

# **MCCOOK CITY COUNCIL**

## **REGULAR MEETING**

**Monday, January 27, 2020  
5:30 PM - City Council Chambers**

Call to Order and Roll Call.

Open Meetings Act Announcement.

Items

1. Approve the minutes of the September 3, 2019 regular Board of Zoning Adjustment meeting.

2. Public Hearings and Regular Agenda.

A. Public Hearing - request for a variance of the side yard property line setback requirement from 10'0" to 1'3" in a Residential Medium Density (RM) District; Linda Campbell, applicant - property located at 1002 East 4th Street.

1. Close Public Hearing.

B. Consider the request for a variance of the side yard property line setback requirement from 10'0" to 1'3" in a Residential Medium Density (RM) District; Linda Campbell, applicant - property located at 1002 East 4th Street; and that the applicant has satisfactorily demonstrated that the variance criteria have been met.

Adjournment.

**CITY MANAGER'S REPORT  
JANUARY 27, 2020 BOARD OF ZONING ADJUSTMENT MEETING**

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ITEM: 1

Approve the minutes of the September 3, 2019 special Board of Zoning Adjustment meeting.

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**BACKGROUND:**

Receive and approve the minutes.

**FISCAL  
IMPACT:** None.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

January 22, 2020

McCook Board of Zoning Adjustment  
Special Meeting  
September 3, 2019  
12:00 PM Central

A MEETING OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MCCOOK, NEBRASKA convened in open, regular, and public session at 12:00 o'clock P.M. in the City Council Chambers.

Present: Chair Reitz, Vice Chair Hilker; Board Members Moore, Chipman.

Absent: Board Members Haney, Larson.

City Officials present: City Manager Schneider, City Attorney Mustion.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on August 29, 2019, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to all members of the Board of Zoning Adjustment. Availability of the agenda was communicated in the advance notice. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Chair Reitz announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review.

1. Approve the minutes of the August 26, 2019 regular Board of Zoning Adjustment meeting.

Motion to approve the minutes of the August 26, 2019 regular Board of Zoning Adjustment meeting. This motion, made by Moore and seconded by Hilker, passed.

Reitz: YEA, Hilker: YEA, Haney: ABSENT, Larson: ABSENT, Chipman: YEA, YEA, Moore: YEA  
YEA: 4, NAY: 0, ABSENT: 2

2. Public Hearings and Regular Agenda.

2.A. Public Hearing - request for a variance of the side yard property line setback requirement from 5'0" to 1'0" in a Residential Medium Density (RM) District; Mary Ann Padget - property located at 512 West 2nd Street.

Motion to recess and convene a public hearing for the purpose of receiving public comment on the request for a variance of the side yard property line setback requirement from 5'0" to 1'0" in a Residential Medium Density (RM) District; Mary Ann Padget - property located at 512 West 2nd Street with the City Attorney to acting as hearing officer.

This motion, made by Reitz and seconded by Moore, passed.

Reitz: YEA, Hilker: YEA, Haney: ABSENT, Larson: ABSENT, Chipman: YEA, YEA, Moore: YEA  
YEA: 4, NAY: 0, ABSENT: 2

The City Attorney offered and received into evidence Exhibit #1 - City Manager's Report prepared for the August 26, 2019 Board of Zoning Adjustment meeting (2 pages); Exhibit #2 - Notice of Public Hearing (1 page); Exhibit #3 - Variance Application and attachments (9 pages); Exhibit #4 - Findings and Determinations of the Board of Zoning Adjustment (4 pages); and Exhibit #5 - copy of Article 25 - Board of Zoning Adjustment of the McCook Zoning Ordinance (3 pages).

City Manager Schneider reviewed the information presented in Exhibit #1, adding that the metal carport will be attached to the house. Because of that, Fire Chief Harpham does not think it would create additional issues. It is similar to having an ordinary vehicle in the driveway. The big thing is that the structure will be open on both sides.

Discussion was held by the board.

- 2.B. Consider the request for a variance of the side yard property line setback requirement from 5'0" to 1'0" in a Residential Medium Density (RM) District; Mary Ann Padget, applicant - property located at 512 West 2nd Street; and that the applicant has satisfactorily demonstrated that the variance criteria have been met.

