



PLANNING & ZONING
1609 E. CENTRAL AVE.
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**PLANNING COMMISSION
& BOARD OF ZONING APPEALS AGENDA**
DECEMBER 19, 2023 | 7:00 P.M.
ANDOVER CITY HALL | 1609 E. CENTRAL AVE.

1. CALL TO ORDER

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

2. ROLL CALL

Committee members in attendance: Chairperson Erik Pedersen; Marla Canfield; Peter Fox; Clint Teinert; Gary Israel; and Vance Garwood. David Foley was absent.

Staff members in attendance: Les Mangus, Director of Community Development; Connor Boyd, Planning Technician; and Jenni McCausland, City Administrator.

3. APPROVAL OF THE MINUTES OF THE NOVEMBER 21, 2023 MEETING

Vance Garwood made a motion to approve the minutes of the November 21, 2023 meeting as presented. Motion seconded by Gary Israel. Motion carried 6/0.

4. COMMUNICATIONS

A. COMMITTEE & STAFF REPORT

None.

B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT

Mr. Mangus stated that 2023 has been a very busy year for permits and construction in Andover. He continued that in the January meeting, Staff will be presenting some data covering the number of permits and development throughout the year.

The Committee noted that 159th Street will be closed on and off in the coming weeks, as road work continues.

5. AGENDA

5.1 Z-A23-0005 & 0006 – PUBLIC HEARING AND RECOMMENDATION ON THE PROPOSED CHANGE OF ZONING DISTRICT CLASSIFICATION FROM THE SF-1 SINGLE FAMILY RESIDENTIAL / LOW DENSITY DISTRICT TO THE B-3 RETAIL AND SERVICE BUSINESS DISTRICT ON THE PROPERTIES GENERALLY LOCATED AT 300 AND 330 S. ANDOVER ROAD, ANDOVER, KANSAS

Chairperson Pedersen opened the public hearing at 7:06 P.M.

Mr. Mangus introduced the subject properties, a pair of roughly equal-sized lots along Andover Road in an area of transition between retail and business establishments, and residential homes. He continued that the amount of traffic long Andover Road has greatly increased in recent years due to the expansion of retail development, making the area less desirable for home owners and more desirable for businesses.

The applicant, Phil Graves, was present, along with several of his partners.

Mr. Graves explained that they wished to rezone the properties so as to develop the currently underutilized land for business purposes, though no exact plans were yet in motion.

Mr. Fox asked about the existing computer repair business on the property. Mr. Graves responded that the owner of this business had agreed to the sale, and that the computer repair business would be closing.

Mr. Israel asked if the existing homes would be demolished for further construction. Mr. Graves responded in the affirmative.

Chairperson Pedersen closed the public hearing at 7:12 P.M.

Mr. Israel wanted to ask one more question of staff: with the aforementioned increased traffic along Andover Road, would this establishment create an undue traffic load on the area? Mr. Mangus replied that the businesses would likely create additional traffic, but that Andover Road already hosts nearly 20000 trips per day, so even adding a few hundred more would not appreciably affect traffic conditions. He added that access controls would be required for any development/site plan of the property.

STAFF ITEMS

1.	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 if the change in zoning were approved?
STAFF	Adequate public water, sewer, and streets exist. Access controls are necessary to reflect the future improvements of Andover Rd. to a median divided roadway.
2.	If the zoning change request was approved, would the subject property need to be platted or replatted, or have in-lieu-of dedications made, in order to provide needed rights-of-way, easements, building setback lines, or access control?
STAFF	Dedication of access controls required.
3.	If the zoning change request was approved, would the subject property need a screening plan for existing or potential uses?
STAFF	Screening/buffering would be required for the adjacent residential properties per the Site Plan Review Committee Standards.
4.	What fact-based information in support of or in opposition to the requested zoning change has staff received?
STAFF	None currently.
5.	If there has been an error in the application of these Zoning Regulations to the subject property, would the requested zoning change correct the error?
STAFF	No errors are known to exist.

STAFF & COMMISSION/COUNCIL ITEMS

6. How suitable or unsuitable is the subject property for its current zoning?

STAFF | Traffic volumes and adjacent business activities make the subject properties less desirable for residential uses.

PLANNING | Concur.

COUNCIL

7. Is the length of time the subject property has been vacant or undeveloped under its current zoning a factor in the zoning change request?

STAFF | N.A.

PLANNING | Concur.

COUNCIL

8. How reasonably well-suited will the requested zoning change of the subject property be with the current zoning of nearby properties.

STAFF | With required screening and buffering the change is well suited to act as a transition from more intense business uses on nearby properties.

PLANNING | Concur.

COUNCIL

9. Has the zoning change been requested because conditions in the area of the subject property have changed or are changing? If so, what is the nature and significance of these conditions?

STAFF | The area has experienced tremendous growth in traffic volume and business uses, which affect the viability of its use for single family residential.

PLANNING | Concur.

COUNCIL

10. What are the current land uses, character and condition of the subject property and the surrounding neighborhood?

STAFF | The subject property is surrounded on the north and east by single family residences on large lots, and retail and service business uses on the south and west.

PLANNING | Concur.

COUNCIL

11. Would the proposed zoning change of the subject property allow land uses which might have detrimental effects on nearby properties, and if so, how?

STAFF	The increased activity, lighting, traffic, noise, etc. created by the proposed commercial uses could have a detrimental effect on adjacent single family residential uses if not properly screened and buffered.
PLANNING	Concur.
COUNCIL	
12. How would the requested zoning change conform with the City's Comprehensive Plan and other adopted master plans and policies.	
STAFF	The subject property is in an area of transition from a City Center Place Type, which "provides a concentration of primarily commercial activity" to a Mixed Residential Neighborhood Place Type, which "provides for a variety of housing types alongside neighborhood-serving services and shops (of a small scale)."
PLANNING	Concur.
COUNCIL	
13. Do any professional persons knowledgeable on conditions that affect this zoning change request have information or recommendations to provide, which would be helpful in its evaluation?	
STAFF	Approval conditioned on dedication of access controls reflective of the future configuration of Andover Rd. and the Willowbrook St. intersection.
PLANNING	Concur.
COUNCIL	
14. How would the potential loss in value or hardship imposed on the Applicant compare to the relative gain to the public health, safety and welfare, if there is a change from the current zone to the requested zone?	
STAFF	Staff perceives no relative loss to the public health, safety, and welfare with appropriate screening, buffering, and access controls. Willowbrook St. is a logical cut-off point from commercial uses to residential and neighborhood-serving services and shops.
PLANNING	Concur.
COUNCIL	

Having considered the evidence at the hearing and the factors to evaluate the application, Gary Israel made a motion that the Planning Commission recommend that case Z-A23-0005 & 0006 be approved based on findings 8, 9, 10, and 12. Motion seconded by Peter Fox. Motion carried 6/0.

Chairperson Erik Pedersen made a motion to adjourn the Planning Commission and convene the Board of Zoning Appeals. Motion seconded by Gary Israel. Motion carried 6/0.

5.2 BZA-V23-0013 – PUBLIC HEARING ON AN APPLICATION FOR A VARIANCE OF 4300 SQUARE FEET FROM THE 500 SQUARE FOOT MAXIMUM FLOOR AREA OF AN ACCESSORY STRUCTURE; A VARIANCE OF 4378 SQUARE FEET FROM THE 1000 SQUARE FOOT MAXIMUM AGGREGATE FLOOR AREA OF ALL ACCESSORY STRUCTURES; AND A VARIANCE OF 3010 SQUARE FEET FROM THE 1790 SQUARE FOOT MAXIMUM GROSS FLOOR AREA OF AN ACCESSORY STRUCTURE ON THE PROPERTY GENERALLY LOCATED AT 737 S. RUTH AVENUE, ANDOVER, KANSAS

Chairperson Pedersen opened the public hearing at 7:21 P.M.

Mr. Mangus introduced the subject property, a 1.1-acre lot zoned SF-1 Single Family Residential / Low Density District. He explained that Staff visited the site, and observed both existing accessory structures on the subject property, that the neighborhood already features several large accessory structures on similarly-sized lots. He continued that the surrounding accessory structures range from 1400-2600 square feet, so the 4800 square foot structure intended by the Variance is unusual, but not strictly out of the question for the area. He added that the property is well-screened by trees on three sides.

The applicant, Zack Campbell, was in attendance.

Mr. Campbell clarified that his original application was for a 50 x 80 foot structure, but his contractor was able to find a 60 x 80 foot structure for a better price. This was reflected in the later stages of the application process, and is the intended size for the Variance.

Mr. Pedersen asked if the applicant intended to keep the existing smaller accessory structures on the property. Mr. Campbell responded that he would be removing one of them initially, and that the others are storage that would be progressively emptied into the new storage space if possible.

Mr. Israel asked for clarification regarding the total lot coverage that would be taken up with the structure included. Mr. Mangus replied that with this accessory structure, the applicant would only be covering approximately 15% of the lot, with a maximum of 30% available.

The Committee asked about the intended use of the structure. Mr. Campbell replied that it would be used to work on his truck, store large items, and potentially serve as an event space for friends and family.

Mr. Pedersen asked for specifics on the construction of the building. Mr. Campbell described it as a metal building with a 16 foot main door near the northeast corner, with two more smaller doors for access, and an additional 12 x 10 foot garage door. He added that no windows are planned.

Mr. Campbell asked for an explanation of the notification that was sent to his neighbors. Mr. Boyd explained that the notification is a legally-required document that simply alerts nearby property owners of this hearing, so that they can weigh in ahead of the hearing or during it. He added that no owners were in attendance to protest the construction, and that he had not received any communications from owners protesting the construction.

Ms. Canfield asked if the applicant planned to have a driveway connected to the building. Mr. Campbell replied that he did intend to install a driveway, but currently did not have specific plans for one.

Mr. Israel asked if the applicant intends to install any living space in the structure. Mr. Campbell explained that the structure will contain a bathroom and potentially a small office, but that no proper living quarters would be within.

