

**MINUTES
MANHATTAN BOARD OF ZONING APPEALS**

City Commission Room, City Hall
1101 Poyntz Avenue

Wednesday, November 13, 2019

7:00 p.m.

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

MEMBERS ABSENT: Harry Hardy, Chairperson

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

Hamilton 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 October 9, 2019, BOARD OF ZONING APPEALS MEETING.

Wigfall moved to approve the October 9, 2019 minutes. **The motion was seconded by Danner and approved; 4–0.**

2.1 A PUBLIC HEARING to consider a VARIANCE under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow a reduction in the minimum lot size requirement from 10,000 square feet to 6,854 square feet; and, to allow a reduction in the minimum lot width requirement from 75-feet to 46-feet to accommodate conversion of an existing single-family dwelling at 1716 Laramie Street to a lodging/boarding house in an R-1/TNO/UO, Single-Family Residential District with Traditional Neighborhood and University Overlay. (Applicant: Working Men of Christ, Inc., Spencer Lindsay; Owner: Derek and Cory Richards; file no. VAR-19-072)

2.2 PUBLIC HEARING to consider an EXCEPTION to the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow a reduction in the required amount of off-street parking from seven (7) to five (5) spaces in conjunction with the conversion of an existing single-family dwelling at 1716 Laramie Street to a lodging/boarding house in the R-1/TNO/UO, Single-Family Residential District with Traditional Neighborhood and University Overlay. (Applicant: Working Men of Christ, Inc., Spencer Lindsay; Owner: Derek and Cory Richards; file no. CUP-19-071)

Beagle presented the staff report for the VARIANCE at 1716 Laramie Street to allow a reduction in the minimum lot size requirement from 10,000 square feet to 6,854 square feet; and, to allow a reduction in the minimum lot width requirement from 75-feet to 46-feet.

City Administration recommends disapproval of the requested VARIANCE.

Beagle presented the staff report for the EXCEPTION at 1716 Laramie Street to allow for a reduction in the required amount of off-street parking from seven (7) to five (5) spaces in conjunction with the conversion of an existing single-family dwelling to a lodging/boarding house.

City Administration recommends disapproval of the requested EXCEPTION.

Beagle comments that the VARIANCE AND EXCEPTION must be approved in order to consider the CONDITIONAL USE agenda item 2.3 at 1716 Laramie Street.

City Administration recommends disapproval of the CONDITIONAL USE based on the preceding findings.

Danner asks for clarification on the variance and what type of building permit may be required. Beagle answered that any specific permitting requirements will be a subsequent process through Code Services following BZA action. He is not sure on the exact permits that may be required at this time. He mentioned that the parking lot in order to comply with this requested use must be paved.

Fisher asks for clarification on an increase in land use mentioned in the staff report but confirms there is no proposal to take a larger portion of the footprint. The request is to use the building as it is currently designed. The house is non-conforming on the side yards, and 4 feet next to the lot next door (apartment building neighbors the subject property). Beagle answered that the increase in land use concerns an increase in intensity by the conversion of the existing house from a single-family dwelling to a lodging/boarding house. Beagle noted the apartment building next door was built/modified circa 1972 and the history of the lots in the area surrounding the subject site date back to circa 1912 with the plat of Ingalls Addition. There are a series of slightly wider lots through the central portion of the original subdivision.

Fisher asked how long the subject property has been a rental unit? Beagle answered that he is unsure on the rental history but that it has only been a single-family home for some time. Fisher followed up with, how many bedrooms are in the home? Beagle answered, five and the applicant seeks to maintain five.

Beagle added that the maximum number of unrelated individuals that can occupy a single-family dwelling is 4. The family (blood related) maximum occupancy rate is unlimited.

Danner asks if that 12 unit apartment building next door had changed zoning over the years? Beagle answered that the whole neighborhood has changed throughout the years from single/two family district to multi-family and then returned to R-1 (as it is today).

Hamilton opened the floor for public comment:

Spencer Lindsay, 1716 Laramie St, represents Working Men of Christ and is a member of the discipleship team. The team helps the students learn how to budget, landscaping, bible study, partnerships, and discipline. The program is very successful across other major cities in Kansas. Lindsay mentioned the specifics that happened in the Topeka house and other assistance the city offered and that his group has been looking for a house for over 5 years. Their program has an amazing track record of success compared to the national average.

