

MINUTES
MANHATTAN BOARD OF ZONING APPEALS

City Commission Room, City Hall
1101 Poyntz Avenue

Wednesday, September 11, 2019

7:00 p.m.

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

MEMBERS ABSENT: Angie Danner

STAFF PRESENT: Barry Beagle, Senior Planner; Samantha Estabrook, Planner I; Dre'VeL Taylor, Planning Intern; Zachary Rossow, Planning and GIS Intern

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

Staff called roll and a quorum was established.

1.1 **CONSIDER THE MINUTES OF THE August 14, 2019, BOARD OF ZONING APPEALS MEETING.**

Hamilton moved to approve the August, 2019 minutes with minor corrections. **The motion was seconded by Wigfall and approved with corrections; 4-0.**

2.1 **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 FRONT YARD SETBACK FROM 25 FEET TO 0 FEET ALONG VERMONT STREET TO ACCOMMODATE AN EXISTING SIX (6) FOOT SCREEN FENCE INSTALLED ON THE PROPERTY LINE FOR A RESIDENTIAL PROPERTY IN AN R, SINGLE-FAMILY RESIDENTIAL DISTRICT LOCATED AT 2818 OREGON LANE. (APPLICANT/OWNER: RAELENE WOUDA AND DANIEL UPHAM; FILE NO. EXC-19-056)**

Beagle presented the staff report for the EXCEPTION at 2818 Oregon Lane with staff recommending denial of the request to allow for a 25-foot reduction of the required 25 foot front yard setback for a constructed fence.

Fisher asked how far away the blue line, front yard setback in the presentation, was from the west side of the house. Beagle said the house is approximately at the 25 ft. distance from the front property line.

Hardy opened the floor for public comment:

Daniel Upham, 2818 Oregon Lane, said prior to erecting the fence, he conducted research of the zoning regulations, contacted Code Services, and had a surveyor locate the property pins. He said after speaking with Code Services they said he was cleared to construct. During his research into the regulations, Upham said it was not clear to him at that moment that corner lots have two front yards. He explained their property has drainage issues and the fence was constructed in accommodation of that. He states that they did remove an old growth tree due to it was dying and needed removal; he coordinated this with the city forestry department. Upham said there are other fences in the neighborhood, specifically along Browning that have privacy fences as well. He said he thought they had done their due diligence and had erected the fence according to regulations and that several neighboring properties have fenced erected. Upham said he will lose 1955 square feet of recreational grass area, that figure of loss is more than what is left if the fence is moved from 0 feet setback to 25 feet. The size of the grass area in the rear yard is about 1750 square feet if the setback is not approved. He would appreciate approval because the water flow from rain goes directly onto the 25 feet.

Fisher asked about the rear yard coverage discrepancy between the staff report and the figure stated by the applicant. Upham also relayed a list of corner lot properties with fences in the neighborhood.

Taylor Brant, 2821 Virginia Drive, lives in the neighborhood and their property adjoins the applicant's backyard. In the neighborhood there are multiple apartments and Airbnb's. Due to the topography of the land, Brant said the water from their yard flows directly into the applicants.

Raelene Wouda, 2818 Oregon Lane, wanted to emphasize that most of the arguments against the fence are based on aesthetics. Wouda said they plan on landscaping and staining the fence, but were instructed to wait 3-4 months prior to staining. They have currently postponed landscaping due to receiving the violation. She said the main reason they constructed the fence was due to safety concerns. There is only one property that faces the fence and she does not believe their long term landscaping plans would negatively affect the character of the neighborhood. Wouda responds a few questions about tree impact that if the fence is constructed at 25' setback along the front yard the largest tree in the vicinity of that line, the root system will be affected. In addition, she states that along the back property line the fence construction at the allowed setback would immediately run into a redwood tree.

Mike Dodge, 3904 Erin Circle, a frequent visitor of the neighborhood, said a ruling approving the fence is great for the family, but completely changes the character of the rest of the neighborhood. He said that 25 feet is a great deal when the property owners who face the fence have to see that for the rest of their stay. He asked that the Board uphold and enforce the current codes.

Hamilton asked the applicants how moving the fence would impact the trees in the rear yard. Wouda said moving the fence to the 25 foot mark would have the fence running into either the tree or roots of the tree.

Hardy closed public comment and opened for Board discussion:

Hardy noted that there were three written communications received regarding the application. Two speaking against and one in favor.

