

**ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
Tuesday, August 18, 2015
Minutes**

1. [Call to order.](#) 00:00:23

Chairman Lynn Heath called the meeting to order at 7:00 p.m.

2. [Roll call.](#) 00:00:29

Planning Commission members present were Chairman Heath, Mike Warrington, Stephanie Gillespie, Brian Lindebak and William Schnauber. Others in attendance were Director of Public Works Les Mangus and City Administrator Mark Detter and Administrative Assistant Dayna DuFriend. Member Lee Butler was absent.

A/V: Cindy Barrett and Craig Brown

3. [Approval of the minutes of the July 21, 2015 and August 5, 2015 meetings.](#) 00:01:51

City Administrator Mark Detter explained that a correction in the July 21, 2015 minutes was made concerning question #17 of the Rezoning Report for Case #Z-2015-02.

A motion was made by Brian Lindebak, seconded by William Schnauber to approve minutes of the July 21, 2015 and August 5, 2015 meetings with the mentioned correction. Motion carried 5/0.

4. [Communications](#) 00:02:25
 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 Brian Lindebak, seconded by William Schnauber to recess the Planning Commission and Convene the Board of Zoning Appeals. Motion carried 5/0.

5. [BZA-V-2015-02- A public hearing on an application filed requesting a variance to reduce the required minimum rear yard setback from 25 feet to 8 feet.](#) 00:03:26

Les Mangus stated that this is an odd shaped corner lot. The house is placed further away from the north-side of the lot and the standard 25 feet from the east (front yard of the property). The applicant wishes to enclose a patio on the rear of the house. An existing shade structure is there now.

Rick Kear, 211 N. Dogwood Ct., Andover, KS., owner, was present to represent the application.

Mr. Kear explained that there no windows along the east side of the neighboring home at 219 N. Dogwood Ct. He also stated that he has spoken with the property owners of both 219 N. Dogwood Ct. and 123 N. Dogwood Ct. and they expressed no concerns with this request.

Mike Warrington mentioned that this seems appropriate since there are no windows on the east side of the neighboring property.

ANDOVER BOARD OF ZONING APPEALS

Agenda Item No. 5

August 18, 2015

VARIANCE REPORT *

CASE NUMBER: BZA-V-2015-02

APPLICANT/AGENT: Rick Kear

REQUEST: Rick Kear, 211 N. Dogwood Ct., Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance to reduce the required minimum rear yard setback from 25 feet to 8 feet to allow construction of a covered patio structure addition to the existing house on property zoned as the R-2 Single-Family Residential District.

CASE HISTORY:

LOCATION: Legal description: Lot 16, Block 2, Green Valley Greens Addition to the City of Andover, Kansas.

General location: 211 N. Dogwood Ct., Andover, Kansas.

SITE SIZE: . ±11,000sq. ft.

ADJACENT ZONING AND EXISTING LAND USE:

North: R-2 Single-Family Residential single family dwellings

South: R-2 Single-Family Residential single family dwellings

East: R-2 Single-Family Residential single family dwellings

West: R-2 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 an adequate side yard separation to the adjacent home would remain. True**

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 adequate open space would remain. True**

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 adequate open space would remain. True**

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 an adequate side yard separation to the adjacent home would remain. True**

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.

Adjourn the Board of Zoning Appeals and Reconvene the Planning Commission.

A motion was made by Brian Lindebak, seconded by William Schnauber to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. Motion carried 5/0.

7. VA-2015-04- A public hearing on a petition for the vacation of the east ten (10) feet of the 20 foot rear yard drainage and utility easement. 00:16:55

Les Mangus explained that all public utilities are in the west 10 feet of the 20 foot easement and the drainage flows into the reserve adjacent to the west. All utilities have been notified and there are no conflicts. The applicant desires to have a swimming pool and accessory structure installed. The 25 foot minimum rear yard does not apply to accessory structures.

Tim Shigley, Shigley Construction Co., 10647 SW Aster Rd., Augusta, KS., was present to represent the petition.

Mr. Shigley explained that he is representing Dr. Dennis Moore, the property owner. They are asking permission for this petition to allow for the swimming pool and pergola to be built and would use most of the additional 10 feet.

A motion was made by Brian Lindebak, seconded by William Schnauber to approve the petition for vacation for VA-2015-04 as presented. Motion carried 5/0.

8. Member Items. 00:22:08

Brian Lindebak thanked staff for the detailed information provided for these cases.

A motion was made by Brian Lindebak, seconded by William Schnauber to adjourn at 7:22p.m. Motion carried 5/0.

Respectfully Submitted by

Daynna DuFriend
Administrative Assistant

Approved this 15th of September, 2015 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.