

MINUTES
MANHATTAN BOARD OF ZONING APPEALS
City Commission Room, City Hall
1101 Poyntz Avenue
Wednesday, June 13, 2007
7:00 PM

MEMBERS PRESENT: Connie Hamilton, Chairperson; Calvin Emig; Kate Watson;
La Barbara J. Wigfall; and, Harry Hardy.

MEMBERS ABSENT: None

STAFF PRESENT: Steve Zilkie, Senior Planner, AICP; Chad Bunger, Planner; Derek Clark, Planning Intern

CONSIDER THE MINUTES

Watson moved to approve the May 9, 2007 minutes which was seconded by Wigfall and passed with a vote of 5-0.

A PUBLIC HEARING to consider a EXCEPTION to allow a reduction of the minimum thirty (30) foot front-yard setback to four (4) feet along Stagg Hill Road and to ten (10) feet along Sumac Drive to construct a proposed fence in the R-S, Single-Family Residential Suburban District. The property is located at 2621 Sumac Drive.

Bunger provided the staff report recommending approval with conditions.

Watson asked what road type Stagg Hill Road was at the subject type. Zilkie responded that Stagg Hill Road was a higher speed road that was either classified as a collector or arterial.

Hamilton opened the public meeting.

Brian Wright, the applicant, spoke about the request to construct the fence in the proposed location. He stated that he wanted to construct the fence for safety and aesthetic reasons. It would keep his family and pets from going into traffic along Stagg Hill Road and Sumac Drive. He stated that traffic on Stagg Hill Road travels at high speeds and he worries about his child running onto the roadway. Wright stated that he has spoken to his surrounding neighbors about the proposed fence and that they had no problems with the project.

Hardy commented that he liked the fact that he spoke with his neighbors about the project and that he plans to use the split rail fence design for aesthetic purposes.

There were no other comments from the public, Hamilton closed the public meeting.

Watson stated her concern that the construction of the proposed fence would create a false impression of improving the safety of the corner, which she felt the proposal would not. However, she also felt that the proposal would be aesthetically pleasing to the neighborhood. Watson stated that she could support the request.

Hardy stated he could support the Exception request, based on the improvement of safety to the family members and pets. This property has unique characteristics that limit the use of the property without the approval of the request.

Emig commented that the home owner should strive to keep as many trees as possible during the construction of the proposed fence.

Hamilton stated she can support the request and asked the staff to include in the finding of facts concerning the speed of the traffic along Stagg Hill Road and that the neighbors were polled and approved of the proposed project.

Wigfall stated she would like to see the meeting minutes state that the proposed location of the fence can be modified to preserve existing trees as long as it does not encroach further into the front property line.

The Board made the following findings of fact for the Exceptions:

COMPLIANCE WITH ALL APPLICABLE REGULATIONS:

The subject property currently complies with all applicable regulations except for what the Exception is being requested.

PROBABLE EFFECT ON ADJACENT PROPERTIES:

The subject property is a corner lot with two front yards, Sumac Drive to the north, and Stagg Hill Road to the west. The house is situated on the lot with the front entrance and driveway access off of Sumac Drive. The side of the house faces to the west along Stagg Hill Road, and this area is utilized as the side yard. Due to the topography of the subject property, no traditional side-yard to the east or rear-yard to the south is present.

To the north and east are lots zoned R-S, Single-Family Residential Suburban. Across Stagg Hill Road to the west is a privately owned tract of land dedicated as open space by the Audubon Society, which is zoned as R, Single-Family Residential District. Directly to the south of the subject property is a large tract of land located outside of the city limits in Riley County, with a County Zone of G-1, General Agriculture.

