



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

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

MEMBERS ABSENT: La Barbara Wigfall

STAFF PRESENT: Shauna Laauwe, Planner II; Barry Beagle, Senior Planner, Dre'Vel Taylor,
Planning Intern.

Hardy called the meeting to order at 7:00 p.m.

Staff called roll and a quorum was established.

CONSIDER THE MINUTES OF THE June 12, 2019, BOARD OF ZONING APPEALS MEETING.

Danner motioned to approve the June 12, 2019 minutes.

The motion was seconded and approved with no corrections; 4-0-0

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 A CAR WASH USE ON A PROPERTY IN A C-2, NEIGHBORHOOD SHOPPING DISTRICT, LOCATED AT 4133 SCENIC CROSSING (APPLICANT: FORTRESS, INC./ OWNER: ESB FINANCIAL; FILE NO. CUP 19-047). FILE NO. 19-038

Laauwe presented the staff report for the exception at 4133 Scenic Crossing. Staff recommended approval of the CONDITIONAL USE with the following conditions of approval:

1. The car wash development, to include the structure, vacuum placement and circulation flow, shall be constructed as shown on the site plan and described in the application documents.
2. Daily hours of operation shall begin no earlier than 9am and no later than 10pm.
3. At least one (1) tree that is 2 ½ caliper shall be planted. The tree shall be maintained and replaced as needed to remain in compliance.
4. The structure shall be constructed to be no more than twenty (20) feet in height and include a pitched asphalt shingle roof, with walls made of brick, stone and siding that is consistent with the provided Scenic Crossing Addition covenants.

Hamilton asked what the common area is for. Laauwe explained that the common area consists of three plots of land that contain various types of easements and have restrictions on usage. Therefore, the land cannot be built upon or developed without the approval of the Planning Board and City Commission. Hamilton asked for clarification on the decibels the carwash would be producing. Laauwe explained that the maximum decibels allowed in a commercial area may not exceed 80 decibels. Hamilton asked if the sound of all the vacuums, plus dryer and additional noise producing parts of the car wash would amplify each other. Laauwe was unsure and deferred that question to the applicant. Hamilton asked if there were any city restrictions on lights and operations outside of the main operational hours. She also asked if the vacuums would be functional after operational hours. Laauwe stated that the vacuums would also cease to function outside of scheduled operational hours. Hamilton asked where the trash would be compiled and kept until pick up. Laauwe stated that she was unsure as to the exact location on site and deferred that question to the applicant.

Fisher asked what 65 decibels sounds like. Laauwe stated that it is comparable to a vacuum cleaner. Danner said that 80 decibels is comparable to the average hair blow dryer. Fisher asked whether the lights would be on all the time or past operational hours. Laauwe deferred to the applicant.

PUBLIC COMMENTS:

Hardy opened the floor for public comments.

Rich Seidler, 3214 Kimball, Commercial Real Estate Services, stated that he was present to answer questions on behalf of the developer. Seidler said this is a quality development and they have waited patiently for the round-about construction to finish before started this project. They said they have waited over a year as to not add additional construction while that was happening. He said they intentionally waited and constructed the restrictive covenants as to blend this new development in with the existing structures. He said they really tried to make sure the project fit in with the character of the surrounding architecture.

Neil Horton, 3629 Vanesta, one of the developers, wanted to clarify some questions the board had about the common lots. Horton said they were very deliberate as to how they laid it out when they platted it. He said it was always their intention to gift those properties to the owner at Wyndham Heights because it acts as a buffer between the commercial area, is steep and has a conservation easement which does not allow development. Fisher asked why the developer wants to build a car wash. Horton said that they are responding to the market.

Zac Burton, 3018 Champion Circle, Fortress Inc., said he was willing to answer some questions about noise that the board had. He said that multiple sources of noise do not amplify each other. There may be more sounds produced but will not be more decibels produced. Burton said they had previously met with the president of the Wyndham Heights HOA. During that meeting they discussed ways to better reduce noise and light from reaching the residents. They decided that using motion sensing lights and orienting the building so the vacuums were as far as possible from the existing properties. The lights themselves will be inside of the actual structure, and the vacuums will have a canopy and

lights that direct straight down. Each vacuum will have a dedicated trash and will probably be emptied daily. The storage area will house various types of equipment for the carwash, this includes soaps and additional parts. Burton also said they will include more than one tree to improve the aesthetics and to blend in with the community better. He said the building would be between 18 and 20 feet. Every other building in the area is 20 feet or higher. The height of the car wash will have a pitched roof so it will have a residential style roof. Hardy asked if the vacuums will be timed, Burton confirmed they will be. The vacuums will also cease to function after operation hours. Hamilton asked if there would be any other noise production besides the vacuums and drying fans, such as ambient noise or music. Burton said there will not be. To address Fisher's previous question of why a car wash, Burton said that west of 10th of Street, there are only four car washes in all of Manhattan.

