

**ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
Tuesday, September 19, 2017
Minutes**

1. Call to order. 00:00:00

Vice-Chairman Mike Warrington called the meeting to order at 7:00 p.m.

2. Roll call. 00:00:04

Planning Commission members in attendance: Lynn Heath, Mike Warrington, William Schnauber, Tyson Bean and Kirsten Bender. Members Brian Lindebak and Stephanie Gillespie were not in attendance.

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

A/V: Craig Brown

3. Approval of the minutes of the August 17, 2017 meeting. 00:00:16

A motion was made by Lynn Heath, seconded by William Schnauber to approve the minutes of the August 17, 2017 meeting. Motion carried 5/0.

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

5. BZA-V-2017-08- A public hearing on an application filed by M. Dale Padding requesting a variance of 104 square feet from the required 1,000 square foot maximum aggregate total floor area for the purpose of constructing a 960 square foot detached garage on property zoned as the R-1 Single-Family Residential District located at 1331 Aldrich Dr., Andover, Kansas.

00:02:31

Les Mangus explained that this request comes from adding the square footage of the three car garage to the square footage of the existing garden shed, pushing the aggregate total of accessory structures over the maximum allowed.

Dale Padding, 1331 Aldrich Dr., applicant, was present.

Mr. Padding stated that he has spoken to the neighbors and the homeowner's association and they are fine with it. He just purchased the property in August. The previous owner built the garden shed within the last year and he did not want to tear it down. He would like to have this building for his classic vehicles and plans to put rock on the exterior, matching the exterior of the house.

Lynn Heath asked if the garage door would be on the south side.

Mr. Padding replied that the main door would be on the east side facing the street with an 8-foot door at the back of the building for access to the backyard.

Vice-Chairman Warrington opened the hearing for public comments.

There were no public comments made.

Vice-Chairman Warrington closed the public hearing.

ANDOVER BOARD OF ZONING APPEALS

Agenda Item No. 5

September 19, 2017

VARIANCE REPORT *

CASE NUMBER: BZA-V-2017-08

APPLICANT/AGENT: M. Dale Padding

REQUEST: M. Dale Padding, 1331 Aldrich Dr., Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, request a variance of 104 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 960 square foot detached garage on property zoned as the R-1 Single-Family Residential District.

CASE HISTORY:

LOCATION: Legal description: Lot 6, Block C, Lakeview Heights Addition to the City of Andover, Kansas.

GENERAL LOCATION: 1331 Aldrich Dr., Andover, Kansas.

SITE SIZE: ±.80 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-1 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 the subject property is nearly twice the minimum lot area for the zoning district and there is ample room for open space on the lot.**
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 owner simply desires to have more garage space.**
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 nearly twice the minimum lot area for the zoning district and there is ample room for open space on the lot.**

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 area for the zoning district and there is ample room for open space on the lot.**

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 area for the zoning district and there is ample room for open space on the lot.**
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 area for the zoning district and there is ample room for open space on the lot.**
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 area for the zoning district and there is ample room for open space on the lot.**
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 area for the zoning district and there is ample room for open space on the lot.**
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 area for the zoning district and there is ample room for open space on the lot.**

Date Granted: September 19, 2017

Valid Until (date): March 18, 2018
(180 days Sec. 10-107G)

/s/

Brian Lindebak, Chairman

/s/

William Schnauber, Secretary

Certified to the Zoning Administrator on this date of: September 19, 2017

*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-2017-08** as requested in the report. Motion was seconded by Tyson Bean. Motion carried 5/0.*

Closing remarks read by Vice-Chairman Warrington:

A Resolution will be prepared and made available to the applicant by September 30, 2017. If anyone is aggrieved by this decision, a further appeal can be made to the District Court to determine its reasonableness within 30 days after Resolution is signed and filed with the Zoning Administrator.

6. [BZA-V-2017-09- A public hearing on an application filed by Brian J. Gehring requesting a variance of 900 square feet from the required 600 square foot maximum aggregate total floor area for the purpose of constructing a 1,500 square foot detached garage on property zoned as the R-2 Single-Family Residential District located at 1609 N. Church St., Andover, Kansas.](#)

00:15:18

Les Mangus explained that this lot is considerably larger than the minimums for the zoning district and there are several large accessory buildings in the neighborhood of similar size to the proposed building.

William Schnauber asked if the existing structure would be demolished.

Les Mangus said that appears to be the intent.

Brian Gehring, 1609 N. Church St., (13228 E. Tallowood Ct., Wichita, KS), applicant, was present.