Motion to approve the request for a variance of the side yard property line setback requirement from 5'0" to 1'0" in a Residential Medium Density (RM) District; Mary Ann Padget, applicant - property located at 512 West 2nd Street; and that the applicant has satisfactorily demonstrated that the variance criteria have been met. This motion, made by Moore and seconded by Hilker, passed. Reitz: YEA, Hilker: YEA, Haney: ABSENT, Larson: ABSENT, Chipman: YEA, YEA, Moore: YEA YEA: 4, NAY: 0, ABSENT: 2

City Manager Schneider stated that there is a fifteen day period in which any decision of the Board of Adjustment may be appealed to the District Court. Building permits will not be issued before the end of the fifteen day period.

Adjournment.

There being no further business to come before the Board, Chair Reitz declared the meeting adjourned at 12:17 P.M.

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Lea Ann Doak  
Recording Secretary

**CITY MANAGER'S REPORT  
JANUARY 27, 2020 BOARD OF ADJUSTMENT MEETING**

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**ITEM NO. 3**

Item A Public Hearing - request for a variance of the side yard property line setback for a house located on a corner lot in a Residential Medium Density District (RM), said requested variance to be reduced from 10 feet to 15 inches.

Item B Consider a request for a variance of the side yard property line setback for a house located on a corner lot from 10 feet to 15 inches.

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**BACKGROUND:**

This is a variance request brought by Linda Campbell. Ms. Campbell owns a house at 1001 East 4<sup>th</sup> Street. While the house has an East 4<sup>th</sup> Street address, it actually faces East J Street to the south. Despite this, due to the address and general makeup of the neighborhood, Staff believes the best way to characterize the home for purposes of this variance request is to label the west part of the house as the 'front'.

In the RM District, side yards for corner lots facing the street shall be one-half of the front yard setback minimum requirement, which is 20 feet. Ms. Campbell would like to construct a garage on the east side of her lot, with the garage to be located on an existing cement slab. She would like the garage to sit as far south as possible on the cement slab. Measuring from J Street, the proposed garage would not meet the side yard requirement. The south end of the garage would sit 15 inches from the property line (instead of the required 10 feet). The proposed garage would meet the accessory building setback requirement for accessory structures accessible from an alley.

While reviewing the application, there are some considerations that may warrant a variance. Due to the fact the house faces south, a side yard non-conformity already exists. Specifically, the house sits approximately 5 feet from the south property line, which already breaches the City's setback requirement of 10 feet. The requested variance becomes a little less significant as the garage would only extend beyond the existing house an additional 3 feet, 9 inches. Additionally, Staff agrees with the applicant that a variance would not cause a substantial detriment to the public good and the building would not substantially impair the intent and purpose of the ordinance. The City's Building Inspector reviewed the request and determined the garage would have little impact on the site-triangle for motor vehicles utilizing the alley. Also, the garage would be oriented in such a way as to fit in with the surrounding neighborhood. Staff believes the granting of a variance will not be a substantial detriment to adjacent properties, as Russell Park flanks the east side of the Campbell residence, diminishing some of the vision and spacing concerns with construction.

**EXHIBIT #1**

**PAGE(S) - 2**

Staff does not believe the granting of a variance would harm the neighborhood in any meaningful way.

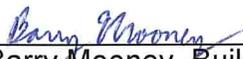
**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

January 21, 2020

  
\_\_\_\_\_  
Nathan A. Schneider, City Manager

January 21, 2020

  
\_\_\_\_\_  
Barry Mooney, Building Inspector

January 21, 2020

**NOTICE OF HEARING**

**REQUEST FOR  
VARIANCE**

NOTICE IS HEREBY GIVEN that a public hearing will be held on a request for a variance of the side yard property line setback requirement from 10'0" to 1'3" in a Residential Medium Density (RM) District.

LEGAL: Lot Seven (7), Block Two (2), Second Addition to the City of McCook, all in Red Willow County, Nebraska.

APPLICANT: Linda Campbell

ADDRESS: 1002 East 4<sup>th</sup> Street, McCook

A Public Hearing will be held on the Date, Time, and at the Place listed below:

January 27, 2020 - 5:30 P.M.  
Board of Zoning Adjustment  
City Council Chambers  
505 West "C" Street

ANY AND ALL PERSONS desiring to comment on the above-described request will be given an opportunity to be heard. Please direct all inquiries to Nate Schneider, McCook City Manager at 308-345-2022 ext. 225.

-s- Lea Ann Doak  
City Clerk

Publish: January 23, 2020.

