

**ANDOVER CITY PLANNING COMMISSION /  
BOARD OF ZONING APPEALS**  
**Tuesday, May 19, 2015**  
**Minutes**

1. Call to order. 00:00:00

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

2. Roll call. 00:01:48

Planning Commission members present were Chairman Coon, Lynn Heath, William Schnauber, Brian Lindebak and Aaron Masterson. Others in attendance were Director of Public Works Les Mangus and City Administrator Mark Detter, City Council Liaison Sheri Geisler and Administrative Assistant Daynna DuFriend. Members Stephanie Gillespie and Lee Butler were absent.

A/V: Cindy Barrett

3. Approval of the minutes of the April 21, 2015 meeting. 00:02:04

*The April 21, 2015 minutes will be emailed to the Planning Commission members for their review and approval at the June 16, 2015 meeting.*

4. Communications 00:03:14

- A. Committee and Staff Report.
- B. Potential Residential Development Report.

5. Election of officers. 00:03:35

Chairman Coon asked to postpone the election of officers to the June 16, 2015 Planning Commission meeting.

*A motion was made by Lynn Heath, seconded by William Schnauber to postpone the election of Planning Commission officers to the June 16, 2015 meeting. Motion carried 5/0.*

6. Butler County Case CU 15-03 – Recommendation to the Butler County Planning

Commission on a conditional use to permit a contractor's shop and/or yard, and material storage on property located at 305 N. 159<sup>th</sup> St. E. 00:04:31

Brian Lindebak asked if this area was in the planning area for the City of Andover.

Les Mangus replied that it is.

Mitchell Born, agent for the owner, Betty Born, 3050 N. 159<sup>th</sup> St., Andover, KS, was present to represent the application.

Mr. Born explained that he looking to relocate his family's stone mason business to this land belonging to his mother. The business consists of 15 employees with only office staff being onsite. Other employees drive directly to jobsites. There will be limited amount of equipment and materials stored at this site. The property where the business is currently located in Kechi is being sold.

Vaughn Gregg, 12425 E. Osie, Wichita, KS, owner of the adjacent property located at 16744 SW 60<sup>th</sup> St. was present.

Mr. Gregg presented pictures of the properties to the Planning Commission. His explained property is the most affected property by this request. Approximately 50% of his west property line is next to the Born property. Several outbuildings and trees have been placed on his property in preparation for a future home site. This is a perfect location for dust and noise free living. His property value would be greatly reduced with this type of business next to it. He is not in favor of this request.

Kara Anderson, 15400 E. 29<sup>th</sup> St. N., Wichita, KS was present. She stated that she has small children riding bicycles in this area and this business would create an increase in traffic with large trucks on roads that are already in poor condition. Even a scaled down version of this business would not fit in this area and is not in favor of this request.

Marie Hampton, 15700 E. 29<sup>th</sup> St. N, Wichita, KS was present and stated that the aesthetic look of this business would be too much for the area. The roads are in poor condition. Noise levels and resale values would be affected and is not in favor of this request.

Burle Hollingsworth, 15600 E. 29<sup>th</sup> St. N., Wichita, KS, was present and stated that traffic has increased greatly in the last few years. There are a lot of bicyclers and joggers in this area. He is not in favor of this request.

Mr. Born stated his employees do not speed down roads. The business is being consolidated and equipment is being sold. If needed a smaller amount of the property could be used.

Chairman Coon closed the public hearing.

*The following are letters of protest received concerning Butler County Case CU 15-03.*

Wesley B. Timmerman  
3006 N. 159<sup>th</sup> E.  
Wichita, Ks  
316-259-4815

5/18/2015

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MAY 19 2015

Subject: Born Request for Conditional Use Permit (CUP).

CITY OF ANDOVER

City council members,

I am writing this letter to voice my disapproval of the request for conditional use permit (CUP) for the property located at 3050 N. 159<sup>th</sup> E. to be used as a construction business. I own the 5 Acres located directly on the south border. I have owned this property for over 25 years and have built my house from the ground up. I have invested many dollars and years to build a nest egg with the intent of supporting me and my wife during retirement. Anything that could drive down the value of my property would affect us for the rest of our lives. I feel that a construction site located in this area is not in our best interest and here is why.

