



MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, June 12, 2019
7:00 PM

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

MEMBERS ABSENT: La Barbara Wigfall; Connie Hamilton, Vice-Chair

STAFF PRESENT: Shauna Laauwe, Planner II

Harry called the meeting to order at 7:02 p.m.

Staff called roll and a quorum was established.

CONSIDER THE MINUTES OF THE May 8, 2019, BOARD OF ZONING APPEALS MEETING.

Danner motioned to approve the May 8, 2019 minutes.

The motion was seconded and approved with no corrections; 3-0-0

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 OF THE MINIMUM REQUIRED SIXTY (60) FOOT FRONT YARD SETBACK AND MINIMUM REQUIRED THREE (3) FOOT SIDE YARD SETBACK FOR AN ACCESSORY STRUCTURE FOR A PROPOSED SHED ON A PROPERTY IN THE R, SINGLE-FAMILY RESIDENTIAL DISTRICT LOCATED AT 2813 ARBOR DRIVE. (APPLICANT/OWNER: MARC & LISA MCCURDY.

FILE NO. 19-038

Laauwe presented the staff report for the exception at 2813 Arbor Drive. Staff recommended approval of the exception with one condition of approval.

Fisher asked for clarity as to whether the lot had changed between 1985 and now. Laauwe clarified that the lot has not changed but the original building permit shows that the structure was not built as shown on the permit site plan that had the structure being within the setbacks.

PUBLIC COMMENTS:

Hardy opened the floor for public comments.

Lisa McCurdy, 2813 Arbor Drive, wanted to reiterate the size of the proposed shed is only replacing the existing shed and the increased size of the shed will not impact or touch the

existing tree. The shed will not impair vision along the street and will be visually appealing once they paint it to match the house. They will provide some additional landscaping around the shed to ensure the structure is appealing from the street. Due to the steepness of the yard, there is no feasible way for them to install a garage or other comparable structure in the back yard.

Hardy closed the Public Hearing.

Hardy called to question to approve an EXCEPTION to allow for a reduction of the minimum required sixty (60) foot front yard setback to zero (0) feet and a reduction in the minimum required three (3) foot side yard setback to one (1) foot for an accessory structure for a proposed shed on a property in the R, Single-Family Residential District, located at 2813 Arbor Drive, with the following conditions:

- A. The Exception shall only be for the proposed shed as outlined in the application documents and shown on the site plan. Doors accessing shed cannot face and open into the public right-of-way.
- B. That all applicable permits be obtained.

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

The Board made the following findings of fact for EXCEPTIONS at 2813 Arbor Drive:

Present Use: Single-Family Residence

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The subject property and much of the Arbor Heights Subdivision have moderate to steep variations of topography. Given this, the recorded plat sets an alternate front yard setback of fifteen (15) feet for lots 1 through 24 and lots 28 through 39 as opposed to the minimum required twenty-five (25) foot setback detailed in the Zoning Regulations. The subject site, Lot 38, is allowed the reduced fifteen (15) foot front yard setback along Arbor Drive. A recent survey, however indicates that the existing principal structure is setback only 14.7 feet from the front property line at its southwest corner and 13.7 feet from its northwest corner. Additionally, the southeast (back) corner of the structure is encroaching as much as six (6) feet into the minimum required eight (8) foot side yard setback. The site plan that accompanied the building permit issued in May 1985, has the principal structure located in compliance to the minimum required setbacks. No record of exceptions or variances granted by the Board of Zoning Appeals could be found and it is unknown how the home was allowed to be built in its current configuration.

In addition, two (2) existing sheds are encroaching into the minimum required setbacks. Accessory structures such as sheds have a minimum required sixty (60) foot front yard setback, a side yard setback of three (3) feet, and a rear yard setback of five (5) feet. The metal shed, located on the south side of the property, is setback 49.5 feet from the front property line and as close to .1 foot from the south side property line. The existing pole shed, which is to be removed for the proposed new shed, is located approximately four (4) feet from the front property line along Arbor Drive and approximately two (2) feet from

the north side yard property line. Accessory buildings that are 200 square feet or less are not required to have a building permit and the existing sheds likely did not have a review process before placement. Due to the existing principal structure and metal shed being unrelated to the current request, no exceptions are being sought at this time. If the property owner wishes to make building improvements to the structure at a later date, exceptions will be required at that time. Other than the setback issues for the existing principal and accessory structures, the site is in compliance with all other applicable regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The subject property and surrounding properties are zoned R, Single-Family Residential District and are developed as single-family homes. Minimal adverse impacts to adjacent properties are expected. The closest adjacent property to the proposed shed, to the north, is currently a heavily wooded vacant lot. To the west, the existing home on the subject site will block the direct view of the shed from the adjacent property. The adjacent property to the south, due to the terrain elevation drop, will also not have visibility of the shed. The property to the north, across Arbor Drive, and passers-by will have visibility of the proposed shed location and will be the most affected. While the surrounding homes do have a reduced setback and topography challenges, accessory structures in the front yard setback are not commonplace in the area. Given the public right-of-way of Arbor Drive, the proposed shed at a zero (0) foot front yard setback will be fifteen (15) feet from the roadway.

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

No adverse impacts on the public health, safety, morals, convenience, prosperity, or general welfare is expected. The proposed shed will not encroach into any utility or drainage easements. The proposed shed may have minimal impact on the order of the surrounding neighborhood as the close proximity to Arbor Drive and on the front property line is out of character with the area.

