

ANDOVER CITY PLANNING COMMISSION /  
BOARD OF ZONING APPEALS  
September 16, 2008  
**Minutes**

The Andover City Planning Commission met for a regular meeting on Tuesday, September 16, 2008 at 909 N. Andover Road in the Andover Civic Center. Vice Chairman Lynn Heath called the meeting to order at 7:00 p.m. Commission members present were Jan Cox, John Cromwell, Byron Stout, and Jeff Syrios. Others in attendance were City Council Liaison Member J.R. Jessen, City Administrator Sasha Stiles, Director of Public Works and Community Development Les Mangus and Administrative Secretary Kandace Hunt. Members absent were Chairman Quentin Coon and Dan Beck.

Call to order

**Review the minutes of the August 19, 2008 Planning Commission meeting.**

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Jan Cox asked Kandace Hunt if the numbering error they had previously discussed beginning on page 17 had been corrected. Kandace Hunt said yes.

*Byron Stout made a motion to approve the minutes as presented. John Cromwell seconded the motion. Motion carried 5/0.*

Communications

**Communications:**

**Review the City Council minutes from the August 12, 2008 and August 26, 2008 meetings.** The minutes were received and filed.

Les Mangus informed Commission members the City Council hired Sasha Stiles as the new City Administrator at its September 9, 2008 meeting.

The Commission congratulated Sasha Stiles on her new position.

**Review the minutes of the August 5, 2008 Site Plan Review Committee meeting.** The minutes were received and filed.

**Review the Potential Residential Development Lot Report.**

Vice Chairman Heath asked Les Mangus how the City was doing with new building permits. Les Mangus said building permits are down about 20 percent from last year. Across the Wichita area building permits are down between 15 to 20 percent.

Z-2008-04/SU-2008-02

**Z-2008-04/SU-2008-02-** Continuance of the Public Hearing on a proposed change of zoning classification from the Butler County AG-40 District to the R-4 Multiple Family Residential District with a Special Use request to establish multiple dwelling units for the elderly and handicapped including assisted living and nursing home facilities located at the southwest corner of Allen Street and west Bales Street.

**From Les Mangus' Memo:** This application for change of zoning district classification and special use was continued from the August meeting in order to allow the applicant time to gather more information regarding the traffic generated by the proposed development, and traffic impact on the surrounding road system. I have met with the applicant, but no new information has been provided at this time.

Vice Chairman Heath informed the Commission applicant David Ray had requested a continuance to the October 21, 2008 Planning Commission meeting.

*John Cromwell made a motion to continue case Z-2008-04/SU-2008-02 to the October 21, 2008 Planning Commission meeting. Byron Stout seconded the motion. Motion carried 5/0.*

**VA-2008-03-** Continuance of the Public Hearing on a petition for a vacation of the south 10 feet of the 25 foot front yard setback and utility easement of Lot 11, Block 2, Crescent Lakes Fourth.

VA-2008-03

**From Les Mangus Memo:** This petition for a vacation of the south 10 feet of the 25 foot front yard utility easement is the result of the owner's desire to place a private water well in the front of the house. The subject property is somewhat of a corner lot, being on the corner of an eyebrow cul-de-sac. AT&T and Westar have responded that they believe they may have facilities in the ground in conflict with the request. The public hearing was continued from the August meeting in order to allow the petitioner time to provide clarification of the location of the utility easement boundaries and the existing utility facilities.

Vice Chairman Heath informed the Commission petitioner Matt Peters had requested a continuance to the October 21, 2008 Planning Commission meeting.

*John Cromwell made a motion to continue case VA-2008-03 to the October 21, 2008 Planning Commission meeting. Byron Stout seconded the motion. Motion carried 5/0.*

*John Cromwell made a motion at 7:05 p.m. to recess the Planning Commission and convene the Board of Zoning Appeals. Byron Stout seconded the motion. Motion carried 5/0.*

Recess the  
Planning  
Commission and  
convene the Board  
of Zoning Appeals

BZA-V-2008-04

**BZA-V-2008-04-** A Public Hearing on a request of a variance of 7.1 square feet from the required 40 square feet maximum sign surface area limitation for the purpose of construction of a 47.1 square foot bulletin board sign on property zoned as the R-4 Multiple-Family Residential District.

**From Les Mangus' Memo:** This application for a variance arises from the Kansas Medical Centers desire to construct a 47 square foot electronic message center bulletin board sign. This situation is peculiar because the hospital is located in the R-4 Multiple Family Residential District, but really operates as a business. Staff opinion is that the variance is justified because it would not be out of scale with the large hospital building and the 11+ acre lot, and other signs in the area. Staff supports the variance as applied for.

Vice Chairman Heath asked Les Mangus for staff comments. Les Mangus explained the property is zoned multi family residential but through the Planned Unit Development a hospital is allowed, so what it's zoned and what it operates as are two different things. It is an 11 acre lot with one existing monument sign and wall signage on a large building. Adding one more sign that is 20 percent more than allowed in the district is really what variance are

all about.