First, the Borns have taken good care of their property's as stated in the attached letter from Mitch Born. They have cut down many trees to clear the land, and then left the large piles sit for over 2 years. If you drive by you can see around 30 piles starting in the field just north of my property to almost ½ mile north. (See below pictures.) All of these piles now have a large population of pack rats which dig their way into sheds and garages and chew the wiring in vehicles. I have put out many types of traps and poison, but cannot get this infestation under control. We feel that moving equipment and construction material to this area will only help matters get worse. As seen in the below pictures the equipment to be relocated consists of many trucks, trailers, campers, cement mixers, scaffolding and materials such as sand and dirt. Another example of the way they mistreat property is the house they own on the east side of 159<sup>th</sup> about ½ mile north of SW 60<sup>th</sup> N. As seen in the below picture, the house sits empty because it is no longer rentable. Windows are boarded up with plywood and the guttering is hanging down to the ground. This house has been neglected for many years.

With rumors that a new Andover high school is slated to go in just south of SW50<sup>th</sup> Street, I feel that a construction site located that close would be a very poor fit for the neighborhood. I along with a majority of the neighborhood feel that for the safety of our children, the area should remain strictly a residential area.

Mitch Born has been raised by a very rich family and does not know the struggle most people go through. Their family owns a lot of land, located in more than one county. Matters of fact, they own the land from my north boundary all the way north to SW 50th street. I feel that with very little effort, Mr. Born could just pick a more secluded area to put up a building to run the company that was handed to him by his father.

I am also disappointed in the city council members for rescheduling this meeting and not sending out any notices so we can attend in person.

Regards,

Wes Timmerman.

*Wesley B. Timmerman*  
5/18/2015



As seen in the above pictures, about 8 large piles of cut down trees and brush can be seen from my property. They have been there for over 2 years.



House is in bad need of repair, or it needs to be condemned and torn down before vandals break into it.

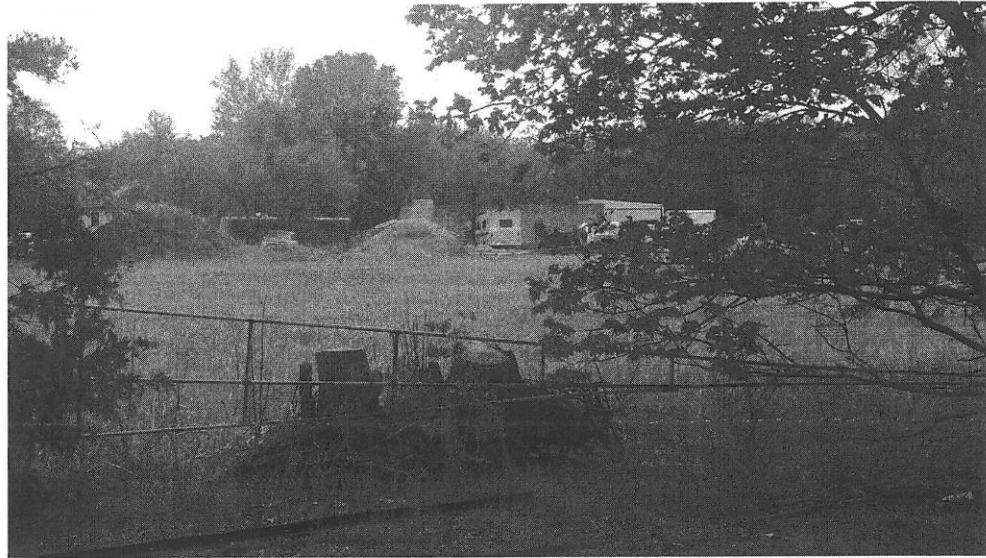


These are pictures of Born's current lot located on north Arkansas Street. It shows how much equipment and material that would be moved. Many of the equipment is non-operational.

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CITY OF ANDOVER



Large piles of sand and dirt can be seen.



There are many trucks and trailers that are used for the construction business.

Hello neighbors,

My name is Mitchell Born and I just wanted to let you know that I have recently filed for a conditional use permit to use some of our property at 3050 N 159<sup>th</sup> St. E., Wichita, KS 67228 for some masonry material storage and for a small office/shop. In Butler County's zoning documents a construction yard/shop is listed as a conditional use and I wanted to follow the correct guidelines and file for it rather than just moving forward. You should have received the notification from Butler County by now and I wanted to give you a courtesy letter telling you what my plans are and give you my contact information so I can answer any questions you have.

