

**ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS**
Tuesday, August 21, 2018
Minutes

1. Call to order. **00:00:00**

William Schnauber called the meeting to order at 7:00 p.m.

2. Roll call. **00:00:01**

Planning Commission members in attendance: William Schnauber, Gary Israel, Lynn Heath, Alex Zarchan and Erik Pedersen. Members Brian Lindebak and Stephanie Gillespie were absent.

Staff in attendance: Director of Public Works Les Mangus, City Administrator Mark Detter and Stormwater/GIS/Planning Technician Lance Onstott.

A/V: WAV Services

3. Approval of the minutes of the June 22, 2018 meeting. **00:00:08**

A motion was made by Erik Pedersen, seconded by Gary Israel to approve the minutes of the June 22, 2018 meeting. Motion carried 5/0.

4. Communications **00:00:35**

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

Les Mangus reported that new home building has increased for 2018 since the addition of Prairie Creek 3rd Addition.

5. SU-2018-02- Public hearing on an application for a Special Use request to allow the expansion of a post-secondary education facility in the I-1 Industrial District on property located at 715 E. 13th St., Andover, Kansas. **00:01:15**

Les Mangus explained that Butler County Community College wishes to have the remaining 20 acres zoned the same as the current 20-acre site that is currently operational.

Vince Haines, Gravity Works Architecture, stated that the project includes renovation to the current building and construction of a new building. Facilities operations will be moved to the new building along with limited educational classrooms.

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: I-1 and A-1
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: I-1 and A-1
COUNCIL:

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

YES NO

STAFF: N.A.

PLANNING: N.A

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: BCC is losing classroom space on the Andover High School Campus

PLANNING: Concur with Staff
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: Public water and adequate public currently serve the existing building and are available to serve the additional building. The site is currently accessed from 13th St. only. The site has access to undeveloped sections of Yorktown Rd. and Commerce St.

PLANNING: Concur with Staff
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: The subject property needs to be platted
 PLANNING: Concur with Staff
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: N.A.
PLANNING: N.A.
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: N.A.
PLANNING: N.A.
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: Increased activities, traffic, etc.

PLANNING: Concur with Staff

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

X STAFF:

X 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: The plan does not specifically reference BCC, but recognizes the importance education plays in the community.

PLANNING: Concur with Staff

COUNCIL:

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

YES NO

STAFF: None at this time.

PLANNING: Concur with Staff

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 conditioned only successful platting within 1 year.

PLANNING: Concur with Staff

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: It is better to approve the request.

COUNCIL:

Alex Zarchan asked to confirm if the recommendation for approval will include the condition of successful platting.

Gary Israel confirmed the platting condition.

Having considered the evidence at the hearing and the factors to evaluate the special use application, I Lynn Heath, move that we recommend to the Governing Body that Case No. SU-2018-02 be approved for the establishment of a post-secondary education facility on the property zoned as I-1 Industrial District based on the findings 5, 6, 11 and 14 of the Planning Commission as recorded in the summary of this hearing. Motion seconded by Alex Zarchan. Motion carried 5/0.

Closing remarks by Chairman William Schnauber:

This case will be forwarded to the Governing Body with the Planning Commission's recommendation and a written summary of the hearing for consideration at their regular meeting of September 11, 2018 which begins at 6:00 p.m. in the Council's meeting room in City Hall. (The video recording of this hearing will be retained for at least 60 days after the final determination is completed on this case.)

Protest petitions against the change in zoning and/or special use, but not directed at the Planning Commission's recommendations as such, may be received by the City Clerk for 14 days after tonight, i.e. September 4, 2018 at 4:30 p.m. If there are properly signed and notarized protest petitions with accurate legal descriptions from the (owners of record of 20% or more of any real property proposed to be rezoned) (or) (owners of record of 20% or more of the total real property within the official area of notification) both inside and outside the City not counting public street rights-of-way, then such a change shall not be passed except by a three-fourths vote of all the members of the Governing Body. (See Section 11-103.)

6. VA-2018-04- Public hearing on petition for vacation of complete access control to Lakeside Dr. on properties located at 1607 N. Lakeside Ct., 1608 N. Lakeside Dr., 1620 N. Lakeside Dr., and 1612 N. Shadow Rock Cir., Andover, Kansas.