Vice Chairman Heath asked if an applicant was present. Chief Operating Officer for the Kansas Medical Center Daryl Thornton and Director of Plan Operations for the Kansas Medical Center Tom Thomas and Michael Bankston of Trimark Signworks were present to represent the application.

Mr. Thornton informed the Board the sign is the next step in continuing the mission and vision of the hospital. The hospital wants to take a conservative approach with the electronic message sign, using it for time and temperature and promotion of the hospital and its events. Mr. Thornton assured the Board the hospital's board of directors will make certain the sign is done professionally.

Vice Chairman Heath asked if the Board had any further questions for Mr. Thornton. There were none.

Vice Chairman Heath opened the public hearing at 7:09 p.m.

Michael Bankston of Trimark Signworks, the company installing the electronic message board, informed the Board the applicants are asking for an additional 10 square feet of surface area. The sign will be internally lit with LED lights and will dim to approximately eight percent of its total capacity at night. The sign will allow for up to eight lines of copy six inches in height.

Byron Stout asked if the sign would be located on the eastern portion of the property. Mr. Bankston said it will be located on the far east end of the property approximately 100 feet west of the east most property line.

Byron Stout asked if the large Cornerstone monument sign would block the vision of the proposed sign. Mr. Bankston said the Cornerstone monument was under construction when the applicants were positioning the location of the proposed sign and is one reason they chose to be 100 feet to the west of the property line. Also the sign is located on a natural berm that will give it a little extra height. Byron Stout asked what the height of the sign will be. Mr. Bankston said it will be approximately 11 feet tall. Byron Stout asked if the height would put the sign above the Cornerstone monument. Mr. Bankston said no. Les Mangus said the Cornerstone monument is just over 17 feet high but because of the zoning of this parcel there are differences in surface area and height limitations. Jeff Syrios asked what the height limitation for the R-4 district is. Les Mangus said it is 15 feet. Jeff Syrios asked if the sign was built on a berm where the 15 feet restriction began. Les Mangus said the Zoning Regulations state "A horizontal plane above and parallel to the average finished grade of the entire zoning lot at the height shown in the district regulations. No part of any structure shall project through such plane except:

1. Chimneys, flues, stacks, fire escapes, gas holders, elevator enclosures, ventilators, skylights, solar panels, water tanks and similar roof structures needed to operate and maintain the building on which they are located and signs where permitted by Article 7;
2. Flagpoles, water towers and tanks, steeples, bell towers, carillons, monuments, cupolas and electric transmission line towers; but not wind energy conservation systems. (See Section 6-100D2 for wind energy conversion systems.); and
3. Wireless communication facilities, in accordance with Article 3-103Q. Review Criteria for Wireless Communication Facilities."

Vice Chairman Heath asked if the sign would be perpendicular to 21<sup>st</sup> Street. Mr. Bankston said yes.

Byron Stout asked if there was any reason the applicants did not place the sign on the west side of the property. Mr. Bankston said the applicants felt the area chosen was the optimal location. Byron Stout said he was concerned the movement of the sign could be a distraction at the busy intersection especially when 21<sup>st</sup> Street is extended to four lanes. Mr. Thomas said the sign is setback farther north from 21<sup>st</sup> Street than the Cornerstone sign and will not block the vision of those turning west. Vice Chairman Heath asked how far off 21<sup>st</sup> Street the sign would be. Mr. Thomas said he had not measured the distance but the sign is directly east of the existing monument sign. Byron Stout asked Mr. Thomas if he thought the sign would be visible from the east going west. Mr. Thomas said yes. Mr. Bankston stated he felt in today's society people are use to the electronic message signs being a part of our culture and do not view them as distractions. Mr. Thomas stated the sign was not placed on the west side of the property because the applicants wanted it closer to the main entrance of the hospital. Les Mangus informed Byron Stout when 21<sup>st</sup> Street is extended this sign will still set 30 feet from the curb.

Jeff Syrios asked if the Board had any say as to where the sign was placed. Les Mangus said the Board could attach any condition it sees fit.

Vice Chairman Heath asked if there were any further comments from the public. There were none. Vice Chairman Heath closed the public hearing at 7:21 p.m.

The Board next reviewed its variance report.

**ANDOVER BOARD OF ZONING APPEALS****Agenda Item No. 7 for September 16, 2008****VARIANCE REPORT \*****CASE NUMBER: BZA-V-2008-04**

APPLICANT/AGENT: Kansas Medical Center/Trimark Signworks

REQUEST: a variance of 7 square feet from the required 40 square foot maximum surface area limitation for the purpose of constructing a 47 square foot bulletin board electronic message center on property zoned as the R-4 Multiple -Family Residential District.

**CASE HISTORY:**

LOCATION: 1124 W. 21<sup>st</sup> St. North.