Firstly, you shouldn't notice any changes in the traffic or noise in the area. There is an existing house on the property that we would use for our office staff which is only two to three people on a regular basis with office hours ending at 4:30pm. There is also a detached garage that we would have one guy working in on a semi regular basis. He would utilize it for small equipment repairs as well as oil changes. The remaining employees drive from home directly to the jobs and back. As we are not retail, and all of our work is bid work, we do not have the general public coming out to our office. The property is bordered by trees so you shouldn't notice any property changes either.

My mother owns the land and I grew up across the street, which should make you feel comfortable I will take care of the property. If you have any concerns contact me on my mobile at 316-644-2137.

Thanks!

Sincerely,



Mitch Born

Stone Masons, Inc.

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MAY 19 2015

CITY OF ANDOVER

**PLANNING COMMISSION**  
**Butler County, Kansas**

**“NOTICE OF HEARING”**  
**CASE NO. CU-15-03**

TO WHOM IT MAY CONCERN:

Notice is hereby given that on the **May 5th, 2015** at the Butler County Courthouse, 4<sup>th</sup> Floor, 205 W. Central, El Dorado, Kansas. At 7:00 p.m., the Butler County Planning Commission will review a **Conditional Use Permit (CUP) application for a Contractors Shop and Material Storage Yard** on the following property:

**General Location: 3050 N 159<sup>th</sup> St. E, Wichita, KS 67228.**

A legal description of the subject property is available for review on the 2<sup>nd</sup> Floor of the Butler County Courthouse-East Annex Building located at 121 S. Gordy, Suite 202 in the Office of Planning & Zoning during normal business hours Monday through Friday.

You may appear at said public hearing in person or by agent or attorney, and be heard on this matter. After hearing from all interested persons, the Chairman of the Board will close the public hearings and the Planning Commission will consider what recommendation to forward to the Board of County Commissioners.

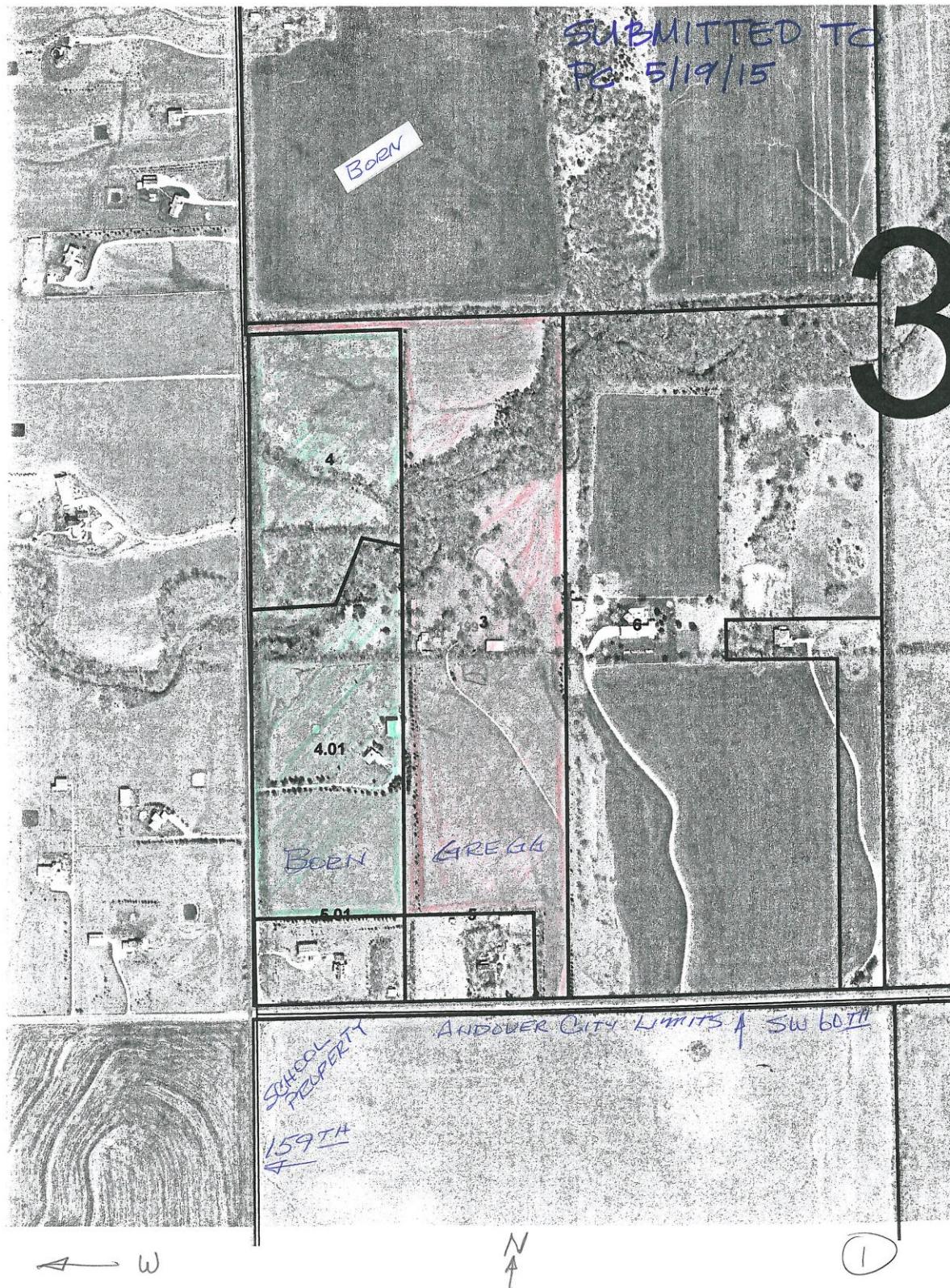
The Planning Commission may, by vote, continue the hearing from time to time with no further notice.