The Applicant stated that he has talked with the surrounding neighbors and that they have approved the location and appearance of the proposed fence. Due to the character of the property and of the area, the proposed four (4) foot split rail fence with an addition of wire mesh would have minimal effects on adjacent properties.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE,

PROSPERITY, OR GENERAL WELFARE:

After a redesign of the proposed location of the fence it has been determined that its placement will not affect the Sumac Drive and Stagg Hill Road thirty foot vision clearance triangle. It is likely that the construction of the fence would improve public health and safety by helping to ensure that pets, toys or children would not conflict with the busy, high speed traffic along Stagg Hill Road.

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

This large corner lot has frontage along Sumac Drive and Stagg Hill Road, with two minimum front-yard setbacks of thirty (30) feet. Although the subject property is over one (1) acre in size, the steep terrain and large, heavily wooded areas with mature trees diminishes the functional use of the entire side and rear-yards. The strict application of the regulation would require the placement of the proposed fence through the primary open area for the applicant's family to enjoy. The proposed setback reduction will enable the applicant to have a usable fenced-in yard which will provide safety and enjoyment to the applicant and family. To require strict application of the regulations is unreasonable and unnecessary when all facts and circumstances are considered.

Hardy moved that the Board grant an EXCEPTION at 2621 Sumac Drive, in the R-S, Single Family Residential Suburban District, to reduce the minimum thirty (30) foot front yard setback along Stagg Hill Road to four (4) feet and along Sumac Drive to ten (10) feet for a proposed four foot high split rail fence with the following conditions:

1. The fence shall be maintained in good condition.
2. The fence shall be constructed as proposed in the site plan and application documents.
3. The fence shall be limited to a four (4) foot tall split rail fence with a wire mesh insert on the inside of the fence as described in the application documents.

Emig seconded the motion, which passed 5-0.

A PUBLIC HEARING to consider a CONDITIONAL USE PERMIT for a proposed dog wash addition to Willie's Car Wash in the I-2, Industrial Park District, located at 480 McCall Road.

Derek Clark, Planning Intern, presented the staff report recommending approval with conditions.

Wigfall asked about a letter submitted with the February application describing the location of new vacuum units on the subject property. Clark stated that since the application was submitted, the vacuum units have removed from the proposed plan.

Hamilton opened the public hearing.

Will Hummel, the manager of Willie's Car Wash, provided the Board with additional comments

about the proposed dog wash.

No other comments were made from the public and the public meeting was closed.

Hardy stated that he could support the application.

Hamilton stated that she could support the request.

The Board made the following findings of fact for the Conditional Use:

Compliance with all applicable regulations: 480 McCall Road, Lot 2, Carlson Addition, currently is located in the I-2, Industrial Park District with a car/truck wash located on the northern portion of the lot and storage units on the southern portion. The storage units are a permitted use and the car/truck wash is an approved conditional use within the I-2 District. The Conditional Use permit was obtained in February 2002 for the car/truck wash. Other than the proposed Conditional Use being sought, the subject property complies with all applicable regulations, including lot size requirements and bulk regulations.

Probable effect on adjacent properties: The subject property and surrounding properties are located in an I-2, Industrial Park District. To the north of the property, across McCall Road, is Abbott Management with self-storage units located to the north of the office; to the west, approximately 150 feet away from the wash bays and 100 feet away from the vacuum station, is Abbott Aluminum Inc. and Maximum Performance. To the south of the car/truck wash, approximately eighty (80) feet away, are self-storage units located on the same lot and extend to the end of the lot with an open area to the south. The property to the east is the KSU Learning Center, with its parking lot located approximately 200 feet to the east and the building approximately 250 feet to the south east. Currently, the existing car/truck wash and the vacuum station has not caused any negative effects on surrounding properties with regards to noise. The addition of the dog wash is not foreseen to have a negative effect on adjacent properties due to its proposed location and design.

Domination by use over neighboring properties:

Location, nature, and height of physical improvements:

The proposed dog wash will be constructed on the southeast corner of the existing car/truck wash. The proposed dog wash will be ten (10) foot by eight (8) foot and approximately ten (10) foot high equaling eighty (80) square feet. The existing car/truck wash is an approximately 6,000 square foot, one-story structure containing eight (8) wash bays. To the west of this there is an approximately 2500 square foot cover vacuum station containing six (6) vacuums. As a whole, the dog wash will be a minimal addition to the property's current makeup.

