would fit in the neighborhood but the diagrams are showing something different. She is not sure how to get three cars into a garage with two doors. Wolcott said they are old-style carriage doors that slide open to a 14 foot opening.

Hamilton asked if he was going to get three cars in that opening. Wolcott said three cars will not fit in the 14 foot opening but you can drive in and to the side.

Hamilton commented that he will not be able to get one of the side cars out without removing the middle car. Wolcott said all three cars will be driven daily so the middle car would just leave first. If the car is not driven daily it would just be pulled off to the side. There are a lot of different doors he could use but he personally prefers the carriage style, sliding door.

Hamilton asked if Wolcott considered a two car garage with a sight obscuring fence to store an additional car. Wolcott said that could be an option but the alleyway is narrow due to a stone wall to the east so an additional structure would make it more difficult to maneuver.

Hamilton is suggesting a two car garage with a fenced area next to the garage. Wolcott said that



is a possibility but he has not looked into it.

Hamilton said the garage will cover the entire width of the property. Wolcott said it meets the side yard setbacks.

Hardy closed the public hearing.

Hamilton asked if the lot coverage is expected to change in the UDO. Laauwe said the TNO is expected to remain the same.

Laauwe commented that at 35% lot coverage, it would be a 910 square foot garage.

Fisher asked if the 35% applies to R-1, not TNO. Laauwe replied yes.

Fisher asked if the TNO would have been a part of your mortgage package before 2008. Laauwe said yes.

Danner said this is a particular lot is because of the notch. The request is not for setback exceptions, it is because his lot is smaller due to the notch. She asked if the notch was not there would the proposed garage would be conforming. Hardy replied no.

Fisher said it would be confirming if the lot was 7500 square feet.

Laauwe said the notch was approximately 525 square feet. If the 7 foot notch was not there; the lot would be 6,493 square feet and the proposed garage would be at 33% lot coverage.

Danner said she would rather see cars in a garage than on the street.

Fisher said she lives in an older neighborhood like this and all those properties have the smaller garages but this would be big and unusual in the neighborhood. She is struggling with this because she is not a fan of making things more nonconforming. In this case the board would be making it nonconforming. She is not keen to that. However, she is sympathetic that if this was a standard lot they would not need an exception.

Danner said it would only be 3% if it was a standard lot.

Hamilton said it would only be 29% coverage if it was a standard lot. The problem is, this is not a standard lot.

Danner said everything in the neighborhood seems to be a standard lot; except for the large adjacent property.

Fisher said there are those lots in her neighborhood that are smaller than the standard lot and when we looked at purchasing them we were advised that there would be complications if you buy lots like this.

Hamilton said the lot coverage is there for a reason; to keep the density of people and structures in check and this goes significantly beyond it, especially when you have an option of a two car garage. Hardy agreed.

Hamilton said there is a reasonable use here that is allowed under the regulations and would hate to see more request in the future for three or four car garages. She does not oppose that fact that the applicant wants to stay in the neighborhood and she understands that he will have car storage issues as his family grows older. The city is telling us that since you live in this neighborhood you have the opportunity to walk and be less car dependent. You have the advantage of having alternative modes of transportation like bicycles. That all plays into this decision of what is reasonable for this neighborhood to keep its charm opposed to having it negatively impacted.

Hardy said he is of the same mindset. Looking at it; there is the alternative of a two car garage which gives him double the room that is currently there. With the proposed garage it is almost the same size as the house. These requirements are in the zoning regulations for a reason. We want to maintain the character of the area and with the restrictions it still allows the applicant to have a larger garage even if it is not exactly what he wants. Hardy said he is supportive of staff's recommendation.

Wigfall commented that a two car garage is allowed and there would be room to park another car next to the garage; then becomes a decision of what car to store inside.

Laauwe said the applicant could put a paved pad down because that would not count towards lot coverage.

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 6.7 percent increase to the maximum allowable lot coverage of 30 percent in an R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay for a proposed accessory structure located at 1510 Leavenworth Street.

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

Hamilton adjourned the meeting at 8:04 p.m.

Respectfully submitted by,  
Lesley Frohberg, Urban Planning Intern