

**ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
Tuesday, August 15, 2017
Rescheduled to August 17, 2017
Minutes**

1. [Call to order.](#) 00:01:08

Chairman Brian Lindebak called the meeting to order at 7:00 p.m.

2. [Roll call.](#) 00:01:23

Planning Commission members in attendance: Chairman Lindebak, Lynn Heath, William Schnauber, Tyson Bean and Kirsten Bender. Members Mike Warrington and Stephanie Gillespie were not in attendance.

Staff in attendance: Director of Public Works Les Mangus, City Administrator Mark Detter and Administrative Assistant Dayna DuFriend.

A/V: Craig Brown

3. [Approval of the minutes of the July 18, 2017 meeting.](#) 00:01:34

A motion was made by Tyson Bean, seconded by Kirsten Bender to approve the minutes of the July 18, 2017 meeting. Motion carried 5/0.

4. [Communications](#) 00:02:18
- A. [Committee and Staff Report.](#)
 - B. [Potential Residential Development Report.](#)

Recess the Planning Commission and Convene the Board of Zoning Appeals

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

5. [BZA-V-2017-07- A public hearing on an application filed by Ryan and Julie Nash requesting a variance of 1,400 square feet from the required 1,000 square foot maximum aggregate total floor area for the purpose of constructing a 2,400 square foot detached garage on property zoned as R-1 Single-Family Residential District.](#) 00:02:01
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Lynn Heath commented that this would be a very large building and asked if sizes of any neighboring buildings was known.

Les Mangus said that several buildings in that neighborhood are close to or exceed the size of this building.

Chairman Lindebak noted that the bulk of this lot is undevelopable due to the location of the pipeline running through it. He asked staff if that pipeline was active.

Les Mangus answered that it is active.

Ryan Nash, 726 Prosperity Lane, applicant, was present.

Mr. Nash explained that the pipeline was not disclosed to him at the time of purchase. The poles used to mark the pipeline location were installed after he contacted the pipeline company. The company informed him that he could not dig in that area at all.

Lynn Heath asked how much taller this building would be than the house.

Mr. Nash said the building would have 14 foot sidewalls with at least a 10-foot garage door to park his 1-ton van inside.

William Schnauber asked if access to the building would be on the east side.

Mr. Nash replied yes it would be on the east side and if allowed he would have a second driveway on the lot for this building.

Chairman Lindebak asked if the driveway to the building would be paved.

Les Mangus added that there should not be any reason why the city engineer would not allow two driveways on a lot with 320 feet of frontage.

Tyson Bean asked the applicant if he had communicated with the neighbor to the south.

Mr. Nash said he had not.

Chairman Lindebak opened the hearing for public comments.

No public was present.

Chairman Lindebak closed the public hearing.

VARIANCE REPORT *

CASE NUMBER: BZA-V-2017-07

APPLICANT/AGENT: Ryan and Julie Nash

REQUEST: Ryan and Julie Nash, 726 Prosperity Lane, Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, request a variance of 1,400 square feet from the required 1,000 square foot maximum aggregate total floor area of all accessory structures permitted by Section 6-100C4 for the purpose of constructing a 2,400 square foot detached garage on property zoned as the R-1 Single-Family Residential District.

CASE HISTORY: The subject property is an extremely large lot because a 66 foot wide oil pipeline easement bisects it on a diagonal.

LOCATION: Legal description: Lot 6, Jones Tracts Addition to the City of Andover, Kansas.

General location: 726 Prosperity Lane, Andover, Kansas.

SITE SIZE: ±1.10 acres

ADJACENT ZONING AND EXISTING LAND USE:

North: R-1 Single-Family Residential single family dwellings

South: R-1 Single-Family Residential single family dwellings

East: R-1 Single-Family Residential single family dwellings

West: R-1 Single-Family Residential single family dwellings

*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 subject property is an extremely large 1.1 acre lot because a 66 - foot wide oil pipeline easement bisects it on a diagonal.**
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 desires to have a larger garage.**
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 the subject property is an extremely large 1.1 acre lot because a 66 - foot wide oil pipeline easement bisects it on a diagonal.**
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 subject property is an extremely large 1.1 acre lot because a 66 - foot wide oil pipeline easement bisects it on a diagonal.**

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 subject property is an extremely large 1.1 acre lot because a 66 - foot wide oil pipeline easement bisects it on a diagonal.**
2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **because the subject property is an extremely large 1.1 acre lot because a 66 - foot wide oil pipeline easement bisects it on a diagonal.**

- 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 subject property is an extremely large 1.1 acre lot because a 66 - foot wide oil pipeline easement bisects it on a diagonal.**
- 4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, **because the subject property is an extremely large 1.1 acre lot because a 66 - foot wide oil pipeline easement bisects it on a diagonal.**
- 5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **because the subject property is an extremely large 1.1 acre lot because a 66 - foot wide oil pipeline easement bisects it on a diagonal.**

Date Granted: August 17, 2017

Valid Until (date): February 13, 2018

(180 days Sec. 10-107G)

/s/

Brian Lindebak, Chairman

/s/

William Schnauber, Secretary

Certified to the Zoning Administrator on this date of: August 17, 2017

*Having considered the evidence at the hearing and determined that the findings of fact in the Variance Report 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 William Schnauber move that the Chairperson be authorized to sign a Resolution granting the variance for Case No. BZA-V-2017-07 as **requested** in the report. Motion was seconded by Tyson Bean. Motion carried 5/0.*

Closing remarks read by Chairman Lindebak:

A Resolution will be prepared and made available to the applicant by August 31, 2017. 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 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 William Schnauber to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. Motion carried 5/0.

12. Member items.

00:24:03

No member items.

13. Adjourn.

00:24:12

A motion was made by Lynn Heath, seconded by Kirsten Bender, to adjourn at 7:24 p.m. Motion carried 5/0.

Respectfully Submitted by

Dayna DuFriend
Administrative Assistant

Approved this 19th day of September, 2017 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.