Hamilton comments that there is extremely strong documentation on the successful track record of the organization and impact it will have on the community. Hamilton reaffirms that the requests for VARIANCE and EXCEPTION must address the standards listed in the bylaws; specifically, the VARIANCE and lot size requirements necessary. Hamilton asks the applicant if he would like to address those specific requirements. Lindsay stated that the members following him can address those better than he can.

Fisher asks if he can clarify the parking situation. Lindsay confirms that the students are provided transportation during the whole process and will not have a vehicle; the total vehicles will not exceed 1-3 (staff personal vehicles and organization van).

Wigfall commented that all members of the public please sign in and state your address.

Vern Henricks, 3508 Vanesta Drive, Greater Manhattan Community Foundation President, agrees with the program and employs some of the members of the program. The city needs to find a way to help this program for a better tomorrow, support the program, and find a way to complete this project.

Johnny Taylor, 3312 Newsberg St / 4620 Eureka Dr, Flint Hills Job Corps representative for the last 24 years, discussed the various types of offerings available at his organization and related several examples of successful people in the program and heartbreaking stories.

Hamilton mentions again the need to discuss the standards for a VARIANCE specifically and there needs to be valid reasons offered in support of the VARIANCE for the BZA to consider this subject site as acceptable.

Ben Flowers, 732 Elling Drive, addressed the specifics to the VARIANCE. He is mentoring one of the students in the program, and helped get this process started for the city. He mentions that initially it was just a CONDITIONAL USE and now it requires a VARIANCE and EXCEPTION. He mentions that new property must meet characteristics designated in the new use. The density of the property will not increase, the students will not have a vehicle (he will even write it into the proposal). He would like clarification on why a setback reduction was approved next door. Flowers commented that he wants to ensure that the home is operating legally unlike most of the homes near it (which commonly exceed 4 non related occupants).

Hamilton comments that there is a large learning curve when it comes to the zoning regulations, she can understand there is some confusion as he goes through the process. Beagle commented that Flowers has been incredibly helpful and agile through this whole process. The Working Men of Christ also was very responsive.

Beagle commented that he initially was focused on the CONDITIONAL USE and didn't realize a VARIANCE or EXCEPTION would be required due to the nature of the zoning regulations. Beagle discussed all of the conditional use authorizations within an R-1 district.

Derek Richards, 321 N. 14th St, said he is the property owner for the subject property, and he owns the property next door, a few blocks down and a few others throughout the city. Richards wants to improve the neighborhood. He consistently earns \$2,200 a month for the last 5 years on the property; he does not intend to make more money by this project. He will earn less income through the program. He and a landscaper have already planted new grass on the property and the neighboring property. He mentioned that the 1700 block has 2 homeowners and 20 rentals, and referenced various other sections of the city with high rentals. Richards wants to ensure this project happens; parking is not going to be a problem.

Fisher, asked for clarification on the number of owner/rental along 1700 block and if any home owners attended his neighborhood meeting? He answered 2/20 and that none of those did but a lady from Fairchild did attend. Fisher asked for clarification on the expected rental income with the new use. Richard responded that the "students" of the program even through there are 9 are charged a lesser rate than the market rate.

Hamilton mentioned to Richards that if he added the lot next door to the subject site the VARIANCE would not be needed because the lot size requirements would be met. Richards acknowledged. No further questions for Richards.

Barry Park, 4869 Tall Grass, is the pastor for University Christian Church, and wants the board to consider the family unit of these gentlemen as closer and more like a family so it would allow 9 people. The children are these students in the program, it is a program designed to save these guys' lives who go on to help the community.

Tyler Hollen, 709 Pecan Circle, is a representative of Frontier Property Management and has two clients that own property in this area (1709 Laramie and 1719 Laramie). Those two clients fully support this program; this proposal has zero impact on the livability, parking, or any other issue of the area. Hollen mentions that the board should consider a 400 square foot per occupant in the apartment building next door compared to over 600 square foot per occupant in the subject property makes this a better use of resources.

Fisher asked why would his clients care about the application? Hollen responded that his investors are concerned about vacancies and property values. This application is only seen as a positive for the rental market in general.

Danner asked if in his personal opinion there are often properties exceeding 4 non related occupants in this area? Hollen answers in the affirmative.

