

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
Virtual Zoom Meeting  
**Wednesday, July 8, 2020**  
7:00 p.m.

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

MEMBERS ABSENT: None

STAFF PRESENT: Chad Bunger, Assistant Director of Community Development  
Barry Beagle, Senior Planner  
Samantha Estabrook, Resiliency 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 JUNE 11, 2020, BOARD OF ZONING APPEALS MEETING.**

**Wigfall moved to approve the JUNE 11, 2020 minutes. The motion was seconded by Fisher and approved; 5–0.**

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 required front yard setback from 25-feet to 0-feet on Colorado Street; and, to reduce the front yard setback requirement from 25-feet to 2.5-feet on Delaware Street to accommodate the replacement of an existing fence on property in the R-1, Single-Family Residential District at 321 S. Delaware Ave. (Applicant/Owner: Daniel Smith; file no.: EXC-20-038)

**Hamilton recused herself from hearing and voting on the item.**

Estabrook presented the staff report for item 2.1. City Administration recommends to APPROVE the Exception to reduce the required front yard setback from 25-feet to 0-feet on Colorado Street; and, to reduce the front yard setback requirement from 25-feet to 2.5-feet on Delaware Street to accommodate the replacement of an existing fence on property in the R-1, Single-Family Residential District at 321 S. Delaware Avenue, subject to the following conditions:

1. The Exception shall only apply to the fence described in the application and staff report.
2. The Exception shall be subject to compliance with the site plan as submitted by the applicant and be maintained in good condition.

Wigfall asked for clarification that none of the trees or vegetation on the property. Estabrook clarified that the owner has no intention to remove any of the trees or vegetation on the site.

Hardy asked for clarification that the proposal is to replace the existing fence in its current location with the one modification of squaring a portion which currently juts inward. Estabrook confirmed that is the intent of the applicant.

Hardy opened the floor for comment from the applicant.

Brian and Sarah Briggeman, owners and applicants, spoke to the increased functionality of the space while not encroaching upon the front yard. Brian Briggeman clarified that no trees will be removed. Brian Briggeman complimented staff on the ease of process and professionalism.

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

Wigfall stated her support of the replacement of the fence due to the landscape of the site and lack of impact on views for traffic.

Chua inquired if other board members had reservations regarding the piece of new fence along Colorado. Hardy stated that he did not have a concern, rather thought it completes the property.

Fisher asked for clarification if the exception request would bring the setback to 0-feet, otherwise the property line. Estabrook clarified that along Delaware Avenue the setback would be altered to 2.5-feet for the fence, while along Colorado it would reduce it to 0-feet and fence would be placed along the property line.

**Hardy called the question. Rollcall vote was taken. Motion carried 4-0-1 with two conditions of approval as recommended by staff.**

**THE BOARD MADE THE FOLLOWING FINDINGS OF FACT FOR THE EXCEPTION AT 321 S DELAWARE AVE:**

**Present land use:** R-1, Single-Family Residential District

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The lot appears to be to comply with all applicable requirements of the Zoning Regulations except for the setback requirements which appear to be legally nonconforming. The residence was built in 1934 under the 1926 Zoning Regulations where through lots, or in this case, a lot with three street frontages were permitted to account for their required rear yard elsewhere on the property. Originally designed as a detached accessory structure, the garage is assumed to have been permitted in the rear yard with a zero foot setback due to the street bound nature of the property. The lot and structure otherwise complies with all applicable regulations aside from those which an exception is being requested being requested.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** As noted, the property is located in an established subdivision which is encompassed within Ward 6, located two blocks from the Traditional Neighborhood Overlay (TNO), and mirrors the character of the neighboring properties. The proposed Exception seeks to reduce two front yard setbacks on Colorado Street and Delaware Avenue for the replacement and minor modification for a plane extension of a

fence. No other improvements to the lot are sought in conjunction with this request. As proposed, it is not anticipated the resulting change will have a substantial adverse effect on neighboring property, especially with consideration of the existing vegetation along Colorado Street and the generous width of the ROW for Delaware Avenue.

**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 existing fence does not extend past the front plane of the structure along Delaware Street and the nature of the vegetation along Colorado Street renders the placement visually unnoticeable. The replacement of the existing fence and extension of the front plane for a portion of the fence, made possible by the reduction of the front yard setback, is not anticipated to have any greater impact on the neighborhood or neighboring residential property than that of the existing fence.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** Given the limitations associated with the lot being bound on three (3) side with streets, the strict application of these regulations would appear unreasonable and unnecessary when all facts and circumstances are considered. The existing foliage along Colorado Street renders the placement of the fence on the property line visually unnoticeable. The nature of the ROW width along the narrow Delaware Avenue allows for the fence replacement and proposed plane extension to appear in character with the neighborhood.

Hardy adjourned the meeting at 7:18 p.m.

NEXT MEETING: Wednesday, August 12, 2020

Respectfully submitted by, Samantha K. Estabrook, Resiliency Planner