

MINUTES
MANHATTAN BOARD OF ZONING APPEALS

City Commission Room, City Hall
1101 Poyntz Avenue

Wednesday, January 8, 2020

7:00 p.m.

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

MEMBERS ABSENT: Ansley Chua

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 December 11, 2019, BOARD OF ZONING APPEALS MEETING.

Hamilton moved to approve the December 11, 2019 minutes. The motion was seconded by Wigfall and approved; 4-0.

- 2.1** 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: BIGDLILJ, LLC; file no. EXC-19-079*)
CONTINUED FROM DECEMBER 11, 2019 BZA MEETING

Wigfall motioned to table the item until the February 12, 2020 meeting. Hamilton seconded. Motion carried 4-0.

- 2.2** A **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 15-feet on College Heights Road to accommodate construction of a basketball court and six (6) foot screen wall for Sigma Alpha Epsilon fraternity on property in the R-3/UO, Multiple-Family Residential District with University Overlay at 1015 Denison Avenue. (*Applicant: Bruce McMillan Architects, Owner: Sigma Alpha Epsilon, Steve Lacy; file no. EXCP-20-001*)

Beagle presented the staff report for the **EXCEPTION** for the property located at 1015 Denison Avenue with staff recommending approval of the EXCEPTION, with conditions, to reduce the minimum front yard setback requirement from 25-feet to 15-feet to permit construction of a basketball court and six (6) foot screen wall for the Sigma Alpha Epsilon fraternity.

Wigfall asked how many trees would be removed to relocate the basketball court. Beagle said two or three trees would likely be removed. Wigfall asked if the new trees in the landscaping plan would be replacing those. Beagle said he is not aware of any tree replacement but would defer to the applicant.

Within the conditions of approval, Hamilton asked who was responsible for final review of the landscaping and lighting plans. Beagle said the City Forester would review the landscaping plan and Community Development would review the court lighting prior to installation. Hamilton asked if the Community Development department was planning on ensuring the lighting plan was in compliance with current applicable code. Beagle said there is not an exact set of regulations to govern this specific situation, therefore, Community Development would develop specific regulation for this single property to avoid glare and casting off lighting on neighboring properties. Hamilton said this situation feels like the Unified Development Ordinance which allows more administrative approvals by city staff.

Hamilton said the Board of Zoning Appeals typically wants to review such items. In addition, she said landscaping documents have been lax lately. Hamilton said the Board wants to see those documents because they want to say yes or no to them, or modify conditions of approval. She mentioned the Board has required timers for lighting in the past. She said she is uncomfortable with Community Development approving processes based upon standards that the Board has no knowledge of. She said she does not have an issue with the lighting plan but wants to know what the approval process for city staff would be. Beagle said he regrets he was unable to establish a lighting plan with the applicant prior to the hearing, but he wanted to at least include language that would restrict problematic lighting. Hamilton said she understands and appreciates that, but Community Developments decisions create an expectation and the Board is out of the loop in establishing that.

Hamilton said typically, lighting and landscape plans come before the Board so members and the public can view what is proposed and then they can make a decision based on what is presented. Wigfall said that the Board does not only look at the equipment used for lighting, they take into consideration brightness, timing, and other factors which may result in additional conditions. Hardy agreed with Wigfall and Hamilton.

Hardy opened the floor for public comments:

Matthew Hollingsworth, Student Intern for Bruce McMillan Architects and Sigma Alpha

Epsilon house-member. Hollingsworth said he has lived in the house for three years. He said the current basketball court is inadequate and unsafe. Hamilton asked if the basketball court would be utilized for other events apart from basketball. Hollingsworth said there is potential that the court space could be used for other events. Hamilton asked if the basketball court would be frequently used late into the night for basketball or other house events. Hollingsworth said no. He mentioned that there are existing LED lights that illuminate the existing court, those lights shut off when the court is not in use. Fisher asked if there is any canopy since they are removing the trees to the south. Hollingsworth said the fraternity is very proud of the property and cited a lack of use and ability to use as to why they wanted to move the court. He said it will improve the appeal and increase outdoor utilization of the space. Fisher asked if they are replacing the trees they are removing? Hollingsworth said they are removing three trees and leaving all others alone.

