

**ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS**
Tuesday, May 20, 2014
Minutes

1. Call to order. 00:02:10

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

2. Roll call. 00:02:17

Planning Commission members present were Chairman Quentin Coon, Lynn Heath, Brian Lindebak, Ken Boone, Lee Butler and Aaron Masterson. Others in attendance were Director of Public Works Les Mangus, Assistant Director of Public Works Steve Anderson, City Administrator Sasha Stiles, Assistant City Administrator Jennifer McCausland, City Council Liaison Sheri Geisler and Administrative Assistant Daynna DuFriend. Member William Schnauber was absent.

A/V: William Duggan

3. Approval of the minutes of the April 15, 2014 meeting. 00:02:31

A motion was made by Ken Boone, seconded by Lynn Heath to approve the minutes. Motion carried 4/0/2.

4. Communications: 00:03:16

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

5. VA-2014-02- A public hearing on a petition for a vacation of a portion of a 30 foot rear yard drainage and utility easement on property located at 1210 E. Woodstone Dr., Andover, KS. 00:05:09

Les Mangus explained that there are public utilities in the easement that would require a plan for relocation or exception to the area to be vacated. There are electric utilities in the NW corner of the lot and an existing storm sewer. Owner is working on relocating the storm sewer. Currently it is not satisfactory to staff.

Sheri Rickard, 915 E. Waterview, Andover, KS., agent for owner, was present to represent the application.

Ms. Rickard explained that the plan is to move a drain into the existing within the remaining easement so to not interfere with the utilities. They would like to gain 15 – 20 feet of this easement, leaving plenty of easement for the concrete drain.

Chairman Coon asked if this vacation request was for the whole easement.

Les Mangus replied that the entire easement cannot be vacated as there is a storm sewer and upstream drainage in this easement. A firm plan and guarantee that of utility relocation is requested. Upon approval it will be proceed on to City Council for final action of adoption. There is a hedge tree row and a grade of 3-4 feet at the back of the easement.

Chairman Coon asked if moving the pipe would affect the hedge row.

Ms. Rickard stated that the trees would not be affected.

Brian Lindebak asked how close the pool will be to house.

Ms. Rickard replied that it would be very close to the house. They are working to maintain a standard size.

Aaron Masterson asked how much of an easement is needed in front of hedge row to accommodate the sewer drain.

Les Mangus replied that an engineering plan will be need to be provided.

Ms. Rickard said with temporary approval of at least 15 feet they would pursue getting the engineering plan.

Aaron Masterson confirmed that 15 foot would be the minimum needed and how big of a pool would this accommodate.

Ms. Rickard answered that the pool would be very close to the back of the house and would not be very big. By going with a more standard size the expense to the homeowner is not extreme.

Chairman Coon closed the public hearing.

Ken Boone asked if any approval would need to be contingent upon satisfaction of the relocation plan.

Les Mangus said that would require engineering plans.

A motion was made by Brian Lindebak, seconded by Lynn Heath to approve the petition for vacation for VA-2014-02 with the following 5 conditions; 1. Guaranteed relocation of all utilities., 2. Any necessary oversizing of storm sewer costs to be borne by property owner., 3. Drainage plan to be submitted for staff approval., 4. Applicant to provide legal descriptions to staff for new location of utility easement., 5. Applicant to provide legal description to staff of area that is to be vacated. Motion carried 6/0.

Recess the Planning Commission and Convene the Board of Zoning Appeals

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

6. [BZA-V-2014-01- A public hearing on an application filed by Wesley A. Little requesting a variance to reduce the side yard set back from the required 8 feet to 3 feet, limited to east side yard, for the construction of a swimming pool on property zoned as the R-2 Single-Family Residential District located at 1210 E. Woodstone Dr., Andover, KS.](#)

00:30:30

Sheri Rickard, 915 E. Waterview, Andover, KS., agent for owner, was present to represent the application.

Ms. Rickard explained this request would allow a concrete surround to be built around the pool and allow for any pool equipment.

Lynn Heath asked if a privacy fence would be installed.

Ms. Rickard replied that as this is not a privacy fence phase a wrought iron fence would be installed on the property line.

Chairman Coon closed the public hearing.

ANDOVER BOARD OF ZONING APPEALS

Agenda Item No. 6

For May 20, 2014

VARIANCE REPORT *

CASE NUMBER: BZA-V-2014-01

APPLICANT/AGENT: Wesley A. Little

REQUEST: Wesley A. Little, 520 W. Slate St., Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance to reduce the sideway setback from the required 8 feet to 3 feet on property zoned as the R-2 Single-Family Residential District.

CASE HISTORY: New home under construction adjacent to a homeowner's reserve for drainage and pedestrian access.

LOCATION: Legal description: Lot 12, Block A, Crescent Lakes 5th Addition to the City of Andover, Kansas.

General location: 1210 E. Woodstone Dr., Andover, Kansas.

SITE SIZE: 11,475sq. ft.

