

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
Virtual Zoom Meeting  
**Wednesday, August 12, 2020**  
7:00 p.m.

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

MEMBERS ABSENT: Ansley Chua

STAFF PRESENT: Chad Bunger, Assistant Director of Community Development  
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 JULY 8, 2020, BOARD OF ZONING APPEALS MEETING.**

**Wigfall moved to approve the July 8, 2020 minutes with minor administrative corrections. The motion was seconded by Hamilton and approved; 4–0.**

1. 2.1 A PUBLIC HEARING to consider an **EXCEPTION** under the terms of the Manhattan Zoning Regulations of the City of Manhattan, Kansas to reduce the front yard setback requirement from 25-feet to 17.5-feet on Grand Mere Parkway to accommodate the construction of a fence on property in the R, Single-Family Residential District at **2110 Mackintosh Ct.** (*Applicant/Owner: Daniel Smith; file no.: EXC-20-039*)

Estabrook presented the staff report for item 2.1. City Administration recommends to APPROVE the Exception Kansas to reduce the front yard setback requirement from 25-feet to 17.5-feet on Grand Mere Parkway to accommodate the construction of a fence on property in the R, Single-Family Residential District at 2110 Mackintosh Ct, subject to the following conditions:

1. The applicant shall obtain utility releases due to the encroachment upon a platted utility easement.
2. The Exception shall only apply to the fence described in the application and staff report.
3. The Exception shall be subject to compliance with the site plan as submitted by the applicant and be maintained in good condition.

Hardy opened the floor to the Board to ask questions of staff. No questions were asked

Hardy opened the floor for comment from the applicant.

Daniel Smith, owner and applicant, confirmed the details of the staff report and offered to take the Board on a virtual tour of the rear yard.

Connie Hamilton asked the applicant to clarify the fence would be built in the proposed style submitted with application. Smith confirmed that due to the Homeowner Association's requirements and desire to complement surrounding properties that the fence would indeed maintain the proposed style.

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

Hamilton stated her support for the request due to the majority of the square footage of the lot being in the front yard and the rear yard narrowing significantly.

Wigfall commented that the proposal does not impose on the site or impact sight lines.

Hardy commented on the topography, distance from right-of way, and applicant's marginal encroachment request onto the setback.

Fisher commented on the inconsistency of the lot shape.

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

**THE BOARD MADE THE FOLLOWING FINDINGS OF FACT FOR THE EXCEPTION AT 2110 MACKINTOSH CT:**

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

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The lot appears to be to comply with all applicable requirements of the Zoning Regulations. Constructed in 2018, the structure is relatively new and the current landscaping work to improve the rear yard have obtained necessary build permits and approvals. The lot and structure otherwise complies with all applicable regulations aside from those which an exception is being requested.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:** As noted, the property is located in a recently developed subdivision and neighborhood of town. The property is situated such to only share one property line with an adjacent property to the north. The fence is proposed to be placed along the southern lot line. The probable effect on the adjacent property to the north is anticipated to be negligible. The other shared property line is a parcel owned and managed by the Community Association to the east and contains the neighborhood identifying monument sign. No other improvements to the lot are sought in conjunction with this request. As proposed, it is not anticipated the resulting change will have an adverse effect on the neighboring property.

**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 remaining property lines abut public right-of-way. The fence is proposed 17.5 feet north of the southernmost property line, while 30' to 45' exists as public right-of-way from the southernmost property line to the back of curb of Grand Mere Parkway. Due to the generous width of the right of way, terrain, and the radial nature of the southern lot line the fence would not impede sight lines or triangles. The construction of the fence, made possible by the reduction of the front yard setback, is not anticipated to have an impact on the neighborhood or neighboring residential property.

**THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED:** The strict application of the regulations would still enable the property to have a sizeable rear yard which could be programmed and utilized in a variety of ways. However, due to the topography of the lot and width of right-of-way for Grand Mere Parkway, the request is not unreasonable.

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

NEXT MEETING: Wednesday, September 9, 2020

Respectfully submitted by, Samantha K. Estabrook, Resiliency Planner