I. Call the meeting to order

II. Approve Minutes from 8/29/17 Meeting

III. Introduction of New Members

IV. Elect Chair and Vice Chair

V. Ethics Ordinance Signatures

VI. Overview of BZA Duties and Procedures

VII. Adjourn
I. BZA 2017-04 – 5213 Granada
   A. Open Hearing – Staff Report, Applicant Presentation, Open Public Comments

   **Staff Report**

   Mr. Jacobson explained that the applicant has made a request to reconstruct a garage on the south property line where the previous structure had been. Minimum setback requirements mandate a five-foot setback. Hence, his request for a variance. To date no correspondence to oppose the construction has been received. Based on the previous location of the garage and no opposition, he recommended approval.

   Mr. Madigan asked if the applicant wanted to make any comments. Michael Doolin, the owner said they were reconstructing a storm damaged garage with a privacy fence and deck around it. Due to the layout of the lot and the garages previous location, it made sense to reconstruct there.

   Mr. Madigan explained to the applicant the process.

   Mr. Madigan closed the public hearing and opened board deliberation.

   Ms. Gleason said she has no issues with the variance and Mr. Baugher also said she had no issues.

   Mr. Madigan called roll to vote on the variance.
The variance request was approved with no conditions.

I. Discuss BZA Board By-Laws
Mr. Madigan asked if everyone had an opportunity to read the proposed by-laws.
position.

MOTION: Mr. Baugher MOVED AND MS. Gleason SECONDED TO ADJOURN THE MEETING.
(MOTION PASSED 3-0).
CITY OF ROELAND PARK, KANSAS

CHARTER ORDINANCE NO. 29

A CHARTER ORDINANCE AMENDING AND REPEALING SECTIONS 3 THROUGH 11, INCLUSIVE, OF CHARTER ORDINANCE NO. 12; ALSO AMENDING AND REPEALING SECTION 1-318 OF THE CODE OF THE CITY OF ROELAND PARK, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ROELAND PARK, KANSAS:

SECTION 1. Sections 3 through 11, inclusive, of Charter Ordinance No. 12, codified as Section 1-318 of the Code of the City of Roeland Park, Kansas, and Section 1-318 of the Code of the City of Roeland Park, Kansas, are hereby amended to read as follows:

1-318. CODE OF ETHICS

(a) Code of Ethics for Elective and Appointive Offices; Declaration of Policy. The proper operation of democratic government requires that public officials be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a code of ethics for certain City officials is hereby established. The purpose of this code is to establish guidelines for ethical standards of conduct for such officials by setting forth those acts or actions that are incompatible with the best interests of the City and directing disclosure by such officials of private financial or other interests in matters affecting the City.

(b) Definitions.

(1) Interest means direct or indirect pecuniary or material benefit accruing to a public officer as a result of a contract or transaction which is or may be the subject of any official act or action by or with the City, except for such contracts or transactions which by their terms and by the substance of their provisions confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated.
For the purposes of this code, a public officer shall be deemed to have an interest in the affairs of:

A. Any person related to him/her by blood or marriage in a degree closer than the fourth degree of consanguinity or affinity (determined by the civil law method), and a divorce or separation between spouses shall not be deemed to terminate any such relationship;

B. Any person or business entity with whom a contractual relationship exists with the public officer that would be positively or negatively impacted by that individual's relationship with the City;

C. Any business entity in which the public officer is an officer, director, or member having a financial interest in, or by which the public officer is employed;

D. Any business entity in which the stock of; or legal or beneficial ownership of, in excess of five percent of the total stock or total legal and beneficial ownership, is controlled or owned by the public officer.

(2) **Official Act or Action** means any legislative, administrative, appointive or discretionary act of any officer of the City or any agency, board, committee or commission thereof.

(3) **Business Entity** means any business, proprietorship, firm, partnership, person in a representative or fiduciary capacity, association, venture, trust, corporation, limited liability company, or similar business organization.

(4) **Public Officer** means any person, officer holding a position by public election or Governing Body appointment in the service of the City of Roeland Park, whether paid or unpaid, including members of any board, committee or commission thereof.

