



**PLANNING & ZONING**  
1609 E. CENTRAL AVE.  
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**PLANNING COMMISSION  
& BOARD OF ZONING APPEALS AGENDA**  
**JULY 20, 2021 | 7:00pm**  
ANDOVER CITY HALL | 1609 E. CENTRAL AVE.

**1. CALL TO ORDER**

Chairperson Erik Pedersen called the meeting to order at 7:00 pm.

**2. ROLL CALL**

Commissioners in attendance: Chairperson Erik Pedersen, Kirsten Barnes, Marla Canfield, and Vance Garwood. Secretary Gary Israel and members Brian Davidson and Tim Hendricks were absent. Staff in attendance: Lance Onstott, Assistant City Administrator and Justin Constantino, Assistant Director of Community Development. A/V services provided by WAV Services.

**3. APPROVAL OF THE MINUTES OF THE JUNE 15, 2021 MEETING**

*Vance Garwood made a motion to approve the minutes of the June 15, 2021 meeting as presented. Motion seconded by Kirsten Barnes. Motion carried 4/0.*

**4. COMMUNICATIONS**

**A. COMMITTEE & STAFF REPORT**

Mr. Constantino stated that the report contains the minutes of the July 13<sup>th</sup> Subdivision Committee meeting in which the committee approved the Weather Stone Split Addition Final Plat with conditions.

**B. POTENTIAL RESIDENTIAL DEVELOPMENT REPORT**

Mr. Constantino stated that the City of Andover has issued 34 single-family building permits in 2021, an increase of six since the last Planning Commission meeting, all primarily within the Cornerstone development.

**5. AGENDA**

*Erik Pedersen made a motion to recess the Planning Commission and convene the Board of Zoning Appeals. Motion seconded by Kirsten Barnes. Motion carried 4/0.*

**5.1 BZA-V-2021-07 – PUBLIC HEARING ON AN APPLICATION FOR A VARIANCE FOR AN ACCESSORY STRUCTURE ON THE PROPERTY GENERALLY LOCATED AT 516 N. ANGLE LANE, ANDOVER, KANSAS**

Chairperson Pedersen opened the public hearing at 7:04 pm.

Mr. Constantino stated that at the June 15<sup>th</sup> Board of Zoning Appeals meeting, the applicant received a variance of 900 square feet from the 300 square foot maximum floor area requirement of an accessory structure permitted by the Unified Development Manual for the purpose of constructing a 1,200 square foot accessory structure. Mr. Constantino stated that the applicant is seeking a second variance of 4 feet, as the proposed accessory structure does not meet the requirement that an accessory building must be located at least 10 feet away from any principal structure. Mr. Constantino stated that the proposed location of the accessory structure is six feet from the principal structure.

Chairperson Pedersen closed the public hearing at 7:09 pm.

**DOES THE EVIDENCE DEMONSTRATE THAT:**

<p>1. The physical surroundings, shape or topography of the property would result in a practical difficulty, as distinguished from a mere inconvenience, for the owner, lessee or occupant.</p>	<p>STAFF    The subject property is an unusually shaped 1/3 acre lot on an angled street corner. The unusual shape creates a challenge for the owner to locate an accessory structure, but with variances can be achieved.</p> <p>BZA        Concur.</p>
<p>2. Granting the variance will result in material detriment or injury to other property or improvements in the neighborhood.</p>	<p>STAFF    No detriment and/or injury to other property or improvements is anticipated.</p> <p>BZA        Concur.</p>
<p>3. Granting the variance will result in an inadequate supply of light or air to adjacent property, substantially increase traffic congestion, increased fire risk, or substantially diminished property values in the neighborhood.</p>	<p>STAFF    The subject property is an unusually shaped 1/3 acre lot on an angled street corner. The unusual shape creates a challenge for the owner to locate an accessory, but with variances could be achieved. Adequate separation from nearby properties is possible and no additional traffic is expected as the intended use is personal storage.</p> <p>BZA        Concur.</p>
<p>4. The request for a variance is not based exclusively on a desire of the owner, lessee, occupant or applicant to make more money out of the property.</p>	<p>STAFF    The applicant has declared the intended use to be personal storage as an accessory residential use.</p> <p>BZA        Concur.</p>