Fisher asked for more clarification on the square footage of the rear yard if the fence is moved and asked about the number of present fences constructed. Beagle said that utilizing GIS, resetting the fence at the 25 foot setback, measured from the foundation of their house, would leave approximately 4,000 square feet. Beagle said he has no knowledge of the other fences in the neighborhood at this moment. Hamilton said she drove through the neighborhood previously this day and did see a couple. She said they are typically shorter, or open, or grandfathered. She noted that being on a busy street such as Browning is much different than being on a minor street with low traffic such as Oregon Lane.

Wigfall said that looking at the fence, she believes that there are alternative options such as a shorter fence or different type of fence. She also questioned whether the applicants had ever considered constructing the fence somewhere between the zero and 25 foot setback which would have taken that walled effect back. Hardy said that viewing this application that there are alternative options that could have been explored. While the standards dictate a 25 foot setback, the Board exists to remediate that according to the standards. He believed that pushing the fence back would allow the applicant to maintain considerable yard and provide for landscaping.

Hamilton said that the property would still have considerable yard if the fence were pushed back according to regulations. She said that the primary reason for the fence appears to be safety concerns. The solid fencing is a choice and is allowed but they don't get to bring that front and center to the neighborhood. While viewing the neighborhood, she saw other fences but they were more open or had offset slats to allow light to show through. While there is only one house that faces the fence, she does not find that insignificant. She appreciates the plan for landscaping because that will soften the impact on the neighborhood but does not see justification for bringing the fence out along the property line. Hamilton said she regrets the City does not have a more direct and clear explanation of front yards on corner lots. Wigfall responded to the applicant's mention of the proposed future zoning ordinance and clarified that this Board is bound to existing regulations and that they cannot base their findings on something that does not exist.

Hardy closed the Board discussion.

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

The Board made the following findings of fact for the EXCEPTION at 2818 Oregon Lane:

Present Use: Single-Family Residential

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The existing structure is in conformance with all applicable zoning regulations. The only non-compliance on the property is the recent fence built along the west side of the property, along the property line.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The recently constructed fence will not encroach upon neighboring property but is out of character with the neighborhood. The setback regulations for fences is not meant to prevent homeowners from establishing enclosed backyards, but to prevent owners from building privacy fences along the streetscape, which creates a walled effect on the neighborhood. The applicant mentioned drainage issues as reason for the location of the current fence, City staff find no significant impact on drainage in regard to the location of the fence.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The Howenstine Addition was primarily constructed in the 1960's and is characterized by modern single-family houses with expansive and clean front yards. Trees are in abundance and there is an open feel to the neighborhood. Streets are approximately 30 feet in width and traffic is sparse. There is good lighting and flow of air due to the design of the neighborhood. The construction of a fence is not out of character with the rest of the neighborhood as fences are relatively common. In this case, it is the fences location and its screening function that is out of character with that of the neighborhood, giving off an impression of a large wall in the middle of the neighborhood. Most of the corner lots within an area that have fences along their property line but are along a major collector street. Corner lots on local streets generally follow the open theme of the neighborhood. All but one other fence in the neighborhood adheres to the twenty-five foot front yard setback requirements.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: Staff find that repositioning the fence to the required twenty-five (25) feet would perform the same functions that the applicant has sought, while maintaining a back yard of approximately 4,000 sq. ft. for recreational space. Staff finds there are alternative approaches to provide for the safety and well-being for their family without disrupting the character of the neighborhood.

2.4 **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 FRONT YARD SETBACK ALONG ELM STREET FROM 25-FEET TO 0-FEET TO INSTALL A SCREEN FENCE ALONG THE FRONT PROPERTY LINE FOR A PROPERTY IN A C-5, HIGHWAY SERVICE COMMERCIAL DISTRICT LOCATED AT 2121 ELM LANE. (APPLICANT/OWNER: ROCK SPRINGS RENTALS, LLC, ROGER SEYMOUR; FILE NO. EXC-19-057)**

Rossow presented the staff report for the EXCEPTION at 2121 Elm Lane with city staff recommending approval of the request to allow for a 25-foot reduction of the required 25-foot front yard setback in a C-5, Highway Service Commercial District to construct a screen fence.

Fisher asked for confirmation that this application for EXCEPTION is a repeat of the 2016 request on the subject property. Rossow responded in the affirmative.

