

Agenda

Wednesday, November 18, 2020

7:00 p.m.

Location: In the interest of public health and safety, the Board will conduct a virtual meeting.

You can **watch** the meeting remotely in the usual ways: through this [City website link](#) or on Cox Cable channel 3 instead of in City Hall.

If you want to **testify** during any hearing listed under item 3, General Agenda, contact staff at communitydevelopment@cityofmhk.com for meeting connection details. Please provide staff with the agenda item number for the hearing you wish to participate in.

If you want to provide **written** comments you may do so to the same e-mail address listed above by 4:00 p.m. on the day of the meeting.

1. CALL TO ORDER

- 1.1. Roll Call
- 1.2. Approve the [MINUTES](#) of the October 14, 2020, Manhattan Board of Zoning Appeals meeting.

2. GENERAL AGENDA

- 2.1 A PUBLIC HEARING to consider an **EXCEPTION** under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to allow for the height to exceed the maximum height requirement of thirty-five (35) feet by three (3) feet for a proposed residence located at [2500 Heartland Drive](#), in the R, Single-Family Residential District (*Applicant/Owner: Anderson Knight Architects — Michael and Karen Pestinger; file no.: 20-046*) *This case is being reheard due to a procedural error.*
- 2.2 A PUBLIC HEARING to consider an **EXCEPTION** under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, Kansas, to exceed the maximum driveway width for a front-loaded two-car attached garage; and to reduce the landscape open space requirement in the front yard area for a property located at [404 Brookway Drive](#), in the R-1, Single-Family Residential District. (*Applicant/Owner: Ryan Sturgeon; file no: 20-047*)
- 2.3 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 eight (8) foot side yard setback to four (4) feet for a proposed improvement to an



It is our policy to provide individuals with disabilities an equal opportunity to participate in and enjoy the benefits of our services, programs, and activities. This meeting is being held virtually via video conference with Board members, staff, and applicants participating remotely. In accordance with provisions of the ADA, every attempt will be made to accommodate the needs of persons with disabilities. Please contact the Human Resources Department (785-587-2443) for assistance.

existing porch and basement egress access on property located at 814 Osage Street, in the R-1, Single-Family Residential District with Traditional Neighborhood Overlay (TNO). *(Applicant/Owner: Marianne Korten; file no: 20-048)*

- 2.4 A PUBLIC HEARING to consider an **EXCEPTION** under the terms of the Manhattan Zoning Ordinance of the City of Manhattan, to allow for the reduction of the minimum required eight (8) foot side yard setback to zero (0) feet for the replacement of an existing garage on property located at 1738 Fairchild Avenue, in the R-1, Single-Family Residential District with Traditional Neighborhood Overlay (TNO). *(Applicant/Owner: Fox Home Innovations, LLC – Jim and Monika Munce; file no: 20-049)*

3. ADJOURNMENT

- 3.1. Next meeting: Wednesday, December 9, 2020

14-605. Standards for Exceptions. The Board of Zoning Appeals shall not grant an exception as authorized in Section 14-604 hereof unless it shall, in each case, make specific written findings of fact, based upon the particular evidence presented to it, that all of the following standards have been met:

- (A) The property complies with all applicable requirements of these regulations, other than the one for which an exception is being requested;
- (B) The proposed exception will not cause a substantial adverse effect on nearby properties;
- (C) The exception desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare;
- (D) The strict application of these regulations is unreasonable, or unnecessary when all facts and circumstances are considered. In determining this standard, the Board shall weigh all facts and circumstances and place whatever emphasis and relevance it deems to be appropriate on each. Examples of such facts and circumstances to be considered are as follows:
 - (1) Whether or not conditions of the property requiring the exception were created by the applicant with prior knowledge and disregard of applicable regulations;
 - (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 took into account such conditions;
 - (3) Whether or not there are reasonable alternatives which would allow the property to meet the strict application of these regulations; and
 - (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; and,
- (E) Any other standards for exceptions that are specifically identified in these regulations.

14-504. Standards for Variances. The Board of Zoning Appeals shall not grant a variance as authorized in Section 14-501 hereof unless it shall, in each case, make specific written findings of fact, based upon the particular evidence presented to it, that all of the following standards have been met:

- (A) The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant;
- (B) The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- (C) The strict application of the provisions of these regulations from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
- (D) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
- (E) Granting the variance desired will not be opposed to the general spirit and intent of these regulations.

14-704. Standards For Conditional Use Permits. The Board of Zoning Appeals shall not grant a conditional use permit unless it shall, in each specific case, make specific written findings of fact directly, based upon the particular evidence presented to it, that all of the following standards have been met:

- (A) The proposed conditional use complies with all applicable regulations of these regulations, including lot size requirements, bulk regulations, use limitations, and performance standards.
- (B) The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
- (C) The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 - (1) The location, nature and height of buildings, structures, walls and fences on the site; and
 - (2) The nature and extent of landscaping and screening on the site.
- (D) Off-street parking and loading areas will be provided in accordance with the standards set forth in Article VII of these regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.
- (E) Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- (F) Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.