



**PLANNING & ZONING**  
1609 E. CENTRAL AVE.  
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**PLANNING COMMISSION  
& BOARD OF ZONING APPEALS MINUTES**  
**JUNE 21, 2022 | 7:00pm**  
ANDOVER CITY HALL | 1609 E. CENTRAL AVE.

**1. CALL TO ORDER**

Chairperson Erik Pedersen called the meeting to order at 7:01 pm.

**2. ROLL CALL**

Commissioners in attendance: Chairperson Erik Pedersen, Secretary Gary Israel, Kirsten Barnes, and Marla Canfield. Commissioners Vance Garwood and Tim Hendricks were absent. Staff in attendance: Les Mangus, Director of Community Development and Justin Constantino, Assistant Director of Community Development. A/V services provided by WAV Services.

**3. APPROVAL OF THE MINUTES OF THE APRIL 19, 2022 MEETING**

*Gary Israel made a motion to approve the minutes of the April 19, 2022 meeting as presented. Motion seconded by Erik Pedersen. Motion carried 3/0/1. Kirsten Barnes abstained.*

**4. COMMUNICATIONS**

**A. COMMITTEE & STAFF REPORT**

None.

**B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT**

None.

**5. AGENDA**

*Gary Israel made a motion to recess the Planning Commission and convene the Board of Zoning Appeals. Motion seconded by Kirsten Barnes. Motion carried 4/0.*

**5.1 BZA-V22-0003 – PUBLIC HEARING ON AN APPLICATION FOR A VARIANCE OF 132 SQUARE FEET FROM THE 300 SQUARE FOOT MAXIMUM FLOOR AREA OF AN ACCESSORY STRUCTURE ON THE PROPERTY GENERALLY LOCATED AT 1612 N. SHADOW ROCK CIRCLE, ANDOVER, KANSAS**

Chairperson Pedersen opened the public hearing at 7:03 pm.

Mr. Mangus stated that the applicant is seeking a variance of 132 square feet from the 300 square foot maximum floor area permitted for accessory structures for the purpose of constructing a 432 square foot pool house on the property. Mr. Mangus stated that the applicant has also submitted a corresponding vacation application to vacate a portion of the 10-foot rear-yard drainage and utility easement. Mr. Mangus stated that the subject property is a large lot and there are similar-sized structures in the area.

Chairperson Pedersen closed the public hearing at 7:07 pm.

**DOES THE EVIDENCE DEMONSTRATE THAT:**

<p>1. The physical surroundings, shape or topography of the property would result in a practical difficulty, as distinguished from a mere inconvenience, for the owner, lessee or occupant.</p> <p>STAFF</p> <p>BZA</p>	<p>The subject property is a 19,327 sq. ft. parcel. The large parcel provides adequate space for an accessory structure while allowing adequate separation from nearby residences.</p> <p>Concur.</p>
<p>2. Granting the variance will result in material detriment or injury to other property or improvements in the neighborhood.</p> <p>STAFF</p> <p>BZA</p>	<p>No detriment and/or injury to other property or improvements is anticipated.</p> <p>Concur.</p>
<p>3. Granting the variance will result in an inadequate supply of light or air to adjacent property, substantially increase traffic congestion, increased fire risk, or substantially diminished property values in the neighborhood.</p> <p>STAFF</p> <p>BZA</p>	<p>The subject property is a 19,327 sq. ft. parcel. The large parcel provides adequate space for an accessory structure while allowing adequate separation from nearby residences.</p> <p>Concur.</p>
<p>4. The request for a variance is not based exclusively on a desire of the owner, lessee, occupant or applicant to make more money out of the property.</p> <p>STAFF</p> <p>BZA</p>	<p>The applicant has declared the intended use to be a pool house as an accessory residential use.</p> <p>Concur.</p>

**SPECIFIC CONDITIONS TO BE MET:**

<p>1. The requested variance arises from a condition unique to the property in question, which is not ordinarily found in the same zoning district, and which was not created by any action of the property owner or the applicant.</p> <p>STAFF</p> <p>BZA</p>	<p>The subject property is a 19,327 sq. ft. parcel. The large parcel provides adequate space for an accessory structure while allowing adequate separation from nearby residences.</p>
<p>2. Strict application of the provisions of these Zoning Regulations would result in unnecessary hardship for the owner, lessee or occupant of the land or structures.</p> <p>STAFF</p>	<p>The intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 19,327 sq. ft., which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage of 35%.</p>

BZA	Concur.
3. Granting the variance will not adversely affect the rights of adjacent property owners or residents.	
STAFF	The intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 19,327 sq. ft., which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage of 35%.
BZA	Concur.
4. The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.	
STAFF	The subject property is a 19,327 sq. ft. parcel. The large parcel provides adequate space for an accessory structure while allowing adequate separation from nearby residences.
BZA	Concur.
5. The requested variance will not be opposed to the general spirit and intent of these Zoning Regulations.	
STAFF	The intent of maximum lot coverage and accessory structure size limitations are to promote the health, safety and general welfare of residents. The subject property is 19,327 sq. ft., which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage of 35% and providing adequate separation from adjacent neighbors.
BZA	Concur.

