

**ANDOVER CITY PLANNING COMMISSION /  
BOARD OF ZONING APPEALS  
Tuesday, November 15, 2016  
Continued on November 22, 2016  
Minutes**

1. Call to order. (November 15, 2016) 00:00:00

Chairman Brian Lindebak called the November 15, 2016 meeting to order at 7:12 p.m.

Chairman Lindebak announced that due to a lack of quorum this meeting would be continued to November 22, 2016 in the Council Chambers of City Hall.

1. Call to order. (November 22, 2016) 00:04:07

Chairman Brian Lindebak called the continued meeting of November 15, 2016 held on November 22, 2016 to order at 7:01 p.m.

2. Roll call. 00:04:27

Planning Commission members present were Chairman Lindebak, Stephanie Gillespie, Mike Warrington, William Schnauber, Kirsten Bender and Tyson Bean.

Staff in attendance: Director of Public Works Les Mangus and Administrative Assistant Daynna DuFriend.

A/V: Craig Brown

3. Approval of the minutes of the October 18, 2016 meeting. 00:04:38

*A motion was made by Mike Warrington, seconded by Tyson Bean to approve the minutes of the October 18, 2016 meeting. Motion carried 3/0/2. William Schnauber and Kirsten Bender abstained.*

4. Communications 00:05:25

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

5. SU-2016-02- A public hearing on an application for a Special Use request to establish a 24-hour midwifery birthing center in the B-1 Office Business District on the property located at 105 S. Andover Rd., Andover, Kansas.

00:07:27

Mike Warrington asked if there were any other medical offices in this building.

Les Mangus said that there is a physical therapy office in this building. There are also several optometry clinics and an Express Wellness Clinic in the same block.

Chairman Lindebak opened the public hearing.

Meg Rolph, 5930 S.W. Prairie Creek Rd., Andover, KS, applicant and business owner was present to represent the application.

Mike Warrington asked if they work with other facilities or doctors and would they be open as needed for 24 hours.

Ms. Rolph explained that she is partnering with Deidre DeGrado, a professional mid-wife, in this business. This birth center is mid-wife run by certified trained nurse mid-wives or certified professional mid-wives. They would partner with 4-5 RN nurses also employed with the center. They do not partner with any OB-GYN doctors. They work with low risk clients monitored from their first prenatal visits to delivery. If at any time they become high risk they are then passed on to an OB-GYN doctor. They will have three birthing rooms available.

William Schnauber asked if any emergency vehicles would be involved during this time.

Ms. Rolph replied that hopefully this is not needed very often. Statistically the birth center has a much lower rate of needing that because of the tracking of the women's progress throughout the pregnancy. However, there may be times when this is needed.

Kirsten Bender inquired as to whether the center would be staffed for 24 hours, seven days a week.

Tyson Bean asked if they currently had any other facilities.

Ms. Rolph stated that the mid-wives are on call with clients each having an assigned mid-wife. Diedre DeGrado does currently have a full-time mid-wife practice and Jessica Vail (present at meeting) is a mid-wife also. They are both doing home based births. They are looking to expand their existing small office in this building.

Mike Warrington asked staff if the parking lot lighting is adequate.

Les Mangus said that parking lot is lit and has met the Site Plan Review criteria.

Chairman Lindebak closed the public hearing.

ANDOVER CITY PLANNING COMMISSION      Agenda Item No. 5

**SPECIAL USE REPORT \***

CASE NUMBER: SU-2016-02

APPLICANT/AGENT: Lance Biel / Mike Lies

REQUEST: Special Use requested to establish a 24-hour midwifery birthing center.

## CASE HISTORY:

LOCATION: 105 S. Andover Rd., Andover, Kansas

SITE SIZE: ±46,410sq.ft.

PROPOSED USE: 24-hour birthing center.

## **ADJACENT ZONING AND EXISTING LAND USE:**

North: B-1 Office Business

South: B-1 Office Business

East: R-1 Single Family Residential

West: R-2 Single Family Residential

**Background Information:** A large tenant space has become available in the strip center with the opening of the new Andover Family Medicine office in Cornerstone. The applicant desires to convert the existing medical clinic to a 24-hour midwifery. The special use is required to accommodate the 24-hour operation.