Mr. Gehring said that they purchased the property as a rental property and their intent is to remove the existing garage structure and build a new garage. They are needing the extra garage space for additional vehicles as their children who will be driving soon, workshop space for his wife to paint and to potentially offer garage space with the rental property. The building would be placed at the back of the property with trees on two sides. Taking down the 'eye sore' existing building and putting up a new building would be an improvement to the property. Some concern communicated to him from neighbors is traffic and operating a retail business from the garage. He is flexible on the building appearance and plans to make improvements to the exterior of the house.

Vice-Chairman Warrington asked to confirm that a business would not be operated from this building.

Mr. Gehring said that is correct, only he and his wife would be using the building.

Vice-Chairman Warrington opened the hearing for public comments.

Thomas Carr, 1540 N. Church St., concerned with traffic on an old street and would not like to see an additional driveway installed.

Lewis Griffin, 1603 N. Church St., is okay with the proposed building, concerned with potential commercial use and a second driveway that would be next to his property.

Max Carr, 1541 N. Church St., concerned with the proposed building having water and sewer access installed.

Vice-Chairman Warrington asked staff if additional driveways and water and sewer were part of this request.

Les Mangus replied that all would be allowed. Having a restroom in a garage is fairly common. The width of this property could accommodate a second driveway or the existing driveway could be widened. Home occupations allowed in residential zones that could apply would be an artist or home crafts such as cabinet making, model making, lapidary work, rug weaving and the like. What is being proposed is not outside the realm of a home occupation, however the applicant needs to understand that no more than one person from outside of the onsite residence can work at this site.

William Schnauber asked staff if future use of the building by a tenant would affect any restrictions.

Les Mangus said that he did not see that as being any source of concern.

Mr. Gehring clarified that he understood the concerns and would not want increased traffic in his present neighborhood because of someone having a commercial business. As for having a second driveway, it would be very convenient for him and the current tenant to have a separate driveway. They could widen the driveway, but would rather not because a tree would have to be removed and he would like to keep the tree. His wife works alone, does not have any employees and has been doing so for 17 years. They want to be good neighbors and have a workshop.

Lynn Heath asked if both driveways would be on the south side of the house.

Mr. Gehring replied yes they would and if approved he will work with the neighboring property owner on placement that works for both.

Vice-Chairman Warrington restated that what was explained by the Planning Director about operating a business and not having employees be understood by the applicant.

Mr. Gehring acknowledged that.

Lynn Heath added that he should check with city staff on proper driveway widths.

Vice-Chairman Warrington closed the public hearing.

ANDOVER BOARD OF ZONING APPEALS

Agenda Item No. 6

September 19, 2017

VARIANCE REPORT *

CASE NUMBER: BZA-V-2017-09

APPLICANT/AGENT: Brian J. Gehring

REQUEST: Brian J. Gehring, 13228 E. Tallowood Ct., Wichita, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, request 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 and exceeding the size of the principal dwelling limitation on property zoned as the R-2 Single-Family Residential District.

CASE HISTORY:

LOCATION: Legal description: Baker's Reserve, BEG 50N SE/C BAKER RES N95 NW150 S130 TO POB, City of Andover, Kansas.

GENERAL LOCATION: 1609 N. Church St., Andover, Kansas.

SITE SIZE: ±.38 acres

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 the subject property is located on a large lot at the end of a dead end street adjacent to the Redbud Trail.**
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 desires more personal enclosed storage space.**
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 located on a large lot at the end of a dead end street adjacent to the Redbud Trail.**
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 located on a large lot at the end of a dead end street adjacent to the Redbud Trail.**

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 located on a large lot at the end of a dead end street adjacent to the Redbud Trail.**
2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **because the subject property is located on a large lot at the end of a dead end street adjacent to the Redbud Trail.**
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 an older area where there are several similarly sized detached accessory buildings.**
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 located on a large lot at the end of a dead end street adjacent to the Redbud Trail.**
5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **because the subject property is located on a large lot at the end of a dead end street adjacent to the Redbud Trail.**

Date Granted: September 19, 2017

Valid Until (date): March 18, 2018

(180 days Sec. 10-107G)

/s/

Brian Lindebak, Chairman

/s/

William Schnauber, Secretary

Certified to the Zoning Administrator on this date of: September 19, 2017

*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 Tyson Bean move that the Chairperson be authorized to sign a Resolution granting the variance for Case No. **BZA-V-2017-09** as requested in the report. Motion was seconded by Lynn Heath. Motion carried 5/0.*

Closing remarks read by Vice-Chairman Warrington:

A Resolution will be prepared and made available to the applicant by September 30, 2017. If anyone is aggrieved by this decision, a further appeal can be made to the District Court to determine its reasonableness within 30 days after Resolution is signed and filed with the Zoning Administrator.