Hardy opened the floor for public comments:

Roger Seymour, 1181 Rock Springs Lane, said he is present to represent as a member of the LLC that owns the property. He discussed the various uses of the property and some of the adjacent lots. He said that this property would be a good case for grandfathering that would exempt the property from fencing. The reason he did not complete the fence in 2016 is due to a significant personal injury. The applicant discussed that there will be a significant chance to harm the tree sitting at 25 feet along eastern side of the property if the fence is required to go to the 100 feet as recommended by the community development office; he therefore requests that the requirement is changed to 25 feet instead of 100 feet. He asks for approval on this item so he can complete the fence.

With no further public comment, Hardy closed the public hearing for board discussion.

Hamilton states she is concerned about the tree but states that 25 feet on the east side is not enough fence line. Fisher asks for a few images to be shown in order to confirm her understanding of the site plan. Wigfall states her concern for the tree and would like to see that it is protected. Hamilton says the applicant has the right to have the storage, that the neighboring properties are still rentals or housing and asks if there can be a modification to the condition and proposes a modification. The modification that the fifth bullet of staff recommended conditions is modified so that the fencing is extended to meet heavy vegetation at a distance needed but that the tree is not impacted; Hardy, Wigfall, and Fisher agree to this change.

Roll call vote was taken; motion was approved with conditions by a vote of 4-0.

The Board made the following findings of fact for the EXCEPTION at 2121 Elm Lane.

PRESENT USE: Maintenance/Storage

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject property is in non-compliance with C-5 District, Section 4-205 (E) (2) and (5) zoning regulations requiring screening. The subject property however, does comply with all other applicable zoning regulations. The applicant currently uses the subject property for open storage of equipment, vehicles, and excess materials. Code Services Department ordered the applicant to bring the subject property into compliance with applicable zoning regulations by installing a 6-foot or greater privacy fence that properly screens any open storage use on the property. This fence would prevent view from the surrounding residential uses, in order to comply with zoning regulations. Due to the change in elevation at the rear of the property, the fence needs to be built at the front yard setback of zero feet, which is the reason for this **Exception** request.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject property is zoned C-5 Highway Service Commercial District, which is somewhat unusual for this neighborhood because it is the only C-5 zoned property in the Westwood Addition (Figure 1). The reduction of the front yard setback would have little effect on adjacent properties. There are no sidewalks along Elm Lane. The proposed fence would have little effect on adjacent properties. The purpose of the fence is to screen the storage of vehicles, machinery, and materials from nearby residential properties. The proposed fence is a significant aesthetic improvement. The Community Development Office recommends an extension of proposed fencing along the eastern lot line from 25 feet to 100 feet to comply with zoning regulations. This extension shall connect to existing heavy vegetation to limit visibility of the open storage use.

The applicant owns the property directly to the east of the subject property, as well as the two vacant lots directly to the west of the subject property. The properties directly to the north and east of the subject site are zoned R, Single Family Residential. The properties directly to the south, across Fort Riley Boulevard, are zoned C-5 Highway Service Commercial District and I-3 Light Industrial District. The general neighborhood contains a mix of zones, including C-5 Highway Service Commercial District; R, Single Family Residential District; R-2, Two-Family Residential District; Planned Unit Development (PUD); and C-1, Restricted Business District. Land uses reflect this mix of zones. The neighborhood contains a mix of single family and two-family residential uses, commercial uses, and light industrial uses.

The site plans shows two side gates along the eastern and western fence lines. Additionally, as proposed these side gates along the lot line would allow foot traffic directly onto residential properties. However, a fence may be constructed along the zero foot setback lot line. This side yard fence is allowed by zoning regulation 5-103 (B) (2).

5-103 (B) (2) Minimum Side yard: Generally three (3) feet, except that fences and trash receptacle screening enclosures may be as close as zero (0) feet

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed front yard setback to accommodate fencing along the property line would have little, if any, effect on public health, safety, morals, order, convenience, prosperity, or general welfare. The fence would screen the storage of vehicles, machinery, and materials as well as create a safer environment in the neighborhood by securing the equipment and tools behind a privacy fence. The fencing and gate access will not interfere with vehicle traffic along Elm Lane.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The City of Manhattan Code Services Department has ordered the applicant install the proposed fence in order to comply with zoning regulations. The proposed fence will screen and secure the equipment and vehicles from view of the neighborhood, which is primarily residential. Additionally, considering the slope of the lot and the placement of the existing structure, the front yard area is the most logical place to use as storage. The lot slopes to the south and behind the structure, there is a sharp drop in elevation down to Fort Riley Boulevard. Considering all these facts and circumstances, the strict application of the regulations seems unreasonable.

