

**ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS
Tuesday, April 17, 2018
Minutes**

1. Call to order. 00:00:00

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

2. Roll call. 00:00:04

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

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

A/V: WAV Services

3. Approval of the minutes of the March 20, 2018 meeting. 00:00:27

A motion was made by William Schnauber, seconded by Gary Israel to approve the minutes of the March 20, 2018 meeting. Motion carried 5/0/1. Lynn Heath abstained.

4. Communications 00:00:57
 A. Committee and Staff Report.
 B. Potential Residential Development Report.

Les Mangus informed the Planning Commission that the applicant for the following two cases would be arriving late and suggested proceeding to agenda item #7.

A motion was made by Chairman Lindebak, seconded by William Schnauber to move to item #7 on the agenda. Motion carried 6/0.

7. Butler Co. Conditional Use Permit for Solar Farm at NW Corner of SW 140th & Butler Rd. 00:02:35

Les Mangus explained that this property is not in the Andover Extraterritorial Planning Jurisdiction but is adjacent to it. The north end of this site is on the line between Andover Jurisdiction and the City of Rose Hill. As a courtesy, the Butler County Zoning Administrator sent a copy of the application for Planning Commission input before their public hearing.

Chairman Lindebak noted that this project is not next the Andover Rd. and the drawing does include a tree row for screening. He suggested that this screening requirement be included in the recommendation.

William Schnauber asked if the height of the communication tower was known.

Les Mangus said that what is seen is what was submitted. No further details are known.

Erik Pedersen asked if they did not tie into the substation to the north of this property, where would they tie into.

Les Mangus said it would make sense for them to tie into that substation, but that is unknown.

Chairman Lindebak asked if it was known if they would be paving SW 140th.

Gary Israel asked what the height the structure would be.

Les Mangus did not know. He agreed with the screening at ground level requirement and added that the Butler County meeting will be May 1, 2018.

A motion was made by Chairman Lindebak, seconded by Lynn Heath to recommend that the screening as shown on the provided plan be implemented as a condition of approval for the conditional permit and the plantings be an evergreen type. Motion carried 6/0.

Mark Detter suggested that staff should notify the Flint Hills Community as they are within a mile of this property.

[5. Z-2018-01- Public hearing on an application for a change of zoning district classification from the present R-2 Single-Family Residential District to the R-3 Multiple-Family Residential District located at 401 W. Mike St., Andover, Kansas.](#)

00:13:59

Les Mangus explained that this lot is legal non-conforming in the R-2 zone on Mike Street which was recently upgraded to curb and gutter with storm sewer. There is a multi-family project across the street that was approved approximately three years ago. If approved the next agenda item is for a variance to allow a two-family structure on a lot that is short a few thousand feet of the minimum for the district. In the new UDM it is being suggested that those minimum lots sizes be reduced. This would be closer to being in line with that.

Chairman Lindebak said that there appears to be some close setbacks to the structure and may be closer than the standard 8 feet setback. Since it is existing it would be a legal non-conforming structure.

Les Mangus said he does not know the exact dimensions. Aerial photos are plus or minus a few feet. There are many non-conformances in that neighborhood. This is called Hodges Subdivision

but it is actually just a plat of survey and most of the ownerships don't line up with the parcels that were created.

Chairman Lindebak asked if it would be appropriate to have a replat made for the records.

Les Mangus agreed.

Mike Austin, applicant and property owner, was present.

Mr. Austin explained that improvements to this property with a duplex seemed to fit the neighborhood. He agreed with the replat and right of way dedication.

Alex Zarchan asked if all structures would be removed from the property.

Erik Pedersen asked if the metal storage bin was his and would it be removed.

Mr. Austin stated that everything would be removed.

Gary Israel asked if the garage area in the middle of the duplex would be one single car garage or a single car garage for each side.

Mr. Austin said his intention is to build approximately 1,200 square feet with the units having a garage between the two of them. He wants to build it similar to the apartment complex across the street.

Chairman Lindebak asked staff if the applicant should decide to split this lot in the future, could that be done.

Les Mangus said that the variance would allow for the smaller over-all size that could be split down into two parcels on one lot with a lot split. The structure would have to be built in such a manner for the lot split with independent utilities and correct construction of the party wall.

Lynn Heath commented that this is a good area for this.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 5

REZONING REPORT *

CASE NUMBER: Z-2108-01

APPLICANT/AGENT: JLA Investments, LLC

REQUEST: Proposed change of zoning district classification from the R-2 Single Family Residential District to the R-3 Multiple Family Residential District.

CASE HISTORY: The subject property is a legal non-conforming 9,000 sq. ft. lot in the R-2 zoning district.

LOCATION: 401 W. Mike St., Andover, KS

SITE SIZE: 90’X100’=9,000 sq. ft.