Caleb Whitehouse, 121 N 17th Street, speaks highly of the character of Derek Richards, who is doing this to help the men in the program not for profit and he understands that the lot size requirements are in place for a reason.

Chad Wornstad, address undiscernible, has been a resident of Manhattan for 18 years, and he reached out to Spencer Lindsay 8 years ago. Wornstad is a result of a similar program and speaks only to great success of the program. He understands the issues of repeat incarcerations due to personal experience and knows that this house will help these men.

Victoria Sears, 423 N. 9th Street, is a member of the church and knows most of the applicants in this process. Sears discussed the standards required for a VARIANCE.

- A. Subject property should be considered unique because the apartment building next door must have had similar or related circumstances and the application should not be rejected without full knowledge on how the neighboring apartment building was built.
- B. The applicant owns the property next door, the apartment building will likely not be affected, and multiple neighbors are in support of the subject application.
- C. The unnecessary hardship is the effort, thoughts, heartbreak, and continued effort that will need to be exerted to complete this project somewhere else if it is not accepted on this subject site.
- D. The requested VARIANCE will improve the items in this statement.
- E. It's likely that denying this application will further endanger or reduce opportunity of the men in this program or adversely harm them. The young men in this

program are worth an appeal of the zoning regulations.

Beagle mentioned that he presented to the board one letter in support of this application and one letter not in support.

Hamilton closed public comment and opened the board for discussion

Fisher comments that the EXCEPTION is a not an issue because they meet the standards required with the intended use of parking. Danner agrees.

Hamilton agreed that the EXCEPTION is not an issue.

Fisher commented that the group is operating more like a family than normal non related occupants, the house will not be changed to initiate the project and the lot with 9 occupants based on the use is not see a significant impact on the area. The side yard was reduced prior to ownership, the structure already has 5 bedrooms, and the applicant did not request a reduction of zoning to R-1. Fisher does support passage of the VARIANCE.

Danner mentions that the subject property is unique because most of the neighboring properties are not occupied by the owner. Danner agrees with Fisher's assessment of the other standards.

Wigfall disclosed that she has had contact with the Working Men of Christ and is knowledgeable about this application. Wigfall does not have an issue with the parking. Wigfall agreed that the house will operate more as a family unit but is less convinced that this use of "lodging and boarding" is correct but she understands that is the city's only option for classification at this time. Wigfall has not decided on her decision at this time.

Hamilton commented that the board is unable to recognize the nine (9) occupants of the home as a family because the zoning regulations defines it as a blood related and a non-family unit may only have a maximum of 4 non-related occupants. The BZA is unable to redefine any regulations mentioned. Hamilton comments that conditional uses are utilized as a relief mechanism for zoning if needed not to increase the occupancy rates. Hamilton agrees with Beagles recommendation of additional analysis or corrections should be researched on classifications of this type of intended use. Hamilton agrees that the side yard isn't much of an issue. The requirement is 75' and it is difficult to justify this reduction to 46'. She is not able to rationalize the minimum lot size requirement.

General board comments on the number of people in the program, conditional use (regardless of subject site) and the zoning regulations don't fit this exact use.

Danner comments that there is ample justification of the uniqueness of the property, program, and situation to justify the VARIANCE.

Fisher comments that the lot and building is not changing, vehicle traffic will be reduced, and this makes it unique.

Hamilton comments that we cannot consider the ownership and other characteristics mentioned in the application for a VARIANCE. The application must take into consideration any unique conditions associated with the property.

Beagle mentioned that the status of ownership or owner occupied cannot be considered. The CONDITIONAL USE and EXCEPTION may only be granted if a VARIANCE is passed. The condition has to be within the standards of a VARIANCE as defined. The uniqueness must relate to the property only not any other circumstance. The denial of a VARIANCE does prevent the use of this property as a single family home.

Hamilton comments that the property is not unique. The VARIANCE will not affect nearby property owners, nor will denial present unnecessary hardship on the owner, an approval will enhance the public health, safety, morals, order, convenience, prosperity, or general welfare of the area, and approval of the VARIANCE will negatively affect the general spirit and intent of zoning regulations.

Fisher asked for clarification on how a VARIANCE remains with the property. Hamilton explained that the property, if granted a VARIANCE, will act similar to a legally non-conforming and remain with the property. Beagle provides additional clarification.

