

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
Virtual Zoom Meeting
Wednesday, December 9, 2020
7:00 p.m.

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

MEMBERS ABSENT: None

STAFF PRESENT: Chad Bunger, Assistant Director for Community Development
Barry Beagle, Senior Planner | Current Planning
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 NOVEMBER 18, 2020, BOARD OF ZONING APPEALS MEETING.**

Wigfall moved to approve the November 18, 2020 minutes with minor corrections. The motion was seconded by Hamilton 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 the reduction of the minimum required sixty (60) foot front yard setback to fifty six (56) feet for a proposed accessory structure on property located at [2004 Blue Hills Road](#), in the R, Single-Family Residential District (*Applicant/Owner: Johnson, Bradley and Deidre; file no: 20-050*)

Estabrook presented the staff report for item 2.1. City Administration recommends to APPROVE the Exception reduction of the minimum required sixty (60) foot front yard setback to fifty six (56) feet for a proposed accessory structure on property located at 2004 Blue Hills Road, subject to the following conditions:

1. The exception request shall pertain only to the pre-built shed as described within the application materials.
2. The accessory structure shall be maintained in good condition.

Hardy opened the floor to the Board to ask questions of staff.

Hardy opened the public hearing and comment from the applicant. The applicant was not present and no other comments were received.

Hardy closed the public hearing and called for board discussion.

Hamilton stated support for the application citing the location of subject property, minimal impact on adjacent properties and how the placement of the accessory structure would be flush with the residence. Wigfall concurred.

Wigfall stated support due to the vegetation and lack of traffic. Hardy and Chau concurred.

Hardy called the question. Roll call vote was taken. Motion carried 5-0 with two conditions of approval as recommended by staff.

THE BOARD MADE THE FOLLOWING FINDINGS OF FACT FOR THE EXCEPTION AT 2004 BLUE HILLS LANE:

Present land use: Single family residence

- 1. COMPLIANCE WITH ALL APPLICABLE REGULATIONS:** The subject property was built in 1974 and aside from the exception being sought the subject property conforms with all setback lot dimension, lot coverage, maximum height, and all other applicable regulations for the R, Single Family Residential District. Placement of the structure maintains the required 3' side yard setback along the west property line.
- 2. PROBABLE EFFECT ON ADJACENT PROPERTIES:** The subject property gains access from an unimproved portion of right-of-way (Stillman Drive) which terminates at the applicant's property east of Blue Hills Road. The right-of-way is platted as Stillman Drive that extends between Ivy Drive to the north and Blue Hills Road to the south. In function, Stillman Drive serves only as access for the subject property. The property is located in an area of high vegetation which creates a high degree of privacy and separation between the properties whose boundaries abut Stillman Drive and the subject property. Considering the rather isolated nature of the lot and marginal encroachment request of 4' for an accessory structure, it would be anticipated to have no effect on adjacent properties.
- 3. EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE, PROSPERITY, OR GENERAL WELFARE:** Considering the nature of the 4' encroachment into a 60' setback while remaining flush with the primary structure and the highly vegetated character of the subject property and surrounding properties, there would be no anticipated adverse impact caused by granting the request.

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

- (1) Whether or not conditions of the property requiring the exception were created by the applicant with prior knowledge and disregard of**

applicable regulations; The proposed accessory structure has not been placed.

- (2) **Whether or not the applicant acquired the property with knowledge of the conditions which require the exception and whether or not the consideration for the acquisition considered such conditions;** Due to the marginal nature of the encroachment request, the placement of the accessory structure was likely not anticipated by the applicant at the time of acquisition.
- (3) **Whether or not there are reasonable alternatives which would allow the property to meet the strict application of these regulations:** The applicant is proposing to place the accessory structure upon an existing concrete pad. The placement of the proposed accessory structure which would cause a 4' encroachment upon the 60' front yard setback is due to the applicant's desire for the structure to be flush with the front façade of the attached garage and to maintain access to an existing accessory structure in the rear of the property.
- (4) **Whether or not a granting of the exception will result in a relative gain to the health, safety, and general welfare of the Community:** Placement of the accessory structure neither results in a relative gain or loss to the health, safety, and general welfare of the Community due to its isolated nature, the existing high amount of vegetation, and the marginal nature of the encroachment request.

