



MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, May 8, 2019
7:00 PM

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

MEMBERS ABSENT: Harry Hardy, Chairperson; Sara Fisher

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

Staff called roll and a quorum was established.

CONSIDER THE MINUTES OF THE APRIL 10, 2019, BOARD OF ZONING APPEALS MEETING.

Wigfall clarified that on the top of page 5, she had asked where landscape would be used on the site.

Wigfall moved to approve the April 10, 2019 meeting minutes as corrected, which was seconded by Danner, and passed with a vote of 3 – 0.

A PUBLIC HEARING TO CONSIDER EXCEPTIONS 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 SETBACKS FOR A PROPOSED BUILDING ADDITION TO AN EXISTING HOUSE IN A R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH TRADITIONAL NEIGHBORHOOD OVERLAY LOCATED AT 1326 PIERRE STREET. (APPLICANT/OWNER: PAXTON LEMOINE)

FILE NO. EXC-19-037

Laauwe presented the staff report for the exceptions at 1326 Pierre Street. The staff report recommended approval of the exception requests with three conditions of approval.

Hamilton opened the public hearing.

Paxton LeMoine, 1326 Pierre Street, said personal circumstances had derailed the plan to renovate the home in 2012 but he is expecting a second child so the renovation is necessary. He thanked staff for their work on the application. He does not think the encroachment will have any adverse impacts.

Hamilton asked if it will get done before his child is born.

LeMoine said yes; he has already filed for the building permit so he will be able to begin construction immediately if the request is approved.

Hamilton closed the public hearing.

Wigfall said even though there are some changes in the setback, it seems like a better configuration and also finishes off something that has been waiting to be resolved.

Danner said it improves the setback so she thinks it is a good thing to support, so she is in favor of the request.

Hamilton said they do not get people trying to improve setbacks often. It seems reasonable to approve this and thinks the project is attractive. She can support the request and wishes the applicant the best.

Hamilton called to question the motion to approve the EXCEPTIONS for 1326 Pierre Street to allow for the reduction of the minimum required eight (8) foot side yard setback to 5 feet 8 inches along the west property line and to 6 feet 6 inches along the east property line for a proposed building addition to an existing house in the R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay based on the staff report and public comment, with the following conditions of approval:

1. The Exceptions shall only be for the proposed building addition as outlined in the application documents and shown on the site plan.
2. The subject site shall be developed as shown on the site plan.
3. That all applicable permits be obtain.

Roll call vote was taken; motion passed 3 – 0.

The Board made the following findings of fact for the EXCEPTIONS at 1326 Pierre Street:

PRESENT USE: Single-family dwelling unit

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The existing house was constructed in 1947 with building additions in 1960 and 1963. The house was constructed as close as six (6) feet from the side property lines to the east and west. The Zoning Regulations at the time required a side yard setback of “not less than ten (10) percent of the lot, but such side yard shall not be less than six (6) feet.” The building additions constructed in the early 1960’s were also required to conform to this side yard setback. The original house conformed to this regulation and is considered to be legally nonconforming condition. The attached garage constructed in 1963 is located approximately 3 feet 6 inches from the west property line. It is unclear as to how this was permitted at the time. The proposed construction will eliminate the 3 ½ foot side yard setback. The new building addition will be in line with the original buildings, which is approximately 5 feet 8 inches from the west side property line. Other than these issues,

the subject property complies with all applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The subject property and surrounding properties are zoned R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay. The area is a mix of single-family and two-family dwellings, with a combination of owner-occupied and rental units. Across 14th Street to the west is Theodore Roosevelt Elementary School.



The proposed addition should not adversely impact adjacent property owners. The site plan shows that the existing attached garage is 3 feet 6 inches from the west property line. The applicant proposes to remove the existing attached garage and a portion of the rear of the house and construct a new addition to the southeast corner of the house. The proposed addition would even out the existing structure, shifting the attached garage to the east to take out the existing portion that projects out into the west side yard setback and thus, increasing the side yard setback by over two (2) feet from 3 ½ feet to 5 feet 8 inches. On the east side, taking out the indentation and evening out the east façade will result in the portion to be located 6 ½ feet and into the east side yard setback at the same distance as the remainder of the structure. The existing home footprint will also be expanded approximately three (3) feet to the north. With the proposed addition to the north area of the home, the rear yard setback will be approximately 67 feet.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: No adverse impacts on the public health, safety, morals, order, convenience, prosperity, or general welfare is expected. The proposal would remove a portion of the house that is located as close as 3 ½ feet from the west property line and construct a new building addition that is in line with the existing house, which is approximately 5 feet 8 inches from the side property. The addition portion on the east side will result in an encroachment into the side yard setback, but will be in line with the existing house at a 6 1/2 foot setback.

The proposed building addition will not encroach into any utility easements.

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

The strict application of the Regulations would not permit the proposed building additions because it would increase the degree of nonconformity. Although the additions will not encroach further into the side yard setback than the rest of the house, it does alter or increase the nonconformity. The strict application would require that the new addition be setback a minimum of eight (8) feet from the side property lines. This would reduce the size of the building addition and possibly reduce its functional use with the rest of the home.

Staff Finding: Considering that the proposed addition will improve the setback from the west property line and not further encroach the east setback, the strict application appears to be unnecessary. The proposed additions will improve the subject site and its impacts on adjacent properties.

Hamilton adjourned the meeting at 8:17 p.m.

Respectfully submitted by,
Lesley Frohberg, Urban Planning Intern