Bruce McMillan, Architect, representing the Sigma Alpha Epsilon fraternity, said there are a number of trees on the property that will remain. He said the landscaping plan will soften the screen wall. He said two other fraternities in town have basketball courts and they have no screen wall to prevent basketballs from going into roads. In respect to lighting, McMillan said lighting has been studied and would abide by current lighting regulations. As far as timing, lighting will run on a set timer or have a control unit. There will be ground lights that shine upon the wall itself. Hamilton asked what kind of lighting will be used. She said with this kind of activity, large bright lights come to mind. McMillan said hooded pole lights would likely be used. Hamilton asked where the additional landscaping would go, McMillan said it would go on the front side of the screen wall. He noted that the hooded lighting would not shine towards the street or adjacent properties. To address Fishers concerns of the loss of canopy, McMillan pointed out the flag-like protrusions that will provide some level of shade.

Wigfall asked what the distance from the wall to the sidewalk was. McMillan said 15-feet.

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

Hamilton said it is a nice proposal and she does support it. She said she would like the number of parking stalls documented and would like the Community Development department included in number five of the condition of approval. Hamilton said while it is a great proposal she would appreciate a few trees to be added to replace the ones lost. McMillan said he would be happy to coordinate with the owner and replace trees. The Board added language to replace 1 or 2 trees with suitable replacements where appropriate.

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

THE BOARD MADE THE FOLLOWING FINDINGS OF FACT FOR THE EXCEPTION AT 1015 DENISON AVENUE:

Present use: Single Family Residence

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The fraternity is a permitted use in the R-3/UO District and otherwise appears to comply with all applicable minimum lot size requirements and bulk regulations of the district. Pursuant to Sec. 7-102(C)(1) of the Zoning Regulations, no parking shall be located within the required front yard area. Based on a maximum occupant load of 61 residents, a total of 46 parking spaces are required to be provided on-site. Currently, 51 parking spaces are provided and with the elimination of the basketball court on the west side of the building, five (5) additional spaces will be stripped increasing total on-site parking to 56 spaces. With respect to the subject property, two (2) angled parking spaces off the circular drive entrance on Denison Avenue and six (6) spaces in the parking area off College Heights Road extend into the front yard setback. This is an existing condition and one that has existed for a long period of time. It is unknown at this point whether this condition pre-dates the off-street parking restriction in the front yard setback. Beyond this issue, the subject property appears to comply with all other applicable requirements of the Zoning Regulations.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The subject property is part of an area extending west of the K-State campus that has transitioned over the years to higher intensity residential uses largely in response to its proximity to the K-State campus. More immediately, the subject property is bounded by multi-family residential dwellings to the south; FarmHouse fraternity to the west; the recent acquisition of a religious facility to the north by the KSU Foundation that is being marketed for lab, medical and office space; and the K-State campus and Engineering College building complex immediately east.

The proposed Exception would permit a small basketball court with screen wall to project 10-feet into the required front yard setback on College Heights Road. The proposed court is intended to replace a small concrete pad with basketball goals on the west side of the house that will be converted to an outdoor turf and patio area. The remainder of the concrete pad will provide five (5) additional parking spaces increasing total resident parking to 56 spaces. The existing concrete pad is considered to be of a size to limit its use and practicality. The proposed court will be a fraction of the size of a regulation basketball court, which dimensions 50-feet wide by 94-feet long. The proposed basketball court will be 50-feet wide by 65-feet long.

The court will be separated from College Heights Road by a curved six (6) foot tall screen wall topped with an 18-inch metal railing. The screen wall is curved to somewhat match the radius of the south end of the house and provide interior court side space. The screen wall will be made of brick to match the color and type of brick on the house. The metal railing on top of the wall will be of a design to match the railing on the house. The street facing side of the wall will include the Greek letters of the fraternity with low growing landscape materials planted at the base of the wall. The wall will not only provide a buffer

between the court and the street, but, be of a height believed to prevent basketballs from escaping the court and bouncing into the street. Further, the east-west orientation of the court parallel to the street will also minimize the probability of balls escaping the court.