Terry Kershner, 1213 Wyndham Heights, said he is the one who has the most to lose from this development. His house looks directly down on the commercial area. Since the Shop Quik came in, the volume of garbage that he maintains has drastically increased. In addition, seven months out of the year, most of the trees in that area have no leaves. He can currently see the lights from the Shop Quik and believes he will definitely be able to see the lights from the car wash as well. He said he drove around town and counted 8 carwashes, and none backed up against single family residences. He said there are hundreds of other locations in town that they could utilize. Kershner said he is very concerned for future developers who want to build more houses in the area. He believes the carwash will lower property values and make it harder to sell homes in the area. He said he sat in his car near one of the other carwashes in town and found the noise level to be very loud. When he heard there was going to be a bank, he was excited for that or some upscale restaurants, but is completely opposed to a carwash. Danner asked what the average appraised value of home in his neighborhood are, he said his is approximately \$450,000.

Hardy closed the Public Hearing.

Fisher said the topography makes the height comparison difficult to compare, but Hamilton noted that Shop Quik being next door is a decent comparison since they are at similar elevations. Hamilton said she was worried about the noise level. She said she was not convinced by the notion that the topography would reduce the noise. She lives on a hill and can frequently hear noise from City Park during events and games. She said she was concerned still with the noise being produced by the car wash facility and the vacuums. To counter that though, she said that the proposed carwash is within a commercial area and the residential area was aware that during the platting that it would become a commercial area. Hamilton said she is happy that the applicant is wanting to put in additional landscaping besides just the one tree. She said she would like the Board to require the applicant to maintain and or replace the tree as needed to remain in compliance with City landscaping ordinances.

Danner said she finds the location of the carwash to be odd and does believe that it would negatively impact property values. Hardy, to play devil's advocate, said that it is a commercial development which does allow for carwashes as conditional uses. He said he does not believe the carwash will be in operation from open to close, especially in the colder

seasons. Danner said the carwash will have more than a minimal impact on the surrounding area as described in the staff finding. Hamilton said she can see both sides of the situation so the Board must adhere to the standards. The Board debated substantial harm and the standards that must be met in order to make a final decision. Hardy suggested a change in text of the staff report to adjust the 20ft height. Hamilton wanted the review by Public Works to say reviewed and approved. She also wanted to add more to the landscaping requirements.

Roll call vote was taken; motion passed 3 – 1 – 0 with modifications to conditions and staff report.

The Board made the following findings of fact for the EXCEPTION at 4133 Scenic Crossing:

Present Use: Vacant lot

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The subject property and proposed development are in compliance with all applicable regulations. The subject property exceeds the minimum lot area of 15,000 square feet with an actual lot size of 36,681 square feet. The C-2 District allows for a maximum structure height of forty (40) feet, and the applicant has stated that the proposed car wash will be no greater than twelve (12) feet in height. The proposed structure will also meet the minimum front yard setback of twenty-five (25) feet with no rear or side yard setbacks required.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The adjacent properties across Scenic Crossing to the north, are located within an R-1, Single-Family District and not yet developed. The three lots outlined in the map to the right have been platted in the Scenic Crossing Addition as lots preserved as common area and thus will not be developed with residential units as zoned. Further to the north, is an R District developed as Wyndham Heights. Directly to the east, across Scenic Landing, is a row of R-2 lots that are not yet developed. The subject property and the adjacent properties to the west and south are located within the C-2 District. The adjacent property to the west is not yet developed, while the property to the south is the recently developed Shop Quik convenience store and gas station.

Noise effects

The Manhattan Code of Ordinances addresses allowable noise levels for both residential and

commercial areas in Section 22-56: (a) It shall be unlawful for any person to make or continue, or to cause, allow or permit to be made or continued, any sound that, when registered on a decibel meter in accordance with subsection (B), is in excess of the dB established for the zones listed below:

- Residential: 65 dB
- Commercial: 80 dB

The most affected properties from the associated noise of the car wash use would be the residential properties to the north across Scenic Crossing, the future single-family residential development immediately across the street and the Wyndham Heights

neighborhood. The applicant has provided decibel documentation from the manufacturer of both the car wash equipment and vacuums. To lessen the noise impact on neighboring residential properties, the car wash structure is proposed to be oriented horizontally with the wash bay exits directed to the west with the common area and residential properties to the north. The highest decibel level is at the west exit where the finishing drying fan would be located. At the wash bay exit, the decibel level at ten (10) feet is 76.0 dB to the west, 64.7 dB from the northwest corner and 55.0 dB from the northeast corner. The technical data value chart found in Figure 2 is for the proposed vacuums and indicates that at 10 feet away that the decibel level is 70 dBs.