PROPOSED USE: Demolish the existing single family residential structure and construct a two-family dwelling.

ADJACENT ZONING AND EXISTING LAND USE:

North: R-2 Single-Family Residential District
 South: R-2 Single-Family Residential District
 East: R-2 Single-Family Residential District
 West: R-2 Single-Family Residential District

Background Information:

* Note: This report is to assist the Planning Commission to determine their findings from the evidence presented at the hearing so as to base their rezoning recommendation on the required 17 factors found in Section 11-100 H of the Zoning Regulations. The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Planning Commission’s considered opinion. Sample motions are provided to ensure the accuracy of the motion and facilitate the summary of the hearing for the minutes. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator.

(As per Article 11, Section 100 of the City of Andover Zoning Regulation – 1993)

H. Amendments to Change Zoning Districts. When a proposed amendment would result in a change of the zoning district classification of any specific property, the report of the Planning Commission, accompanied by a summary of the hearing, shall contain statements as to (1) the present and proposed district classifications, (2) the applicant’s reasons for seeking such reclassification, and (3) a statement

of the factors where relevant upon which the recommendation of the Commission is based using the following factors as guidelines:

FACTORS AND FINDINGS:

1. What are the existing uses and their character and condition on the subject property and in the surrounding neighborhood? (See Adjacent Existing Land Uses on page 1 of 4)

YES NO

X STAFF:
PLANNING:
COUNCIL:

2. What is the current zoning of the subject property and that of the surrounding neighborhood in relationship to the requested change? (See Adjacent Zoning on page 1 of 4)

YES NO

X STAFF:
PLANNING:
COUNCIL:

3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?

YES NO

X STAFF:
X PLANNING:
COUNCIL:

4. Would the request correct an error in the application of these regulations?

YES NO

X STAFF:
X PLANNING:
COUNCIL:

5. Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?

YES NO

X STAFF: Properties in the area are being upgraded and rehabilitated with many of the properties being changed to higher density multifamily uses.
X PLANNING:
COUNCIL:

6. Do adequate sewage disposal and water supply and all other necessary public facilities including street access exist or can they be provided to serve the uses that would be permitted on the subject property?

YES NO

X STAFF: The public utilities are in place and adequate.
X PLANNING:
COUNCIL:

7. Would the subject property need to be platted or replatted in lieu of dedications made for rights-of-way, easements access control or building setback lines?

YES NO

X STAFF: Dedication of the required 30' half street right of way in lieu of platting.
X PLANNING:
COUNCIL:

8. Would a screening plan be necessary for existing and/or potential uses of the subject property?

YES NO

X STAFF:
X PLANNING:
COUNCIL:

9. Are suitable vacant lands or buildings available or not available for development that currently has the same zoning as is requested?

YES NO

X STAFF: None are available in the area.
X PLANNING:
COUNCIL:

10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?

YES NO

STAFF: N.A.
PLANNING: N.A.
COUNCIL:

11. Is the subject property suitable for the current zoning to which it has been restricted?

YES NO

X STAFF:
X PLANNING:
COUNCIL:

12. To what extent would removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?

YES NO

STAFF: No detriment is perceived.

PLANNING: Same.

COUNCIL:

13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?

YES NO

X STAFF:

X PLANNING:

COUNCIL:

14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?

YES NO

X STAFF: The Comprehensive Plan supports a greater variety of housing choices.

X PLANNING:

COUNCIL:

15. What is the nature of the support or opposition to the request?

YES NO

STAFF: None at this time.

PLANNING: Same.

COUNCIL:

16. Are there any informational materials or recommendations available from knowledgeable persons or experts which would be helpful in its evaluation?

YES NO

X STAFF: Approval of the requested change subject to dedication of the required 30' half street right of way in lieu of platting.

X PLANNING:

COUNCIL:

17. By comparison, does the relative gain to the public health, safety and general welfare outweigh the loss in property value or the hardship imposed upon the applicant by not approving the request?

YES NO

STAFF:

X PLANNING:

COUNCIL:

*Having considered the evidence at the hearing and the factors to evaluate the (rezoning) application, I William Schnauber, move that we recommend to the Governing Body that Case No. Z-2018-01 be **modified & approved** to change the zoning district classification from the R-2 Single-Family Residential District to the R-3 Multiple-Family Residential District based on the findings 2,5,13,14, & 15 of the Planning Commission as recorded in the summary of this hearing. And that the following modifications be attached to this recommendation, **replatting and dedication of 30' half street right of way to the south side of Mike Street**. Motion seconded by Lynn Heath. Motion carried 6/0.*

Closing remarks by Chairman Lindebak:

This case will be forwarded to the Governing Body with the Planning Commission’s recommendation and a written summary of the hearing for consideration at their regular meeting of May 8, 2018 which begins at 7:00 p.m. in the Council’s meeting room in City Hall. (The video recording of this hearing will be retained for at least 60 days after the final determination is completed on this case.)