2.5 **A PUBLIC HEARING TO CONSIDER AN EXCEPTION UNDER THE TERMS OF THE MANHATTAN ZONING ORDINANCE OF THE CITY OF MANHATTAN, KANSAS, TO 1) EXCEED THE MAXIMUM DRIVEWAY WIDTH FOR A FRONT-LOADED, ONE-CAR ATTACHED GARAGE FROM 24-FEET TO 27-FEET; AND, 2) REDUCE THE MINIMUM FRONT YARD AREA LANDSCAPED OPEN SPACE REQUIREMENT FROM 75% TO 31.1% FOR A PROPERTY IN AN R-2, TWO-FAMILY RESIDENTIAL DISTRICT LOCATED AT 432/434 BUTTERFIELD ROAD. (APPLICANT/OWNER: MANHAPPINESS, LLC, TROY AND DIANA PFAFF; FILE NO. EXC-19-058)**

Beagle presented the staff report.

City Administration recommends to disapprove the Exception to exceed the maximum driveway width by six (6) feet; and, to reduce the front yard area minimum landscaped open space requirement from 75% to 31.1%. If denied, the Violation Notice that was stayed ending the outcome of the applicant's exception requests will be reinforced.

Fished asked for confirmation if the original driveway width was 22 feet; that the applicant was approved or allowed to widen the driveway to 48 feet but the driveway was built to 54 feet wide? Beagle responded in the affirmative.

Hardy opened the floor to public comment:

Troy Pfaff, 305 N Rainbow Lakes Pl, state he is ~~the~~ part owner of the subject property. He mentioned that he did not intend to cause a problem. The applicant thought he was

within the limits of the law by confirming with his realtor about widening the driveway before buying the property. He is not from Manhattan; he hired a contractor and asked the contractors to confirm that the driveway width can be expanded and how far. The contractor poured concrete on 14/15 May 2019 as instructed and to specification the contractor thought was within the law. The applicant is trying to eliminate parking issues along Butterfield Road, the previous owners did get parking tickets along the street because the mailboxes are on the same side as parking. He designed the driveway to accommodate more cars than before to alleviate tenants walking from neighboring streets or parking in front of mailboxes. The applicant did not add concrete to reduce the amount of green space, or waste money. He states that the contractor informed him that he is "good to go." A member of code services stopped by the property. The code services member checked with his supervisor and informed the contractor that he is good to go on the 54-foot wide driveway. The rain floods the street, and even goes beyond the curbs and sidewalks due to drainage issues. The applicant has statements of support for keeping the driveway as it is.

Fisher asks is it more desirable to have a front yard that is cement versus walking down street to park your car. Troy says it is a necessity for safety and convenience because the driveway is so much shorter than other driveways and the applicants are able to park off the street. The water drainage is affected by neighboring properties grass clippings.

Douglas Bell, 2521 Candlecrest Cir, said that he is the contractor that poured the concrete driveway. He states he poured concrete in May 2019 not February 2019. He said that a Code Services employee stopped by the subject property and said that the driveway may not be correct. Bell was setting the forms during this interaction and said let me know I will keep forming, concrete was on the way later that day. He said that the Code Services employee returned a while later and said they were good to go. One-hour later concrete was poured as planned. Troy Pfaff notified him in June 2019 that there was an issue with the driveway. Bell said he was not informed at any time to move the forms for the driveway width. He is a local contractor in the area and known for completing concrete work. He said the neighborhood desires this type of driveway. Fisher asked if he knows code officials. Bell said he does know some officials, he said that a contractor is not required to pull a permit for work unless the work requires entry into the right of way. He does not typically interact with code services unless it is for foundations and other larger projects.

Jamie Griffin, 436/438 Butterfield Rd, states that she is a property owner next door to the subject property. She purchased the property in the spring of 2019 as well and rents out the property. The ATA bus added a stop in front of her property, which caused a loss in available parking near her driveway. She moved her mailboxes to the left of the ATA bus sign to accommodate her tenants. She said that her tenants are typically forced to park in front of other properties along Butterfield Rd or south along a different neighborhood road. She said that her issue is not necessarily the parking but the drainage during rain and snow periods causing flooding into parked cars. She said that she is in

full support of the subject property driveway width plan and she hopes that his exception is approved.