The proposed car wash structure will have a minimum required twenty-five (25) foot front yard setback from the north property line along Scenic Crossing and the first vacuum stall will be setback an additional twenty (20) feet as two off-street parking spaces will provide additional spacing. Given that Scenic Crossing has a right-of-way of sixty (60) feet, the closest residential property line would be 85 feet from the car wash structure and 105 feet from the nearest vacuum. At these distances, the decibel levels will be well below the maximum allowed by City code.

DOMINATION BY USE OVER NEIGHBORING PROPERTIES: The applicant states that the car wash would only be automatic self-serve bays with no employees on site except for routine maintenance and upkeep. The times of operation are proposed to be 6am to 10pm daily.

1. **Location, nature, and height of physical improvements:** The proposed car wash structure is approximately 3,500 square feet at 65 feet in length and 51 feet in width and a stated height of no more than 12 feet. The structure is oriented west-east and is comprised of two (2) tunnel bay car washes, one on the north side of the building and one on the south portion of the building, with an equipment room in-between the two tunnels. Each bay and the equipment room are 17 feet in width and 65 feet in length. The site plan shows the structure to be setback the minimum required twenty-five (25) feet from the front property line along Scenic Crossing, 106 feet from Scenic Landing to the east, 82 feet from the private travel easement to the west, and 56 feet from the south property boundary. The site also provides for six (6) vacuums and two (2) dedicated off-street parking spaces to be located along the west property line and one (1) ADA stall near the structure. The six (6) vacuum stalls are 49 feet from the north property line and setback nine (9) feet from the west side property line.

The applicant states that the exterior materials and architecture of the car wash will be consistent with the neighboring Shop Quik and Stone Creek development that are located directly to the south of the proposed site. The development has restrictive covenants from Scenic Crossing Addition that require architectural standards such as a pitched roof and the use of stone or brick. The applicant anticipates the use of stone or brick, and siding material for structure walls and asphalt shingles for the roof.

LANDSCAPING AND SCREENING:

The applicant has not provided a landscaping plan other than the application stating that it will meet City of Manhattan requirements. The site plan only proposes grass/sod to be

utilized. For the provided site plan, the Zoning Regulations would require that at least one (1) tree of two and one half (2 ½) caliper in size for the approximate 2,500 square feet of parking area. No sight obscuring fencing is proposed and it is not required by the zoning regulations.

ADEQUATE PROVISION OF PARKING AND LOADING:

The Zoning Regulations, per Section 7-103(B)(16), require car washes to provide at least four (4) parking spaces for each bay in a self-service establishment, and at least three (3) parking spaces for each 20 linear feet in attendant-operated establishments. Thus, the proposed self-serve automatic car-wash with two bays would be required to provide eight (8) parking spaces. The site layout provides two (2) dedicated regular parking stalls on the northwest corner of the lot and one regular/ADA stall adjacent to the equipment room on the west side of the structure. In addition, the six (6) vacuum stall spaces may also be considered as parking. Including the three (3) dedicated parking spaces and the six (6) vacuum stall spaces, the site has a total allocation of nine (9) spaces. The proposed car wash use meets the Regulations and appears to provide an adequate provision of parking.

ADEQUATE PROVISION OF DRAINAGE, AND OTHER PUBLIC UTILITIES:

The subject property has adequate drainage and existing public utilities that have been reviewed by the Public Works Department.

ADEQUATE PROVISION OF ACCESS:

For visual reference, please refer to Figure 3 below. Access to the site is provided via Scenic Landing to the east and to the west by a private travel easement that gains access from Scenic Crossing to the north. Scenic Landing and the private travel easement to the west will feed into an additional private travel easement that is located along the south property line between the subject site and the Shop Quik development. This south travel easement will provide driveway access to and from the site. The site plan provides a one-way vehicle circulation configuration with vehicles entering from the east side of the lot and forming two queuing lanes, one for each of the bays. Vehicles would then enter the car wash and exit on the west side of the structure and then exit via a driveway on the southwest corner of the lot onto the travel easement. The driveway on the southwest side of the lot does provide two-way traffic for those customers that only wish to utilize the vacuums.

The queuing length for the south wash bay/inside lane is approximately 105 feet and the queuing lane for the north wash bay/outside lane is approximately 145 feet. The proposed queue lengths provide enough stacking for approximately ten (10) vehicles at one time, not including those within the bays, before they would spill into the abutting private travel easement to the south. The City Engineer has reviewed the proposed plan and found it to be satisfactory.