Beagle commented that the VARIANCE is meant to grant relief in circumstances where there is a unique condition associated with the property and unless relief is granted, the property owner would suffer an unnecessary hardship. The condition must relate to the property itself and not any circumstance of the applicant. Essentially, granting a variance would allow property to be used for its intended use which would otherwise be denied because of a unique condition associated with the property.

Hamilton closed the board discussion and called the question for all three requests.

Roll call vote was taken on 2.1 VARIANCE; motion was denied 2-2.

Roll call vote was taken on 2.2 EXCEPTION; motion was denied 2-2.

Roll call vote was taken on 2.3 CONDITIONAL USE as a moot item; motion was approved 4-0.

The Board fully supports this program and hopes that this denial can be resolved in another method. They support the city administration's continual efforts to find a suitable location.

THE BOARD MADE THE FOLLOWING FINDINGS OF FACT FOR THE **VARIANCE** AT 1716 LARAMIE STREET:

PRESENT USE: Single-family dwelling.

CONDITIONS UNIQUE TO THE PROPERTY: The premise of this standard requires a determination be made that the variance arises from a condition which is *unique to the property* in question and which is not ordinarily found in the same zoning district. The *condition*, in this case, is the requirement of the R-1 District that parcels sought for a Conditional Use must be a minimum of 10,000 square feet in size and have 75-feet of lot width. Either a parcel meets these requirements or it doesn't. If less than 10,000 square feet and 75-feet in lot width, a parcel is not eligible for consideration of a Conditional Use.

A reasonable question is why a minimum lot size requirement of 10,000 square feet and 75-feet of lot width when only 6,500 square feet and 50-feet of lot width is required to support a single-family dwelling. The R-1 District, as this area and subject property are zoned, is intended to support traditional low density residential neighborhoods. Within the R-1 District are a class of uses identified as Conditional Uses. These uses are generally considered to be suitable and appropriate within traditional low density residential neighborhoods but have operating characteristics that may or may not be compatible with neighboring property in a given location. It is for this reason that Conditional Uses are subject to a public hearing process by which to determine their appropriateness and compatibility within a particular neighborhood setting. Since supporting a higher intensity of use, they are subject to additional standards governing minimum lot size and minimum lot width in addition to other use limitations. For the R-1 District, Conditional Uses include such uses as *Bed and Breakfast Inns; Group Day Care Centers; Health, Fitness and Service Clubs; Hospitals and Nursing Homes; and, Lodging/Boarding Houses*. Consistent with their use, they are subject to a greater minimum lot size and lot width requirement if for no other reason to provide a greater physical separation to adjoining residential property, and, to meet off-street parking and access requirements.

Looking at the property in a broader context, it is part of a subdivision platted in 1912 under the name of Ingraham's Addition. As originally platted, most lots in this subdivision dimension 50-feet wide by 148-feet deep, resulting in a lot size of 7,400 square feet. At the same time, there are a few lots in the subdivision that are larger and even exceed 10,000 square feet. The subject property was initially platted as a 50-foot by 148 foot lot. At some point in its history, the west four (4) feet was transferred to the adjoining parcel that is now developed as a 12-unit apartment building. As a result, the

subject property has a lot width of 46-feet that is non-compliant with the current regulations that requires a minimum lot dimension of 50-feet in the R-1 District. It is unknown at what point the west four (4) feet was transferred to the adjoining property, and whether it may have complied with the regulations then in existence.

There is no unique condition associated with the property other than it is too small to be considered suitable for a Conditional Use. The subject property, in terms of parcel size and width, is characteristic of other lots in the neighborhood.

PROBABLE EFFECT ON ADJACENT PROPERTIES: At issue is the probable effect of reducing the minimum lot size requirement by 2,930 square feet and minimum lot width requirement by 29-feet to permit the applicant to apply for a Conditional Use to convert the existing dwelling at 1716 Laramie Street to a lodging/boarding house. Absent the Variance, the subject property would be ineligible for consideration of a Conditional Use as it does not meet the 10,000 square foot minimum lot size requirement or 75-foot minimum lot width requirement. In a sense, the probable effect on adjacent properties is the potential impact of the proposed lodging/boarding house on neighboring residential property that would not otherwise be possible based on parcel size. The only reason for seeking a Variance is to make possible for the applicant to seek a Conditional Use. A Variance is not necessary to support and maintain the current use of the property as a single-family dwelling.

