

**ANDOVER CITY PLANNING COMMISSION/
BOARD OF ZONING APPEALS**
Tuesday, October 15, 2013
Minutes

1. Call to order.

Chairman Quentin Coon called the meeting to order at 7:00 p.m.

2. Roll call.

Planning Commission members present were Chairman Quentin Coon, Lynn Heath, Brian Lindebak, Ken Boone, William Schnauber, and Aaron Masterson. Others in attendance were Director of Public Works and Community Development Les Mangus, City Administrator Sasha Stiles, Assistant Director of Public Works Steve Anderson and Administrative Secretary Daynna DuFriend. Member Lee Butler was not in attendance.

A/V Staff: Cindy Barrett

3. Approval of the minutes of the September 17, 2013 meeting.

A motion was made by Ken Boone, seconded by William Schnauber to approve minutes of the September 17, 2013 meeting. Motion carried 6/0/1. Lynn Heath abstained from the vote.

4. Communications:

- A. City Council minutes.
- B. Committee and Staff Report.
- C. Potential Residential Development Report.

5. SU-2013-02- Public hearing on an application to approve a Special Use requested to exceed the 35 foot maximum height limitation for wireless communication facilities to construct a 120ft. cellular tower in the B-1 Office Business District.

Les Mangus explained that a wireless communication facility is outright permitted in the district with a height limitation similar to that of the buildings. AT&T is looking for a site in this general vicinity to expand their network. There are several towers in the city in the 200 foot height range.

Ron Kutter, Kutter Pet Care, 1607 W. Central Ave, property owner was present to represent the application.

Mr. Kutter explained that approximately two months ago he was approached by AT&T to discuss possibly locating a cell tower on this vacant lot in order to increase their capacity for call loads. According to the AT&T representative the energy produced by a cell phone call is equivalent to that of a 100 watt light bulb. Safety information from the representative include that of the pole being constructed to withstand winds of 90mph with no ice or a 50mph wind with a ½ inch of ice on the pole. The tower is designed to collapse or bend over on itself, but will not fall over like a tree being cut down. They are designed like flag poles rather than having an industrial look as other existing towers in the area do. It is his requirement of AT&T, if approved, that the tower be located near the middle of the west property edge. There is a 40 ft x 40 ft footprint for the tower and ancillary building with access to the facilities with facilities being completely screened.

Chairman Coon asked if this would be in line with center of the existing building.

Mr. Kutter answered that it would be close to that.

Les Mangus stated that this structure must be 240 foot from the south property line and the residential area, which is twice the height of the tower. If the 240 feet can not be met, the tower would have to be scaled down in height.

Brian Lindebak asked if there would be lighting at the top of the tower.

Les Mangus informed them that lighting is not required until a tower exceeds 200 foot in height.

William Schnauber asked Les Mangus if there was a minimum setback from Mr. Kutter's current property.

Les Mangus replied that the setback is 20 feet.

Brad Stout, representing Bill & Mary Lou Hadwiger, who own the adjacent property to the east was present.

Mr. Stout stressed that the Commission should ask for the applicant to show the feasibility of the project based on the setback requirements.

Chairman Coon closed the public hearing for the applicant to provide a response.

Mr. Kutter explained if the 240 foot distance could not be met by a few feet, he felt certain AT&T would allow for a slightly shorter tower.

Chairman Coon closed the public hearing.

The following are letters of protest received concerning SU-2013-02.

October 11, 2013

Andover Planning Commission

c/o Les Mangus, Zoning Administrator

sent via email to: *lmangus@andoverks.com*

RE: SU-2013-02 Cell Tower Application

Dear Commissioners:

Greetings: just last month you received letters, email & in-person comments from many of the Chateauroux homeowners (hereafter "HOA") regarding potential development of this tract. Out of respect for your time, memory and intelligence, the HOA will not specifically repeat all of those comments as they relate to SU-2013-02. We trust that you still have the written input and will review the meeting discussion, as applicable, in preparation for your October 15th meeting and discussion.