Protest petitions against the change in zoning and/or special use, but not directed at the Planning Commission’s recommendations as such, may be received by the City Clerk for 14 days after tonight, i.e. May 1, 2018 at 4:30 p.m. If there are properly signed and notarized protest petitions with accurate legal descriptions from the (owners of record of 20% or more of any real property proposed to be rezoned) (or) (owners of record of 20% or more of the total real property within the official area of notification) both inside and outside the City not counting public street rights-of-way, then such a change shall not be passed except by a three-fourths vote of all the members of the Governing Body. (See Section 11-103.)

Recess the Planning Commission and Convene the Board of Zoning Appeals

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

- 6. [BZA-V-2018-02- Public hearing on an application filed by JLA Investments, LLC requesting a variance from the required 10,000 square foot minimum lot area of 2,200 square foot to allow construction of a two-family dwelling on a 7,800 square foot lot located at 401 W. Mike St.](#) 00:38:25

Alex Zarchan asked for clarification of the reduction from 9,000 sq. ft. to 7,800 sq. ft.

Chairman Lindebak stated that with the platting requirement that was approved the applicant will be dedicating part of the property to the City of Andover because it was not previously platted

with proper street right of way for the current standards. After this dedication the lot size will be decreased to 7,800 sq. ft. Because the lot would be smaller than what is allowed a variance is required.

Les Mangus noted that even at 7,800 sq.ft. this would not be the smallest lot in the neighborhood.

ANDOVER BOARD OF ZONING APPEALS

Agenda Item No. 6

April 17, 2018

VARIANCE REPORT *

CASE NUMBER: BZA-V-2018-02

APPLICANT/AGENT: JLA Investments, LLC

REQUEST: JLA Investments, LLC, 602 W. Edgemont Ct., Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance of 2200 square feet from the required 10,000 square foot minimum lot area for a two-family dwelling in the R-3 Multiple Family Residential District

CASE HISTORY: The subject property is a legal non-conforming 9,000 sq. ft. lot

LOCATION: Legal description: Beginning at the Northwest corner of the West Half of Lot 25, HOGES SECOND SUBDIVISION, in the East Half of the Northeast Quarter of Section 18, Township 27 South, Range 3 East of the 6th PM; thence South 100 feet, thence East 90 feet, thence North 100 feet, thence West 90 feet to the point of beginning, Butler County, Kansas.

GENERAL LOCATION: 401 W. Mike St., Andover, Kansas.

SITE SIZE: The existing 9,000 sq. ft. lot would be reduced to approximately 7,800 sq. ft. with the required dedication of the 30' half street right of way.

ADJACENT ZONING AND EXISTING LAND USE:

North: R-3 Multiple Family Residential District, multiple-family dwelling homes

South: R-2 Single-Family Residential District, single-family dwelling homes

East: R-2 Single-Family Residential District, single-family dwelling homes

West: R-2 Single-Family Residential District, single-family dwelling homes

*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 demolish the existing single family dwelling and construct a two-family dwelling

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 existing non-conforming 9,000 square foot lot would be further reduced in area because of the required dedication of a 30' half street right of way.**
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 existing non-conforming 9,000 square foot lot would be further reduced in area because of the required dedication of a 30' half street right of way.**
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 many properties in the area are legal non-conforming lots.**
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 adequate setbacks can be achieved.**

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 existing non-conforming 9,000 square foot lot would be further reduced in area because of the required dedication of a 30' half street right of way.**

2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **because adequate setbacks can be achieved.**

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 existing non-conforming 9,000 square foot lot would be further reduced in area because of the required dedication of a 30' half street right of way.**

4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, **because adequate setbacks can be achieved.**

5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **because adequate setbacks can be achieved.**

Date Granted: April 17, 2018

Valid Until (date): October 14, 2018

(180 days Sec. 10-107G)

/s/

Brian Lindebak, Chairman

/s/

Gary Israel, Secretary

Certified to the Zoning Administrator on this date of: April 17, 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 Lynn Heath move that the Chairperson be authorized to sign a Resolution granting the variance for Case No. BZA-V-2018-02 as requested. Motion was seconded by Gary Israel. Motion carried 6/0.

Closing remarks by Chairman Lindebak:

A Resolution will be prepared and made available to the applicant by April 30, 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 Lynn Heath, seconded by William Schnauber to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. Motion carried 6/0.

9. Member items. 00:51:42

Chairman Lindebak commented on the announcements of the upcoming summer concerts.

10. Adjourn. 00:52:22

A motion was made by Gary Israel, seconded by Alex Zarchan, to adjourn at 7:52 p.m. Motion carried 6/0.

Respectfully Submitted by

Dayna DuFriend
Administrative Assistant

Approved this 15th day of May, 2018 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.