

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**  
Virtual Zoom Meeting  
**Wednesday, April 14, 2021**  
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 DECEMBER 9, 2020, BOARD OF ZONING APPEALS MEETING.**

**Wigfall moved to approve the March 10, 2021 minutes with minor corrections. The motion was seconded by Hamilton and approved; 5-0.**

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**2.1 A REQUEST to consider an extension to the 180-DAY PERIOD OF VALIDITY in accordance with Secs. 14-608 and 707 of the Manhattan Zoning Regulations with respect to Lodging/Boarding House, 711/715 Humboldt Avenue (CUP-19-064 & EXC-19-065)**

**Wigfall moved to grant the extension to the 180-day period of validity in accordance with Secs. 14-608 and 707 of the Manhattan Zoning Regulations with respect to Lodging/Boarding House, 711/715 Humboldt Avenue. Hamilton Seconded. Motion carried 5-0-0.**

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**2.2 REMOVE FROM THE TABLE and conduct 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 twenty-five (25) foot front yard setback to 0 feet on property located at 1819 Erickson Street in the R, Single Family Residential District (Applicant/Owner: Rob Mahan; file no: 21-026)**

**Hamilton moved to remove item 2.2 from the table for discussion; Wigfall seconded. Motion passed 5-0-0.**

Estabrook presented the staff report for item 2.2. City Administration recommends to APPROVE the exception request at 1819 Erickson Street to allow for the reduction of the minimum required twenty-five (25) foot front yard setback to 0 feet, subject to the following conditions:

1. The Exception shall pertain only to the fence as described within the application materials and staff report.
2. The fence 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.

Applicant Rob Mahan provided some background on where he would like to locate the fence and offered that if the request was approved the new fence would be installed immediately. If not approved, the existing chain-link fence would remain.

Hardy called for board discussion.

Hamilton conveyed her support for attempting to put the fence in line with neighboring fences.

Wigfall indicated support for the improved fencing materials that still allow visibility into the property.

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

**THE BOARD MADE THE FOLLOWING FINDINGS OF FACT FOR THE EXCEPTION AT 1819 ERICKSON STREET:**

**Standards for Exceptions (Sec. 14-605)**

**1. COMPLIANCE WITH ALL APPLICABLE REGULATIONS:**

The subject property is in compliance with all applicable regulations other than those for which an Exception is being sought.

**2. PROBABLE EFFECT ON ADJACENT PROPERTIES:**

Each of the directly adjacent neighboring properties also have a fence located at the rear of the property a budding Hudson Ave. Considering the application reduces the degree of encroachment to the overall public right of way, it would be anticipated to have no effect on adjacent properties.

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

The residence and attached garage are compatible with the neighborhood and it is only by virtue of the cul-de-sacs radial nature that the encroachment occurred. Due to the marginal nature of each request and their existing nature, there would be no anticipated adverse impact caused by granting the request. The subject property is in character and likeness with the surrounding neighborhood. The replacement of the fence with an updated design only better serves the property owner and contribute to the neighborhood character. Adjacent to the rear of the property, and across the right of way of Hudson Ave, is a row of trees as well as a fence which both obscure the view onto the neighboring property providing security and buffering. the fence the applicant is proposing would be light in visual character and not create a walled experience for pedestrians along Hudson trail or vehicles traveling along Hudson Ave.

**4. 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 property owner did not place fence which currently encroaches upon the public right of way.
  - (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;** the applicant was aware the subject property was a through lot at the time of purchase. However, the character of existing fence line along Hudson Ave would not lend the property owner to believe an exception would be required for a feature which appears commonplace throughout the neighborhood.
  - (3) **Whether or not there are reasonable alternatives which would allow the property to meet the strict application of these regulations;** the proposed fence could be placed at the 25-foot setback and still give the property owner some enclosed space in order to meet the regulations. However, the proposed fence maximizes the amount of enclosed rear yard, while preserving an appropriate buffer to the programmed right-of-way.
  - (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;** granting the exception would not result in a relative gain or loss to the health, safety, or general welfare of the Community.
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**2.3 A PUBLIC HEARING** to consider a **CONDITIONAL USE** under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, for a building addition on property located at 1120 Westport Drive in the C-2, Neighborhood Shopping District (*Applicant/Owner: Josh Rathbun/Fred Brock ; file no: 21-035*)

Estabrook presented the staff report for item 2.3. City Administration recommends to APPROVE the conditional use request at 1120 Westport Drive to allow for a building addition on the property, subject to the following conditions:

1. The Conditional Use Permit shall be limited to the drive-in establishment.
2. The Conditional Use Permit shall only apply to the addition as proposed. Any future additions or expansions shall require a new Conditional Use Permit.
3. The applicant shall obtain all necessary permits.

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

Hamilton inquired whether access to that part of the property would be reasonably possible considering the gradient that would be next to the addition. Estabrook indicated that neither Public Works nor the Fire Department raised concerns about access to the addition.

