

MINUTES
MANHATTAN BOARD OF ZONING APPEALS

City Commission Room, City Hall
1101 Poyntz Avenue

Wednesday, December 11, 2019

7:00 p.m.

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

MEMBERS ABSENT: N/A

STAFF PRESENT: Barry Beagle, Senior Planner

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 November 13, 2019, BOARD OF ZONING APPEALS MEETING.**

Hamilton moved to approve the November 2019 minutes with minor administrative corrections. The motion was seconded by Wigfall and approved; 5-0.

2.1 PUBLIC HEARING to consider an **EXCEPTION** to the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for a reduction in the required front yard setback from 25-feet to one (1) foot to accommodate a six (6) foot privacy fence for property in the R, Single-Family Residential District at 2802 Oregon Lane. (Applicant/Owner: Robert E. Jacobs, III; file no. EXC-19-080)

Beagle presented the staff report for the **EXCEPTION** at 2802 Oregon Lane with staff recommending approval of the request to reduce the required front yard setback from 25-feet to one (1) foot along Browning Avenue only with respect to the existing six (6) foot privacy fence with conditions.

Hardy opened the floor for public comment:

Krista and Robert Jacobs, 2802 Oregon Lane, (applicants) mentioned that Beagle did an excellent job detailing the reasons for the request. Additionally, the fencing allows additional levels of safety for the family and pets. They have experienced multiple strays entering their property.

With no further public comment, Hardy closed the public hearing and opened for Board discussion:

Hamilton mentioned a previous request along Oregon Lane that is similar in nature but different given this property's frontage on Browning Avenue, a major traffic thoroughfare, and involved a different circumstantial review. Hamilton appreciates the applicant's continuation of landscaping and does not have an issue with the request.

Wigfall commented that relocating the fence to a new location will make the fence look awkward and unfitting to the neighborhood. The fencing is consistent with neighboring fencing.

Danner commented that the fencing in the request does not look out of place at all.

Hardy closed the Board discussion.

Roll call vote was taken; motion was approved with conditions by a vote of 5-0.

THE BOARD MADE THE FOLLOWING FINDINGS OF FACT FOR THE EXCEPTION AT 2802 OREGON LANE:

Present use: Single Family Residence

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

Apart from the substandard setback of the existing fence, the subject property appears to be in compliance with applicable lot size and bulk regulations of the R District with one possible exception. Although not survey accurate, GIS appears to show the house setback approximately 22-feet on Oregon Lane and approximately 19-feet on Browning Avenue. Only a survey will confirm the setback of the house as it presently sits on the property. Even if determined to be non-compliant with current standards, it was built in 1962 while in unincorporated Riley County. It was not until the adoption of Ordinance No. 2345 on March 3, 1964 that the subject property and immediate surrounding neighborhood was annexed to the City of Manhattan. It is not known whether the house at the time of construction was compliant with the regulations then in existence in the County.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The subject property is located at the intersection of a Local Street (Oregon Lane) and a Major Collector (Browning Avenue). The property maintains a side street orientation on Browning Avenue and to which it has its greatest frontage. By design, major collectors are to distribute and channel traffic between local streets and arterials usually over a distance greater than three-quarters of a mile. In this case, Browning Avenue collects and distributes traffic between Marlatt Avenue to the north and Claflin Road to the south. With the principal orientation of the house facing on to Oregon Lane, the side

and rear of the property is exposed to higher volumes of vehicular and pedestrian traffic on Browning Avenue. Because of past incidents documented in the application and to create a safe and secure environment behind the house, the applicant erected a six (6) foot privacy fence along Browning Avenue. Under the circumstances, the desire to erect a privacy fence along Browning Avenue is reasonable. The privacy fence was put in place of a split rail fence along a portion of this side of the property. The existing landscaping that existed in front of the fence has been maintained and softens the appearance of the privacy fence. Further, the privacy fence is essentially in alignment with privacy fences on neighboring property immediately north and south of the subject property. Based on these considerations, the introduction of the privacy fence in the location proposed is not seen as encroaching on neighboring property along Browning Avenue.

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

As a major collector roadway, Browning Avenue consists of an 80-foot wide right-of-way and a street width of 30-feet. The location of the proposed fence one (1) foot off the right-of-way line will not obstruct sight distance at the intersection of Oregon Lane and Browning Avenue nor impede mobility along Browning Avenue. Given the right-of-way width of Browning Avenue, there remains ample greenspace between the fence and the sidewalk and street. The landscaping that formerly existed in front of the split rail fence on Browning Avenue has been retained with the construction of the six (6) foot privacy fence. As a result, the privacy fence is not seen as dominating the streetscape along the roadway.

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

The intent of requiring fences to observe the required front yard setback is to maximize the residential character of the streetscape. Subject to a front yard setback places fences to the side of the principal structure, and minimizing their disruption to the streetscape. In this case, the subject property is a corner lot with two front yards and two (2) front yard setbacks. The street on which the property shares its greatest frontage is Browning Avenue, a major collector roadway. Based on the orientation of the home, the side and rear yard of the property is exposed to increased vehicular and pedestrian traffic on Browning Avenue. To erect a fence compliant with the front yard setback on Browning would place it behind the house dramatically reducing the rear yard area protected by the fence. This is a result of the house being setback closer to Browning Avenue than the current 25-foot setback requirement. As a result, the applicant would not only lose approximately 1,736 square feet of yard area enclosed by the fence, but, would also have to lose all or a portion of the deck built on the back of the house. In addition, it would result in the storage shed at the northeast corner of the property being located outside the fence.