Roger Seymour, 1181 Rock Springs Lane, said one of his rental properties was flooded during the 2018 Labor Day flood, the city does a poor job of controlling run off water. He said he met a farmer that once farmed the area around Butterfield Rd, which stuck tractors in the swampy soil around the subject property 30 years ago. He said that green space requirement in the city ordinance is good, agreed that the driveway plan is good for that property, but it negatively affects everyone else. Seymour said that the applicant should have done their research prior to purchasing the property, he does not buy a property unless it has on-site parking equivalent to one spot per bedroom. The city should correct drainage, run-off and flood issues in this neighborhood but should not approve this exception because it harms the water control issues already present. The applicant for 432/434 Butterfield is attempting to do the right thing to correct their bad situation.

Diana Pfaff, 305 N Rainbow Lakes Pl, said she is one of the owners for the subject property. She said that they had a water problem before they added the 3 feet on both sides of the driveway; the tenants for 7 years have had water problems the whole time. She states the USPS employee liked their driveway; it helps resolve parking for their lot, neighboring lots, and minimal impact to the area. Their driveway is extremely short compared to the neighboring properties. She hired a contractor because she does not know the rules, she is not from Manhattan, she is from Wichita, and is not aware of the issues going on in Manhattan. Diana Pfaff states that the realtor checked with the city and said it is okay to widen the property; Troy and Diana Pfaff bought a property for their children to attend K-State in the spring of 2019.

Hardy closed the public hearing and asked for board discussion.

Hamilton states that the board agrees and believes that the contractor did not know he was building a driveway in non-compliance with the city zoning regulations. Hamilton says the subject property was once a Planned Unit Development and had more restrictions and was later changed to its present day use of R-2 (allows 24 feet on each side/each property). Hamilton states the driveway is very short which is unique compared to the others but it is not enough to allow for an exception. Fisher said this is a possible slippery slope case and doesn't want to allow for everyone to do the same. Hamilton suggested to the applicants, that they communicate with the city and USPS to move the bus stop or mailboxes to accommodate cars. Hardy agreed with previous comments by Seymour that adding concrete exacerbates the flooding problem. Hamilton commented that the neighborhood was designed to balance green space and concrete. Hardy said that some of the items brought up tonight while important are not dealt with by the BZA, they focus on the subject property and the standards of an exception for the driveway. Hardy states that the standards are not met in this case. Wigfall said that inconvenience to move cars does not meet the standard for an exception but suggested

the USPS consolidated box because it is out of the BZA authority. Fisher said that Manhattan has a history for switching the parking to the other side of the street to alleviate issues. Hamilton and the board agreed that the applicant and contractor were not willfully ignoring the rules of zoning regulations and the applicant was acting in good faith. Hardy and Wigfall recommended that code services and community development document their conversations formally and ensure issues are resolved by the right person.

Roll call vote was taken; motion was denied by a vote of 0–4.

The board made the following findings for the EXCEPTION at 432/434 Butterfield Road:

PRESENT ZONING DISTRICT: R-2, Two-Family Dwelling District

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject property is part of the Butterfield Addition, an approximate 54-acre residential community in northeast Manhattan

that was established in the early 1970's and zoned the PUD, Planned Unit Development District. In 2002, the last piece of the Butterfield development was final platted, Butterfield,

Unit Nine. The subdivision consists of eight (8) paired lots (Lots 1A and 1B, 2A and 2B, 3A and 3B, and, 4A and 4B) intended for construction of two-unit townhomes (single family attached dwellings). On November 19, 2002, the Manhattan City Commission adopted Ordinance No. 6305 reclassifying Butterfield, Unit Nine, from PUD to the R-2, Two-Family Residential District consistent with their intended improvement. The existing two-unit

townhome occupying Lots 3A and 3B is compliant with the lot size requirements and bulk

regulations of the R-2 District, except for the requested exceptions.

PROBABLE EFFECT ON ADJACENT PROPERTIES: In the subject case, the object of the requested exceptions already exists. As noted, the applicant through their contractor had the opportunity to comply with the maximum driveway width requirements at the time the driveway extensions were being formed and before they were poured. As a result, the poured extensions not only exceed the maximum driveway width, but results in less front yard area landscape open space than is required to consider a proposed expansion. As a result, the total combined width of the driveway, at 54-feet wide, takes up approximately 68.8% of the front yard area, whereas 75% of the front yard area is to remain as landscaped open space. With an overall lot width of 71.50-feet (Lots 3A and 3B), this leaves a grass strip of only 8.75-feet to either side of the expanded driveway. Accordingly, the paved driveway takes up 75.5% the width of the subject property. With parking permitted on only one side of the street, the applicant contends the exception will enhance nearby property by providing additional space for on-street parking, create a safer living environment, assist with drainage during on-street flooding, aid in postal

deliveries, and beautify appearance.