**EXHIBIT #2**

**PAGE(S) - 1**

VARIANCE APPLICATION

APPLICATION NO. \_\_\_\_\_ DATE: 12-17-19

FEE ATTACHED: \_\_\_\_\_

APPLICATION COMPLETE: \_\_\_\_\_ SIGNED: Linda K. Campbell Applicant

1. Applicant's Name: Linda Campbell

2. Applicant's Address: 302 N Plum St, Maywood NE 69038 Phone: 308-367-7050
Email Address: mykidsloveme@hotmail.com

3. Address of Property Affected: 1001 East 4th, McCook NE 69001

4. Legal Description of Property: Second Addition to McCook, Block 2, Lot 7, Red Willow County.
1001 East 4th St, McCook NE 69001

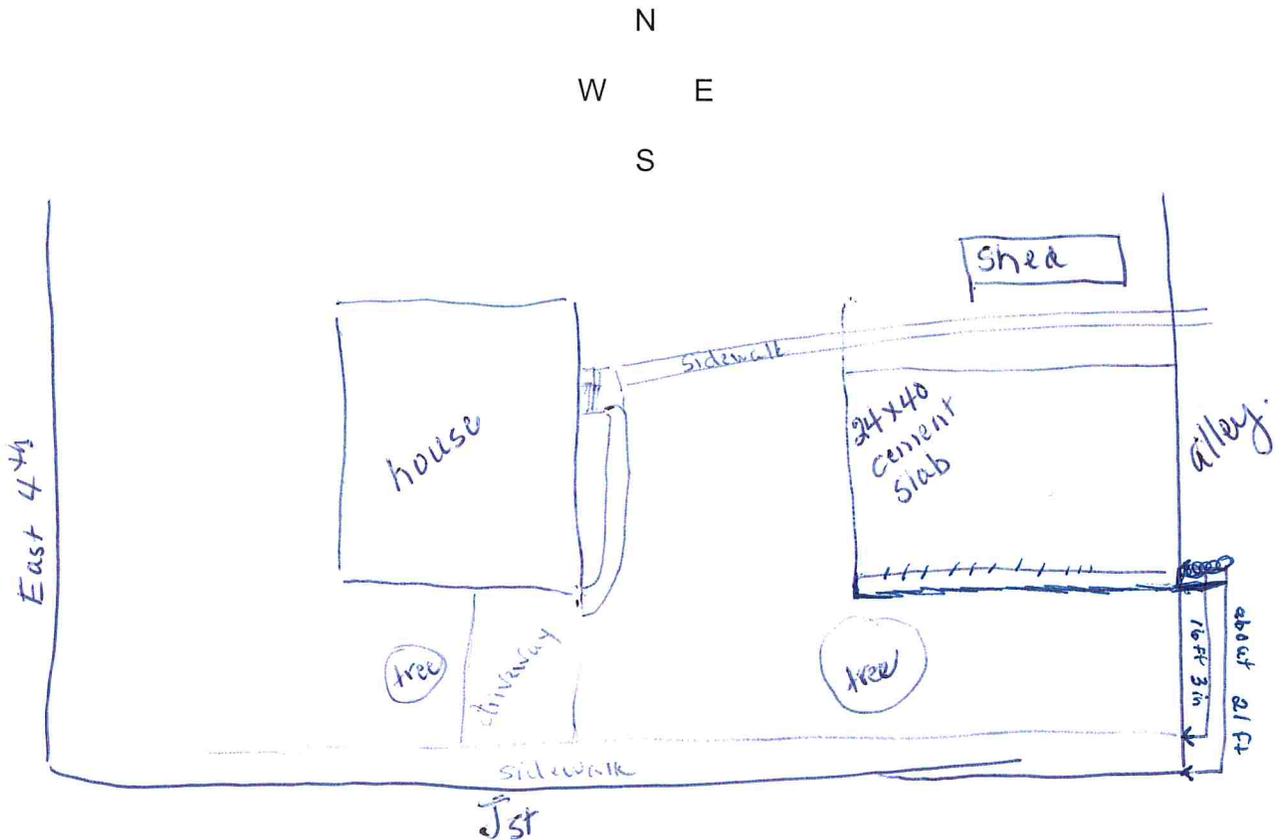
5. Zoning \_\_\_\_\_ Corner Lot? Yes [checked] No \_\_\_\_\_

6. Applicant's interest in the Property (i.e. owner, tenant), attached proof of ownership:
owner

7. Description of variance requested: (Example: Variance of side lot set back requirement from 5 feet to 3 feet).
Variance of side lot set back from 10 feet to 15 inches.