/s/ David Alfaro, Secretary  
Planning Commission

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CITY OF ANDOVER



Betty Born-316-640-9329  
Mitchell Born-316-644-2137

**Stone Masons, Inc.**  
3050 N. 159<sup>th</sup> St. E. Wichita, KS 67228

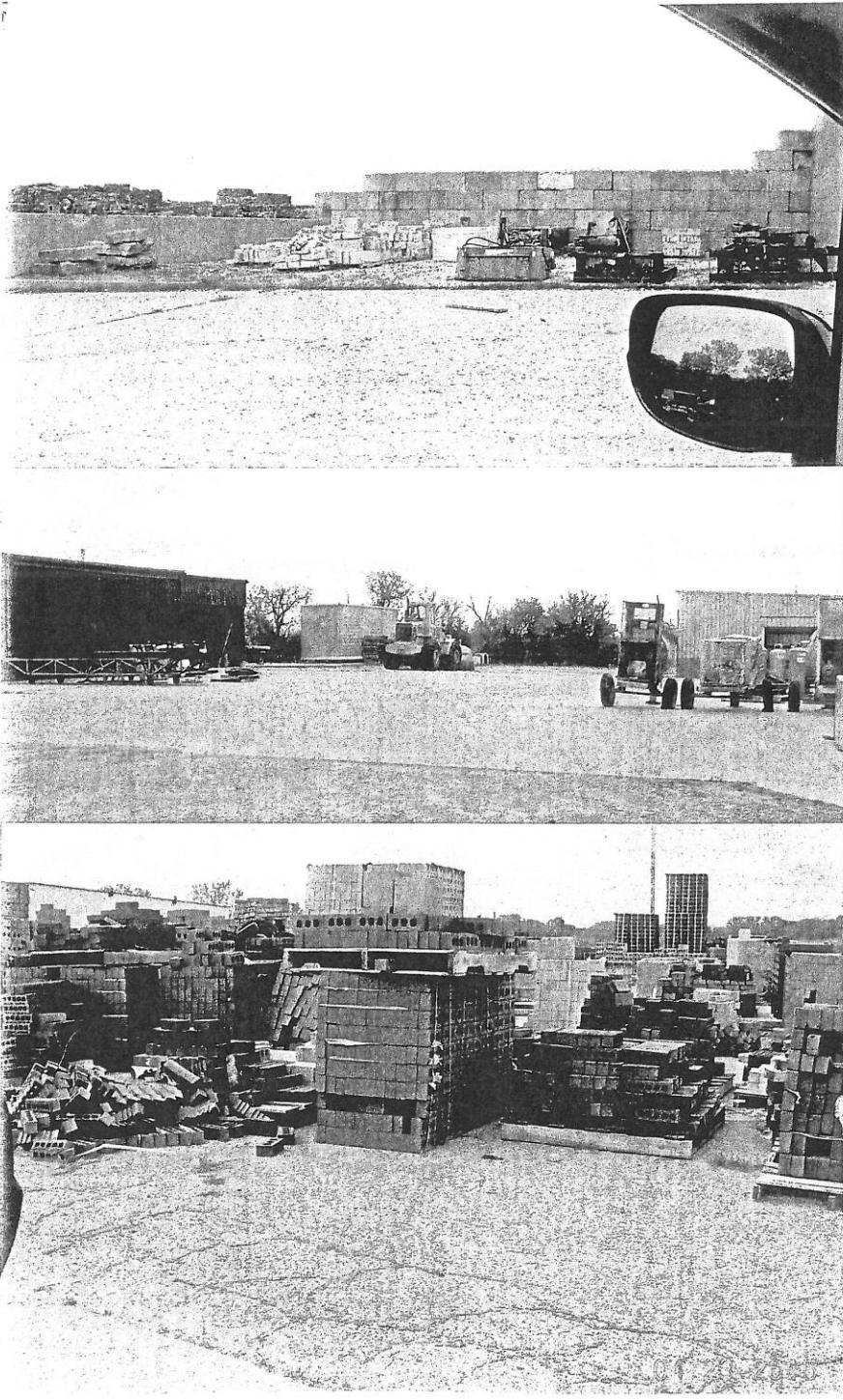
Legal Description: FRANTA ACRES, BLOCK 1, Lot 1;2, ACRES 29.9, SECTION 31 TOWNSHIP 26 RANGE 03E