\* 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:**

1. What are the existing uses and their character and condition on the subject property and in the surrounding neighborhood? (See Adjacent Existing Land Uses on page 1 of 4)

YES   NO

STAFF:

PLANNING:

COUNCIL:

2. What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the requested change? (See Adjacent Zoning on page 1 of 4)

YES   NO

STAFF:

PLANNING: B-1

COUNCIL:

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

YES   NO

STAFF:

PLANNING:

COUNCIL:

4. Would the request correct an error in the application of these regulations?

YES   NO

STAFF:

PLANNING:

COUNCIL:

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?

YES   NO

STAFF:  
 PLANNING:  
 COUNCIL:

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?

YES NO

STAFF:  
 PLANNING:  
 COUNCIL:

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?

YES NO

STAFF:  
 PLANNING:  
 COUNCIL:

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

YES NO

STAFF:  
 PLANNING:  
 COUNCIL:

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

YES NO

STAFF: NA  
PLANNING: NA  
COUNCIL:

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

YES NO

STAFF:  
 PLANNING:  
 COUNCIL:

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

YES NO

STAFF:

PLANNING:  
COUNCIL:

12. To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?

YES NO

STAFF:  
 PLANNING:  
COUNCIL:

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

YES NO

STAFF:  
 PLANNING:  
COUNCIL:

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

YES NO

STAFF:  
 PLANNING:  
COUNCIL:

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

YES NO

STAFF:  
 PLANNING: None  
COUNCIL:

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

YES NO

STAFF: Approval as applied for.  
 PLANNING:  
COUNCIL:

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?

YES NO

STAFF:  
 PLANNING:

COUNCIL:

*Having considered the evidence at the hearing and the factors to evaluate the special use application, I William Schnauber , move that we recommend to the Governing Body that Case No. SU-2016-02 be (approved) for the establishment of a 24-hour midwifery birthing center in the B-1 Office Business District based on the findings of the Planning Commission as recorded in the summary of this hearing, listed as 1, 2, 10, 12, 13, and 14. Motion seconded by Mike Warrington . Motion carried 6/0.*

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

*A motion was made by William Schnauber, seconded by Mike Warrington to recess the Planning Commission and Convene the Board of Zoning Appeals. Motion carried 6/0.*

6. [BZA-V-2016-01- A public hearing on an application filed requesting a variance to increase the required 5% maximum surface area of wall signage limitation to 6.7% for the purpose of installing additional wall signage on property zoned as the B-3 Central Shopping District located at 420 S. Andover Rd., Andover, Kansas.](#)

00:26:25

Les Mangus explained that this has come up in the past as strip centers are further divided into smaller tenant spaces the allowable area for wall signage per tenant space is reduced. Staff opinion is that signage is about visibility and the further the building is from the street the more visible signage is needed to be effective. Today the last open tenant space of this building would have no wall signage allotment available.

Mike Warrington asked if this was a result of the existing signage being too large. He also asked if this would affect parking.

Les Mangus said that this is due to spaces being subdivided. This request is to provide allowance for wall signage for this last tenant space. Parking would not be affected.

Chairman Lindebak opened the public hearing.

No applicant was present and there were no comments from the public.

Chairman Lindebak closed the public hearing.

**ANDOVER BOARD OF ZONING APPEALS**

**Agenda Item No. 6**

**November 15, 2016**

**VARIANCE REPORT \***

**CASE NUMBER: BZA-V-2016-01**

**APPLICANT/AGENT:** Builders, Inc.

**REQUEST:** Builders, Inc., property owner of 420 S. Andover Rd., Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, request a variance to increase the required 5% maximum surface area of wall signage limitation to 6.7% for the purpose of installing additional wall signage on property zoned as the B-3 Central Shopping District.

**CASE HISTORY:** The existing strip retail center has subdivided the tenant spaces into smaller units. The smaller units have smaller building frontages, which equate to smaller allowable areas for wall signage. The proposed signage is in character with the existing sign sizes.

**LOCATION:** Legal description: Lot 2, Block 1, Andover Crossing Addition to the City of Andover, Kansas.

General location: 420 S. Andover Rd., Andover, Kansas.

**SITE SIZE:** ±17,856 sq. ft.

**ADJACENT ZONING AND EXISTING LAND USE:**

North: B-3 Central Shopping District – Emprise Bank

South: B-5 Highway Business District – Applebee's restaurant

East: B-3 Central Shopping District – Atwood's farm supply store

West: B-4 Central Business District – Goodwill thrift store

**\*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:**

- As strip retail centers age the market tends to dictate smaller tenant spaces. With more tenants there is a need for more identification signage. The requested variance is comparable to similar requests.

#### **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 limitation on wall signage doesn't adequately provide for multiple tenants. 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 without adequate signage keeping tenant spaces occupied becomes difficult. 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 nearby properties have similarly sized signage. 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 the surrounding properties are commercial with similarly sized signage. 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 multiple tenant spaces within a retail strip center have a higher need for identification signage. True**

2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **because the surrounding properties have similarly sized wall signage. 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 the lack of adequate signage would lead to higher vacancy in the strip center. True**
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, **no detriment to the public is perceived. True**
5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **because similarly sized signs are found in the surrounding area. True**

Date Granted: November 15, 2016

Valid Until (date): May 14, 2017  
(180 days Sec. 10-107G)

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Brian Lindebak, Chairman

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William Schnauber, Secretary

Certified to the Zoning Administrator on this date of: November 15, 2016

*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-2016-01 as requested. Motion was seconded by William Schnauber. Motion carried 6/0.*

7. [BZA-V-2016-02- A public hearing on an application filed requesting a variance of 660 square feet from the required 1,000 square foot maximum aggregate total floor area of all accessory structures for the purpose of constructing a 1,500 square foot detached garage located at 650 Daisy Lane, Andover, Kansas.](#)

00:41:41

Les Mangus explained that this is a common request in neighborhoods with larger lots. In this case they are asking for a large detached garage on a property that is approximately one acre. There are several large accessory structures in this neighborhood, so this is not new or unusual.

Chairman Lindebak opened the public hearing.

Tyson Bean asked if there were any potential issues with drainage in this neighborhood.

Les Mangus stated that is an older neighborhood with gravel streets and open ditches. The lots basically sheet drain either to the roadside ditches or across adjacent properties and have since being developed. This neighborhood was annexed, after being developed, approximately 10 years ago.

Kent Dodds, the applicant was present.

Chairman Lindebak closed the public hearing.

**ANDOVER BOARD OF ZONING APPEALS**

**Agenda Item No. 7**

**November 15, 2016**

**VARIANCE REPORT \***

**CASE NUMBER: BZA-V-2016-02**

**APPLICANT/AGENT:** Kent and Danielle Dodds

**REQUEST:** Kent and Danielle Dodds, 650 Daisy Lane, Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance of 660 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.

**CASE HISTORY:**

**LOCATION:** Legal description: Lot 6, Block 6, Bales, Allen Tracts Addition to the City of Andover, Kansas.

General location: 650 Daisy Lane, Andover, Kansas.

SITE SIZE: ±.94 acres

**ADJACENT ZONING AND EXISTING LAND USE:**

North: R-1 Single-Family Residential single family dwellings  
South: R-1 Single-Family Residential single family dwellings  
East: R-1 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:**

3. 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 large enough to support a larger structure while maintaining the required maximum lot coverage. True**
4. 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 desires more space to store personal property and vehicles. 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 of the large lot sizes in the neighborhood there are several similarly sized accessory buildings. 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 the subject property is nearly twice the minimum lot size for the zoning district. 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 subject property is nearly twice the minimum lot size for the zoning district. True**
2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **because the subject property is nearly twice the minimum lot size for the zoning district. 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 the subject property is nearly twice the minimum lot size for the zoning district and there are several similarly sized accessory buildings in the surrounding area. True**
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 nearly twice the minimum lot size for the zoning district. True**
5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **because the subject property is nearly twice the minimum lot size for the zoning district. True**

Date Granted: November 15, 2016

Valid Until (date): May 14, 2017  
(180 days Sec. 10-107G)

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Brian Lindebak, Chairman

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William Schnauber, Secretary

Certified to the Zoning Administrator on this date of: November 17, 2016

*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 Tyson Bean, move that the Chairperson be authorized to sign a Resolution granting the Variance for Case No. BZA-V-2016-02 as requested. Motion was seconded by William Schnauber. Motion carried 6/0.*

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

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

8. Member items. 00:52:46

No member items.

9. Adjourn. 00:53:10

*A motion was made by Mike Warrington, seconded by Tyson Bean, to adjourn at 7:50 p.m. Motion carried 6/0.*

Respectfully Submitted by

Daynna DuFriend  
Administrative Assistant

Approved this 20<sup>th</sup> day of December, 2016 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.