Landscaping and screening:

The I-2 District requires a landscaped area of twenty (20) feet to be maintained on all sides abutting a street. The subject property is an interior lot with frontage along McCall Road. Currently there is approximately two hundred (200) feet of green space located along McCall Road. There is also approximately thirty (30) feet of bushes and shrubbery located in front of the main structure within this green space. The current site exceeds the required amount of landscaping for this district.

Adequate provision of parking and loading: The current paved area that can be potentially used by the car wash is approximately two hundred-seventy (270) feet by two hundred (200) feet. This was determined by splitting the distance between the car/truck wash and the self storage units. This paved area was sufficient space for the required parking and stacking space for the car/truck wash according to the 2002 approved Conditional Use.

The proposed dog wash will be ten (10) foot by eight (8) foot equaling eighty (80) square feet of floor area. The zoning regulations state that one (1) parking stall shall be provided for each two hundred (200) square feet of floor area. This calculates out to a fractional space of 0.4. This fraction can be rounded down to zero and disregarded according to the off-street parking computation section of the zoning regulations. There for, no parking stalls are technically required to be dedicated for the dog wash. However, due to the operation of the dog wash requiring the patron to physically be in the unit with the animal, City Staff recommends that the applicant designates at least (1) standard parking stall and one (1) ADA accessible parking stall near the dog wash unit.

Adequate provision of drainage, and other public utilities: Adequate sanitary sewer and water service is currently available to the site. Storm water run-off flows to open ditches located along McCall Road and to the green space located to the east and west of the property. The proposed dog wash will be plumbed, by boring through the concrete, into the southern most truck bay's catch/drainage basin.

Adequate provision of access: The subject property has a frontage along McCall Road, the north property line of the site. The site currently has two curb-cuts onto McCall Road providing access to the site. The east curb-cut is the designated entrance drive and the west curb-cut is the designated exit drive on the property. These two curb-cuts provide adequate access to the site. The proposed location of dog wash provides adequate access to the unit. There is approximately eighty (80) feet between the southern most wash bay and the self storage units. This will allow for traffic to continue to pass easily through the site after the construction of the dog wash.

Hardy moved that the Board grant a Conditional Use Permit for a dog wash addition to Willies Car Wash located at 480 McCall Road in the I-2, Industrial Park District, with the following conditions:

1. The dog wash shall be constructed according to the site plan and accompanying application documents and shall be maintained in good condition.
2. All applicable permits will be obtained.

3. The dedication of one (1) standard parking stall and one (1) ADA accessible parking stall located adjacent the dog wash.

Wigfall seconded the motion, which passed 5-0.

A PUBLIC HEARING to consider a CONDITIONAL USE PERMIT to allow for construction of a two-family dwelling unit, located within a R-M/TNO, Four-Family Residential District with Traditional Neighborhood Overlay, in which one or both of the dwelling units is greater than six-hundred (600) square feet in floor area and where one or both of the dwelling units has more than two bedrooms. The location of the subject site is 825 Osage Street.

Bunger presented the staff report recommending denial of the Conditional Use request.

Hamilton opened the public hearing.

Rick Days, property owner, spoke about the proposed project. Days commented that he wishes to construct the proposed structure, so he can live in one unit once he retires and rent out the second unit to offset the cost of the new home. Days also stated that his proposed design attempts to meet the character of the area and maintain the existing backyard.

Watson asked about the current state of existing house is. Days stated that the structure is being renovated. The existing structure is wood framed and has extensive termite damage.

Emig asked the owner if any consideration was give to have the seconded unit conforming to the Traditional Neighborhood Overlay (TNO) design standards. Days stated that requiring the second dwelling unit to be smaller than 600 square feet was unreasonable as an adequate housing unit.