As noted, Conditional Uses are subject to a larger minimum lot size requirement partially due to an increased intensity of land use. Such uses typically require more off-street parking than a single-family dwelling and can generate off-site impacts (e.g. noise, activity level, building scale and size, etc.) that may or may not be compatible with neighboring residential property.

UNNECESSARY HARDSHIP FROM STRICT APPLICATION OF REGULATIONS: The strict application of these regulations would allow the subject property to continue to be used and occupied by a single-family dwelling as it has been since 1920. The subject property is currently compliant with the minimum lot size requirement based on its current use as a single-family dwelling. The applicant is not denied an opportunity to use the property in a manner consistent with its existing zoning. As a result, City Administration does not believe the applicant will suffer an unnecessary hardship unless the request for a Variance is granted. The only reason for the request is to accommodate a use not otherwise allowed based on parcel size and lot width.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The public health, safety, morals, order, convenience, prosperity, or general welfare is defined by each community through policies, goals and objectives. These are implemented through tools such as Zoning Regulations that designed to achieve community goals and aspirations. To be effective, the Zoning Regulations are to be applied uniformly across all property in the community. This is especially true for

property that share the same zoning classification. In the subject case, any property sought for a Conditional Use in the R-1 District must be at least 10,000 square feet in size and have 75-feet of lot width. This standard applies uniformly across all property that share the zoning classification of R-1. The applicant, in this case, is not denied all use or even continued use of the property as a single-family dwelling as presently zoned. In the absence of compelling information to the contrary, granting the requested Variance would result in an allowance not equally shared among other properties in the R-1 District. Unequal application of the standards is considered to be at odds to the public health, safety, morals, order, convenience, prosperity, or general welfare.

RELATIONSHIP TO INTENT OF REGULATIONS: A lodging/boarding house is one (1) of nine (9) Conditional Uses listed in the R-1 District. Conditional Uses are generally considered to be consistent with the purpose and intent of the district in which listed, but have operating characteristics that may or may not be compatible with area property in a given location. As such, Conditional Uses are often subject to additional standards to minimize conflict and promote compatibility with neighboring property. For Conditional Uses in the R-1 District they are subject to a minimum lot size requirement of 10,000 square feet and lot width requirement of 75-feet. The increased lot size and lot width accounts, in part, for the need for additional off-street parking, and to provide a greater spatial buffer to neighboring residential property. It is understood the applicant considers the subject property to be ideal for their intended use, however, that does not dissuade the necessity of meeting the minimum lot size and lot width requirements as would otherwise be applicable to all other R-1 zoned property for which a Conditional Use is sought.

THE BOARD MADE THE FOLLOWING FINDINGS OF FACT FOR THE **EXCEPTION** AT 1716 LARAMIE STREET:

CURRENT USE: Single-family dwelling.

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject property is currently occupied by a 2½-story, single-family dwelling constructed in 1920 with a calculated living area of 1,632 square feet and a main floor living area of 816 square feet. *Lot Size.* The property comprises 6,854 square feet and is compliant with the 6,500 square foot minimum lot size requirement for a single-family dwelling in the R-1 District. *Setbacks.* According to the applicant's site plan, the dwelling is setback 25-feet from the front lot line in compliance with the front yard setback requirement of the R-1 District. The dwelling is non-compliant with the current eight (8) foot side yard setback requirement being setback two (2) feet and seven (7) feet from the east and west property lines, respectively. Constructed in 1920, however, the dwelling and its placement on the lot pre-dates the adoption of zoning which did not take place in Manhattan until 1926. As a result, the side yard setbacks are regarded as legal non-conforming. *Lot Width.* The subject property was initially platted as a 50-foot wide by 148-foot deep lot. At some point in its history, the west four (4) feet was transferred to the adjoining parcel that is