00:19:05

Les Mangus explained that complete access control was included on the original plat, because of concern regarding the potential for driveways fronting Lakeside Dr., which is a collector street with a fairly large traffic volume in built-out condition. The applicant/developer desires to have driveways that abut Lakeside Dr. No opposition to request as long as driveways front the cul-de-sac to ensure less of a chance of vehicles backing out onto Lakeside Dr. The City Engineer also requests that driveway access is only provided to the primary structure, as to prevent driveways being built into the back yard of residences.

Craig Sharp, 2131 N. Collective Ln. Wichita, Kansas, explained that houses will still face cul-de-sacs, although garages may use an L-shaped garage. This allows the homeowner to enter the

drive directly from Lakeside Dr., but would also allow a resident to back out in order to exist the drive on the cul-de-sac opening. The primary access will remain at the cul-de-sac, but the secondary loop will be off Lakeside Dr. He does not anticipate all of the lots using this setup, but they have had interest, and this vacation allows them to be prepared.

Gary Israel asked if there are any special setbacks that apply with looped driveways.

Les Mangus responded that additional setback requirements will be implemented during the building permitting process.

Les Mangus indicated that the condition of approval may include that the looped driveways retain primary access to the cul-de-sac.

I Lynn Heath, move that we approve this request as requested for the looped drives with primary access to the cul-de-sacs. Motion seconded by Gary Israel. Motion carried 5/0.

Recess the Planning Commission and Convene the Board of Zoning Appeals

A motion was made by Lynn Health, seconded by Gary Israel to recess the Planning Commission and Convene the Board of Zoning Appeals. Motion carried 5/0.

7. **BZA-V-2018-03- Public hearing on an application filed by Robert J. Whitehead requesting a variance of 900 square feet from the required 600 square foot maximum aggregate total floor area of all accessory structures for the purpose of constructing a 1,500 square foot residential storage and pool house structure on property currently zoned R-2 Single-Family Residential District and generally located at 1621 Lantern Lane Ct., Andover, Kansas.**

00:30:15

Les Mangus explained that accessory structures strictly used for storage would be limited to 300 sf. in this particular zoning district. Furthermore, accessory structures used for more than storage are limited to 600 sf. in this particular zoning district. Lastly, the aggregate total of all accessory structures, regardless of use, is limited to 1,000 sf. In this case, the applicant is combining storage and other uses into one accessory structure. There have been phone calls from residents voicing concern of the proposed size, primarily from the homeowner's association. He reminded the Commission that the City does not enforce restrictive covenants.

Robert J. Whitehead, 1621 Lantern Lane Ct., Andover, Kansas, explained that the application is to replace the temporary storage structure with a combination storage facility and outdoor living/pool house. The structure will match the finish of the primary structure.

Erik Pedersen asked about the location of the structure.

Mr. Whitehead responded that it will be on the west side of the pool. It will have the same general location and orientation, but will be larger than the current temporary structure.

Alex Zarchan asked about the existing fence.

Mr. Whitehead responded that a portion of the fence will be removed to accommodate the new structure. The backyard will remain completely enclosed.

Erik Pedersen asked if the exterior materials will match the house.

Mr. Whitehead confirmed they will.

Gary Israel asked what the neighbors to the south will see from their property.

Mr. Whitehead said they will see a wall with a window.

Alex Zarchan asked how much of the structure will be storage and how much will be outdoor living space.

Mr. Whitehead responded that it will be split in half. The north end will be storage, and the south end will be outdoor living space – approximately 750 sf. each.

William Schnauber asked about exterior lighting.

Mr. Whitehead indicated no excessive exterior lighting is planned.

Mr. Whitehead explained that the living space will have a 12 foot opening to allow for the outdoor living when in use. Multiple access points/doors will be provided to the storage portion of the structure. Doors will be for people access, and a small garage door for lawn maintenance storage.

Alex Zarchan asked if the accessory building will remain within the confines/footprint of the primary structure.

Mr. Whitehead confirmed this is correct.

Mr. Whitehead commented that this lot is one of the largest in the subdivision, and also has a very large reserve area in the rear of the property where no structures exist nor planned.