Dan Knight, architect for the project, commented that his client had looked at housing plans that meet the design requirements of the Traditional Neighborhood Overlay, but the applicant felt that these designs didn't match the character of the neighborhood. The architect stated that the proposed plan can be changed if the Board deems it necessary. Knight also commented that the existing structure is beyond repair.

Emig asked if it was possible to design a two bedroom, second story apartment that would meet the requirements of the TNO design standards. Knight answered that he could create such a design, but the amount of space would be very limited and possibly uncomfortable for the occupants.

Sara Fisher, 415 N. Juliette, spoke in opposition of the proposed development. Fisher's objections included that the proposal did not meet the Traditional Neighborhood Overlay design

standards or the character of neighborhood. Fisher also stated that the proposed parking would not be adequate based on the number of bedrooms and the street congestion of the 800 block of Osage. Fisher provided the board with pictures of the neighborhood and a petition signed by people in the neighborhood opposed to the project.

Anne Cowan, 415 N. Juliette Street, spoke in opposition of the project, based on the proposed structure not matching the existing character of the neighborhood.

Victor Force, 412 N. 8th Street, spoke against the proposed project based on past experiences of inattentive landlords, noise levels caused by nearby rental units and the impact of increased parking demands.

Marianne Korten, 814 Osage Street, spoke against the proposal. Korten felt that the request should be denied to preserve the character of the neighborhood.

Bob Willette, 806 Osage Street, spoke in opposition to the project based on the perceived negative impacts from more intense residential uses proposed on the site

Rick Roffler, 821 Osage Street, stated that he did not directly oppose the proposed structure, but felt that it would need to match the character of the neighborhood. Roffler also had concerns on the parking situation on the property and on the 800 block of Osage Street.

Elias Saig, 831 Osage Street, opposed the project due to concerns with parking and the potential, negative impacts his property directly west of the subject site.

Carolyn Arand, 824 Leavenworth, asked the Board to deny the request in its current form to preserve the character of the neighborhood. She felt that the proposal did not meet the design features of the neighborhood. Arand stated that her property is being considered to be on the National Historic Places Registry.

Watson asked if the Arand property is on the City's history property inventory. Arand stated that she did not believe that the house was in the current historic inventory.

Bob McCarthy, 826 Osage Street, opposed the proposal due to the negative impacts it would have on the existing neighborhood.

With no further comments from the public, Hamilton closed the public hearing.

Hardy stated that he appreciated the neighbors wanting to project the character of their neighborhood. Hardy also stated he appreciates the applicant's attempt to improve the subject property and wanting to preserve the existing yard. He stated that he could not support the request to uphold the intent of the Traditional Neighborhood Overlay district.

Emig concurred with the comments made by Hardy. Emig felt that a substantial amount of time was spent by residents and developers to create the Traditional Neighborhood Overlay standards.

Emig also stated his concerns over the size limitation created by current standards.

Wigfall stated her concerns regarding the impacts on the neighborhood caused by the increase in parking on the subject property. Wigfall added that she did not want to discourage potential residents of Manhattan from developing properties in the older neighborhoods, but wants to be sensitive to the residents already living in the older neighborhoods.

Watson concurred with the comments made by the Board.

Hamilton wanted to remind the public that the Conditional Use Permit is part of the City's procedure to allow proposed uses based on the standards prescribed by the zoning regulations. Because the proposal does not meeting the standards, Hamilton could not support the request. Hamilton recommended that the applicant meet with the neighborhood to redesign property to meet the needs of all parties.

The Board made the following findings of fact for the Conditional Use:

Compliance with all applicable regulations: The proposed structure and use conforms to the permitted uses, lot size requirements and bulk regulations of the R-M, Four-Family Residential District. The proposal also conforms to the TNO's, Traditional Neighborhood Overlay District's, lot size requirements and bulk regulations. The proposal also conforms to the TNO District's Building Design Standards, including requirements for windows, roof pitch, building entrances, orientation and porches.