8. Sections of Zoning Ordinance No. 2016-2929 which are affected (to be completed by staff)
ARTICLE: \_\_\_\_\_
SECTION: \_\_\_\_\_

9. Draw the general area of your property and structure (existing and proposed) and adjacent properties and structures. (Not to scale).



I would like to build a 24 x 27 garage on the cement slab that is currently on the property.

Part of the garage would sit on the city's right-of-way. When building inspector checked, he said that the house at 1001 E 4 also sits on the city's right of way. The south wall of the garage would ~~pretty much~~ <sup>about</sup> line up with the south side of the house. (Maybe 2 ft further south of house line.)

The Applicant must provide proof that the following criteria are met regarding the parcel of property for which the variance is being requested:

1. Referring to the specific parcel of property,
  - a) the parcel of property is exceptionally narrow;
  - b) the parcel of property is exceptionally shallow; or
  - c) the shape of the parcel of property is exceptional.

OR

  - d) the parcel of property has exceptional topographic conditions; or
  - ~~e) the parcel of property has other exceptional or extraordinary conditions.~~
2. Strict application of the zoning ordinance would result in:
  - a. peculiar and exceptional practicable difficulties to the owner; OR
  - b. exceptional and undue hardships on the owner of such property.
3. Such relief may be granted without:
  - ~~a. substantial detriment to the public good; AND~~
  - ~~b. without substantially impairing the intent and purpose of the ordinance.~~
4. No variance shall be authorized unless the Board finds:
  - a. strict application of the zoning ordinance would produce undue hardship;
  - b. such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
  - c. authorization of such variance will not be a substantial detriment to adjacent property and the character of the district will not be changed by granting the variance;
  - d. granting the variance is based upon reason of demonstrable and exceptional hardship as distinguished from variation for purposes of convenience, profit, or caprice.
5. No variance shall be authorized if request is:
  - a. of a general and recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the zoning regulations.

Please provide documentation of the above, such as maps, photographs, or other evidence to substantiate your application.

THE BOARD MUST FIND THAT ALL OF THE ABOVE REQUIREMENTS ARE MET BY THE APPLICANT BY A CONCURRING VOTE OF FOUR MEMBERS OF THE BOARD.

## APPLICANT DECLARATIONS

1. The following special conditions or circumstances exist on the land which pose an undue hardship on the applicant: (Describe conditions and circumstances.)

I have just purchased this property for my handicapped daughter & myself. It (The property) already had a poured cement slab that was (is) 16<sup>ft</sup> 3" ft from the sidewalk. The house on the property also sits on the cities right-of-way according to the Building Inspector. The garage I am proposing basically lines up with the south edge of the house. (Actually close to 2 ft south of south edge.)

I am in serious need of more storage space to put my daughters electric wheelchair & regular wheelchair in along with my pickup. The houses attached garage barely fits my Buick & has no extra room for anything.

2. Please state the minimum variance necessary to permit the proposed construction

15 inches.

3. Without the granting of this variance the applicant would suffer a hardship not suffered by other properties located in the same zoning district and same vicinity.

Yes

No

4. The granting of the variance will not adversely affect the rights of the adjacent property owners or residents nor will it confer upon the applicant any special privilege denied by the Zoning Ordinance.  Yes  No

(Attach approval certifications from adjacent property owners.)

5. The variance will not adversely affect the public health, safety, morals, order, convenience or welfare.  Yes  No

**ADJACENT PROPERTY OWNER CERTIFICATION**

I, \_\_\_\_\_, own the property adjacent to that for which this variance is requested. I hereby certify that I do not have any objection to or reservations about the granting of the variance requested.

SIGNED: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

*Unable to catch up with anyone as house appears vacant, but someone must come sometime to work on it.*

**ADJACENT PROPERTY OWNER CERTIFICATION**

I, \_\_\_\_\_, own the property adjacent to that for which this variance is requested. I hereby certify that I do not have any objection to or reservations about the granting of the variance requested.

SIGNED: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

**ADJACENT PROPERTY OWNER CERTIFICATION**

I, \_\_\_\_\_, own the property adjacent to that for which this variance is requested. I hereby certify that I do not have any objection to or reservations about the granting of the variance requested.