2.2 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 two-unit dwelling located at [928/930 Thurston Street](#), in the R-1, Single-Family Residential District with Traditional Neighborhood Overlay. (*Applicant/Owner: Trevin Haug; file no: 20-051*)

Estabrook presented the staff report for item 2.2. City Administration recommends to APPROVE to allow the renovation of a legally nonconforming two-unit dwelling located at [928/930 Thurston Street](#), in the R-1, Single-Family Residential District with Traditional Neighborhood Overlay, subject to the following conditions:

1. The renovations shall be consistent with the submitted site plan and application documents.

2. All applicable permits shall be obtained.
3. An amendment to the Conditional Use Permit shall be required for any future renovations or additions to the structure.

Hardy opened the floor to the Board to ask questions of staff.

Hardy opened the floor for comment from the applicant and the public hearing.

Staff read received correspondence into the record.

Trevin Haug, the applicant, spoke in support of the application.

Hardy commented that he appreciated the applicant working with City staff and the subject property.

Hardy closed the public hearing and called for board discussion.

Wigfall stated support for the application and alterations made from previous application heard in October, citing the restoration of the structure, maintained density, and addition of trees in the right-of-way along 10th Street. Hamilton and Hardy concurred.

Hamilton also stated support for the application, additionally citing the improvement to the neighborhood the proposed modification would have. Chua and Fisher concurred.

Fisher commented that the application was improved, but would have liked for the third room to not be a study room.

Hardy called the question. Roll call vote was taken. Motion passed 5-0-0.

THE BOARD MADE THE FOLLOWING FINDINGS OF FACT FOR THE CONTIONAL USE PERMIT AT 928/930 THURSTON STREET:

Section 8-501(E) of the Manhattan Zoning Regulations states that the Board of Zoning Appeals may only grant an application for a conditional use permit for the modification of a legally nonconforming use if the Board makes written findings of fact and determines that all the standards set forth in Sec. 8-501(E) have been met.

Standard 8-501(E)(1). That the size of the zoning lot is not increased from that which currently exists.

Findings.

The size of zoning lot will not be increased from that which currently exists.

Conclusion: Standard 8-501(E)(1) is met.

Standard 8-501(E)(2). That either: **(a)** the current existing use does not have a significantly adverse impact upon either the surrounding neighborhood or the public health, safety or general

welfare, and the proposed modifications, additions and deletions will not worsen such impact; or, **(b)** that the current existing use does have such a significantly adverse impact and the granting of the proposed modifications, additions and deletions will be more likely to reduce or eliminate such impact than a denial of such proposal.

Findings.

The existing structure was built in 1920 and records indicate that the structure was utilized consistently as a two-unit structure since 1956. The subject lot and the adjacent properties to the east and north are located within an R-1/TNO District. South of Thurston Street, as well as east of 10th Street is zoned R-3, Multi-Family Residential. The surrounding area consists of a mix of single family, two-family and multi-family. The existing structure and use are within character of the surrounding neighborhood and **do not** have a significantly adverse impact on the public health, safety, or general welfare.

Conclusion: Standard 8-501(E)(2)(a) is met.

The current existing use **does not** have a significantly adverse impact on adjacent or surrounding properties that a denial of the request would reduce. However, approval of the request would facilitate the currently vacant and fire-damaged structure to contribute to the surrounding neighborhood.

Conclusion: Standard 8-501(E)(2)(b) is met. The current existing use does not have a significant adverse impact and modifications do not reduce or eliminate any adverse impacts.

Standard (3). The proposed conditional use complies with all applicable provisions of these regulations, except for those existing conditions that are legally nonconforming.

Findings.

The proposed conditional use is in compliance with all bulk regulations.

Conclusion: Standard 8-501(E)(3) is met.

Standard (4). The existing use continues in a substantially similar form, or in a form that is altered only to make it more modern or efficient.

Findings.

The existing use will remain as a two-family dwelling with no increase in intensity. The applicant proposes no longer mirror the layout of each unit, rather have the units be stacked with one on the main floor and one within the basement. The proposed minor alterations are to make the units a more habitable place to live by bringing the interior to modern and more efficient standards.

Conclusion: Standard 8-501(E)(4) is met.

The board discussed the options of continuing virtual meetings or returning the in-person meeting in City Hall. The decision was made to continue having virtual meetings.

Hardy adjourned the meeting at 7:28pm

NEXT MEETING: Wednesday, January 13, 2020

Respectfully submitted by, Samantha K. Estabrook, Resiliency Planner