However, the propose structure does not meet all of the Compatibility Standards of the TNO, Traditional Neighborhood Overlay District. The applicant's proposal consists of a new two-story, two-family dwelling unit with both units having a total of approximately 1,079 square feet of living space. Each unit in the proposed structure will include 3 bedrooms. The standards require that one of the dwelling units of a new Two-family structure to be less than six-hundred (600) square feet and have two bedrooms or less, thus requiring the Conditional Use request.

Probable effect on adjacent properties: The subject property and all adjacent properties are located within an R-M/TNO, Four-Family Residential District and the Traditional Neighborhood Overlay District. The properties in the blocks directly to the north (800 block of Fremont St.) and west (900 block of Osage St.) consist of original single-family homes that have been converted to two-family and multiple-family uses or have been removed for the construction of small, multi-family apartment complexes. The average number of dwelling units, DU, within these blocks is 1.8 DUs on the 800 block of Fremont St. and 2.1 DUs in the 900 block of Osage St. However, in the 800 block of Osage Street, where the subject property is located, many homes have remained single-family residences. The average number of dwelling units within in this block is 1.4 DUs.

Although the existing structure is in need of repair and may be economically unfeasible to rehabilitate or renovate, removing the existing single-family structure to construct a new, two-family structure in the proposed manner could affect the character of neighborhood. The

dimensions of the proposed structure (height and square footage) will match adjacent properties. However, the overall floor plan deviates from the standards of the Traditional Neighborhood Overlay, which state that one of the two new units of a two-family dwelling should be six-hundred (600) square feet or less and have two bedrooms or less. This deviation from the TNO, Traditional Neighborhood Overlay District, may have a negative impact on the character of the neighborhood. Any change which increases the density of the subject property can be seen as a potential adverse impact on the neighborhood, which is zoned R-M/TNO District.

Due to the proposed construction of a new two-family use, an increase in parking congestion is anticipated. The site plan provides for 2.5 off-street parking spaces per dwelling unit to be located in the rear yard via alley access, for a total of five (5) off-street parking spaces. The proposed off-street parking provides additional parking above the minimum requirement of four (4) off-street parking spaces for the two-family dwelling unit. The proposed off-street parking would likely leave one (1) vehicles along Osage Street based on the number of bedrooms compared to off-street parking stalls (six to five). The increase in parking congestion is likely to cause minimal impact to adjacent properties. The 800 block of Osage Street appears to be able to handle one (1) additional vehicle parking on-street, however vehicles from guests may create some impact to adjacent properties.

Domination by use over neighboring properties: The surrounding area is part of one of the original neighborhoods in the community. The blocks to the west and north are comprised of several single-family homes that have been renovated into two-family, three-family, and four-family structures over the years. Based on the number of owner-occupied and single-family rental units along the 800 block of Osage Street, it appears that 9th Street and Osage Street is an informal boundary between residential uses that are more intense and more of traditional neighborhood intensity. The intent of the R-M/TNO, Four-Family Residential District with a Traditional Neighborhood Overlay is to promote a medium density mixture of single-family, two-family, and small multi-family residential developments while preserving the characteristics of the older neighborhoods. The project architect has created a site plan that incorporates the Building Design Standards for the TNO, Traditional Neighborhood Overlay District, including the minimum fifteen (15%) percent of window area, appropriate roof pitch, lot orientation and the incorporation of an architecturally appropriate porch.

The new, proposed structure does fail to meet the requirements for the second dwelling unit to be 600 square feet or less in size and have two or fewer bedrooms. This two-story floor plan may dominate over neighboring properties in terms of character and size compared to neighboring properties.

Location, nature, and height of physical improvements: The subject property is a 50-foot by 150-foot (7500 square foot) lot that meets the minimum lot dimensions and square foot requirements for a two-family dwelling in a R-M/TNO District.