ADJACENT ZONING AND EXISTING LAND USE:

North: A-1 Agricultural

South: R-2 Single-Family Residential single family dwellings

East: R-2 Single-Family Residential single family dwellings

West: R-2 Single-Family Residential single family dwellings

*NOTE: This report has been prepared by the Zoning Administrator to assist the Board of Zoning Appeals to determine their findings from the evidence presented at the hearing so as to base their decision for a variance on the required five findings found in Section 10-107 D 1 of the Zoning Regulations. The Board may grant a request upon specific written findings of fact when all five conditions, as required by state statutes, are found to exist.

The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Board of Zoning Appeals 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.

BACKGROUND INFORMATION:

DOES THE EVIDENCE DEMONSTRATE THAT:

1. 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, **because there is a homeowner's reserve adjacent to the subject property that provides adequate open space. True**

2. 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, **because the applicant simply desires to construct a private swimming pool. True**

3. 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, **because there is a homeowner's reserve adjacent to the subject property that provides adequate open space. True**

4. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion on public streets or roads, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood, **because there is a homeowner's reserve adjacent to the subject property that provides adequate open space. True**

SPECIFIED CONDITIONS TO BE MET:

The Board may grant a variance upon specific written findings of fact based upon the particular evidence presented at the hearing so that all five of the conditions required by K.S.A 12-759(e) have been met which are listed below. If any of the conditions cannot be met, the condition(s) needs to be reworded from a positive to a negative statement and the variance not granted.

1. That 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, **because there is a homeowner's reserve adjacent to the subject property that provides adequate open space. True**

2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **because there is a homeowner's reserve adjacent to the subject property that provides adequate open space. True**

3. That 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, **because there is a homeowner's reserve adjacent to the subject property that provides adequate open space. True**

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, **because there is a homeowner's reserve adjacent to the subject property that provides adequate open space. True**

5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **because there is a homeowner's reserve adjacent to the subject property that provides adequate open space. True**

Brian Lindebak asked if this should be conditioned upon approval of the variance.

Les Mangus stated that staff considered these to be 2 independent actions.

Having considered the evidence at the hearing and determined that the findings of fact in the Variance Report 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 of a variance, I Lynn Heath, move that the Chairperson be authorized to sign a Resolution granting the Variance for Case No. BZA-V-2014-01 as requested. Motion was seconded by Aaron Masterson. Motion carried 6/0.

Adjourn the Board of Zoning Appeals and Reconvene the Planning Commission.

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

7. [LS-2014-01- Review and approve a proposed lot split of Lot 8 of the Weir Tracts to the City of Andover, located at 221 W. Murdock, Andover, Kansas.](#) 00:40:41

Les Mangus explained that this lot was rezoned to the R-2 zone. All conditions and regulations have been met. Staff is supportive of this lot split.

Lynn Heath stated that there were no items of discussion from the Subdivision Committee review.

Gary Robinson, 120 Murdock St., Andover, Kansas, was present. Mr. Robinson lives across the street from the subject property.

Mr. Robinson explained that his concern is drainage. Water from the street behind and Murdock drains into his backyard. The street currently has 3 foot ditches with 1 foot culverts. His property receives water from the entire block. He has no problem with a house placed on this property, drainage only. Something needs to be done on the south side of Murdock. More water will be a problem.

Les Mangus will review this with the Street Superintendent and the City Engineer.

Brian Lindebak asked where the high point was.

Les Mangus replied that this lot is midway between Andover Road and the high point at Broadview Street.

Ken Boone asked if an additional house on the lot would affect drainage. If so why?

Les Mangus said that an additional house should not greatly affect the drainage.

A motion was made by Brian Lindebak, seconded by Ken Boone to approve the proposed lot split of Lot 8 of the Weir Tracts to the City of Andover, located at 221 W. Murdock, Andover, Kansas, Butler County. Motion carried 5/1. Lee Butler opposed.

8. [Recommendation to the Governing Body for the annexation of W. Kellogg Tracts, Andover, Kansas.](#) 00:54:50

Les Mangus explained that the City Council has initiated the annexation of these 2 parcels. They have some commercial uses and vacant property and are surrounded by the City. This land is in the heart of 54 Hwy corridor plan.

This is supported by staff.

Brian Lindebak asked what zoning the subject properties will be given upon annexation.

Les Mangus answered that because these properties are unplatte they will come in as A-1 Agricultural, however, because they have existing permitted uses they would have legal non-conformances for the current activity.

A motion was made by Lynn Heath, seconded by Ken Boone to approve the request for annexation of W. Kellogg Tracts and recommend approval by the Governing Body. Motion carried 6/0.

9. [Organization meeting.](#) 01:00:00

A motion was made by Lynn Heath, seconded by Lee Butler to retain Quentin Coon as Chairman for the Planning Commission. Motion carried 6/0.

A motion was made by Lee Butler, seconded by Brian Lindebak to retain all appointments including Board of Zoning Appeals and Subdivision Committee. Motion carried 6/0.

10. [Member items.](#) 01:03:00

There were no member items.

Les Mangus mentioned that Thursday, May 22, 2014 a MOVE2040 public input forum will be held here at City Hall, 6-8:30pm.

11. [Adjourn.](#) 01:05:09

A motion was made by Lynn Heath, seconded by Ken Boone to adjourn at 8:03 p.m. Motion carried 6/0.

Respectfully Submitted by

Daynna DuFriend
Administrative Assistant

Approved this 17th of June, 2014 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover