

**ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
Tuesday, December 20, 2016
Minutes**

1. Call to order. 00:00:00

Chairman Brian Lindebak called the meeting to order at 7:01 p.m.

2. Roll call. 00:00:01

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

Staff in attendance: Director of Public Works Les Mangus, City Administrator Mark Detter, Administrative Assistant Daynna DuFriend and City Council Liaison Phil White.

A/V: Craig Brown

3. Approval of the minutes of the November 15 (22), 2016 meeting. 00:00:11

A motion was made by Mike Warrington, seconded by Chairman Lindebak to approve the minutes of the November 15 (22), 2016 meeting. Motion carried 4/0/1. Lynn Heath abstained.

4. Communications 00:01:06
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 William Schnauber, seconded by Lynn Heath to recess the Planning Commission and Convene the Board of Zoning Appeals. Motion carried 5/0.

5. BZA-Z-2016-03- A public hearing on an application filed by Faith Baptist Church requesting a variance of 8 square feet from the required maximum 40 square foot surface area of a pole sign limitation for churches for the purpose of installing a 48 total square foot pole signage on property zoned as R-3 Multiple-Family Residential District located at 417 W. Central Ave., Andover, Kansas. 00:03:54

Les Mangus explained that this is a very large lot at 3.8 acres with only this one sign. The request is for a 20% variance. This lot is in a transition area with neighboring businesses being

allowed much larger signage. The limitation puts them at a disadvantage visually to passing traffic.

Chairman Lindebak opened the public hearing.

Doug Allison, TEAM Architecture, agent to the applicant was present.

Mr. Allison explained that the church would like to have a new 4ftx8ft LED sign installed, keeping the existing identification signage above. The new LED sign would replace the changeable letter sign that exists.

Chairman Lindebak asked if the existing sign is illuminated and expressed concern for the brightness control of the new LED sign.

Mr. Allison replied that the sign is currently illuminated.

Chairman Lindebak closed the public hearing.

ANDOVER BOARD OF ZONING APPEALS

Agenda Item No. 5

December 20, 2016

VARIANCE REPORT *

CASE NUMBER: BZA-V-2016-03

APPLICANT/AGENT: Faith Baptist Church

REQUEST: Faith Baptist Church, property owner of 417 W. Central Ave., Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance of 8 square feet from the required maximum 40 square foot surface area of a pole sign limitation for churches for the purpose of installing a 48 total square foot pole signage on property zoned as the R-3 Multiple-Family Residential District.

CASE HISTORY: The existing pole sign is a legal nonconforming sign that slightly exceeds the maximum height permitted in the district.

LOCATION: Legal description: Lots 1 & 2, Block 2, Koob Tracts, City of Andover, Kansas.

General location: 417 W. Central Ave., Andover, Kansas.

SITE SIZE: ±166,346 sq. ft.

ADJACENT ZONING AND EXISTING LAND USE:

North: B-1 Office Business District funeral home, R-1 Single-Family Residential District single family home, B-4 Central Business District vacant lot

South: R-2 Single-Family Residential District single family home

East: B-4 Central Business District strip retail center, R-3 Multiple-Family Residential District senior housing

West: B-1 Office Business District veterinary clinic and boarding kennel

*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 subject church property is located in an area of transition from commercial activities to more residential in nature along west Central Avenue. Properties in three directions are zoned for business. The subject property is a full block deep with the proposed signage being located on Central Ave. on the opposite side of the property from the adjacent single family residential neighborhood.

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 in a transitional area from business uses to residential uses the application of the residential signage limitations are not equitable or harmonious with the surrounding business signage allowances. 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, **the church simply desires to update the existing sign to modern electronic message display. 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 the subject property is in a transitional area from business uses to residential uses the application of the residential signage limitations are not equitable or harmonious with the surrounding business signage allowances. 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 in a transitional area from business uses to residential uses the application of the residential signage limitations are not equitable or harmonious with the surrounding business signage allowances. 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 in a transitional area from business uses to residential uses the application of the residential signage limitations are not equitable or harmonious with the surrounding business signage allowances. True**
2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **because the subject property is in a transitional area from business uses to residential uses the application of the residential signage limitations are not equitable or harmonious with the surrounding business signage allowances. 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 in a transitional area from business uses to residential uses the application of the residential signage limitations are not equitable or harmonious with the surrounding business signage allowances. 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 in a transitional area from business uses to residential uses the application of the residential signage limitations are not equitable or harmonious with the surrounding business signage allowances. 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 in a transitional area from business uses to residential uses the application of the residential signage limitations are not equitable or harmonious with the surrounding business signage allowances. True**

Date Granted: December 20, 2016

Valid Until (date): June 18, 2017
(180 days Sec. 10-107G)

/s/ _____

Brian Lindebak, Chairman

/s/ _____

William Schnauber, Secretary

Certified to the Zoning Administrator on this date of: December 20, 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 William Schnauber, move that the Chairperson be authorized to sign a Resolution granting the Variance for Case No. BZA-V-2016-03 as requested. Motion was seconded by Lynn Heath. Motion carried 5/0.

