

**MINUTES**  
**MANHATTAN BOARD OF ZONING APPEALS**

City Commission Room, City Hall  
1101 Poyntz Avenue

**Wednesday, February 12, 2020**

7:00 p.m.

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

MEMBERS ABSENT: N/A

STAFF PRESENT: Barry Beagle, Senior 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 January 8, 2020, BOARD OF ZONING APPEALS MEETING.**

Wigfall moved to approve the January 8, 2020, minutes. Hamilton seconded. Motion carried 5-0.

**2. ELECTION OF OFFICER**

**2.1 Chairperson**

Hamilton nominated Harry Hardy to continue as Chair. Wigfall seconded. Motion carried 5-0.

**2.2 Vice-Chairperson**

Hamilton nominated La Barbara Wigfall as Vice-Chair. Hardy seconded. Motion carried 5-0.

**3. GENERAL AGENDA**

**3.1 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 three-unit dwelling in an R-1/TNO, Single-Family Residential District with Traditional Neighborhood Overlay at 1000 Leavenworth Street. (Applicant/Owner: BIGDLIJ, LLC; file no. EXC-19-079) CONTINUED FROM DECEMBER 11, 2019 BZA MEETING**

Wigfall motioned to table the item until the March 11, 2020 hearing, citing unforeseen issues. Hamilton seconded. Motion carried 5-0.

**3.2 A PUBLIC HEARING to consider a VARIANCE under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow an existing wall sign to extend above the roofline in the LM-SC, Light Manufacturing and Service Commercial District at 524 Ft. Riley Boulevard. (Applicant: Precision Tint & Auto, Jerry Carroll; file no.: VAR-20-005)**

Chad Bunger presented the Variance for the property located at 524 Ft. Riley Boulevard to allow an existing wall sign to extend above the roofline. City staff recommended approval with one condition.

Prior to his presentation, Bunger said that the current case could have been handled as an exception rather than a variance. He said if the Board denies the variance or would prefer, he would re-file and advertise as an exception for the next Board of Zoning Appeals meeting. Hamilton said that generally, when the Board denies a request, it is due to them not providing adequate justification for their request. She said that since the bar is set lower for an exception, would the Board be allowed to use the threshold of an exception for this case. Bunger said he would prefer that city staff start from scratch and go through all proper channels and bring it before the Board later, at no cost to the applicant. Hamilton asked if their only two options are to treat the case as a variance, which has a higher threshold of evidence needed to approve, or wait until a future date to rehear the case. Bunger said those are the only two options available at this time. Wigfall asked if there would be any impact on the case if there was a change of ownership, Bunger said there would be no impact.

Wigfall, Hardy, and Hamilton were all in agreement that they would prefer to view the case as an exception. Bunger said he understood and would have the applicant withdraw the application and refile for an exception for the March 11, 2020, meeting.

**Hamilton motioned to table item 3.2. Wigfall seconded. Motion carried 5-0.**

**3.3. PUBLIC HEARING to consider an EXCEPTION to the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for a reduction in the required front yard setback from 15-feet to 0-feet to accommodate an existing ADA ramp in an R-2/TNO, Two-Family Residential District with Traditional Neighborhood Overlay at 512 Laramie Street. (Applicant/Owner: Charles A. Brunson; file no. EXC-20-007)**

Barry Beagle presented the staff report for an Exception for a property located at 512 Laramie Street. City staff recommended approval with three conditions of approval.

Wigfall asked what the slope of the switchback would be. Beagle said he is unsure of the exact slope, but it would be wider and cover more surface area.

Chua asked what would happen to the ramp if the property switched owners and the new owner did not need the ramp. Beagle said the new owner would be able to keep the ramp, however, if they voluntarily take down the ramp and the exception will be

considered null and void. Hamilton asked if Beagle had considered adding a condition that a future owner would have to appeal to the Board to keep the ramp if they wanted. Beagle said it was staffs thinking that they could avoid burdening a future owner with that process if they desired to keep the ramp.

Hardy opened the floor for public comment:

Blaine Lemmons, 504 Laramie, is the next door neighbor and said he is in favor of the ramp being retained. He believes the ramp is a positive addition for the applicant. Lemmons said he is okay with the ramp remaining with a new property owner as long as the ramp is maintained.

Charles Brunson, 512 Laramie, said he is thankful for the ramp. He said his doctor said it is easier on his body to walk up a stiff surface rather than picking up his legs to climb steps. Brunson said it is his opinion that if the next property owner wanted to keep the ramp, it should be up to them. He would be willing to negotiate with a prospective buyer to remove the ramp if they wanted. He thanked the planning staff for their efforts.

Hardy closed the floor for public comment.

Fisher asked whose responsibility it is to monitor the ramp if it were to come into disrepair. Beagle said it would be Risk Reduction who would identify that and work with the property owner to either repair or remove the ramp.

Hamilton said while she supports the application, she does acknowledge that the property owner did have alternative options when installing it that would have had a lesser impact on the character of the neighborhood. She would have liked to have seen greater consideration of detail, but understands the ramp is built and in shape. She finds it very positive that the neighborhood is in favor of the ramp and that the need for the ramp is valid. Due to various alternative ways to construct the ramp, Hamilton said she is concerned with the conditions of approval.

Fisher asked if a future owner wanted to move the ramp would that require a building permit or exception. Hamilton and Hardy said it would require a building permit but would only require an exception if it was violating the setbacks. Hardy said he is fine with the third condition of approval. He said if he were to buy a property with a ramp and he did not require it, he would remove it. If he were looking for a home and he had a mobility limitation and he saw a home with a ramp already installed, he would be excited to not have to install his own.