*Having considered the evidence at the hearing and determined that the findings of fact have been found that support all five conditions set out in Subsection 11-106.B.2 of the Zoning Regulations and K.S.A. 12-759(e), Kirsten Barnes made a motion to authorize the Chairperson to sign a resolution granting the variance for case BZA-V22-0003. Motion seconded by Erik Pedersen. Motion carried 4/0.*

*Gary Israel made a motion to adjourn the Board of Zoning Appeals and reconvene the Planning Commission. Motion seconded by Marla Canfield. Motion carried 4/0.*

## **5.2 Z-VA-22-0001 – PUBLIC HEARING AND RECOMMENDATION ON A PETITION FOR A VACATION OF THE WEST 5 FEET OF THE REAR 10-FOOT DRAINAGE AND UTILITY EASEMENT ON THE SUBJECT PROPERTY GENERALLY LOCATED AT 1612 N. SHADOW ROCK CIRCLE, ANDOVER, KANSAS**

Chairperson Pedersen opened the public hearing at 7:15 pm.

Mr. Constantino stated that the applicant desires to vacate the west 5 feet of the rear 10-foot drainage and utility easement for the purpose of constructing an accessory structure pool house. Mr. Constantino stated that staff has notified the appropriate utility providers regarding the vacation request and has received notice that AT&T was comfortable with encroachment into the easement. Mr. Constantino stated that there were no utilities in the easement but AT&T would like to reserve the right to place utilities in the easement in the future.

Mr. Mangus stated that the exhibit shows that the utility companies have all placed their underground utilities on the neighboring property. Mr. Mangus stated that if the western 5 feet of the utility easement were vacated, there would still be 5 feet available for future utilities.

Mr. Israel stated that when AT&T installed fiber in his neighborhood approximately 5 feet of the rear yard easement was utilized.

Chairperson Pedersen closed the public hearing at 7:19 pm.

*Gary Israel made a motion to recommend that the City Council adopt a vacation order vacating the west 5 feet of the rear 10-foot drainage and utility easement on the subject property located at 1612 N. Shadow Rock Circle. Motion seconded by Kirsten Barnes. Motion carried 4/0.*

### **5.3 SUBDIVISION COMMITTEE APPOINTMENTS**

Mr. Constantino stated that the purpose of the Subdivision Committee is to review preliminary plats to determine whether they comply the Subdivision Regulations, review final plats and replats to determine whether they comply with the preliminary plat and the Subdivision Regulations, and forward their determinations and recommendations to the Planning Commission. Mr. Constantino stated that the Chairperson of the Planning Commission, with the concurrence of the Commission, appoints the members of the Subdivision Committee and designates the Committee's Chair and Vice-Chair.

Mr. Pedersen stated that he has met with the current members of the Subdivision Committee individually and that each member was willing to serve an additional one-year term.

Mr. Israel asked if the committee could have more than three members. Mr. Constantino said yes. Mr. Israel stated that Subdivision Committee members have an informal opportunity to view plats before they are reviewed by the Planning Commission.

*Gary Israel made a motion to recommend that the Chairperson appoint Marla Canfield, Gary Israel, and Vance Garwood to the Subdivision Committee with Mr. Garwood remaining the Subdivision Committee Chairperson. Motion seconded by Erik Pedersen. Motion carried 4/0.*

Mr. Constantino stated that the Planning Commission is also tasked with appointing Planning Commission officers for the coming year.

*Erik Pedersen made a motion to recommend that the Planning Commission retain its current officers for the coming year. Motion seconded by Marla Canfield. Motion carried 4/0.*

## **6. MEMBER ITEMS**

Mr. Pedersen asked how everything was going with the rebuilding efforts following the tornado in April. Mr. Mangus stated that the clean-up efforts are substantially complete and the reconstruction of houses will hopefully begin in the near future. Mr. Mangus stated that repairs to the windows and structures at City Hall and Central Park are currently underway.

## **7. ADJOURN**

*Erik Pedersen made a motion to adjourn the meeting. Gary Israel seconded the motion. Motion carried 4/0. The meeting was adjourned at 7:26 pm.*

Respectfully submitted by:

Justin Constantino, AICP  
Assistant Director of Community Development

Approved on the 16<sup>th</sup> day of August 2022 by the City of Andover Planning Commission.