Hardy opened the public hearing and comment from the applicant.

Applicant Joshua Rathbun explained that the 10 ft by 30 ft addition is intended for mechanical equipment and a boiler to run dry cleaning equipment. Rathbun explained that the addition would be very near the retaining wall and stated that it would be relatively unreasonable that anyone would or should go to the addition in the case of a fire.

Wigfall asked if there is currently a boiler in the facility. Rathbun explained that there is not, and the addition of the new boiler is to expand into having dry-cleaning capabilities in addition to the current laundry facilities.

Hardy called for board discussion.

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

**THE BOARD MADE THE FOLLOWING FINDINGS OF FACT FOR THE EXCEPTION AT 1819 ERICKSON STREET:**

**Standards for Conditional Use Permits (Sec. 14-704)**

**1. COMPLIANCE WITH ALL APPLICABLE REGULATIONS:**

The existing drive-in establishment is a nonconforming use, because at the time of construction, drive-in establishments were neither a permitted nor conditional use in the C-2 District. The subject property is currently in compliance with all applicable regulations.

**2. PROBABLE EFFECT ON ADJACENT PROPERTIES:**

Properties to the north, south and west are all in the C-2 Neighborhood Shopping District. The properties to the east are zoned C-1, Restricted Business District. The property located immediately north is a commercial development consisting of several businesses. The property to the south is occupied by a dentist office. There is a single-family house and office located on a large lot immediately east of the subject site. The site has an overall elevation change of thirty (30) feet from the northeast property line to the southern property line. Most of the eastern portion of the site is covered with mature trees and dense vegetation. The property to the east of the site is not visible from the property due to the heavy vegetation. A drive-thru establishment was part of the original 1987 building permit for the site. It is not anticipated the proposed 10' by 30' addition on the rear of the building would negatively impact adjacent properties.

**3. DOMINATION BY USE OVER NEIGHBORING PROPERTIES:**

The residence and attached garage are compatible with the neighborhood and it is only by virtue of the cul-de-sacs radial nature that the encroachment occurred. Due to the marginal nature of each request and their existing nature, there would be no anticipated adverse impact caused by granting the request. The subject property is in character and likeness with the surrounding neighborhood. The replacement of the fence with an updated design only better serves the property owner and contribute to the neighborhood character. Adjacent to the rear of the property, and across the right of way of Hudson Ave, is a row of trees as well as a fence which both obscure the view onto the neighboring property providing security and buffering. the fence the applicant is proposing would be light in visual character and not create a walled experience for pedestrians along Hudson trail or vehicles traveling along Hudson Ave.

**a. LOCATION, NATURE, AND HEIGHT OF PHYSICAL IMPROVEMENTS:** The proposed addition will increase the building area to approximately 4,500 square feet. The existing building on site is approximately 4,200 square feet, so the addition will increase the total building footprint by approximately 300 square feet. The proposed building addition on the east side will be a single-story and utilized to house mechanical equipment for an upgrade to the clean and press machinery. A drive-in establishment currently exists on the west side of the building, covered by a canopy. The location of the drive-in establishment on the property is not proposed to be altered. A drive-in establishment is in character for this specific C-2, Neighborhood Shopping District. There are several banks and one restaurant located along Westport Street with drive-in establishments.

**b. LANDSCAPING AND SCREENING:** No landscaping or screening is required for the drive-in establishment. The site is currently occupied by very dense and mature vegetation along most of the east portion of the site. There is also a significant grade change on the site of thirty (30) feet, which provides additional screening of the site to the properties to the east.

**4. ADEQUATE PROVISION OF PARKING AND LOADING:** There are currently fourteen parking

spaces on the site. The parking requirements for the proposed building are one parking space for every 200 feet of floor area. The floor area calculation does not include mechanical rooms or areas occupied by the washers and dryers, so the total floor area to be used in the calculation is 2625 square feet, requiring thirteen (13) parking spaces. Based on the proposal, the applicant has provided adequate parking. The applicant is anticipating minimal additional traffic due to the addition, as it is an addition for mechanical equipment.

5. **ADEQUATE PROVISION OF DRAINAGE, AND OTHER PUBLIC UTILITIES:** Adequate public utilities are currently provided to the site. Stormwater runoff on the site drains from the northeast corner of the site to the southwest and utilizes existing stormwater systems along Westport Drive. The Public Works Department reviewed the proposal and provided no comment.
6. **ADEQUATE PROVISION OF ACCESS:** In 2009, significant changes were made to the access to the lot by creating a second curb cut and eliminating the need for patrons to drive around the building. No alterations to access are proposed.

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Hardy adjourned the meeting at 7:30pm

NEXT MEETING: Wednesday, May 12, 2020

Respectfully submitted by Tyler W. Tripp, Bicycle and Pedestrian Coordinator