now developed as a 12-unit apartment building. As a result, the subject property has a lot width of 46-feet that is non-compliant with the current regulations that requires a minimum lot dimension of 50-feet in the R-1 District. It is unknown at what point the west four (4) feet was transferred to the adjoining property, and whether it may have complied with the regulations then in existence.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The requested Exception is sought in conjunction with the applicant's request for a Conditional Use to convert the existing single-family dwelling at 1716 Laramie Street to a lodging/boarding house. The house consists of five (5) bedrooms and will accommodate up to nine (9) individuals and one (1) mentor that will be at the house at all times. Off-street parking for a lodging/boarding house is assessed at a minimum of two (2) parking spaces, plus one (1) parking space per sleeping room. Consisting of five (5) bedrooms, a total of seven (7) parking spaces is required to be provided on-site. The applicant indicates they are seeking an Exception to reduce the off-street parking requirement from seven (7) to five (5) spaces because *"the space behind the house is too small to accommodate the required amount of stalls while maintaining the City requirements for stall size and drive lanes."* At issue is whether the granting of the Exception would adversely affect the rights of adjacent property owners or residents.

Any parcel sought for a Conditional Use in the R-1 District must meet a minimum lot size and lot width requirement. To be compliant, the subject property would need to be a minimum of 10,000 square feet in size with a minimum lot width of 75-feet to be eligible for a Conditional Use to establish a lodging/boarding house. The increased minimum lot size and lot width requirements are in recognition of the increased intensity of land use associated with identified Conditional Uses in the R-1 District and their corresponding need for additional parking. In conjunction with this request, the applicant is seeking a Variance to reduce the minimum lot size requirement to 6,854 square feet and the minimum lot width requirement to 46-feet to accommodate the proposed lodging/boarding house. If there is insufficient land area to accommodate the required off-street parking, then the subject property would appear to be too small to support the proposed use. It should not be the burden of adjacent property owner or residents to contend with the consequences of not meeting the minimum off-street parking requirement. To do so would appear to exacerbate parking congestion issues along Laramie Street and within the immediate neighborhood.

The applicant was asked to clarify parking expectations for parking in conjunction with the lodging/boarding house. The applicant responded that very seldom will residents have a vehicle while staying at the house, and advised that no more than four (4) vehicles would be on-site other than if there are visitors. It is understood that resident circumstances may reduce the likelihood of residents of having a vehicle while staying at the house but does not eliminate the possibility. Realizing that up to nine (9) men may reside at the house at any time, the applicant was asked if it would be possible to re-

strict or prohibit residents from possessing a vehicle while staying at the facility, especially since they will be transporting residents to jobs or other destinations. The applicant has rejected the suggestion. Without something to restrict the opportunity of residents to possess a vehicle while staying at the facility, it become difficult to monitor and ensure the parking demand in the future does not exceed the number of spaces available on-site.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The public health, safety, morals, order, convenience, prosperity, or general welfare are enhance by the consistent application of standards across the community. These public aspirations are compromised if not consistently applied or indiscriminately varied from. City Administration acknowledges the positive service provided by the applicant, however, like any other use the standards of the community need to be upheld. If unable to satisfy the minimum off-street parking requirement, it is viewed as being contrary to the public health, safety, morals, order, convenience, prosperity, and general welfare.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The proposed Exception to reduce the off-street parking requirement is sought for a parcel that does not comply with the minimum lot size and lot width requirements for establishment of a lodging/boarding house. It is not that the off-street parking requirement is unreasonable or unnecessary in this case as much as the parcel is of an insufficient size to reasonably accommodate the proposed use.

THE BOARD MADE NO SPECIFIC FINDINGS OF FACT FOR THE **CONDITIONAL USE** AT 1716 LARAMIE STREET EXCEPT TO DETERMINE THE REQUEST WAS MOOT FOLLOWING THE DISAPPROVAL OF THE PRECEDING VARIANCE REQUEST:

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 in the front yard setback requirement from 25-feet to 19.45-feet with respect to the existing house, and, to 16.36-feet with respect to a proposed room addition for property in an R, Single-Family Residential District at 324 Poliska Lane. (Applicant/Owner: Clinton Brown; file no. EXC19-073)**

Estabrook presented the staff report for the EXCEPTION at 324 Poliska Lane with city staff recommending approval of the request to allow for a reduction in the front yard setback requirement from 25-feet to 19.45-feet with respect to the existing house, and, to 16.36-feet with respect to a proposed room addition for property in an R, Single-Family Residential District.

Hamilton opened the floor for public comments:

With no public comment, Hamilton closed the public hearing for board discussion. With no further comment, Hamilton called the question.