6. BZA-Z-2016-04- A public hearing on an application filed by Jeffrey and Polly Gentry requesting a variance of 750 square feet from the required 600 square foot maximum aggregate total floor area of all accessory structures for the purpose of constructing a 1,350 square foot detached garage on property zoned as the R-2 Single-Family Residential District locate at 207 E. Pine Meadow Ct., Andover, Kansas.

00:19:35

Les Mangus explained that this is a typical request to construct a larger detached garage than regulations allow. The minimum lot size in the R-2 Single-Family Residential District is 10,000 square feet. This lot is 60,000 square feet with a lot of open space. No conflicts are foreseen due to the large lot and scale of the homes in this neighborhood.

Chairman Lindebak opened the public hearing.

Lynn Heath asked what would be in the art studio shown to be in the building.

Steve Laughlin, Cornerstone Builders, agent to applicant was present.

Mr. Laughlin explained that the applicant is an artist and this studio would be her personal art studio. The structure is a simple carriage house design and will be constructed to match the house with similar high quality stone and stucco materials.

Mike Warrington asked if the existing drainage swale was to be moved.

Mr. Laughlin stated that the swale will remain along the north property line, draining to the east and west.

Chairman Lindebak asked if permission had been granted from the Homeowners Association.

Lynn Heath asked if there would be a separate driveway for access.

Mr. Laughlin replied that permission was received from the Homeowners Association and that the existing driveway would be used to access both the house and this new structure.

Chairman Lindebak closed the public hearing.

ANDOVER BOARD OF ZONING APPEALS

Agenda Item No. 6

December 20, 2016

VARIANCE REPORT *

CASE NUMBER: BZA-V-2016-04

APPLICANT/AGENT: Jeffrey and Polly Gentry

REQUEST: Jeffrey and Polly Gentry, 207 E. Pine Meadow Ct., Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance of 750 square feet from the required 600 square foot maximum aggregate total floor area of all accessory structures permitted by Section 6-100C4 for the purpose of constructing a 1,350 square foot accessory structure on property zoned as the R-2 Single-Family Residential District.

CASE HISTORY:

LOCATION: Legal description: Lot 10, Block 5, Final Planned Unit Development, Phase 2, Flint Hills National Addition, Addition to the City of Andover, Kansas.

General location: 207 E. Pine Meadow Ct., Andover, Kansas.

SITE SIZE: ±60,000 sq. 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 and Flint Hills National Golf Course

West: R-2 Single Family Residential District Flint Hills PUD Reserve

*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 the subject property is six times the minimum lot area required. 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 structure will be used for allowable permitted accessory uses. 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 the subject property is six times the minimum lot area required, and all of the required building setbacks can be achieved. 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 six times the minimum lot area required, and all of the required building setbacks can be achieved. 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 six times the minimum lot area required, and all of the required building setbacks can be achieved. True**
2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **because the subject property is six times the minimum lot area required, and all of the required building setbacks can be achieved. 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 six times the minimum lot area required, and all of the required building setbacks can be achieved. 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 six times the minimum lot area required, and all of the required building setbacks can be achieved. 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 six times the minimum lot area required, and all of the required building setbacks can be achieved. True**

Date Granted: December 20, 2016

Valid Until (date): June 18, 2017
(180 days Sec. 10-107G)

/s/

Brian Lindebak, Chairman

/s/

William Schnauber, Secretary

Certified to the Zoning Administrator on this date of: December 20, 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 Lynn Heath, move that the Chairperson be authorized to sign a Resolution granting the Variance for Case No. BZA-V-2016-04 as requested. Motion was seconded by Mike Warrington. Motion carried 5/0.

Adjourn the Board of Zoning Appeals and Reconvene the Planning Commission

A motion was made by Tyson Bean, seconded by William Schnauber to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. Motion carried 5/0.

7. Review and approve City of Andover 2017 Planning Commission & Board of Zoning Appeals meetings and closing dates schedule.

00:32:14

A motion was made by Lynn Heath, seconded by William Schnauber to approve the City of Andover 2017 Planning Commission & Board of Zoning Appeals meetings and closing dates schedule. Motion carried 5/0.

8. Member items.

00:32:17

All members wished everyone a Merry Christmas and Happy New Year with safe travels.

9. Adjourn.

00:34:02

A motion was made by Lynn Heath, seconded by William Schnauber, to adjourn at 7:35 p.m. Motion carried 5/0.

Respectfully Submitted by

Daynna DuFriend
Administrative Assistant

Approved this 17th day of January, 2017 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.