(5) **Transaction** shall be defined as any activity that engages the authorization, approval, involvement in an official capacity of a public officer that did or could result in the expenditure of City funds.

(6) **Ethics Attorney** shall be defined as that individual who is licensed to practice law in the State of Kansas who does not currently serve the City that is selected by the Governing Body.

(c) **Standards of Conduct.**

(1) The requirements herein set forth shall constitute reasonable standards and guidelines for the ethical conduct of public officers of the City.

(2) **Interest in Contract or Transaction.** No public officer having the power or duty to perform an official act or action related to a contract or transaction which is or may be the subject of an official act or action of the City, shall:

A. Have or hereafter acquire an interest in such contract or transaction;
B. Have an interest in any business entity representing, advising or appearing on behalf of any person involved in such contract or transaction, whether paid or unpaid;

C. Have solicited or accepted present or future employment with a person or business entity involved in such contract or transaction;

D. Have solicited, accepted or granted a present or future gift, service or thing of value from or to a person involved in such contract or transaction.

(3) Exceptions. The prohibition against gifts, services or things of value in Subsection 1-318(c)(2)(D) shall not apply to:

(A) An occasional non-pecuniary gift, service or thing of value, insignificant in value ($50.00 or less);

(B) An award publicly presented in recognition of public services.

(4) Pre-acquisition of Interest. No public officer, with respect to any contract or transaction which is under consideration as an official act or action of the City, shall acquire an interest in or be affected by such contract or transaction at a time when the public officer believes or has reason to believe that it will directly or indirectly be affected by an official act or action of the City.

(5) Disclosure of Information Prohibited. No public officer, with respect to any contract or transaction which is or is under consideration of an authorization, shall disclose information specifically intended to be confidential concerning the property, government or affairs of the City, or use such information to advance the financial interest of himself, herself or others.

(6) Incompatible Service. No public officer shall engage in or accept private employment or render service, for private interest, when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his official duties, unless otherwise permitted by law and unless disclosure is made as provided in this code.

(7) Appearances. No public officer shall appear on behalf of any private person, other than himself, herself, his or her spouse or minor children, before any City agency or the Municipal Court. However, a member of the Governing Body may appear before City agencies on behalf of his or her constituents in the course of his or her duties as a representative of the electorate or in the performance of public or civic obligations.

(8) Public Contracts. No public officer who in his or her capacity as such officer participates in the making of a contract in which he or she has a private pecuniary interest, direct or indirect, or performs in regard to that contract some function requiring the exercise of discretion on his or her part, shall enter into any contract with the City unless:
A. The contract is awarded through a process of public notice and competitive bidding, or

B. The contract for property or services is one for which the price is fixed by law.

(9) **Public Property.** No public officer shall engage in, request or permit the unauthorized use of City-owned vehicles, equipment, materials or property for the operation of a private business or for personal use.

(10) **Later Case Interest.** No public officer shall, after the termination of service with the City, appear for pay before any board, commission, committee or agency of the City in relation to any case, proceeding or application in which he or she personally participated during the period of his or her service, or which was under his or her active consideration. No elected official shall apply for or be considered for any employment with the City following his or her departure from elected office for the length of his or her tenure or four years, whichever is the longest.

(11) **Use of Computers by Elected Officials.** Any computer ("computer" being defined to include desktop as well as portable computers, computer functions such as internet access, electronic mail and broadband broadcast; computer databases; servers; hardware; and software) provided by the City for use by elected officials shall be restricted to use for official City business. No elected official shall use any such computer for personal use or cause, permit or allow any other person to use or access any such computer for other than official City business. Use of any such computer for political purposes, including campaigns for City offices, shall be considered to be personal use. Unless approved by the Governing Body, use of any such computer for fund raising activities shall be considered to be personal use.

(d) **Exceptions to Code of Ethics.**

(1) It shall not be deemed a violation of the standards of the code if the interest of a public officer in a person or business entity is a contractual obligation of less than $500.00 which has not been preceded by any other obligation, discharged or existing, between the parties, and which is not the first in a series of two or more loans or debts which either of the parties is under an obligation to make or incur.