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 TWENTY-FIVE (25) FOOT REDUCTION OF THE MINIMUM REQUIRED TWENTY-FIVE (25) FOOT FRONT YARD SETBACK ALONG THE FRONTAGE OF IVY DRIVE FOR A PROPOSED FENCE TO BE

LOCATED ON A CORNER LOT ON THE NORTHEAST CORNER OF BLUESTEM TERRACE AND IVY DRIVE, IN AN R, SINGLE-FAMILY RESIDENTIAL DISTRICT. (APPLICANT: LAINE AND MELLISSA RUNDAS/OWNER: STEPHEN CHAPES AND LAURINE SYZMANSKI. FILE NO. EXC. 19-048.)

Taylor presented the staff report for the exception at 1939 Bluestem Terrace. Staff report recommended approval of the exception.

PUBLIC COMMENTS:

Hardy opened the floor for public comments:

Laine Rundus, 2017 Danbury Court, said he would like to thank the City staff and the Board for considering their exception. He agrees with the conditions set within the staff report and they would happily abide by them if granted the exception. He wanted to emphasize the reason for requesting the exception is to protect their child from harm. They chose this neighborhood for its dense foliage and want to preserve the character of the neighborhood. Their purpose is to erect a fence as a barrier but not for privacy purposes. Laine said in addition, they desire to preserve all the trees and are more than willing to move their fence a few feet here or there to avoid cutting a tree down.

Cameron Ward, 1929 Bluestem Terrace, said he lives a few doors down from the applicant. When he became aware they wanted to purchase the home, and he found out they have a child, he was happy to speak on their behalf. He said the foliage that is along Ivy Drive is a much bigger nuisance than the fence possibly could be. That very morning he witnessed City crew clearing away tree branches and foliage from the street.

Hardy closed the public hearing.

Hamilton appreciated the neighbor coming out and speaking out in support. She also said she appreciated the applicants for their modest fence proposal. In addition, she is glad the applicant wants to preserve the trees. Hardy agreed and appreciated that it was a minimal fence and that it blends in. He applauded the applicant for preserving the trees as well.

Hardy called to question to approve an Exception to allow for a twenty-five (25) foot reduction of the minimum required twenty-five (25) foot front yard setback located at 1939 Bluestem Terrace, with the following conditions:

1. The proposed fence shall not be located in the utility easement.
2. The Exception shall be limited to the proposed four (4) foot in height aluminum panel fence. No other improvements will be allowed to occupy the twenty-five (25) foot front yard setback along Ivy Drive.
3. The fence shall be maintained in good condition.

Roll call vote was taken; motion passed 4 – 0 – 0.

The Board made the following findings of fact for the EXCEPTIONS at 1939 Bluestem Terrace:

Present Use: Single-Family Residence

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The subject property is in compliance in regards to lot size, proposed setbacks, and lot coverage. The subject property and proposed development is in compliance with all applicable regulations, except for the sought exception request.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The subject property and all adjacent properties are located within the R, Single-Family Residential District. Fencing is uncommon within this area, but homes where fences are located do not stand out against the dense foliage. As shown in Figure 2, the area in which the proposed fence will set is heavily wooded, therefore the fence will likely blend in with the dense trees and bushes. The proposed 4 ft. high fence is unlikely to be clearly visible to property owners along Ivy Drive. To the west and south of the subject property, homeowners may see a portion of the proposed fencing in the front setback.

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

The proposed structure may encroach upon a utility easement. Along the north side of the property line, there lies a seven (7) foot utility easement. To prevent future problems, city staff recommends approval under the condition that they place the fencing outside of the seven foot easement. The desired fencing is a proposed aluminum panel fence that rises four feet high. The proposed fence, as shown in Figure 3, is unlikely to cause any sight triangle obstructions and will be located within existing foliage. The property across the street at 1948 Bluestem currently has a white panel fence on their property that does not stand out, while various property owners have some amount of fencing on their property. The addition of the proposed fence will not be out of character with the current neighborhood.

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

The strict application of these regulations are unreasonable, and unnecessary when all facts and circumstances are considered. The shape of the lot creates a unique hardship on any owner that desire to have a fenced in property. Adhering to the strict application of the regulations would result in a fence containing approximately 2,557 square feet, compared to 6,362 square feet proposed by the applicant, as shown in Figure 4. The topography of the subject site also varies within the rear yard. This produces a steep decline that creates difficult terrain.

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

NEXT MEETING: Wednesday, August 14, 2019

Respectfully submitted by,
Dre'Vel Taylor, Planning Intern