The existing structure has a building footprint of 2,016 square feet for approximate lot coverage of 27 percent. The proposed structure would be approximately 52 feet by 26 feet and be 25 tall to the roof peak. When adding the two, second story decks, the

proposal would result in approximate lot coverage of 1,802 square feet for approximate lot coverage of 24 percent. The site plan proposes a 16-foot front yard setback along Osage Street, a 9 foot east and west side yard setback, and a 77 foot rear yard setback to the south.

Landscaping and screening:

The subject property currently consists of residential landscaped yard vegetation. While landscaping is not required for the proposed two-family dwelling, an appropriate fence or vegetation should be installed along the east and west side yards to screen the proposed parking spaces at the rear of the property.

Adequate provision of parking and loading:

The site plan provides for a five (5) car off-street parking area within the rear yard. The proposal provides for one (1) additional off-street parking space than the required two (2) off-street parking spaces per dwelling unit. The parking area will be accessed via the adjacent paved alley. On-street parking is also available along Osage Street.

Adequate provision of drainage, and other public utilities:

Storm drainage flows to the south towards the alley and existing utilities are serving the property. Adequate drainage and public utilities are provided for the proposed use.

Adequate provision of access:

The subject property has frontage along Osage Street, and an alley located at the south property line. The parking provided in the rear yard will be accessed from the alley. No curb cut is proposed off either Osage Street. Adequate access is provided for the proposed use.

Emig moved to deny the Conditional Use request to construct a two-family dwelling unit, located within a R-M/TNO, Four-Family Residential District with Traditional Neighborhood Overlay, in which both of the dwelling units are greater than six-hundred (600) square feet in floor area and where both of the dwelling units has more than two bedrooms at 825 Osage Street.

Watson seconded the motion, which passed 5-0.

A PUBLIC HEARING an EXCEPTION to allow for lot coverage of the property to exceed thirty (30) percent; a reduction of the east side yard setback from three (3) feet to zero (0) feet and to reduce the rear yard setback from ten (10) feet to two (2) feet for the expansion of an existing, detached, accessory garage. This property is located in a R-1/ TNO, Single-Family Residential District with Traditional Neighborhood Overlay. The property is located at 1415 Colorado Street.

Bunger provided the staff report recommending approval of the Exception request with conditions of approval. Bunger explained that there is pending court action concerning code

maintenance and building issues attached to the staff report. The City Prosecutor and the applicant's attorney are awaiting a decision by the Board in order to resolve those issues.

Hamilton opened the public hearing.

Nick Zack, the applicant, provided additional comments on the proposed project. Zack provided images of garages similar in location and scope throughout the neighborhood around the subject property. Zack stated that he started the expansion of the garage because of the deteriorating foundation of the garage caused by a walnut tree that was recently removed, and the availability of help from his family members to create a workspace to finish the residential structure. This was done without proper building permits.

Sam Bieben, 215 N 14th Street, spoke in support of the applicant and proposed project.

John Selvidge, 418 Colorado Street, spoke against the proposed project based on the amount of time that the residential structure has taken to rehabilitate and its impact on property values in the neighborhood.

Hamilton stated that this request is for only the detached garage expansion. She asked that all comments speak to the issue.

Mark Zafran, 422 Colorado Street, stated that he is not opposed to the project. He did ask that the garage be built according to building codes.

Roger Watson, 1414 Colorado Street, stated his opposition to the proposal due to the fact that Zack did not acquire the proper permits.

Michael Cardella, 323 S. 14th Street, opposed the proposal based on the condition of the entire property.

Kay Cardella, 323 S. 14th Street, stated her opposition to the proposed project and asked Zack to finish the project and the residential structure in a timely manner.

Diane Barker, 4872 Tall Grass Road, spoke on behalf of Zack and the quality work that he does.

With no further comments from the public, the public hearing was closed.

Emig noted that the Board of Zoning Appeals is not a governing agency that enforces the statutes that addresses the other issues of the property. The Board is mandated to look at the facts associated with the Exception request. Emig stated his support of the Exception.