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 324 POLISKA LANE.

Present use: Single family residence

Compliance with all applicable regulations: Apart from the substandard setback of the existing home and the exception being requested, the property complies with all applicable regulations of the zoning district.

Probable effect on adjacent properties: The current structure violates the front yard setback requirement likely due to the radial nature of the adjacent roadway, Poliska Ln. The building addition increases the degree of non-conformity by encroaching upon the front yard setback a maximum of 9-feet. In other words, the room addition would be 16-feet from the property line. The addition is not likely to have any impact on adjacent properties as, visually and physically, the room addition does not extend further into the lot than the front façade of the existing home.

Effects on public health, safety, morals, order, convenience, prosperity, or general welfare: The existing structure is of the same character as the properties immediately adjacent to it, even though it does not comply with the setback requirements. Due to the radial curve of Poliska Lane at the subject site, it increases the setback encroachment amount of the room addition. The visual impact of the proposed room addition, due to its setback, the radial curve of Poliska Lane, and the grade change which warrants a retaining wall, will be hardly discernable.

The strict application of these regulations is unreasonable or unnecessary when all facts and circumstances are considered: Presumably the existing structure was *not* designed to encroach upon the setback, as all neighboring structures are built to similar specifications. The radial curve of Poliska Lane, which is a condition mirrored in the property line of the subject property, causes the proposed room addition to encroach a few additional feet without the front façade of the structure breaking character of the neighborhood.

- 2.5 **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 front yard setback requirement from 25-feet to 20-feet to allow for off-street parking for property in a C-5, Highway Service Commercial District at 8231 Positano Drive. (Applicant: BG Consultants, Clint Hibbs; Owner: James R. McAtee; file no. EXC-19-074).**

Rossow presented the staff report for the EXCEPTION at 8231 Positano Drive.

City Administration recommends approval to allow for the reduction of the front yard setback from twenty-five feet to twenty feet to accommodate construction of a surface parking lot associated with a medical clinic on the subject property located at 8231 Positano Drive within a C-5 Highway Service Commercial District.

Hamilton opened the floor to public comment:

Clint Hibbs with BG Consultants, 480 Vue Du Lac Place, appeared on behalf of the owner James McAtee, and stated that city staff was very helpful in this process, by recommending to mitigate any encroachment of setback through a curved parking lot design and it was limited to 5 feet at the most.

Hamilton closed the public hearing and asked for board discussion.

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 8231 POSITANO DRIVE:

PRESENT USE: Open lot

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject property building site plan is in compliance with all other C-5 District zoning regulations and use requirements.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject property is zoned C-5 Highway Service Commercial District and will be similar in character to uses in the immediate area. The proposed front yard setback will provide ample green space along all areas surrounding the parking lot and building with no impact to any adjacent properties.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed front yard setback reduction to accommodate an appropriately sized parking lot, building placement, and site layout will improve access to the clinic. The proposed site plan will improve safety, order, convenience, and general welfare by providing the ample amount of parking spaces for vehicular travel and access.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: The majority of the lots to the north of Positano Drive vary in size and shape but all lots are limited by the drainage easement to the north along the Big Blue River and a curved Positano Drive to the south. There is little to no other parking options available within immediate walking

distance, so each business must provide ample parking for their customers.

2.6 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 driveway width from 24-feet to 30-feet; and, to reduce the minimum front yard landscape open space requirement from 75% to 66% for property in an R, Single-Family Residential District at 1734 Cedar Crest Drive. (Applicant/Owner: Joshua B. Adrian; file no. CUP-19- 076)

Beagle presented the staff report for the **EXCEPTION** request at 1734 Cedar Crest Drive.

City Administration recommends approval for the **EXCEPTION** to exceed the maximum driveway width for a front-loaded two-car attached garage; and, to reduce the landscape open space requirement in the front yard area for a property located in the R, Single-Family Residential District.

Hamilton opened the floor to public comment:

Josh Adrian, 1734 Cedar Crest Drive, the applicant explained there are a number of properties in the neighborhood that include double car attached garages with wider driveways. He indicated that by agreement with the previous property owner to the north, the rock garden between the two properties would be taken out to allow Mr. Adrian to widen his driveway. This will improve the appearance of the property and benefit them by easily getting in and out of their vehicles if parked side by side in the driveway. It would also provide additional play space for his children.