Mr. Campbell added that he is close with his neighbor to the south, and planned to have the south-facing wall of the structure painted with a mural for the aforementioned neighbor's children to enjoy.

Mr. Israel asked if the applicant intended to perform any outside vehicle service in a business capacity. Mr. Campbell replied that he did not intend to work on any vehicles besides his own. Mr. Israel then asked if the proposed Variance would allow for a *smaller* structure than planned, in case of unforeseen difficulty in construction. Mr. Mangus replied that yes, the Variance establishes a maximum square footage, and anything smaller would still be covered. He added that after the Variance is granted, the applicant has 180 days to acquire a building permit, and then a further 180 days after that until the first required inspection.

Chairperson Pedersen closed the public hearing at 7:38 P.M.

DOES THE EVIDENCE DEMONSTRATE THAT:

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.

STAFF	The subject property exceeds the minimum lot area for the zoning district by almost 2 1/2 times and provides adequate space while allowing adequate separation from nearby residences.
BZA	Concur.
2. Granting the variance will result in material detriment or injury to other property or improvements in the neighborhood.

STAFF	No detriment and/or injury to other property or improvements is anticipated. The overall lot coverage with the proposed accessory structure is still less than half of the permissible lot coverage allowed in the zoning district. The overall height of the proposed accessory structure is 8' less than the 35' maximum height for the zoning district.
BZA	Concur.
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.

STAFF	The subject property exceeds the minimum lot area for the zoning district and provides adequate space while allowing adequate separation from nearby residences. No adverse effects are anticipated.
BZA	Concur.
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.

STAFF	The applicant has declared the intended use to be an accessory storage structure.
BZA	Concur.

SPECIFIC CONDITIONS TO BE MET:

1.	<p>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 The subject property exceeds the minimum lot area for the zoning district by almost 2 1/2 times and provides adequate space while allowing adequate separation from nearby residences.</p> <p>BZA Concur.</p>
2.	<p>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 The intent of accessory structure limitations is to assure that the size of accessory structures does not overwhelm the single-family look and feel of the neighborhood. The subject property exceeds the minimum lot area for the zoning district, provides adequate space and separation from nearby residences, while remaining below the zoning district's maximum allowable lot coverage of 30%.</p> <p>BZA Concur.</p>
3.	<p>Granting the variance will not adversely affect the rights of adjacent property owners or residents.</p> <p>STAFF No detriment and/or injury to other property or improvements is anticipated. The overall lot coverage with the proposed accessory structure is still less than half of the permissible lot coverage allowed in the zoning district. The overall height of the proposed accessory structure is 8' less than the 35' maximum height for the zoning district.</p> <p>BZA Concur.</p>
4.	<p>The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.</p> <p>STAFF The intent of accessory structure limitations is to assure that the size of accessory structures does not overwhelm the single-family look and feel of the neighborhood. The subject property exceeds the minimum lot area for the zoning district, provides adequate space and separation from nearby residences, while below the zoning district's maximum allowable lot coverage of 30%.</p> <p>BZA Concur.</p>
5.	<p>The requested variance will not be opposed to the general spirit and intent of these Zoning Regulations.</p> <p>STAFF The intent of accessory structure limitations is to assure that the size of accessory structures does not overwhelm the single-family look and feel of the neighborhood given there are many large accessory structures within the neighborhood. The subject property exceeds the minimum lot area for the zoning district, provides adequate space and separation from nearby residences, while below the zoning district's maximum allowable lot coverage of 30%.</p> <p>BZA Concur.</p>

Having considered the evidence at the hearing and determined that the findings of fact have been found to support all five conditions set out in Subsection 11-106.B.2 of the Zoning Regulations and K.S.A. 12-759(e), Vance Garwood made a motion that the Chairperson be authorized to sign a Resolution granting the Variance for BZA-V23-0013. Motion seconded by Gary Israel. Motion carried 6/0.

Erik Pedersen made a motion to adjourn the Board of Zoning Appeals and convene the Planning Commission. Motion seconded by Marla Canfield. Motion carried 6/0.

6. MEMBER ITEMS

Mr. Israel remarked that the Hometown Christmas event was very impressive, and congratulated those who put it on. He also stated that the planned improvements near the Redbud Trail seemed very promising.

Mr. Garwood asked if any new plans for restaurants had been revealed for the Heritage. Mr. Mangus replied that he was not aware of any, and that most development effort was currently going into finishing the apartment units, so that they will be ready for rentals starting in February or March 2024.

Ms. Canfield wanted to thank Chairperson Pedersen for his 7 years of service on the Planning Commission/Board of Zoning Appeals. Staff and the rest of the Committee concurred.

The Committee and Staff want to wish everyone happy holidays!

7. ADJOURN

Chairperson Pedersen made a motion to adjourn the meeting. Motion seconded by Gary Israel. Motion carried 6/0. Meeting adjourned at 7:53 P.M.

Respectfully submitted by:

Connor Boyd
Planning Technician