August 21, 2018

VARIANCE REPORT *

CASE NUMBER: BZA-V-2018-03

APPLICANT/AGENT: Robert J. Whitehead

REQUEST: Robert J. Whitehead., 1621 Lantern Lane Court, Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance of 900 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 allowing a 1,500 square foot residential storage and pool house structure on property zoned as the R-2 Single-Family Residential District.

CASE HISTORY: The subject property currently has a swimming pool and a 240 square foot storage building.

LOCATION: Legal description: Lot 2, Block 2, Heather Lakes Addition to the City of Andover, Kansas.

GENERAL LOCATION: 1621 Lantern Lane Court, Andover, Kansas.

SITE SIZE: ±27,878 sq.ft.

ADJACENT ZONING AND EXISTING LAND USE:

North: R-2 Single Family Residential District

South: R-2 Single Family Residential District

East: R-2 Single Family Residential District

West: R-2 Single Family Residential District

*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 600 square feet aggregate total of accessory structures allowed does not provide adequate space for both storage of outdoor and pool equipment, and a covered pool/lounge area.**
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 simply desires a building for storage of outdoor and pool equipment, and a covered pool/lounge area.**
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, **the proposed 1500 square foot structure could have an effect on nearby properties because it would be larger than any accessory structure in the neighborhood and as large as the main floor living area of many houses in the neighborhood.**
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 large lot size would allow for adequate separation.**

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 request combines both storage and outdoor living.**
2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **because the large lot size would allow for adequate separation.**
3. That strict application of the provisions of these regulations from which a variance is requested will constitute **an unnecessary hardship upon the property owner represented in the application, because the request combines both storage and outdoor living and the size of the lot allows for adequate separation.**

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, **because the large lot size would allow for adequate separation.**
5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **because the large lot size would allow for adequate separation.**

Alex Zarchan indicated that he believes the proposed size is too large for the site and surrounding neighborhood.

Lynn Heath commented that the large lot size and large reserve area behind the property help alleviate concerns regarding size.

Gary Israel asked the applicant what he has heard from his neighbors regarding his plan.

Mr. Whitehead indicated no opposition has been voiced to him. He was asked by neighbors if he wanted them to come to the meeting to voice their support, but he told them he did not believe it to be necessary.

Gary Israel asked how the applicant determined the size.

Mr. Whitehead responded that he proportioned it on what would fit best, setback requirements and functional space needed for both storage and outdoor living space.

Having considered the evidence at the hearing and determined that the findings of fact in the Variance Report (as amended) 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 Erik Pedersen move that the Chairperson be authorized to sign a Resolution granting the variance for Case No. BZA-V-2018-03 as requested, subject to the following conditions: the structure be limited to 1,500 square feet, side wall height be limited to 8 feet, roof will have a 4/12 pitch with conventional shingles that will match the primary structure, the siding will match the primary structure, paint will match the primary structure, half of the structure will be used for storage and the other for outdoor living/pool house, the structure will be wood framed built on a concrete pad, and the structure will largely comply with all other primary and accessory structures in the neighborhood. Motion seconded by Gary Israel. Motion carried 5/0.

Closing remarks by William Schnauber:

A Resolution will be prepared and made available to the applicant by August 24, 2018. 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 the 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 Erik Pedersen, to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. Motion carried 5/0.

8. Review and accept the US 54/400 and Yorktown Final Plat.

01:23:47

Les Mangus explained that this plat only includes a street right of way. The plat includes a dedicated highway right of way and additional street right of way that the City believes is an important addition to the City's transportation system. We are planning on having zoning applications for the land adjacent to this road in the near future.

A motion was made by Gary Israel to accept the US 54/400 & Yorktown Final Plat as presented. Motion seconded by Lynn Heath. Motion carried 5/0.

9. Member items.

01:27:28

Gary Israel commented that all cases need to be handled on a case-by-case basis, as was evident in the accessory structure variance case heard this evening.

10. Adjourn.

01:29:15

A motion was made by Lynn Heath, seconded by Erik Pedersen, to adjourn at 8:30 p.m. Motion carried 5/0.

Respectfully Submitted by,



Lance A. Onstott
Stormwater/GIS/Planning Technician

Approved this 18th day of September, 2018 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.