



PLANNING & ZONING
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**PLANNING COMMISSION
& BOARD OF ZONING APPEALS MINUTES**
JANUARY 21, 2025 | 7:00 P.M.
ANDOVER CITY HALL | 1609 E. CENTRAL AVE.

1. CALL TO ORDER

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

2. ROLL CALL

Committee members in attendance: Chairperson Vance Garwood; Vice Chairperson Marla Canfield; Secretary Gary Israel; Peter Fox; Clint Teinert; and Dan Colson.

Staff members in attendance: Les Mangus, Director of Community Development; David Westphall, Zoning Administrator; and Connor Boyd, Planning Technician.

3. APPROVAL OF THE MINUTES OF THE DECEMBER 17, 2024 MEETING

Gary Israel made a motion to approve the minutes of the December 17, 2024 meeting as presented. Motion seconded by Peter Fox. Motion carried 6/0.

4. COMMUNICATIONS

A. COMMITTEE & STAFF REPORT

None.

B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT

5. AGENDA

Gary Israel made a motion to recess the Planning Commission and convene the Board of Zoning Appeals. Motion seconded by Marla Canfield. Motion carried 6/0.

5.1 BZA-CU24-0003 – PUBLIC HEARING ON AN APPLICATION FOR A CONDITIONAL USE PERMIT TO ALLOW FOR OUTDOOR RESTAURANT SEATING, ON CERTAIN LANDS ZONED B-3 RETAIL & SERVICE BUSINESS DISTRICT AND GENERALLY LOCATED AT 418 N. ANDOVER RD., ANDOVER, KANSAS

Chairperson Garwood reopened the public hearing at 7:05 P.M.

Mr. Westphall reminded the Committee that the case was continued from the December meeting, and stated that the applicant intends to install patio seating outside their restaurant, which is otherwise permitted outright. He added that the applicant will be seeking a further Conditional Use authorization in order to increase the available parking for the site.

Mr. Boyd reminded the Committee that the Conditional Use being discussed was only for the patio, and that the parking issues were not yet on the table.

Mr. Israel regardless asked if any word had been had from the nearby Walgreens. Mr. Westphall stated that Staff was not aware of any changes. David Allan, the applicant, stated that he had reached an impasse with Walgreens corporate, and was still pursuing communications in order to establish a parking agreement. Mr. Allan added that they had reduced the occupancy of the restaurant temporarily in order to match the currently available parking.

Mr. Allan stated that the patio will be a small space with 4 tables and 8 chairs.

Mr. Israel asked if the applicant was leasing the tenant space, and whether the fence would be attached to the ground or to a wall element. Mr. Allan confirmed as much, and stated that the remodel was approved by the property owner. He stated that the fence would be attached to the ground.

Mr. Allan stated that he was looking into converting some of the grass space behind the building into additional parking, and that he was having a contractor take a look at the space the next day to determine feasibility.

Mr. Fox asked whether the issues with the rear fence that were raised at the previous meeting were resolved. Mr. Mangus stated that there have been multiple code cases issued for the property regarding the fence and lighting on the back side of the building, but that everything should have been resolved.

Mr. Israel asked whether new parking in the rear would have to go before the Site Plan Review Committee. Mr. Mangus confirmed as much.

Mr. Fox asked what the occupant capacity of the restaurant was, in order to match the existing parking. Mr. Allan stated that it was currently set at 64 persons.

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

DOES THE EVIDENCE SUPPORT THE CONCLUSION THAT:

1.	The proposed conditional use complies with all applicable regulations, including lot size requirements, bulk regulations, use limitations and performance standards; unless a concurrent application is in process for a variance.
STAFF	Yes.
BZA	Concur.
2.	The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood.
STAFF	Staff anticipates no such negative effects.
BZA	Concur.
3.	<p>The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:</p> <p>a. The location, nature, size and height of building, structures, walls and fences on the site; and</p> <p>b. The nature and extent of landscaping and screening on the site.</p>