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

The intent of the increased front yard setback and decreased side and rear yard setbacks for accessory structures is to encourage placement behind the principal structure and to allow them to be located in a corner or side of the rear yard. Due to the dramatic slope that begins approximately 12 feet from the front property line that severely limits the amount of level ground, the strict application of the Regulations would not permit the applicant from placing the desired shed, or any accessory structure on the subject property. During a field inspection, the existing shed was found to be located at the edge of the slope with no room to increase the setback.

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 OF THE MINIMUM REQUIRED FOURTEEN (14) FOOT SIDE YARD SETBACK FOR A PROPOSED DETACHED

ACCESSORY GARAGE ON A CORNER LOT IN A R-1/TNO, SINGLE-FAMILY RESIDENTIAL DISTRICT WITH TRADITIONAL NEIGHBORHOOD OVERLAY LOCATED AT 203 SOUTH 14TH STREET. (APPLICANT/OWNER: JOHN W. ROBERTS)

FILE NO. 19-039

Laauwe presented the staff report for the exception at 203 South 14th Street. Staff report recommended approval of the exception.

PUBLIC COMMENTS:

Hardy opened the floor for public comments:

John Roberts, 203 South 14th Street, Manhattan, Kansas, wanted to thank Laauwe for assisting him in this process and was thankful for the board considering his proposal.

Hardy closed the public hearing.

BOARD COMMENTS:

Hardy and Danner took into consideration that there is a utility line that runs through the property. Without this gas line, the proposed project could be done without an exception. The board acknowledged that this issue was not caused by the applicant.

Hardy called to question to approve an EXCEPTION to allow for a the reduction of the minimum required fourteen (14) foot side yard setback to six (6) feet for a proposed detached accessory garage on a corner lot in a R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay located at 203 South 14th Street with the following conditions:

- A. The Exceptions shall only be for the proposed garage as outlined in the application documents.
- B. That all applicable permits be obtained.

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

The Board made the following findings of fact for the EXCEPTIONS at 203 South 14th Street:

Present Use: Single-Family Residence

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The existing single-family dwelling unit was constructed in 1932 and at the time, would have been zoned “A” Residence District. The minimum required side yard setback was six (6) feet and corner lots were required to have a twenty-five (25) foot front yard setback and a 12.5 foot street side yard setback (half the required rear yard requirement). The existing principal structure is oriented to the west, facing South 14th Street resulting in South 14th Street being the front yard and Houston Street to the north being the street side yard. The structure has a street-side yard setback of twenty-five (25) feet along the Houston Street, however only a front yard setback of six (6) feet along South 14th Street.

The present day Zoning Regulations in the TNO, requires a front yard setback of fourteen (14) along all property lines fronting a street. In addition, the existing structure has an east side yard setback of six (6) feet, which was in compliance in 1932, but is legally nonconforming to the required eight (8) foot side yard setback in the current zoning regulations. No Board of Zoning Appeals action for this property or old building permits could be found that permitted the encroachment into the front yard setback along South 14th Street. Since the current request does not involve any construction to the existing structure, no Exceptions for the encroachments into the front or side yard setbacks are needed at this time.

The R-1/TNO District allows a maximum lot coverage of 30 percent. The existing principal structure, including porch and roof overhangs, has a building footprint of approximately 1,450 square feet and with a 7,500 square foot lot size, a current lot coverage is 19.33 percent. The proposed 780 square foot two-car garage will increase the lot coverage to 29.7 percent and just within the maximum allowed.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

Minimal to no adverse impacts on adjacent properties is expected. The subject property and surrounding properties are zoned R-1/TNO District. However, due to being one of the City's original Ward neighborhoods and having a variety of zoning designations throughout the years, single-family, two-family and some three-unit structures can be found in the vicinity of the subject property. The adjacent property to the east is a three-family dwelling unit, the property to the south, across the alley is a single-family dwelling unit and the property located directly to the north, across Houston Street, is a two-family dwelling unit. Directly to the west, across South 14th Street, is Theodore Roosevelt Elementary School.

The proposed structure proximity to South 14th Street is not uncharacteristic to the neighborhood. Not only has the principal structure been at a six-foot setback since 1934, the two-family dwelling unit located on the northeast corner of Houston Street and South 14th Street, has the long side (approximately 48 feet) of the structure at a nine (9) foot front yard setback from South 14th Street. In addition, the size of the proposed garage will likely not be out of character as the adjacent property to the south, directly across the alley, has a 42 foot by 24 foot detached garage. The garage, however is located on the east side of the lot at a twenty-five (25) foot setback from South 14th Street with an access driveway.

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

No adverse impacts on the public health, safety, morals, convenience, prosperity, or general welfare is expected. The proposed garage will not encroach into any utility or drainage easements. If the proposed garage were placed at the minimum required fourteen (14) foot front yard setback, it would encroach on the gas service line that runs north-south through the property. The gas company will not allow a paved foundation over the line, leaving the applicant with the choice of either paying for the line to be moved, or shift the placement of the garage to the west and into the required setback. The proposed location of

the garage and encroachment is due to insuring that the structure does encroach on the gas line.

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

The intent of the regulations to require a minimum front yard setback along street frontages is to give space and a landscape buffer between a street and structures. The strict application of these regulations are unreasonable in this matter when all facts and circumstances are considered. The strict application would limit the applicant to a much smaller one-car garage that would fit on the fifty (50) foot wide lot between the fourteen (14) foot minimum required setback and the gas line that runs approximately seventeen (17) feet from the east property line. If the gas line did not run through the subject property at the existing location, the proposed structure would be able to be constructed within the zoning regulations.

Hardy adjourned the meeting at 7:35 p.m.

NEXT MEETING: Wednesday, July 10, 2019

Respectfully submitted by,
Dre'Vel Taylor, Planning Intern