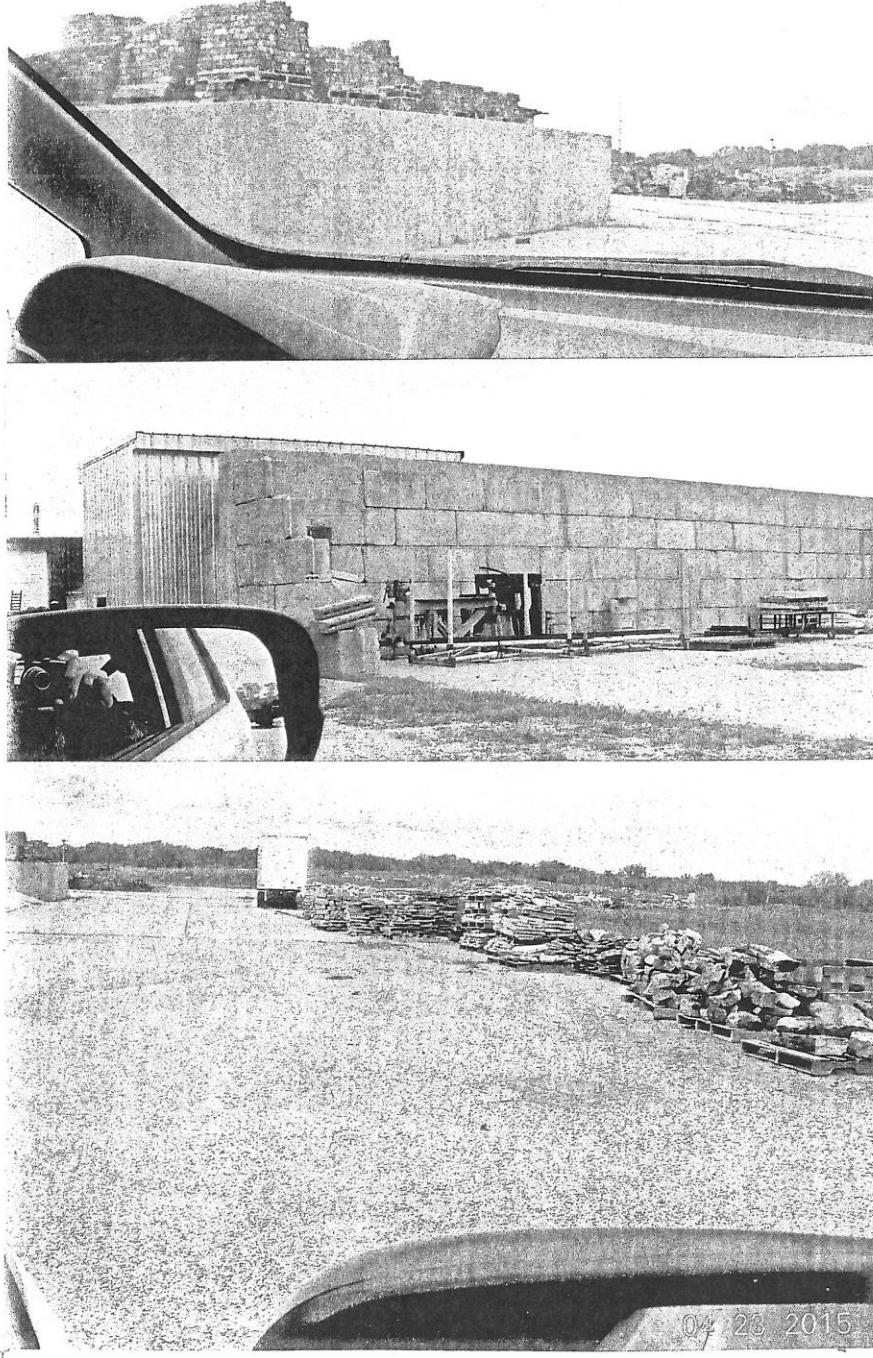
4/3/2015



\*Black outlined area will be covered in crushed concrete to serve as a good base.

\*Property is surround by thick tree barrier and fencing







(5)

*A motion made by Lynn Heath, seconded by William Schnauber to recommend that the Butler County Commission does not approve this request for a conditional use. Motion carried 4/1. Aaron Masterson opposed.*

**Recess the Planning Commission and Convene the Board of Zoning Appeals**

*A motion was made by Lynn Heath, seconded by Brian Lindebak to recess the Planning Commission and Convene the Board of Zoning Appeals. Motion carried 5/0.*

7. [BZA V-2015-01 – Public hearing on an application for a variance of 500 square feet from the required 1,000 square foot maximum aggregate total floor area of all accessory structures permitted by Section 6-100C4 for the purpose of constructing a 1,500 square foot detached garage on property zoned as the R-1 Single-Family Residential District located at 749 S. Verna St.](#) 00:41:38

Les Mangus explained that the applicant was not able to attend the meeting this evening. This is very common in this area that consists of 1-acre lots.

Brian Lindebak questioned the placement of the building being directly behind the house.

Les Mangus referred to the aerial photo on the screen of the property showing considerable space along the north side of the house.

**ANDOVER BOARD OF ZONING APPEALS**

**Agenda Item No. 6  
for May 19, 2015**

**VARIANCE REPORT \***

**CASE NUMBER: BZA-V-2015-01**

APPLICANT/AGENT: Curtis R. Harris, 749 S. Verna St., Andover, Kansas

REQUEST: Variance of 500 square feet from the required 1,000 square foot maximum aggregate total floor area of all accessory structures permitted by Section 6-100C4 for the purpose of constructing a 1,500 square foot detached garage on property

zoned as the R-1 Single-Family Residential District.

LOCATION: 749 S. Verna St.

SITE SIZE: 1.0 acres

**ADJACENT ZONING AND EXISTING LAND USE:**

North: R-1 Single Family Residential

South: R-1 Single Family Residential

East: R-1 Single Family Residential

West: R-2 Single Family Residential - vacant property

\*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:**