7. BZA-V-2017-10- A public hearing on an application filed by Chris Myers requesting a variance to permit a 2-foot increase to the required 10-foot maximum height limitation to allow construction of a new 12-foot-high monument sign on property zoned as the B-6 Business District located at 936 N. Andover Rd., Andover, Kansas.

00:41:06

Les Mangus explained that the top 2-feet of the existing 10-foot monument sign has the business name and the center is a changeable message board. The address is in the bottom 1/3, not leaving room in a visible spot for the business telephone number. They have been scrolling the telephone number on the message board that is better served advertising business specials. This location is in an industrial park on an arterial street with 20,000 cars passing per day. Staff does not feel that there is any harm in this sign being 2-feet taller. Not shown in the photos is the 3-foot tall landscaping plants required by the Site Plan Review Committee to screen the parking lot. These plantings make the bottom 3 feet of the sign unusable.

Vice-Chairman Warrington opened the hearing for public comments.

No public was present.

Vice-Chairman Warrington closed the public hearing.

ANDOVER BOARD OF ZONING APPEALS

Agenda Item No. 7

September 19, 2017

VARIANCE REPORT *

CASE NUMBER: BZA-V-2017-10

APPLICANT/AGENT: Chris Myers

REQUEST: Chris Myers, 936 N. Andover Rd., Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance to permit a 2-foot increase to the required 10-foot maximum height limitation to allow construction of a new 12-foot-high monument sign on property zoned as the B-6 Business District.

CASE HISTORY:

LOCATION: Legal description: Lot 3, Block A, KHR Commercial Center Addition, City of Andover, Kansas.

GENERAL LOCATION: 936 N. Andover Rd., Andover, Kansas.

SITE SIZE: ±1.50 acres

ADJACENT ZONING AND EXISTING LAND USE:

North: B-6 Business District, dental office

South: B-3 Central Shopping District, private gymnasium

East: I-1 Industrial District, USD 385 bus garage

West: B-2 Neighborhood Business District, Police Dept.-Fire Dept.-Historical Museum

*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 has recently opened the new Meyers Automotive. The new monument sign is constructed in such a manner that the led video board is topped by the business name with no room for the business phone number, which placed the sign area for the business phone number at bottom of the sign where it is easily masked by landscaping and passing cars.

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 surrounded by heavy commercial/industrial uses and located on an arterial street in an industrial park.**
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 business derives much of its business from drive-by traffic the more visible sign makes locating the business easier for motorists passing by.**
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 surrounded by heavy commercial/industrial uses and located on an arterial street in an industrial park.**
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 surrounded by heavy commercial/industrial uses and located on an arterial street in an industrial park.**

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 surrounded by heavy commercial/industrial uses and located on an arterial street in an industrial park.**
2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **because the subject property is surrounded by heavy commercial/industrial uses and located on an arterial street in an industrial park.**

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 surrounded by heavy commercial/industrial uses and located on an arterial street in an industrial park.**
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 surrounded by heavy commercial/industrial uses and located on an arterial street in an industrial park.**
5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **because the subject property is surrounded by heavy commercial/industrial uses and located on an arterial street in an industrial park.**

Date Granted: September 19, 2017

Valid Until (date): March 18, 2018
(180 days Sec. 10-107G)

/s/

Brian Lindebak, Chairman

/s/

William Schnauber, Secretary

Certified to the Zoning Administrator on this date of: September 19, 2017

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 William Schnauber move that the Chairperson be authorized to sign a Resolution granting the variance for Case No. BZA-V-2017-10 as requested in the report. Motion was seconded by Tyson Bean. Motion carried 5/0.

Closing remarks read by Vice-Chairman Warrington:

A Resolution will be prepared and made available to the applicant by September 30, 2017. If anyone is aggrieved by this decision, a further appeal can be made to the District Court to determine its reasonableness within 30 days after Resolution is signed and filed with the Zoning Administrator.

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

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

12. Member items.

00:53:54

No member items.

13. Adjourn.

00:54:05

A motion was made by Lynn Heath, seconded by William Schnauber, to adjourn at 7:54 p.m. Motion carried 5/0.

Respectfully Submitted by

Daynna DuFriend
Administrative Assistant

Approved this 21st day of November, 2017 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.