(2) A commercially reasonable loan made in the ordinary course of business by an institution authorized by the laws of this state to engage in the making of such loans shall not be deemed to create an interest in violation of this code. A contract for a commercial retail sale, even though over the value of $500.00, shall not be deemed to create an interest in violation of this code.

(3) A public officer does not make or participate in the making of a contract or perform an official act or action related to a contract or transaction if the public officer abstains or recuses himself or herself from any official act or
action in regard to the contract or transaction, and does not vote on such item.

(e) Disclosure of Interest in Legislative Action.

(1) Any member of the Governing Body who has a financial interest or personal interest in any proposed legislation before the Governing Body shall disclose on the record the nature and extent of such interest.

(2) Any other public officer who has a financial or personal interest in any proposed legislative action of the Governing Body and who participates in discussion with or gives an official opinion or recommendation to the Governing Body, shall disclose on the record of the nature and extent of such interest.

(f) Enforcement. Any alleged violation by a public officer shall be brought to the attention of the Governing Body by a written complaint duly signed by a complaining party. The Governing Body shall consider the complaint, and/or direct that the City Ethics Attorney consider or investigate the complaint, and consideration shall be given to open meetings requirements and standards, including but not limited to those related to consultation with the City's attorneys and personnel matters of non-elected personnel. The Governing Body may take such action, or direct that such action be taken, as the Governing Body deems appropriate, including but not limited to those set forth in Subsection 1-318(h) (Violations; Penalties) below.

(g) Advisory Opinions.

(1) When any public officer has a question as to the applicability of any provision of this code to a particular situation, or as to the definition of terms used herein, such public officer should bring the question to the attention of the City Administrator or the Mayor, as may be appropriate. If any such questions are not resolved through such channels, he or she may apply in writing to the Governing Body for a formal advisory opinion from the Ethics Attorney. The officer shall have the opportunity to present his or her interpretation of the facts at issue and of the applicability of provisions of the code before such advisory opinion is made. As appropriate, an opinion from the Kansas Governmental Ethics Commission may also be requested.

(2) Such opinion until amended or revoked shall be binding on the City, the City Council, and the Ethics Attorney in any subsequent actions concerning the public officer who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory opinion. Such opinion shall not be binding in any action initiated by any private citizen. Any ethics opinion shall not be considered attorney-client privilege as between the Ethics Attorney and the public officer.

(3) Whenever, at any meeting of the City Council, any person states or alleges that the participation of any member of the Governing Body with respect to any matter on the agenda for action by the Governing Body at that meeting would or may result in a violation of this code, the Governing Body member
(h) **Violations; Penalties.**

(1) Action, if any, for violation of this Code may include, but not be limited to, an informal reprimand, formal resolution of public censure, or forfeiture or ouster in accordance with the applicable statutes of the State of Kansas. In addition, in the case of employees, action may be based upon established employment policies of the City, including suspension or dismissal where appropriate.

(2) In addition, any public officer who willfully and knowingly violates any of the provisions of Sections 1-318(c) (Standards of Conduct) or 1-318(e) (Disclosure of Interest in Legislative Action) of this Code may be deemed guilty of a public offense and the Ethics Attorney and/or the City Prosecutor, with the approval of the Governing Body, shall have the power to initiate any suit, and to prosecute any criminal or civil action on behalf of the City where such action is appropriate. Any public officer so found guilty of violating any provision contained in such Sections shall be punished in accordance with the penalties set forth in Section 1-117 of the Code. Public officers in violation of the provisions of this Code shall also be subject to submission to the Kansas Governmental Ethics Commission, the Attorney General of Kansas, or the Johnson County, Kansas, District Attorney for review, investigation, and appropriate action pursuant to State law.

(3) In addition, where the violation by the public officer has resulted in financial harm to the City or financial profit or gain to the public officer, the City is authorized to seek damages in an amount not to exceed twice the financial harm suffered by the City or twice the profit or gain realized by the public officer, whichever is greater.

(4) Violations of any provision of this Code may further constitute cause to cancel any contract, cease negotiations on any contract, and/or rescind or modify any previous action based upon any such violation.

(i) **Distribution of Code of Ethics.** The City Clerk shall cause a copy of the Code of Ethics to be distributed to every public officer of the City within 30 days after enactment and amendment of the same. Each public officer elected or appointed thereafter shall be furnished a copy and file a signed version with the City before entering upon the duties of his or her office.

**SECTION 2.** Sections 3 through 11, inclusive, of Charter Ordinance No. 12 and existing Section 1-318 of the Code of the City of Roeland Park, Kansas, are hereby repealed.

**SECTION 3.** This Charter Ordinance shall be published once each week for two consecutive weeks in the official City newspaper.

6
SECTION 6. This Charter Ordinance shall take effect sixty-one (61) days after final publication unless a sufficient petition for a referendum is filed, requiring a referendum to be held on the ordinance as provided in Article 12, Section 5 of the Constitution of the State of Kansas, in which case this Charter Ordinance shall become effective upon approval by a majority of the electors voting thereon.

PASSED by the Governing Body, not less than two-thirds of the members-elect voting in favor thereof, this 30th day of March, 2015.
Responsibilities

- Review appeals from decisions of public officials
- Review and consideration of planning and zoning regulation variances
- Review of NFIP variances
- Serves as a Building Code Review Board
Primary Authority is derived from KSA 12-759

VARIANCES

PRIMARILY BZA AUTHORITY IS TAKEN FROM K.S.A. 12-759

When deemed necessary by the board of zoning appeals, the board may grant variances and exceptions from the zoning regulations on the basis and in the manner hereinafter provided KSA 12-759(e)
Appeals
d
Appeals to the board of zoning appeals may be taken by any person aggrieved, or by any officer of the city, county or any governmental agency or body affected by any decision of the officer administering the provisions of the zoning ordinance or resolution. Such appeal shall be taken within a reasonable time as provided by the rules of the board, by filing a notice of appeal specifying the grounds thereof and the payment of the fee required therefor. The officer from whom the appeal is taken, when notified by the board or its agent, shall transmit to the board all the papers constituting the record upon which the action appealed from was taken. The board shall have 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 in the enforcement of the zoning ordinance or resolution. In exercising the foregoing powers, the board, in conformity with the provisions of this act, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.
Flood Plain Variance Requests

(c) The board of zoning appeals shall administer the details of appeals from or other matters referred to it regarding the application of the zoning ordinance or resolution as hereinafter provided. The board shall fix a reasonable time for the hearing of an appeal or any other matter referred to it. Notice of the time, place and subject of such hearing shall be published once in the official city newspaper in the case of a city and in the official county newspaper in the case of a county at least 20 days prior to the date fixed for hearing. A copy of the notice shall be mailed to each party to the appeal and to the appropriate planning commission.
Variance

Most actions taken before the BZA will be variances. Public hearings and staff reports are completed and reviewed prior to taking any vote on an application.

These cases are primarily based on 5 criteria:

1) Uniqueness
2) Adjoining Property
3) Hardship
4) Public Interest
5) Spirit and intent

A majority affirmative vote on each condition must be obtained to approve a variance request.
Appeals from decisions made by public officials

- The BZA acts as the appellate authority to decisions made by public officials relating to strict interpretations of the municipal code.
- BZA has the authority to issue building permits in some cases.
Construction Code Board

- Acts as an appeal board for construction codes. BZA acts as an appellate authority to Building official rulings and administrative authority for disputed uses of alternate methods or materials specific to the building trades.
Questions?
DETERMINATION OF THE BOARD OF ZONING APPEALS

Variance No.: _____
Date of Action: _____

BZA Members: Absent/Present
Brandon Gillette
Tyler Curry
Courtney Craig
Paula Gleason
VACANT

On _______, 2017, the City of Roeland Park Board of Zoning Appeals (Action Approved, Conditionally approved, Denied) the variance requested from Section ___________ of the Zoning Ordinance for the property at ________________ (Address or Location) as requested by __________________________ (Applicant).

In hearing and considering (Action) this request, the Board of Zoning Appeals found that the variance (did/did not fulfill all five of the necessary conditions for approval. Specifically, the Board of Appeals found:

Findings of the Board of Zoning Appeals on each of the following conditions:

<table>
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<tr>
<th>BZA Members Name</th>
<th>Gillette</th>
<th>Curry</th>
<th>Craig</th>
<th>Gleason</th>
<th>Madigan</th>
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<tbody>
<tr>
<td>Uniqueness</td>
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<td>Effect adjacent property</td>
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<td>Would it create a hardship to applicant</td>
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<td>Public Interest</td>
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<tr>
<td>Spirit and intent of the law</td>
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a. Uniqueness
b. Adjacent Property
c. Hardship
d. Public Interest
e. Spirit and intent

Conditions (if any): ____________________________________________

Chairman, Board of Zoning Appeals
Possible By-laws for Roeland Park BZA by Tom Madigan

Officers

A Board member when he/she knows he/she will be absent from a meeting shall notify the Secretary at least twenty four (24) hours prior to the meeting.

In the absence of the Chair the assembled members shall elect one member to be acting Chair for that meeting.

Meetings

The Chair of the Board of Zoning Appeals may establish, from time to time, reasonable limitations on the length of testimony, and shall have the power to rule on objections and other points of order raised by a board member, an applicant, or member of the public hearing. The Chair shall have the authority to Rule Out Of Order testimony that is not factual, based upon supposition or hearsay.

The BZA will hold an organizational meeting annually in January to review By-laws, other related zoning issues and all members sign a copy of Charter Ordinance 29. During the organizational meeting no business will be conducted.

The conduct of business at all regular meetings of the Board shall follow Robert’s Rules of Order; Simplified Procedures.

The board may adjourn a regular meeting of all applications or appeals that cannot be disposed of on the day set.

Members shall be responsible to determine whether they have a conflict of interest and otherwise act in accordance with Roeland Park, Kansas Charter Ordinance Number 29.

There shall be a timely notice of the regular BZA meetings and all pertinent information posted on the City Web site, and any other appropriate site, to notify all residents of Roeland Park.

Procedure for hearing cases

During the Open meeting portion of the hearing; The Building Inspector or his/her designee shall make a staff report followed by the applicant or agent’s statement. The Chair shall then hear from any citizen in favor of the application, followed by any citizen opposed to the application. The Chair shall also accept written statements and other documentation pertinent to the matter. The applicant shall be given an opportunity for final rebuttal.

All votes shall be "yes" or "no" by voice, with a taped record and written minutes kept of each session. Abstentions shall not be allowed, but members may disqualify themselves for cause, in accordance with Roeland Park, Kansas Charter Ordinance 29.

Adopted by the BZA June 8, 2017
All hearings before the Board of Zoning Appeals shall be open to the public. The Board may, however, adjourn a hearing from time to time, and may meet in closed session to debate the record created at the public hearing.

No cross-examination of speakers testifying shall be permitted, except by members of the BZA, without permission of the chair.

Due to the infrequency of the Board meetings Draft Minutes will be prepared and forwarded to each attending member to review within sixty (60) days of the last meeting.

**Requirements for Applicants**

1. Obtain an Accurate Legal Description of the Property.

2. Make a scale drawing of your property; usually you may use the recorded subdivision plat or your survey for this purpose.

3. A Variance Fee shall be submitted with each variance application.

4. Complete the necessary applications on forms provided by the Building Inspector.

5. The applicant shall mail a copy of said publication notice by U.S. Mail, certified, return receipt requested and prepaid or a copy of the signature and date of signature of all land owners that were personally notified, to each owner of record of land within a distance of one hundred (100) feet of the perimeter of such proposed change, at least thirty (30) days prior to said hearing; sufficient copies of said notice for such purpose to be provided by the City Clerk. Proof of receipt of said notices shall be included in the member's packet on the day of the hearing.

6. Make an appointment with the Building Inspector to review your scale drawing. If possible, bring photos that clarify the need for your variance or exception.

7. Write a Statement of Purpose that explains the need for your variance or exception. Explain or clarify any extenuating circumstances that would help the Board of Zoning Appeals to understand the request.

**Amendments**

These by-laws may be amended from time to time as deemed necessary by an affirmative vote of a majority of the Board.

Adopted by the BZA June 8, 2017