The applicant desires to construct a large detached garage.

**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 the subject property is over twice the minimum lot size for the zoning district.

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 intends to store his personal vehicles in the detached garage.

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 the subject property is over twice the minimum lot size for the zoning district.

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 the subject property is over twice the minimum lot size for the zoning district.

**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 the subject property is over twice the minimum lot size for the zoning district.;

2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents because the subject property is over twice the minimum lot size for the zoning district and the applicant intends to store his personal vehicles in the detached garage;
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 the subject property is over twice the minimum lot size for the zoning district and the applicant intends to store his personal vehicles in the detached garage;
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare because the subject property is over twice the minimum lot size for the zoning district;
5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations because the subject property is over twice the minimum lot size for the zoning district and the applicant intends to store his personal vehicles in the detached garage;

*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 BZA-V-2015-01 as requested. Motion was seconded by Brian Lindebak. Motion carried 5/0.*

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

*A motion was made by Lynn Heath, seconded by Brian Lindebak to adjourn the Board of zoning Appeals and Reconvene the Planning Commission. Motion carried 5/0.*

8. [Member Items.](#)

00:49:59

There were no member items.

*A motion was made by Lynn Heath, seconded by Chairman Coon to adjourn at 7:49 p.m. Motion carried 5/0.*

Respectfully Submitted by

Daynna DuFriend

Administrative Assistant

Approved this 16<sup>th</sup> of June, 2015 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover