

**ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
Tuesday, March 20, 2018
Minutes**

1. Call to order. 00:00:09

Vice-Chairman Schnauber called the meeting to order at 7:03p.m.

2. Roll call. 00:00:13

Planning Commission members in attendance: Chairman Lindebak, William Schnauber, Gary Israel, Alex Zarchan, Erik Pedersen and Brandon Russell. Members Stephanie Gillespie and Lynn Heath were not in attendance. Chairman Lindebak arrived at 7:05p.m.

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

A/V: WAV Services

Vice-Chairman Schnauber welcomed Brandon Russell to the Planning Commission as a new member.

3. Approval of the minutes of the February 20, 2018 meeting. 00:00:34

A motion was made by Gary Israel, seconded by Erik Pedersen to approve the minutes of the February 20, 2018 meeting. Motion carried 3/0/2. Brandon Russell and Alex Zarchan abstained as they were not in attendance.

4. Communications 00:01:15
- A. Committee and Staff Report.
 - B. Potential Residential Development Report.

5. VA-2018-02- Public hearing on a petition for a vacation of all of the sixteen (16) foot platted easement between lots 4 and 5 and a portion of the ten (10) foot platted easement between lots 5 and 6 on property located at 219 E. Hamlin Rd., Andover, Kansas. 00:01:55

Les Mangus explained that this case may be hard to follow from the descriptions. Looking at the subdivision plat and the aerial photo map it can be seen that the lot lines are not on the same angle. Utility easements were platted that were within only a few feet of the existing house. The owner of Lot 6 was in a few months ago asking for a vacation of the utility easements and now the owner of Lots 4 and 5 would like to follow suit so that he can build a privacy fence.

Chairman Lindebak noted that Westar Energy requests the need for a guy wire easement and expects that the applicant will have this legally described as appropriate and will be provided to staff before the case is heard by the City Council.

Les Mangus stated this to be correct.

Tom Warren, applicant, was present.

Mr. Warren addressed the guy wire for Westar, saying that this would not interfere with his plans for the fence. They would be several feet from the fence.

Chairman Lindebak said that his concern would be for the guy wire to be contained in an easement so Westar has the ability to function and operate as needed.

A motion was made by William Schnauber, seconded by Gary Israel, to approve VA-2018-02 as presented with the knowledge that Westar retains the right to have access to the utilities in the easement. Motion carried 6/0.

- 6. [VA-2018-03- Public hearing on a petition filed by Christopher Call for a vacation of the east ten \(10\) feet of the west twenty \(20\) foot platted utility easement on property located at 420 W. Jamestown St., Andover, Kansas.](#) 00:07:09

Les Mangus added that all of the existing utilities are in the west half of the easement.

Chairman Lindebak suggested a revision to the legal description to include except north 10 feet thereof.

Christopher Call, applicant, was present and agreed with revision.

A motion was made by William Schnauber, seconded by Alex Zarchan, to approve VA-2018-03 as presented. Motion carried 6/0.

Recess the Planning Commission and Convene the Board of Zoning Appeals

A motion was made by Gary Israel, seconded by William Schnauber to recess the Planning Commission and Convene the Board of Zoning Appeals. Motion carried 6/0.

- 7. [BZA-V-2018-01- Public hearing on an application filed by H.L. Boyles requesting a variance of 1,676 square feet as an addition to the required 1,000 square foot maximum aggregate total floor area for the purpose of constructing a 420 square foot addition to one of the two existing detached garage structures on property located at 1157 S. Ginkgo Ln., Andover, Kansas.](#) 00:11:22

Les Mangus explained that the property is subject to an existing variance and this request will only increase the size of the variance.

H.L. Boyles, applicant, was present.

ANDOVER BOARD OF ZONING APPEALS

Agenda Item No. 7

March 20, 2018

VARIANCE REPORT *

CASE NUMBER: BZA-V-2018-01

APPLICANT/AGENT: H.L. Boyles

REQUEST: H.L. Boyles, 1157 S. Ginkgo Ln., Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance of 1,676 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 420 square foot addition to one of two existing detached garage structures totaling 2,256 square feet on property zoned as the R-1 Single-Family Residential District.

CASE HISTORY: The subject property is 6.3 acres in a neighborhood of large lots that was annexed into the City many years after the development of the properties. The subject property also backs up to a large agricultural property with several large agricultural buildings. The applicant was granted a variance for one of the existing buildings on the property and now desires to expand one of the buildings.

LOCATION: Legal description: Lot 6 EXCEPT THE North 157.74 East 308.04; BEG SouthWest/Corner of the SouthWest 1/4 of the southeast 1/4 of the southeast 1/4, North 663.7 East 330.2 South 256 West 270.2 South 407.8 West 60 TO POB LESS ROW GREEN ACRES, LOCATED IN SECTION 30 TOWNSHIP 27 RANGE 03E, Butler County Kansas.

GENERAL LOCATION: 1157 S. Ginkgo Ln., Andover, Kansas.

SITE SIZE: ±6.3 acres

ADJACENT ZONING AND EXISTING LAND USE:

North: R-1 Single-Family Residential District, single-family dwelling homes
South: R-1 Single-Family Residential District, single-family dwelling homes
East: R-1 Single-Family Residential District, single-family dwelling homes
West: Butler County Residential District

*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:

The applicant desires to construct a 420 square foot addition to one of the two existing detached garage structures on property.

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 6.3 acres and surrounding properties also have large accessory structures.**
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 simply desires to expand an existing garage for more personal use.**
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 6.3 acres and surrounding properties also have large accessory structures and adequate setbacks and open space can be maintained.**
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 6.3 acres and surrounding properties also have large accessory structures and adequate setbacks and open space can be maintained.**

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 6.3 acres and surrounding properties also have large accessory structures.**
2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **because the subject property is 6.3 acres and surrounding properties also have large accessory structures and adequate setbacks and open space can be maintained.**
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 6.3 acres and surrounding properties also have large accessory structures and adequate setbacks and open space can be maintained.**
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 6.3 acres and surrounding properties also have large accessory structures and adequate setbacks and open space can be maintained.**
5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **because the subject property is 6.3 acres and surrounding properties also have large accessory structures and adequate setbacks and open space can be maintained.**

Date Granted: March 20, 2018

Valid Until (date): September 16, 2018

(180 days Sec. 10-107G)

/s/ _____

Brian Lindebak, Chairman

/s/ _____

Gary Israel, Secretary

Certified to the Zoning Administrator on this date of: March 20, 2018

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 Erik Pedersen move that the Chairperson be authorized to sign a Resolution granting the variance for Case No. BZA-V-2018-01 as requested. Motion was seconded by William Schnauber. Motion carried 6/0.

Closing remarks by Chairman Lindebak:

A Resolution will be prepared and made available to the applicant by **March 31, 2018**. 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 the 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 William Schnauber, seconded by Gary Israel to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. Motion carried 6/0.

8. [Andover Unified Development Manual update from Foster Design Associates, LLC.](#) 00:23:05

David Foster and Debra Foster, Foster Design Associates, LLC, presented an update on the progress of the Unified Development Manual.

David Foster explained that there are seven parts to the document. They have a draft for Part 1 The Development Process and are working to fine tune that part. Part 2 Subdivision Regulations have been looked at and will be completed after the discussion tonight. Part 3 Site Plan Review Procedures and Standards is completed. Staff is working to complete Part 4 Stormwater and Part 5 Building Codes. They will then incorporate that information into the document. The same is being done with Part 6 Floodplain to format updated information. The appendix is mostly complete and set up with active links to other major documents.

Les Mangus pointed out that the Planned Unit Development Zone is still in a rough draft form and not yet complete. They are working to condense it and make it more intuitive to be easier understood.

Chairman Lindebak suggested having small cell and DAS wireless communication towers listed as conditional uses.

Debra Foster stated they would research state statutes for this.

David Foster noted that an interactive index with links into the document will be available.

Debra Foster added that there will be links to websites available, particularly for state statutes. A hovering function will allow a definition to be shown while hovering over a word and not having to click on the word.

Chairman Lindebak asked if specific wording needed to be added referencing the Fire Department being engaged early on in the development planning. Possibly having the applicant directly contacting the department prior to the submitting of plans.

Les Mangus explained that there is a lot of interaction between the building code and fire code and that those codes change every three years. Including these codes in the UDM would be a counterproductive. The fire code is very prescriptive. As soon as an application and plat is received it is then distributed to all utility providers, fire department, public works department, city engineer and postmaster.

Chairman Lindebak inquired about the many existing special use cases that have been granted and if these existing uses have been analyzed as to how they will dovetail in with the new regulations.

Les Mangus noted that special uses run with the land. There is a zoning ordinance with each of the uses. All special use and variance requests have been reviewed. Typically, several variances on the same subject indicate a possible adjustment in the regulations.

Chairman Lindebak asked if enforcement activities would also be updated and when the projected date of completion is for this document.

Les Mangus replied that the City Council will be reviewing a revised job description that will spend more time in planning and enforcement at their next meeting. His goal is to hold the public hearing for adoption of the UDM in May.

Gary Israel asked if information would be included when this document is online for anyone with questions needing to contact city staff.

David Foster said that information will be in Table of Contents.

[9. Member items.](#) 01:22:50

Chairman Lindebak welcomed Brandon Russell to the Planning Commission.

[10. Adjourn.](#) 01:24:07

*A motion was made by Gary Israel, seconded by William Schnauber, to adjourn at 8:28 p.m.
Motion carried 6/0.*

Respectfully Submitted by

Dayna DuFriend
Administrative Assistant

Approved this 17th day of April, 2018 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.