Phyllis Cable, 1742 Cedar Crest Drive, a neighbor to the north of the property presented her information together with Chris Hepner, 1740 Cedar Crest Drive (also a neighbor to the north). Their combined comments included description of a fence along the common lot line with Mr. Adrian that they felt that is improperly located and that a survey should be conducted to determine the property location of the property line.

Hamilton indicated that any dispute concerning the location of the property line is a matter to be settled between the property owners and encouraged them to jointly hire a surveyor to resolve the matter.

Hamilton closed the public hearing and asked for board discussion.

Board members discussed staff proposal to require a view reducing landscape screen, a minimum of six (6) feet in height, be installed between the driveway and property line. Members questioned the necessity of requiring the landscaping be a minimum of six (6) feet in height. The board collectively felt a landscape at least four (4) feet in height to be appropriate.

Hamilton called the question.

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 1734 CEDAR CREST DRIVE:

PRESENT USE: Single family residence

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The subject property is part of Cedar Crest Subdivision Butterfield Addition, a 54 lot residential subdivision platted in 1969 and extending along Cedar Crest Drive between Kimball Avenue and Dickens Avenue along the west side of CiCo Park. The majority of lots in the subdivision dimension 90-feet wide by 150-feet deep the same as the subject property. The existing single-family dwelling was constructed in 1974. The site plat accompanying the building permit application showed the house to be compliant with the 25-foot front yard setback requirement. The current owner suspects, and GIS would tend to support, although not survey accurate, that the house may be setback only 22-feet from the front property line. Only a survey will confirm the setback of the house as it presently sits on the property. Outside of the request for the Exception and apart from the question concerning the front yard setback, the property otherwise complies with all applicable regulations of the R District as presently zoned.

PROBABLE EFFECT ON ADJACENT PROPERTIES: The subject property is one of a number of properties throughout the neighborhood that have attached double-car garages. Accordingly, the width of driveways serving these homes are wider and, in some cases, may exceed the 24-foot maximum driveway width allowance. None of the driveways serving homes with double-car garage appear to be inordinately wide or out of proportion with the lot on which located. At a maximum width of 30-feet, the proposed expanded driveway would not appear to be out of character with neighboring residential property except in one respect. The proposed expansion on the north side of the existing driveway would extend beyond the front plane of the house. As a result, the driveway expansion would come within five (5) feet of the property line. Although the applicant states the neighbor to the north does not object to the expanded driveway, it is recommended by City Administration that a landscape buffer be planted within the five (5) area between the driveway and property line. Landscape material should be of sufficient density and height to provide a suitable buffer between the 30-foot wide driveway and the neighbor's property.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE: The proposed driveway expansion as requested in not anticipated to result in a site condition that would adversely affect neighboring residential property nor appear to be wholly out of character with the neighborhood. To assure long-term stability with the immediate adjoining residential property to the north, a

landscape buffer is recommended to be installed along the common lot line. This will minimize potential conflict associated with the driveway extending beyond the front plane of the house and coming within five (5) feet of the neighbor's property. With the installation of a landscape buffer along the north property line, it is not anticipated the proposed driveway expansion to have an adverse effect on surrounding residential property.

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 one- and two-unit dwellings with a front-loaded attached double-car garage to have a maximum driveway width of 24-feet. There are many properties in the immediate neighborhood that have homes with double-car garages and, correspondingly, have wider driveways in support. The proposed Exception to increase the width of the driveway by six (6) feet is not believed to appear out of character with other residential properties in the neighborhood with double car garages. The proposed expansion will decrease the required landscape open space area by 8%, however, since the proposed expansion is on the north side of the driveway and toward the side lot line, the bulk of the front yard area in front of the house will remain open and unobstructed. By providing a landscape buffer along the north property line, the effect of the driveway expansion on the residential property to the north will be mitigated and give the applicant the space to easily maneuver vehicle on site as well as the ability to comfortably get in and out of vehicles parked in the driveway. In conclusion, the strict application of these regulations is unreasonable or unnecessary when all facts and circumstances are considered.

Hamilton adjourned the meeting at 10:12 p.m.

NEXT MEETING: Wednesday, December 11, 2019

Respectfully submitted by, Zachary Rossow, Planning and GIS intern