An additional factor is court lighting that is anticipated to be provided on the court side of the screen wall. The type and height of such lighting has not been determined at this point. Favorable consideration of this proposal should include submission of a formal lighting plan and approval by City Administration. Such lighting would be expected to be shielded to eliminate cast-off lighting extending beyond the court area and be subject to a time limit so as not to be left on all night. Even with consideration of lighting, it is not anticipated the location of the basketball court as proposed will have an adverse effect on nearby properties.

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

The impacts of the Exception request on public health, safety, morals, order, convenience, prosperity, or general welfare are expected to be minimal. The applicant indicates that maintaining the basketball court on-site is more convenient to fraternity members, and the function of the house, than utilizing off-site facilities. To minimize the possibility of conflict with neighboring property, the applicant's proposal includes a six (6) foot tall screen wall that will be designed to match the style of the house. To further enhance the appearance of the screen wall, the applicant proposes to plant low-growth landscape material along the base of the wall. The location of the screen wall will not interfere with sight distance along College Heights Road. With the screen wall, the proposed encroachment into the front yard setback is not anticipated to interfere with the use and enjoyment of nearby property.

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

Sigma Alpha Epsilon fraternity has occupied the subject property since initially constructed in 1938. The property has remained largely unchanged since that time. The applicant notes the existing concrete pad used as a basketball court on the west side of the house encroaches into the parking lot and is of an inadequate size for practical use. In compliance with the requirements of the Zoning Regulations, the only real opportunity to accommodate the relocation of the basketball court is on the south side of the house. As noted by the applicant, the 60-foot front yard setback requirement applicable to accessory uses on Denison Avenue precludes its location in front of the house. Such a location would also have an adverse visual impact on the house and property. With existing parking on the west side of the house, the only viable location to accommodate a basketball court is to the south of the house on College Heights Road. The proposed screen wall is a substantial improvement designed to tie-in with the architectural character of the house. The screen wall will provide an attractive and effective buffer to neighboring property and vehicular traffic on College Heights Road. The orientation of the court (east-west) and height of the screen wall are also anticipated to minimize errant

basketballs from escaping the court and bounding into the street.

On-site recreational facilities are becoming more commonplace in conjunction with Greek houses and enhance their members experience and well-being. While an encroachment into the required setback on College Heights Road, the proposed basketball court and screen wall will be opposed by multiple-family residential dwellings and their associated parking to the south. Even so, the design and character of the proposed improvements are not anticipated to encroach on the use and enjoyment of nearby property. Under the circumstances, the strict application of these regulations is unreasonable and unnecessary when all facts and circumstances are considered.

STAFF COMMENTS: City Administration recommends to APPROVE the Exception to reduce the front yard setback requirement from 25-feet to 15-feet on College Heights Road to accommodate a proposed basketball court and screen wall in conjunction with the Sigma Alpha Epsilon fraternity, subject to the following conditions:

1. The Exception shall be limited to the basketball court and screen wall as outlined in the application documents and shown on the accompanying site plan and screen wall elevation drawings.
2. The screen wall shall be erected along with the basketball court and shall be of a design and appearance as shown on the screen wall elevation drawings.
3. A landscape plan shall be submitted for review and approval in advance of construction of the proposed screen wall. Community Development will coordinate with the City Forester who shall be responsible for the review and approval of the landscape plan that shall address the installation of low-growth landscape material at the base of the screen wall and adding 1 or 2 replacement trees, where appropriate, for those lost with construction of the basketball court. Upon installation of landscape material on the street-side base of the wall, it shall be the responsibility of the property owner to maintain and keep it in good condition. Should any portion of the landscape material become damaged or die, it shall be replaced by the next available planting season.
4. The basketball court and screen wall shall be maintained in good condition.
5. A lighting plan shall be submitted for review and approval prior to installation of any potential court lighting. Community Development will be responsible for the coordinated review of the lighting plan and its approval. Proposed lighting will be expected to be shielded or with recessed fixture heads so there will be no cast-off lighting extending beyond the court area. Proposed court lighting shall only be on when the court is in use and not left on throughout the night.

Hardy adjourned the meeting at 7:40 p.m.

NEXT MEETING: Wednesday, February 12, 2020

Respectfully submitted by, Dre'Vel Taylor, Planning Intern

DRAFT