- 2.2** 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 required front yard setback from 25-feet to 22.5-feet to construct a front porch for property in the R-1, Single-Family Residential District at 1911 Columbine Court. (Applicant/Owner: Tim. E. Johnson; file no. EXC-19-081)

Beagle presented the staff report for the **EXCEPTION** for 1911 Columbine Court with staff recommending approval of the EXCEPTION to reduce the minimum front yard setback requirement from 25-feet to 22.5-feet to permit construction of a covered front porch with conditions.

Fisher asked for clarification on the stoop description vs porch and other terms. Beagle answered that the application is before the BZA because the applicant's proposed front porch has a roof over it. If the front porch were to be built without a roof, it could project up to 10-feet beyond the home while a front porch with a roof would be subject to the front yard setback requirement. The exception request is required due to the roof overhang. The "without a roof" option ends up looking very similar to a deck and unfitting to the neighborhood.

Hardy opened the floor for public comments:

Tim Johnson, 1911 Columbine Court, (applicant) mentioned that the main objective for this request is to protect the front door from damage and update the look of the house. The house would look inappropriate if it were only a deck "without a roof" option.

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

All members of the board agree it improves the look of the home and meets the standards for exceptions.

Roll call vote was taken on the EXCEPTION; motion was approved with conditions by a vote of 5-0.

THE BOARD MADE THE FOLLOWING FINDINGS OF FACT FOR THE FOLLOWING ITEMS:

2.2 EXCEPTION 1911 Columbine Court

PRESENT USE: Single-family dwelling

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The subject property was part of an area annexed to the City of Manhattan in 1978, the same year the house on the property was constructed. The property appears to comply with the minimum lot size requirements (lot size, lot width and lot depth) and bulk

regulations (structure height, setbacks and lot coverage) of the R-1 District as presently zoned.

The applicant's property is located within Flood Zone AE, a high risk flood area commonly known as the 100-year floodplain. In accordance with the City's Floodplain Regulations, the applicant will need to apply for and obtain a Floodplain Development Permit prior to the issuance of a building permit.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The subject property is part of an established single-family residential neighborhood extending east of Tuttle Creek Boulevard to Northeast Community Park and south of Allen Road. The earliest subdivisions in this area date back to 1952 with the most recent in 1988. The majority of the housing stock in this area is single-story, ranch style homes. More immediately, the applicant's property is one of nine (9) residential lots fronting on Columbine Court, a cul-de-sac extending approximately 314-feet south of Harvey Drive. The applicant's property is one (1) of four (4) properties located along the throat of the cul-de-sac.

The applicant seeks to build a roof covered front porch that is six (6) feet wide and would project four-feet, six-inches (4'6") from the front plane of the house. The roof is designed to tie-in to the existing roofline of the house. Pursuant to Sec. 3-405 of the Zoning Regulations, the railing and steps leading down to the front yard can extend to within 15-feet of the front lot line since the porch itself is less than 30-inches in height. The reduction in front yard setback applies solely to the roof extension and column supports. The covered porch is sought by the applicant to not only provide protection from the elements, but, to provide an attractive entryway to the house and give it added curb appeal. The proposed Exception to permit construction of the covered porch is seen as complimentary to the house and a value-added addition to the immediate neighborhood. No adverse impacts to neighboring property are anticipated in conjunction with this request.

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

No adverse impacts on the public health, safety, morals, order, convenience, prosperity or general welfare is expected in conjunction with this request. To place this request in context, all homes on Columbine Court were built with concrete steps and stoops. Five (5) of the nine (9) homes fronting on Columbine have replaced their concrete stoop with a wooden deck of varying sizes with railing and steps that, in some cases, project farther into the front yard as permitted by the regulations. The principal difference with the applicant's proposal is that it includes a permanent roofing built into the roofline of the house. At its greatest extent, the proposed front porch extends no more than 4'6" beyond the front plane of the house. As proposed by the applicant, the front porch is anticipated to be an attractive addition to the home without encroaching upon or dominating the streetscape.

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

The proposed Exception is considered reasonable and would permit construction of an attractive front entry to the home. The scale and proportion of the front porch appears to be consistent with that of the house to which it is to be attached.

It is important to examine the circumstances that compel this request for an Exception. The applicant's home like other homes on Columbine Court are built to the front yard setback line. This is not uncommon as most homes are built at the front setback line as opposed to sitting farther back on the lot. The disadvantage of this is that it prevents any addition or improvement to the front of the home whether major or minor. In this case, the applicant has two options by which to make an improvement to the front of their house. The first is to building an open and unenclosed deck on the front of the house that could project up to 10-feet into the required front yard. This option would not satisfy the applicant's objective to build a modest, roof covered front porch that will afford some protection from the elements. The other option is to request, as the applicant has done, an Exception to reduce the front yard setback by 2'6" to accommodate the proposed porch. As proposed, the front porch is seen as an attractive addition to the home and will be at a scale consistent with character of the home itself. The strict application of these regulations is unreasonable or unnecessary, in this case, when all facts and circumstances are considered.

- 2.3** A PUBLIC HEARING to consider a **CONDITIONAL USE** under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow the renovation of a legally nonconforming three-unit dwelling in an R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay at 1000 Leavenworth Street. (Applicant/Owner: BIGDLIJ, LLC; file no. EXC-19-079).

Hardy entertained a motion to table the item 2.3 until the January 8th 2020 meeting.

Hamilton moved to approve the motion to table item 2.3 until January 8, 2020. The motion was seconded by Wigfall and approved; 5-0.

Hardy mentioned that tonight is a heartfelt goodbye to the Angie Danner. He and the board would like to thank her for service to the City of Manhattan; it has been an extreme pleasure working with her.

Hardy adjourned the meeting at 7:30 p.m.

NEXT MEETING: Wednesday, January 8, 2020

Respectfully submitted by, Zachary Rossow, Planning and GIS intern