STAFF	The requested conditional use will not dominate the immediate neighborhood or prevent development of the surrounding area.
BZA	Concur.
4.	Off-street parking and loading areas will be provided in accordance with the standards set forth in Article 5 of these regulations. Such areas will be screened from adjoining residential uses and located so as to protect such residential uses from injurious effects.
STAFF	Yes.
BZA	Mr. Fox asked whether the case could be approved given the pending parking issue. Mr. Mangus stated that the current plan has reduced occupancy in order to meet the current parking conditions. Mr. Israel asked if the occupancy could be increased with more parking. Mr. Mangus confirmed as much. The Board concurred.
5.	Adequate utility, drainage and other such necessary facilities have been installed or will be provided by platting, dedications and/or guarantees.
STAFF	Yes. All are currently in place.
BZA	Concur.
6.	Adequate access roads, entrance and exit drives and/or access control is available or will be provided by platting, dedications and/or guarantees and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and roads.
STAFF	Yes.
BZA	Concur.

Having considered the evidence at the hearing and the factors to evaluate the application, Dan Colson made a motion that the chairperson be authorized to sign a resolution granting the Conditional Use in case BZA-CU24-0003. Motion seconded by Gary Israel. Motion carried 6/0.

5.2 BZA-V24-0008 – PUBLIC HEARING ON AN APPLICATION FOR A VARIANCE OF 760 SF. FROM THE 500 SF. MAXIMUM SIZE OF AN ACCESSORY STRUCTURE; AND A VARIANCE OF 260 SF. FROM THE 1000 SF. MAXIMUM SIZE OF ALL ACCESSORY STRUCTURES, TO CONSTRUCT A POOL HOUSE ON CERTAIN LANDS GENERALLY LOCATED AT 2627 E. FLINT HILLS NATIONAL PKWY., ANDOVER, KANSAS

Chairperson Garwood opened the public hearing at 7:18 P.M.

Mr. Westphall stated that this case was much like the others that were recently approved, and is in fact within the same PUD and for the same purpose- constructing a pool house. He added that the lot is approximately 2 acres in size, making the Variance very easy to support.

Chairperson Garwood closed the public hearing at 7:20 P.M.

Gary Israel stated that the structure would have to be approved by the neighborhood HOA as well as obtaining BZA approval.

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 property is over three times the minimum lot area required for the underlying zoning district. As well, it is an unusual shape and would result in an underutilized amount of the property to be utilized.
	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.
	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	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 does not have a motivation to make money out of the property through the request of this variance. It is to allow a structure to be used as a pool house.
	BZA	Concur.

SPECIFIC CONDITIONS TO BE MET:

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.	
	STAFF	The subject property is generally larger than other comparable SF-1 housing sites. Comparing it to a smaller lot that might comply with the 500 square foot maximum for accessory structures, it would have a comparable impact on the maximum lot coverage as what is being requested.
	BZA	Concur.
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.	
	STAFF	Strict application of the provisions in this case would result in some unnecessary hardship for the owner given the size of the lot and what is being requested.

BZA	Concur.
3. Granting the variance will not adversely affect the rights of adjacent property owners or residents.	
STAFF	No adverse effects are anticipated.
BZA	Concur.
4. The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.	
STAFF	No adverse effects are anticipated.
BZA	Concur.
5. The requested variance will not be opposed to the general spirit and intent of these Zoning Regulations.	
STAFF	Because the requested variance would still allow the subject property to comply with the maximum lot coverage specified for this zoning district in the bulk regulations, it is not in opposition to the general spirit and intent of the Zoning Regulations.
BZA	Concur.

Having considered the evidence at the hearing and the factors to evaluate the application, Chairperson Vance Garwood made a motion that the chairperson be authorized to sign a resolution granting the Variance in case BZA-V24-0008. Motion seconded by Clint Teinert. Motion carried 6/0.

Gary Israel made a motion to adjourn the Board of Zoning Appeals and reconvene the Planning Commission. Motion seconded by Clint Teinert. Motion carried 6/0.

6. MEMBER ITEMS

None.

7. ADJOURN

Gary Israel made a motion to adjourn the meeting. Motion seconded by Clint Teinert. Motion carried 6/0.

Meeting adjourned at 7:27 P.M.