SIGNED: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

**AFTER RECORDING RETURN TO:**

McCook Abstract Company  
PO Box 648  
McCook, NE 69001

**WARRANTY DEED**

Cheryl Ann Hamrick and Joseph E. Hamrick, wife and husband, GRANTOR, in consideration of One Dollar (\$1.00) and other good and valuable consideration, conveys to GRANTEE, Linda K. Campbell, the following described real estate (as defined in Neb. Rev. Stat. § 76-201):

Lot 7, Block 2, Second Addition to the City of McCook, Red Willow County, Nebraska.

GRANTOR covenants (jointly and severally, if more than one) with GRANTEE that GRANTOR:

1. is lawfully seized of such real estate and that it is free from encumbrances, EXCEPT subject to easements, reservations, and restrictions of record;
2. has legal power and lawful authority to convey the same;
3. warrants and will defend title to the real estate against the lawful claims of all persons.

Executed: December 4, 2019.

**FINDINGS AND DETERMINATIONS OF  
MCCOOK BOARD OF ZONING ADJUSTMENT**

DATE: \_\_\_\_\_

SIGNED: \_\_\_\_\_  
Chairman

**VARIANCE CRITERIA**

**JUSTIFIES VARIANCE**

	<u>YES</u>	<u>NO</u>
1. Referring to the specific parcel of property,		
a) the parcel of property is exceptionally narrow;	_____	_____
b) the parcel of property is exceptionally shallow; <b>or</b>	_____	_____
c) the shape of the parcel of property is exceptional.	_____	_____
OR		
d) the parcel of property has exceptional topographic conditions; <b>or</b>	_____	_____
3) the parcel of property has other exceptional or extraordinary conditions.	_____	_____
2. Strict application of the zoning ordinance would result in:		
a) peculiar and exceptional practicable difficulties to the owner; OR	_____	_____
b) exceptional and undue hardships on the owner of such property.	_____	_____
3. Such relief may be granted without:		
a) substantial detriment to the public good; AND	_____	_____
b) without substantially impairing the intent and purpose of the ordinance.	_____	_____
4. No variance shall be authorized unless the Board finds:		
a) The strict application of the provisions of the Zoning Ordinance would produce an undue hardship on the applicant.	_____	_____

- b) Such hardship is not generally shared by other properties in the same zoning district and in the same vicinity. \_\_\_\_\_
  - c) The granting of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed. \_\_\_\_\_
  - d) The variance request is based upon reasons of demonstrable and exceptional hardship as distinguished from convenience, profit or caprice. \_\_\_\_\_
5. The variance requested is not so general or of re-occurring nature that it might more reasonably be addressed through a change in the Zoning Regulations. \_\_\_\_\_
  6. The applicant has filed a proper and complete application. \_\_\_\_\_
  7. Application for a variance submitted must demonstrate the following:
    - A. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not found in the same zoning district and which were not created by an action of the property owner or the applicant; \_\_\_\_\_
    - B. The reduction of the minimum requirements of this Ordinance which would be necessary to permit the proposed use or construction; \_\_\_\_\_
    - C. The literal interpretation of the provision of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance; \_\_\_\_\_
    - D. The granting of the variance will not adversely affect the rights of adjacent property owners or residents nor will it confer upon the applicant any special privilege denied by this Ordinance to other land or structures in the same district; \_\_\_\_\_
    - E. The variance will not adversely affect the public health, safety, morals, order, convenience or welfare; \_\_\_\_\_
    - F. The variance requested is the minimum variance that will make possible the reasonable use of the land or structure; \_\_\_\_\_
    - G. Granting the variance requested will not be opposed to the general spirit and intent of this Ordinance. \_\_\_\_\_
  8. The notice of meeting appeared in the paper and applicants and other parties of interest have been sent written notice of the meeting at which a hearing on the variance request is being considered. \_\_\_\_\_

8. The variance requested does not allow a use not permissible under the Zoning Ordinance in the district in which it is presently located.

\_\_\_\_\_

## BOARD OF ZONING ADJUSTMENT DECISION

The McCook Board of Zoning Adjustment hereby determines that the variance should \_\_\_\_\_ be granted, \_\_\_\_\_ not be granted, \_\_\_\_\_ be granted with conditions. Conditions, modifications or safeguards prescribed as a part of the variance approval are as follows: \_\_\_\_\_

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Variance criteria not met are as follows: \_\_\_\_\_

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Dated this \_\_\_\_\_ day of, \_\_\_\_\_, 20 \_\_\_\_\_.