Hamilton said her primary concern is that exceptions are granted for fences to protect small children from running into the street, but the fences stay up in the front yard setback years after the child has grown up and moved out. Wigfall said she would have preferred the switchback for safety purposes. Since the ramp is existing and serves the current owner, she is okay with it.

Hardy asked the Board if there was consensus over the third condition of approval. With the cooperation of Mr. Brunson and the ability of the ramp to serve a different owner, the Board agreed the third condition was adequate.

Hardy called to question to APPROVE the Exception to reduce the front yard setback requirement from 15-feet to 0-feet to accommodate an existing ADA ramp on property zoned R-2/TNO, Two-Family Residential District with Traditional Neighborhood Overlay at 512 Laramie Street, subject to the following conditions:

1. The existing ADA ramp shall be maintained in its present configuration and dimensions without alteration.
2. The ramp be maintained in a good, usable condition.
3. Should the ramp be removed based on voluntary action of the property owner and not replaced, the Exception shall become null and void without further action of the Board.

**Roll call vote was taken. The Exception was approved 5–0.**

**THE BOARD MADE THE FOLLOWING FINDINGS OF FACT FOR THE EXCEPTION AT 512 LARAMIE STREET:**

**Present use:** Single Family Residence

**COMPLIANCE WITH ALL APPLICABLE REGULATIONS:**

The subject property appears to be in compliance with the applicable regulations of the R-2/TNO District with the exception of the subject ramp. Two possible exceptions to full compliance concern the setback of the house from the west property line and the setback of the detached garage from the alley right-of-way line. By current regulation, the side yard setback for residential buildings in the R-2 District is six (6) feet. By casual observation, the house appears to be setback less than six (6) from the west property line. In addition, the detached garage off the alley is by today's standard to be setback 10-feet from the alley right-of-way line. Both structures, however, were built in advance of the adoption of Zoning Regulations for the City of Manhattan in 1926. Under the circumstances, since both structures pre-date the adoption of zoning, both would appear to be grandfathered with respect to the suspect setback requirement.

**PROBABLE EFFECT ON ADJACENT PROPERTIES:**

The subject property is part of the original town Ward districts. This area consists of older housing stock, some of which are retained as single-family housing, but there are others that have been converted into apartment units. The block face on Laramie Street, including the subject property, consists of original housing stock dating as far back as 1890 with the most recent dwelling constructed in 1950. Homes along Laramie Street display a range of setbacks typical of the core area neighborhoods. Within the block face of Laramie Street including the subject property, homes range in setback from

approximately nine (9) feet to 30-feet. Homes fronting the north side of Laramie Street have setbacks ranging from approximately nine (9) feet to 25- feet, with the home on the subject property setback approximately 22-feet. All properties on this block maintain rear alley access with no driveways coming directly off of Laramie Street. As noted, the Zoning Regulations permit terraces, steps, ramps, landings and decks to extend no closer than 15-feet to the front lot line, provided they do not exceed 30-inches in height. Code Service has confirm that the highest surface of the ramp is no more than 29- inches in height. With the applicant's home setback approximately 22- feet from the front lot line, the ramp would be permitted to extend not more than seven (7) feet in front of the house. The resulting slope would be too steep to be useful let alone compliant with ADA standards. There may have been other ways to install the ramp and yet remain compliant with the setback requirement. More than likely a more complicated design would be required involving a switchback to get from the sidewalk to the front porch. Because of the compressed space within which to work, the ramp would have to be reoriented sideways, parallel to the street. So as not to exceed the required slope, the ramp would have to be longer with a midpoint landing to switchback to the front porch. The resulting ramp would take up more of the front yard and appear bulkier than coming straight off the front porch. City Administration believes the applicant has made a legitimate request and that what was constructed is more efficient and less costly for the applicant without adversely affecting the use and character of neighboring property.

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

The proposed Exception would permit the applicant to retain the existing ADA ramp that was constructed in front of his house. The ramp was initially built for the applicant's wife who has since passed away. Because of the applicant's age and physical condition, he would prefer to retain the ramp for his personal needs. Although no other properties within the block have an ADA ramp, no adverse impact on the public health, safety, morals, order, convenience, prosperity, or general welfare is expected in conjunction with this request.

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

The proposed Exception is in direct response to a physical need of the applicant and would enable him to more easily access his home than having to navigate the front porch steps. Given the setback of the house from Laramie Street, it only leaves seven (7) feet to construct an ADA compliant ramp and still meet the 15-foot front yard setback requirement. The existing ramp runs straight out from the front porch of the applicant's house to the sidewalk along Laramie Street and conforms to the ADA slope requirements. It is not possible to simply shorten the ramp to conform to the setback requirement as the resulting slope would be too great to be practical or ADA compliant. In the alternative, the applicant would have to replace the existing ramp with a switchback type design that would be costlier for the applicant and also take up more of

the applicant's front yard laterally. From a visual perspective, the existing ramp as runs straight out from the front porch is anticipated to be more palatable to the neighborhood than a switchback design that is bulkier and would take up more of the applicant's front yard. Under the circumstances, the strict application of the regulations is unreasonable and unnecessary when all facts and circumstances are considered.

Hardy adjourned the meeting at 7:52 p.m.

NEXT MEETING: Wednesday, March 11, 2020

Respectfully submitted by, Dre'Vel Taylor, Planning Intern