Hardy agreed with the comments made by Emig and could support the application.

Wigfall concurred with the comments made by fellow her Board members

Watson suggested that the conditions for approval proposed by the staff be read allowed. Hamilton read the following conditions of approval out loud;

1. All necessary permits shall be obtained.
2. The Exception shall be limited to the application documents and site plan.
3. The garage shall be built as proposed in the site plan.
4. The structure shall be maintained in good condition.

Hamilton asked staff if a building permit has been issued for the detached garage's expansion. Bunger stated that a building permit has not been obtained because of the legal issues facing Zack, based on the outcomes of this public hearing. Bunger also stated that once the applicant applies for the building permit, the City's Zoning Inspectors will review the site plan before a building permit is issued to ensure that it conforms to zoning regulations and any variances, exceptions or conditional uses.

Hamilton then asked how long a building permit is valid for, once obtained. Emig stated that construction must begin within 180 day of issuance of the building permit, but has no completion time period as long as progress on the structure is being made.

Emig suggested that the applicant apply for a building permit within 30 days of the official notice of decision is signed.

Hamilton voiced her concern in regards to the property's maximum lot coverage and the fact that this expansion was started without proper building permits. Hamilton also expressed her concerns for the conditions of the property as a whole.

Emig commented on the issue of the lot coverage that was caused by the rezoning of the property and the proposed expansion of the detached garage. Emig also stated that the Board must rely on other City Departments to address the outstanding issues of the property.

Hamilton stated that she could reluctantly support the recommendation of the staff report.

The Board made the following findings of fact for the Exception:

COMPLIANCE WITH ALL APPLICABLE REGULATIONS: The property complies with all applicable requirements of the Zoning Regulations, other than the ones for which an Exception is being requested.

PROBABLE EFFECT ON ADJACENT PROPERTIES: Minimal impacts to the residences to the east, south and west are expected from the granting of the exceptions for the expansion of the existing garage. Similar properties along the same alley have garages positioned in similar locations within the rear and side yard setbacks. The rear yard of the property is also screened by a solid cedar fence. Allowing the property to exceed the maximum lot coverage should not have an adverse affect on the adjacent property owners.

EFFECTS ON PUBLIC HEALTH, SAFETY, MORALS, ORDER, CONVENIENCE,

PROSPERITY, OR GENERAL WELFARE: Adverse impact on the public is not expected. The design of the existing driveway leading to the existing garage should improve public safety by preventing the driver from backing out directly into the alley, but rather approaching the alley via a curve. The proposed structure does not encroach into any utility or drainage easements and is not anticipated to adversely impact vision along the alley.

THE STRICT APPLICATION OF THESE REGULATIONS IS UNREASONABLE, OR UNNECESSARY WHEN ALL FACTS AND CIRCUMSTANCES ARE CONSIDERED: Detached garages located on or near the alley are an existing condition throughout the established neighborhood. The applicant is proposing to expand the garage to the north and west, which will not further encroach on the alley or neighboring property line. The existing structure was part of the established neighborhood for many years and would not have required an Exception to continue in the state that it was in, before the un-permitted construction project.

Hardy moved to grant the Exception to allow a reduction in the minimum three (3) foot accessory structure side yard setback to zero (0) feet; reduction of the ten (10) foot accessory structure rear yard setback to two (2) feet for a proposed detached garage; and to allow the property to exceed the maximum lot cover of thirty (30) percent to thirty-four (34) percent in the R-1, Single-Family Residential District with TNO, Traditional Neighborhood Overlay District, at 1415 Colorado Street with the following conditions:

1. All necessary permits shall be applied for within 30 days of the official notice of decision.
2. All necessary permits shall be obtained.
3. The Exception shall be limited to the application documents and site plan.
4. The garage shall be built as proposed in the site plan.
5. The structure shall be maintained in good condition.

Hamilton seconded the motion, which passed 5-0.

ADJOURN

Respectfully Submitted,

CB