## ARTICLE 25

### BOARD OF ZONING ADJUSTMENT

#### Article 25 - Board of Zoning Adjustment

**Section 2501. Creation, Members, Meetings, Rules.**<sup>1</sup> There is hereby established a Board of Zoning Adjustment. The word BOARD, when used in this Zoning Ordinance, shall be construed to mean the Board of Zoning Adjustment. The Board of Zoning Adjustment is appointed by the City Council and shall consist of five (5) regular members, plus one (1) additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason.

One (1) member only of the City Board of Zoning Adjustment shall be appointed by the City Council from membership of the Planning Commission and the loss of membership on the Planning Commission by such member shall also result in the immediate loss of membership on the Board of Zoning Adjustment and the appointment of another Planning Commissioner to the Board of Zoning Adjustment. One (1) member of the board of adjustment shall reside outside of the corporate boundaries of the City but within its extraterritorial zoning jurisdiction.

The members appointed shall serve for terms of three (3) years and be removable for cause by the City Council upon written charges and after public hearing. Vacancies shall be filled by appointment for the unexpired term.

The Board of Zoning Adjustment shall annually in October elect one of its members as Chairperson, another as Vice-Chairperson, who shall act as Chairperson in the Chairperson's absence, and appoint a Secretary, who may be an officer or an employee of the City. Each shall serve until his or her successor has been selected. The presence of four (4) members of the Board shall be necessary to constitute a quorum.

All meetings of the Board shall be open to the public. Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, if absent or failing to vote, indicating the fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The Board shall adopt from time to time any rules and regulations as it may deem necessary, to carry the appropriate provisions of this Zoning Ordinance into effect and all of its resolutions and order shall be in accordance therewith.

**Section 2502. Appeals to Board, Record of Appeal, Hearing and Stays.** Appeals to the Board of Zoning Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Zoning Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Zoning Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Adjustment or by a court of record on application of notice to the officer from whom the appeal is taken and on due cause shown.

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<sup>1</sup>Revised September 18, 2017 - Ordinance No. 2017-2951

The Board of Zoning Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.

**Section 2503. Powers and Jurisdiction Relating to Administrative Review.** The Board of Zoning Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures or to interpret any map, except that the authority to hear and decide appeals shall not apply to decisions made under Article 24 of this Ordinance.

**Section 2504. Powers and Jurisdiction Relating to Variances.** The Board of Zoning Adjustment shall have the power, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon the owner of such property, to authorize upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance.

1. No such variance shall be authorized by the Board unless it finds that the strict application of the Ordinance would product undue hardship; such hardship is not shared generally by other properties in the same zoning district and the same vicinity; the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice;
2. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.
3. A variance from the terms of this Ordinance shall not be granted by the Board of Zoning Adjustment unless and until a written application for a variance is submitted demonstrating the following:
  - A. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not found in the same zoning district and which were not created by an action of the property owner or the applicant;
  - B. The reduction of the minimum requirements of this Ordinance which would be necessary to permit the proposed use or construction;
  - C. The literal interpretation of the provision of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;
  - D. The granting of the variance will not adversely affect the rights of adjacent property owners or residents nor will it confer upon the applicant any special privilege denied by this Ordinance to other land or structures in the same district;
  - E. The variance will not adversely affect the public health, safety, morals, order, convenience or welfare;

- F. The variance requested is the minimum variance that will make possible the reasonable use of the land or structure;
  - G. Granting the variance requested will not be opposed to the general spirit and intent of this Ordinance.
4. No non-conforming use of neighboring lands, structures or buildings in the same district, and no permitted structures or buildings in other districts shall be considered grounds for the issuance of variance;
  5. Notice of public hearing shall be given as in Section 2502 above; the public hearing shall be held; any party may appear in person, or by agent or by attorney; the Board of Zoning Adjustment shall make findings that the requirements of this section have been met by the applicant for a variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance; the Board shall further make a finding that the reasons set forth in the application justify the granting of the variance; and that the variance is the minimum variance that will make possible the reasonable use of the land, building or structure; the Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare;
  6. In granting any variance, the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 2702 of this Ordinance;
  7. Under no circumstance shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

**Section 2505. Board has Powers of Administrative Officer on Appeals; Reversing Decision of Administrative Officer.** In exercising the above-mentioned powers, the Board of Zoning Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such officer, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to affect any variation in this Ordinance.

**Section 2506. Appeals to District Court.** Any person or person, jointly or severally, aggrieved by any decision of the Board of Zoning Adjustment, may appeal as provided by Section 19-912 Neb. Rev. Stat., 1943.