SITE SIZE: 11.23 acres

**ADJACENT ZONING AND EXISTING LAND USE:**

North: R-4 Multiple Family Residential District –Cornerstone Commercial Subdivision

South: R-2 Single Family Residential District –Quail Crossing Subdivision

East: B-1 Office Business District –Cornerstone Commercial Subdivision

West: B-3 Central Shopping District –Cornerstone Commercial Subdivision

\*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 property is on an arterial street with a 20' sidewalk & utility easement adjacent to the street right of way, which requires the sign to be set back an additional 20 feet from the traveled way. yes.
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 building a smaller sign would not allow sufficient time to read the message. yes.
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 other signs on the property and adjacent development monument are considerably larger, yes.
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 size of the sign is in scale with the size of the lot and existing hospital structure, yes.

**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 adjacent development monument is 17' high and 150 square feet; yes.
2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents because the proposed sign is wholly on the hospital property and setback 20' beyond the minimum setback; yes.
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 sign copy would not be as effectively read in a smaller size, yes.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare because the proposed sign is considerably smaller than the existing signs in the area, yes.
5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations because adequate spacing between signs will be maintained, yes.

*Jeff Syrios made a motion to approve case BZA-V-2008-04 as presented. Jan Cox seconded the motion. Motion carried 5/0.*

*John Cromwell made a motion at 7:27 p.m. to adjourn the Board of Zoning Appeals and reconvene the Planning Commission. Byron Stout seconded the motion. Motion carried 5/0.*

Adjourn the Board of Zoning Appeals and reconvene the Planning Commission

**Butler County Case Z-08-06-** A recommendation to the Butler County Planning Commission on a request to rezone 11.92 acres in the Northeast Quarter of the Southeast Quarter of Section 6, Township 28 South Range 3 East of the 6<sup>th</sup> P.M., Butler County, Kansas from an AG-40 zoning classification to an RR Rural Residential zoning classification.

Butler County Case Z-08-06

**From Les Mangus' Memo:** This case arises from the applicants desire to rezone the property from AG-40 to RR residential in order to deed an 11 acre parcel from the existing 70 acres to his son for construction of a single family dwelling. Butler County has waived the requirement for connection to a public sewer, which is across Andover Road because the house is proposed to be placed 800 feet west of Andover Road. Staff reluctantly supports the application because of the economic hardship a \$30,000-\$40,000 sewer project would pose to the construction of a single family dwelling. If the

property was annexed in the future the City regulation requires connection to the public sewer if it is within 200 feet of the subject property.

John Cromwell asked if this case was a recommendation to the County only. Vice Chairman Heath said yes, the area is outside the City limits but within the planning area. Les Mangus explained the recommendation is to the Butler County Planning Commission and County Commissioners.

Vice Chairman Heath asked Les Mangus for staff comments. Les Mangus explained the City did not receive notice of this case until after the last Planning Commission meeting. The Butler County Planning Commission has already met on the issue and has recommended approval contingent on the Commission satisfactory recommendation.

Lynn Heath asked if an applicant was present. Kendall McCune was present to represent the application.

Mr. McCune explained his father Jack owns the land and was going to be giving him a total of 16 acres for the purposes of constructing a single family dwelling on 11 of the acres. The home will be placed approximately 800 feet off of Butler Road.

Vice Chairman Heath asked which direction the house would face. Mr. McCune said east.

Les Mangus explained to the Commission there was some debate between the county staff, planning commission and county commissioners about the County's requirement that any property within 400 feet of public sewer be connected to the public sewer. In this case the County is of the opinion that because the house will be an additional 800 feet west of the Andover Road right-of-way, and the public sewer is on the east side of the Andover Road right-of-way it would be a hardship to ask this applicant to bore the sewer under the road and extend lines 800 feet back to serve the house. Vice Chairman Heath asked what would happen when the property to the North of Mr. McCune's was annexed. Les Mangus said because Mr. McCune's property is less than 21 acres it can be annexed by the City at any time. If there was ever a sewer project in the neighborhood to the north, there would be a logical extension to Mr. McCune's property.

Jan Cox asked if there were any restrictions as to what type of sewer the applicant could put in. Mr. McCune said Butler County had agreed to let him put in a septic system, but he would prefer to use a lagoon. Jan Cox asked if the property would be connected to the water district or to a private well. Mr. McCune said he is leaning towards having a private water well but will comply with what is required.

*Byron Stout made a motion to recommend to the Butler County Planning Commission case Z-08-06 be approved as presented. John Cromwell seconded the motion. Motion carried 5/0.*

**Member Items:** Byron Stout stated he still has concerns about the length of several red lights in the City for fuel economy reasons. He said many of the lights will change without traffic coming from the opposite direction. Les Mangus explained the traffic signals have timeout features which means after a determined amount of time they have to go through the light cycle.

Member Items:

Vice Chairman Heath stated the issue with the light at the right lane of Andover Road and Highway 54 had been corrected. Les Mangus said as the cameras fail they are being replaced with full color cameras so the computer has more to analyze before the light changes.

*Jan Cox made a motion to adjourn the meeting at 7:41 p.m. Byron Stout seconded the motion. Motion carried 5/0..*

Respectfully Submitted by

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Kandace Hunt  
Administrative Secretary

Approved this 21<sup>st</sup> day of October 2008 by the Andover City Planning Commission/ Board of Zoning Appeals, City of Andover.