

**ANDOVER CITY PLANNING COMMISSION /  
BOARD OF ZONING APPEALS**  
**Tuesday, August 18, 2015**  
**Minutes**

1. Call to order. 00:00:23

Chairman Lynn Heath called the meeting to order at 7:00 p.m.

2. Roll call. 00:00:29

Planning Commission members present were Chairman Heath, Mike Warrington, Stephanie Gillespie, Brian Lindebak and William Schnauber. Others in attendance were Director of Public Works Les Mangus and City Administrator Mark Detter and Administrative Assistant Daynna DuFriend. Member Lee Butler was absent.

A/V: Cindy Barrett and Craig Brown

3. Approval of the minutes of the July 21, 2015 and August 5, 2015 meetings. 00:01:51

City Administrator Mark Detter explained that a correction in the July 21, 2015 minutes was made concerning question #17 of the Rezoning Report for Case #Z-2015-02.

*A motion was made by Brian Lindebak, seconded by William Schnauber to approve minutes of the July 21, 2015 and August 5, 2015 meetings with the mentioned correction. Motion carried 5/0.*

4. Communications 00:02:25

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

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

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

5. BZA-V-2015-02- A public hearing on an application filed requesting a variance to reduce the required minimum rear yard setback from 25 feet to 8 feet. 00:03:26

Les Mangus stated that this is an odd shaped corner lot. The house is placed further away from the north-side of the lot and the standard 25 feet from the east (front yard of the property). The applicant wishes to enclose a patio on the rear of the house. An existing shade structure is there now.

Rick Kear, 211 N. Dogwood Ct., Andover, KS., owner, was present to represent the application.

Mr. Kear explained that there are no windows along the east side of the neighboring home at 219 N. Dogwood Ct. He also stated that he has spoken with the property owners of both 219 N. Dogwood Ct. and 123 N. Dogwood Ct. and they expressed no concerns with this request.

Mike Warrington mentioned that this seems appropriate since there are no windows on the east side of the neighboring property.

**ANDOVER BOARD OF ZONING APPEALS**

**Agenda Item No. 5**

**August 18, 2015**

**VARIANCE REPORT \***

**CASE NUMBER: BZA-V-2015-02**

**APPLICANT/AGENT:** Rick Kear

**REQUEST:** Rick Kear, 211 N. Dogwood Ct., Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance to reduce the required minimum rear yard setback from 25 feet to 8 feet to allow construction of a covered patio structure addition to the existing house on property zoned as the R-2 Single-Family Residential District.

**CASE HISTORY:**

**LOCATION:** Legal description: Lot 16, Block 2, Green Valley Greens Addition to the City of Andover, Kansas.

General location: 211 N. Dogwood Ct., Andover, Kansas.

**SITE SIZE:** . ±11,000sq. ft.

**ADJACENT ZONING AND EXISTING LAND USE:**

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

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 an adequate side yard separation to the adjacent home would remain. 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 adequate open space would remain. 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 adequate open space would remain. 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 an adequate side yard separation to the adjacent home would remain. 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 the shape of the lot is unique. True**

2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **because an adequate side yard separation to the adjacent home would remain. 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, **no detriment to the surrounding area is perceived. True**

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, **because an adequate side yard separation to the adjacent home would remain. True**

5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **because an adequate side yard separation to the adjacent home would remain. True**

Date Granted: August 18, 2015

Valid Until (date): February 14, 2016  
(180 days Sec. 10-107G)

---

Lynn Heath, Chairman

---

William Schnauber, Secretary

Certified to the Zoning Administrator on this date of: August 18, 2015

*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 of 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 Mike Warrington, move that the Chairperson be authorized to sign a Resolution granting the Variance for Case No. BZA-V-2015-02 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 Brian Lindebak, seconded by William Schnauber to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. Motion carried 5/0.*

7. [VA-2015-04- A public hearing on a petition for the vacation of the east ten \(10\) feet of the 20 foot rear yard drainage and utility easement.](#) 00:16:55

Les Mangus explained that all public utilities are in the west 10 feet of the 20 foot easement and the drainage flows into the reserve adjacent to the west. All utilities have been notified and there are no conflicts. The applicant desires to have a swimming pool and accessory structure installed. The 25 foot minimum rear yard does not apply to accessory structures.

Tim Shigley, Shigley Construction Co., 10647 SW Aster Rd., Augusta, KS., was present to represent the petition.

Mr. Shigley explained that he is representing Dr. Dennis Moore, the property owner. They are asking permission for this petition to allow for the swimming pool and pergola to be built and would use most of the additional 10 feet.

*A motion was made by Brian Lindebak, seconded by William Schnauber to approve the petition for vacation for VA-2015-04 as presented. Motion carried 5/0.*

8. [Member Items.](#) 00:22:08

Brian Lindebak thanked staff for the detailed information provided for these cases.

*A motion was made by Brian Lindebak, seconded by William Schnauber to adjourn at 7:22p.m. Motion carried 5/0.*

Respectfully Submitted by

Daynna DuFriend  
Administrative Assistant

Approved this 15<sup>th</sup> of September, 2015 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.