Some of last month's application discussion is not very relevant to this month's application discussion (e.g., excess noise, vehicles, traffic, ground coverage ratios). Other topics (e.g., structure design, materials, aesthetics, lights, effect on nearby property values, effect on future business or residential development in this area, effect on this entranceway to Andover) remain absolutely relevant this month, but is a markedly different analysis for a 120' (10 stories high) cell tower proposed by AT&T than a mini-storage facility. Since your analysis will follow the City's Zoning Code Section 11-100H 17 factors, we enclosed comments organized by those factors.

Our HOA's current consensus is that the cell tower proposed 120' height might fail for many of the same reasons as the mini-storage proposed use. For example, due to residential setback requirements, this 10-story tall cell tower will need to be located no further South than 85' from Central Avenue. It seems that many other cell towers are sited quite a bit further back from main public roads and walkways. The Planning Commission will need to decide if a tower that size in that location of town is consistent with the comprehensive plan for Andover (item #14 below provides the relevant comprehensive plan text), or if you need more information to make that decision.

If you decide that a 120' cell tower in this area is acceptable, the Planning Commission's approval should be conditioned on the following requirements of AT&T being expressly included in its zoning permit:

- (1) AT&T provide camouflage, screening and landscaping acceptable to the Site Plan Review Committee, Zoning Administrator, all adjacent landowners, and the HOA (item #8 below provides specific terms);
- (2) there will be only one monopole tower, and the tower will adhere to zoning setbacks of no less than 240' from all currently zoned residential tracts (item #6 below provides the City's current zoning code terms);
- (3) no principal structure will be further permitted on this tract South of where the tower is built (per City Zoning Code 3-102(Q)(5)(d), the tower will "not be located between a principal structure and a public street"); and
- (4) the cash assurance for the life of the tower will also cover maintaining the screening plan and decommissioning the tower (item #8 below provides specific terms).

Our HOA welcomes the opportunity to work with AT&T on its tower, screening and landscape design plans, to assist with the analysis. We have not been contacted by AT&T to date, but are happy to meet with AT&T. Likewise, we would be happy to provide the Planning Commission with any additional input it requests.

Chateauroux Homeowners

(addresses on Chaumont Circle & Chaumont Court, Andover)

Chateauroux Homeowners' Input

On Some of the Section 11-100 H Zoning Code 17 Factors

(numbering corresponds to City's Special Use Report form)

1. What are the existing uses and their character and condition on the subject property and in the surrounding neighborhood?

The subject property is vacant. The surrounding neighborhood uses, character and condition overall are on the higher end, with zoning limited to B-1 (residential "transitional/buffer" uses), and single-family residential uses. The subject property is bordered on three sides by residentially-zoned tracts. The surrounding neighborhood (within a 1/2-mile radius) includes consistently quality residential neighborhoods with very desirable homes, landscaping and other aesthetics, the City's only country club, golf course homes, several nice business buildings, and some of the City's higher-end value homes. Construction materials and design within this neighborhood 1/2-mile radius range well above average. Residents and business owners have invested heavily in this area. Some land in the surrounding neighborhood remains undeveloped, including the residential lot that borders the South side of the subject property, and seven residential lots in Chateauroux. Please see items ## 8 & 14 below for further related discussion.

2. What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the requested change?

The property's current zoning (City's Zoning Code Section 3-102(Q)(6)) allows a cell tower up to 35' tall stating the "purpose of this Section is to regulate the height of structures above ground level in order to maintain the character and scale of the predominant single-family residential development." Please see items ## 1, 8 & 14 for related discussion.

3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?

No

5. Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?

No; the area has experienced stable-to-improving conditions in terms of quality and value of development.

6. Do ... all other necessary public facilities ... exist?

The North side of the Chateauroux neighborhood is susceptible to drainage problems. Any additional displaced water, or change in the runoff rate, when developing this tract will need to be addressed in a way that does not increase the drainage amount or flow rate to the South or West.

Other siting limits for this tract include: (1) existing 66' - wide high-pressure pipeline easement that encumbers the subject property (Misc Book 301, Page 563); (2) the City's Zoning Code Section 3-102(Q)(5)(c) requires the tower to be set back from the tract's North, East and South boundaries by at least 240' where those boundaries are zoned residential (the golf course is zone residential), which means the tower would need to be sited 85' or closer to Central Ave. on the West part of the property; (3) a portion of the subject tract appears to be in a FEMA flood zone per online FEMA maps; and (4) our HOA has not researched other easements, setbacks or recorded restrictions affecting the tract, please consult the Zoning Administrator.

8. Would a screening plan be necessary for potential uses of the subject property?

Yes.

The tract is bordered on 3 sides by land zoned residential (the subject tract North side will also affect the view and character at this entrance to the City, and from the golf course and a two-story office building). Additionally, at least 5 Chateauroux homes have direct visibility to the tract over the existing vacant residential lot. Those homes were permitted by the City with main floors at a level elevated above the ground level on their North sides, which will require more than a 6' perimeter fence to have any screening impact (we earlier provided a photo to better convey the screening need).

The City's Zoning Code Section 3-102(Q)(4)(b) requires that at the ground level the tower & accessory structures "must be surrounded by a security fence and screening at least six feet in height." The code uses "at least" to acknowledge that taller screening may be necessary.

So, a mix of earth berms, landscaping with a mix of tall evergreen and deciduous trees, and perimeter fencing will be needed to accomplish useful screening and mitigate the view of the tower from the ground-view and building window/deck levels.

As important will be a requirement that the zoning permit require AT&T to maintain the screening and landscaping plan for the life of the tower. The City's Zoning Code Section 3-102(Q)(15) requires AT&T to deposit with the City Clerk for the life of the tower cash assurance to cover tower removal costs. Our HOA advises that to protect the community's Zoning Code and Development Plan concerns, that the Planning Commission add a requirement that the cash assurance be available to use to maintain and replace screening as needed, and that upon removal of the tower the cash assurance be available to cover restoration of the former tower improvements area to a seeded condition if visible.

A failure to adequately screen the tower for the life of the tower will negatively impact the development potential of the area, plus negatively impact the property values, character and aesthetics of the existing improved surrounding neighborhood.

The City's Zoning Code in several places further supports and emphasizes the importance of adequate design and screening standards:

-Section 3-102(Q): "In order to accommodate the communication needs of residents and business while protecting the public health, safety and general welfare of the community, this criteria is necessary in order to ... minimize adverse visual effects of wireless communication facilities through careful design and siting standards; ... and maximize the use of existing and approved wireless communication facilities and buildings to accommodate new wireless communication facilities in order to reduce the number of wireless communication facilities needed to serve the community."

-Section 3-102(Q)(4)(a): A "wireless communication facility shall be designed to blend into the surrounding environmental through the use of color and camouflaging architectural treatment."

-Section 3-102(Q)(9): "All utility buildings and structures accessory to wireless communication facility shall be architecturally designed to blend in with the surrounding environment.... Ground mounted equipment shall be screened from view by materials which complement the architectural character of the surrounding neighborhood."

Thus, the City's zoning code requires that the accessory structure(s) and screening fence have a design and construction materials different than many typical cell tower accessory structures and screens.

9. Are suitable vacant lands or buildings available or not available for development that currently has the same zoning as is requested?

Our HOA is not in a position to know this, but it is something the Planning Commission should ascertain. It is something the Zoning Administrator is required by the code to ascertain. City Zoning Code Section 3-102(Q)(2)(a) requires that a new cell tower "shall not be approved unless the telecommunications equipment planned for the proposed wireless communication facility cannot be accommodated on an existing or approved ... facility or building within ... one-half mile." Does another facility already exist, or has one been approved even if not built (this could be in Andover or on the Wichita side)? Note that the code extends this radius from a half mile to an entire mile if the tower instead is 121' or higher, so looking within a mile may be prudent.

We have heard that AT&T has at least one back-up site identified, but the Zoning Administrator or AT&T would have to provide you further information.

10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?

Since the request is not a business or industrial use change, but just a height variance, this factor is irrelevant. If the Planning Commission decides this request is for a business use, then the proposed use does not provide employment opportunities. As to whether it is needed to provide more services, that is covered in #9 above.

11. Is the subject property suitable for the current zoning to which it has been restricted?

Yes. Please see ##s 1, 8 & 14 for discussion.

12. To what extent would ... approval of the zoning request detrimentally affect other property in the neighborhood?

Unknown without adequate siting, camouflage, screening and maintenance criteria in place for the life of the tower. Please see ##s 1, 8 & 14 for discussion.

13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

Unknown without adequate siting, camouflage, screening and maintenance criteria in place for the life of the tower. Please see ##s 1, 8 & 14 for discussion.

14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

Unknown without adequate siting, camouflage, screening and maintenance criteria in place for the life of the tower. Please see ##s 1 & 8 for further discussion.

The comprehensive plan specifically advocates for "a minimum intermixing of incompatible land uses" which "reduces the effects from negative environmental factors such as traffic, noise, lights ... and unsightly visual appearances. All of the latter affect property values and reduce the quality of life, particularly in residential areas which are a dominant characteristic of Andover." The plan advocates for "a greater amount of open space to protect drainage ways, provide buffers and greenways."

The comprehensive plan, zoning code and zoning map identify how and where the City supports particular types of development. Our HOA is not in a position to advise the Planning Commission on whether other areas -- whether in Andover zoned Industrial or on public recreational land as both already allows 120' towers, zoned in Wichita, or not zoned -- are available, and whether further questions need to be asked of AT&T. Please consult the Zoning Administrator to confirm this answer.

The comprehensive plan and zoning map reflect areas where 120' cell towers are already permitted. In contrast, the City specifically chose the much more limited B-1 zoning for this tract and intersection. Which fits, since this area is the City's entranceway (including our "Welcome to Andover" monument sign) & front porch, nearby is the City's only country club, the area includes several very nice looking office buildings, and some of the area's higher-end residential developments. The aesthetics, character and quality of architectural design and building materials of these nearby areas reflect and convey a message to our City's residents and visitors.

The City elected to limit this tract's zoning to cell towers of 35' or lower, because taller cell towers can be incompatible in a situation such as this one. The comprehensive plan and zoning code intended for this B-1 tract to serve as a transitional buffer to the adjacent residential districts.

15. What is the nature of the support or opposition to the request?

Our HOA's questions, concerns and suggestions are outlined throughout this document and corresponding letter. The nature of this input is merely to protect the buffer/transitional zone contemplated by the comprehensive plan, and maintain the character of this entranceway to the City and of the surrounding neighborhood, including Chateauroux.

16. Are there any informational materials or recommendations available from knowledgeable persons or expert which would be helpful in its evaluation?

Yes; from the Zoning Administrator and AT&T, as suggested in items ##1, 8 and 14 above.

17. By comparison, does the relative gain to the public health, safety and general welfare outweigh the loss in property value or the hardship imposed upon the applicant by not approving the request?

Unknown without adequate siting, camouflage, screening and maintenance criteria in place for the life of the tower. Please see ##s 1, 8 & 14 for discussion

October 11, 2013

Mr. Les Mangus
Zoning Administrator
Andover Planning Commission
1609 E. Central Ave.
P.O. Box 295
Andover, KS 67002

Via Email
lmangus@andoverks.com

Re: Case No. SU-2013-02

Dear Mr. Mangus

I am writing on behalf of the Hadwigers who own the single-family home immediately adjoining the subject property on the east. We object to the second request for special treatment under the zoning laws filed by the owner of the subject property. Specifically, the owners of the subject property now request special treatment under the zoning ordinances in order to build a 10-story cell tower.

We object to this request for special treatment for many of the same reasons that were made so emphatically at the public hearing on the owners' previous request for special treatment. Primarily, the proposed use diminishes the value created when all other neighboring landowners complied with these same zoning laws. Is there any good reason why that value should be sacrificed for this use?

We intend to appear at the hearing on this request and address the various factors in more detail. For now, we request that the commission note our objection, and ultimately, that the commission deny this request.

Very truly yours,

ADAMS JONES LAW FIRM, P.A.


Bradley A. Stout

BAS/lh

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 5

SPECIAL USE REPORT *

CASE NUMBER: SU-2013-02

APPLICANT/AGENT: Ronald L. & Lori Kutter

REQUEST: Special Use requested to establish a 120 ft. cellular tower in the B-1 Office Business District. If recommended for approval, additional requirements may be considered to make such a use compatible to the neighborhood.

CASE HISTORY:

LOCATION: On the South side of Central Avenue Street between 159th Street and Andover Road.

SITE SIZE: 2.9 acres

PROPOSED USE:

ADJACENT ZONING AND EXISTING LAND USE:

North: B-1 Office Business/R-2 Single Family – commercial building/Terradyne Golf Course

South: B-1 Office Business/R-1 Single Family – commercial building/commercial storage building

East: R-1 Single Family – single family dwelling

West: B-1 Office Business – commercial building

Background Information:

The subject property is currently vacant. The property is encumbered by a drainage way on the west and a natural gas pipeline at the southeast corner.

* Note: This report is to assist the Planning Commission to determine their findings from the evidence presented at the hearing so as to base their special use recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses initially provided need to be evaluated with the evidence and reworded as necessary to reflect the Commission's considered opinion. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator. A copy of the report should be provided to the applicant before the hearing. The completed report can be included within the minutes following the statutory required summary of the hearing or attached thereto. The minutes and report should be forwarded to the Governing Body within 14 days to serve as a basis for their decision.

H. Amendments to Change Zoning Districts. When a proposed amendment would result in a change of the zoning district classification of any specific property, the report of the Planning Commission, accompanied by a summary of the hearing, shall contain statements as to (1) the present and proposed district classifications, (2) the applicant's reasons for seeking such reclassification, and (3) a statement of the factors where relevant upon which the recommendation of the Commission is based using the following factors as guidelines:

FACTORS AND FINDINGS:

YES 1. What are the existing uses and their character and condition on the subject property and in the surrounding neighborhood? (See
NO Adjacent Existing Land Uses on page 1 of 4)
STAFF: The subject property is in an upscale area with a variety of residential and commercial buildings including office businesses, a storage warehouse, single family homes, and a golf course.

PLANNING:
COUNCIL:

YES 2. What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the requested change?
NO (See Adjacent Zoning on page 1 of 4)

STAFF:
PLANNING:
COUNCIL:

YES 3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?
NO STAFF:
 PLANNING:
COUNCIL:

YES 4. Would the request correct an error in the application of these regulations?
NO STAFF:
 PLANNING:
COUNCIL:

YES 5. Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?
NO STAFF: Cellular carriers in the area are experiencing tower capacity issues due to the increased services provided by wireless communications.
 PLANNING:
COUNCIL:

YES 6. Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property?
NO STAFF: The subject property is currently served by public water and has direct access to a public street. There is no sewer on or adjacent to the subject property.
 PLANNING:
COUNCIL:

YES 7. Would the subject property need to be platted or replatted in lieu of dedications made for rights of way, easements access control or building setback lines?
NO STAFF:
 PLANNING:
COUNCIL:

YES 8. Would a screening plan be necessary for existing and/or potential uses of the subject property?
 NO STAFF: Perimeter fencing around ground mounted equipment or structures are required. And an approved site plan is required.

X PLANNING:
COUNCIL:

YES 9. Are suitable vacant lands or buildings available or not available for development that currently has the same zoning as is requested?
 NO STAFF: N.A.
 X PLANNING:
COUNCIL:

YES 10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?
 NO STAFF: The proposed tower would provide better coverage and capacity for customers.
 X PLANNING:
COUNCIL:

YES 11. Is the subject property suitable for the current zoning to which it has been restricted?
 NO STAFF:
 X PLANNING:
COUNCIL:

YES 12. To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?
 NO STAFF: Visibility of the tower and equipment from the residence adjacent to the east.
 X PLANNING:
COUNCIL:

YES 13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?
 NO STAFF: The zoning regulations allow wireless communication facilities by right, but the special use is required to exceed the maximum height for the zoning district.
 X PLANNING:
COUNCIL:

YES 14. Is the request in conformance with the Comprehensive Plan and
NO does it further enhance the implementation of the Plan?
 STAFF: The Comp Plan is silent about the provision of utility
 services..
 PLANNING: N.A.
 COUNCIL:

YES 15. What is the nature of the support or opposition to the request?
NO STAFF: None at this time.
 PLANNING:
COUNCIL:

YES 16. Are there any informational materials or recommendations
NO available from knowledgeable persons or experts which would be
 helpful in its evaluation?
 STAFF: Approval as applied for conditioned on the security
 fencing and screening as approved by the Site Plan
 Review Committee.
 PLANNING: More information needed.
COUNCIL:

YES 17. By comparison, does the relative gain to the public health, safety
NO and general welfare outweigh the loss in property value or the
 hardship imposed upon the applicant by not approving the request?
 STAFF:
 PLANNING:
COUNCIL:

Having considered the evidence at the hearing and the factors to evaluate the special use application, I Lynn Heath, move that we recommend that Case No. SU-2013-02 be continued to the November 19, 2013 Planning Commission meeting and request the following additional information: 1. Is this the best location? 2. How big of an area is being considered and is this the only available site in the area? 3. If located on this site how tall can it be based on required setback - does it have to be and can it even be 120 feet tall? Motion seconded by Ken Boone. Motion carried 5/0/1. (William Schnauber abstained from the vote.)

Recess the Planning Commission and Convene the Board of Zoning Appeals

A motion was made by Ken Boone, seconded by Lynn Heath to recess the Planning Commission and Convene the Board of Zoning Appeals. Motion carried 6/0.

6. BZA-V-2013-03- Public hearing on an application filed by Miracle Signs requesting a variance of the 10 foot maximum height limitation to allow for a new multi-tenant monument sign on property zoned as the B-2 Neighborhood Business District.

Les Mangus explained the proposed sign exceeds the maximum height for the zoning district at this location because there is a limitation on height for a distance of 200 feet from an intersection with another arterial street, US 54 Highway in this case. This is beyond that 200 feet so it has a limitation of 10 feet maximum height.

Brian Kirkland, Miracle Signs, 3611 N. Broadway, Wichita, agent to the applicant Tom Bowles, property owner, was present to represent the application.

Mr. Kirkland explained that this is a larger sign that is perpendicular to the road to adequately get the tenant logos and brands to the street so that potential customers and clients can find their destination and make safe driving decisions.

Lynn Heath asked if the panels were designed to be easily removed.

Mr. Kirkland responded that the panels were to emulate routed aluminum with only the logo portion being lighted at night. The panels would be easily changed as needed. This size allows for a large enough logo to be seen from the street.

Brian Lindebak asked Les Mangus if there were any improvement plans for widening Andover Road that would place this sign to close to the road.

Les Mangus replied that there is nothing in the CIP and they have the minimum right-of-way required at this area.

Chairman Coon closed the public hearing.

BOARD OF ZONING APPEALS ACTION September 21, 2013

Publication Date

VARIANCE October 15, 2013

Hearing Date

B-2 Neighborhood
Business

Case No. BZA-V-2013-03

Zoning District

Variances from the provisions of the zoning regulations shall be granted by the Board only in accordance with the standards in Section 10-1077(d), and only in the following instances and NO others: (A through G).

1. To vary the applicable lot area, lot width, and lot depth requirements, subject to the following limitations
 - a. The minimum lot width and lot depth requirements shall not be reduced more than 25%.
 - b. The minimum lot area for a single or two-family dwelling shall not be reduced more than 20%.
 - c. The minimum lot area per dwelling unit requirements for multiple-family dwellings shall not be reduced more than 10%.

Dimension of lot _____ Variance requested _____

N.A._____

To vary the applicable bulk regulations, including maximum height, lot coverage and minimum yard requirements:

1. The bulk regulations for this district are: 10 ft. maximum height allowed for monument signage
2. Variance would change bulk regulations as follows: Increase to 21 ft. sign height.

To vary the applicable off-street parking and off-street loading requirements.
(Must establish time schedule for compliance) N.A.

To vary the sign provisions of Section 7-102 regarding general standards and Section 7-104 regarding nonresidential district regulations: NA

To vary certain provisions of the FP Flood Plain District as provided for in Section 4-114(L): N.A.

The Board shall not grant a variance unless it shall, in each case, make specific written findings of fact directly based upon the particular evidence presented to it which support all the conclusions as required by K.S.A. 12-715 as listed below:

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 owners or the applicant;

The granting of the variance will not adversely affect the rights of adjacent property owners or residents;

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.

The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and

Granting the variance desired will not be opposed to the general spirit and intent of these regulations.

In determining whether the evidence supports the conclusions required by Section 1-107(D)(1), the Board shall consider the extent to which the evidence demonstrates that:

The particular physical surroundings, shape, or topographical condition of the specific property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee, or occupant, as distinguished from a mere inconvenience, if the provisions of these regulations were literally enforced.

The request for a variance is not based exclusively upon a desire of the owner, lessee, occupant or applicant to make more money out of the property.

True/ Yes False/ No

X _____

The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located, and

X _____

The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

X _____

Restrictions imposed by the Board of Zoning Appeals as per Zoning Regulations Section 10-5G:

None required.

Date Granted: 10/15/2013

Valid Until (date) 04/13/2014

(180 days Sec. 10-107G)

Having considered the evidence at the hearing and determined that the findings of the fact in the Variance Report (as amended) have been found to exist that support all the five conditions set out in Section 10-107D1 of the Zoning Regulations and K.S.A. 12-759(e) of the state statutes which are necessary for granting a variance, I Lynn Heath move that the Chairperson be authorized to sign a Resolution granting the variance for Case No. BZA-V-2013-03 as requested. Motion was seconded by Ken Boone. Motion carried 6/0.

Adjourn the Board of Zoning Appeals and Reconvene the Planning Commission

A motion was made by Lynn Heath, seconded by William Schnauber to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. Motion carried 6/0.

7. Recommendation to the Governing Body for the annexation of 2258 North Andover Road, Andover, KS.

Les Mangus explained that the owner desires to connect to the public sewer and in order to do that the property has to be within the city limits.

A motion was made by Lynn Heath, seconded by Brian Lindebak to approve the request for annexation of 2258 North Andover Road and recommend approval by the Governing Body. Motion carried 6/0.

8. Member items.

Chairman Coon questioned the number of sign variance requests in the past year.

9. Adjourn.

A motion was made by Lynn Heath, seconded by William Schnauber to adjourn at 8:52p.m. Motion carried 6/0.

Respectfully Submitted by

Daynna DuFriend

Administrative Secretary

Approved this 19th of November, 2013 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.