To put this request in perspective, Sec. 7-102(C)(3)(a)i. permits residential structures with front-loaded one-car attached garages to have driveways that are up to 24-feet in width. In this case, as single-family attached dwellings, each dwelling may have a driveway that is 24-feet wide for a total combined width of 48-feet. As originally constructed, the single-family attached dwellings of 432/434 Butterfield Road share a common driveway approximately 22-feet wide, 11-feet per side. Pursuant to the regulations, the applicant would be permitted to expand the original driveway by 26-feet, 13-feet per side resulting in an overall width of 48-feet. As expanded, however, the applicant requests an exception to increase the maximum driveway width from 24-feet to 27-feet per side, or six (6) feet overall.

To satisfy this standard, the Board needs to determine that this request will not cause a substantial adverse effect on neighboring property. Realizing the applicant is entitled to construct a 48-foot wide shared driveway, at issue is the incremental impact of allowing an additional six (6) feet in width to accommodate the existing 54-foot wide driveway. Within the context of a low density residential neighborhood, there would be a reasonable expectation that neighboring property would include a driveway but not to the extent that it would consume the majority of the front yard. The principal impact on neighboring residential property associated with allowing an extra-wide driveway is its visual impact of replacing lawn area (greenspace) with pavement along with the unintended consequence of increased storm water runoff across neighboring residential property. In this case, however, the applicant has supplied a statement signed by the owners of the two-unit townhomes on either side of the subject property indicating they do not object to the requested exceptions. It is understood there are parking limitations considering on-street parking along this section of Butterfield Road is restricted to one side of the street. However, these are single-family attached units that will be limited to single-family occupancies. Each of the townhomes on Butterfield satisfy their requirement for off-street parking. As currently permitted, the maximum combined driveway width could be expanded to a 48-feet, 24-feet per side that could accommodate up to eight (8) vehicles parked in the driveway, four (4) vehicles per side. The original 22-foot wide driveway could accommodate up to four (4) vehicles, two (2) per side. In light of potential impacts on neighborhood character as well as increased impervious surface leading to increased storm water runoff, granting the exception is not viewed as being compatible with area residential property.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed exceptions would permit the existing non-conforming 54-foot wide driveway serving 432/434 Butterfield Road to remain in place. The circumstances surrounding this request make it difficult to assess this standard knowing that this situation could have been avoided had the applicant's contractor reformed and poured the driveway extensions compliant with the maximum driveway width requirement as they agreed to do. Backing into this request to authorize the

driveway now complete is not the best way to ensure the public health, safety, morals, order, convenience, or general welfare. The concern is that this request, if granted, will not be isolated to the subject property and could compel others to do the same leading to an erosion of the traditional front yard landscape along Butterfield Road.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The Zoning Regulations establish various requirements and provisions designed to achieve community goals and objectives and, thus, are to be applied uniformly across all property throughout the community. In this case, the Off-Street Parking Regulations permits each unit of the two-unit townhome to have a maximum driveway width of 24-feet. As the townhomes share a common driveway, the total combined driveway could be a maximum width of 48-feet. Under most circumstances, especially realizing the shared driveway is serving two (2), single-family attached dwellings, a 24-foot wide driveway per dwelling appears to be more than ample.

As noted, the applicant's contractor was made aware of the maximum driveway width at the time it was being formed and before it was poured. Despite informing the City inspector the driveway would be reformed to comply with the maximum driveway width, it was poured at the wider width. There was an awareness of the situation in the field before the decision was made to pour the driveway.

If the intent is to accommodate additional parking in the driveway and not in the street, widening the driveway to conform to the maximum driveway width would accomplish that. There does not appear to be any reason to grant an additional six (6) width of width when the driveway can be legally widened to 48-feet and accommodate additional cars parked in the driveway consistent with the applicant's objective.

Hardy adjourned the meeting at 8:14 p.m.

NEXT MEETING: Wednesday, October 9, 2019

Respectfully submitted by, Zachary Rossow, Planning and GIS intern