**SPECIFIC CONDITIONS TO BE MET:**

<p>1. The requested variance arises from a condition unique to the property in question, which is not ordinarily found in the same zoning district, and which was not created by any action of the property owner or the applicant.</p>	<p>STAFF    The subject property is an unusually shaped 1/3 acre lot on an angled street corner. The unusual shape creates a challenge for the owner to locate an accessory structure.</p> <p>BZA        Concur.</p>
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<p>2. Strict application of the provisions of these Zoning Regulations would result in unnecessary hardship for the owner, lessee or occupant of the land or structures.</p> <p>STAFF</p> <p>BZA</p>	<p>The intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 0.33 acre, which provides a substantial area for accessory structures. The unusual shape of the lot creates separation from nearby residences.</p> <p>Concur.</p>
<p>3. Granting the variance will not adversely affect the rights of adjacent property owners or residents.</p> <p>STAFF</p> <p>BZA</p>	<p>The intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 0.33 acre, which provides a substantial area for accessory structures while providing adequate separation from nearby residences.</p> <p>Concur.</p>
<p>4. The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.</p> <p>STAFF</p> <p>BZA</p>	<p>The subject property is an unusually shaped 1/3 acre lot on an angled street corner. The unusual shape creates a challenge for the owner to locate an accessory, but with variances could be achieved. Adequate separation from nearby properties is possible and no additional traffic is expected as the intended use is personal storage.</p> <p>Concur.</p>
<p>5. The requested variance will not be opposed to the general spirit and intent of these Zoning Regulations.</p> <p>STAFF</p> <p>BZA</p>	<p>The subject property is an unusually shaped 1/3 acre lot on an angled street corner. The unusual shape creates a challenge for the owner to locate an accessory, but with variances could be achieved. Adequate separation from nearby properties is possible and no additional traffic is expected as the intended use is personal storage.</p> <p>Concur.</p>

*Having considered the evidence at the hearing and determined that the findings of fact have been found that support all five conditions set out in Subsection 11-106.B.2 of the Zoning Regulations and K.S.A. 12-759(e), Erik Pedersen made a motion to authorize the Chairperson to sign a resolution granting the variance for case BZA-V-2021-07. Motion seconded by Vance Garwood. Motion carried 4/0.*

**5.2 BZA-V-2021-08 – PUBLIC HEARING ON AN APPLICATION FOR A VARIANCE FOR AN ACCESSORY STRUCTURE ON THE PROPERTY GENERALLY LOCATED AT 313 PRAIRIE POINT COURT, ANDOVER, KANSAS**

Chairperson Pedersen opened the public hearing at 7:17 pm.

Mr. Constantino stated that the subject property is located in Phase 3A of the Flint Hills National Planned Unit Development and the applicant is seeking a variance of 420 square feet from the 300 square foot maximum

floor area of an accessory structure permitted by the UDM for the purpose of constructing a 720 square foot accessory structure on the property.

Alfredo de la Torre, the applicant and property owner, stated that he intends to construct a pool house on the property and that the accessory structure has white brick and will match the primary structure.

Chairperson Pedersen closed the public hearing at 7:21 pm.

**DOES THE EVIDENCE DEMONSTRATE THAT:**

1. The physical surroundings, shape or topography of the property would result in a practical difficulty, as distinguished from a mere inconvenience, for the owner, lessee or occupant.	STAFF	The subject property is two conforming lots combined to create a 0.7-acre parcel. The unusually large parcel provides adequate space while allowing adequate separation from nearby residences.
	BZA	Concur.
2. Granting the variance will result in material detriment or injury to other property or improvements in the neighborhood.	STAFF	No detriment and/or injury to other property or improvements is anticipated.
	BZA	Concur.
3. Granting the variance will result in an inadequate supply of light or air to adjacent property, substantially increase traffic congestion, increased fire risk, or substantially diminished property values in the neighborhood.	STAFF	The subject property is two conforming lots combined to create a 0.7-acre parcel. The unusually large parcel provides adequate space while allowing adequate separation from nearby residences. No adverse effects are anticipated.
	BZA	Concur.
4. The request for a variance is not based exclusively on a desire of the owner, lessee, occupant or applicant to make more money out of the property.	STAFF	The applicant has declared the intended use to be a pool house as an accessory residential use.
	BZA	Concur.

**SPECIFIC CONDITIONS TO BE MET:**

<p>1. The requested variance arises from a condition unique to the property in question, which is not ordinarily found in the same zoning district, and which was not created by any action of the property owner or the applicant.</p>	<p>STAFF The subject property is two conforming lots combined to create a 0.7-acre parcel. The unusually large parcel provides adequate space while allowing adequate separation from nearby residences.</p>
<p>BZA Concur.</p>	
<p>2. Strict application of the provisions of these Zoning Regulations would result in unnecessary hardship for the owner, lessee or occupant of the land or structures.</p>	<p>STAFF The intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 0.7-acres, which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage of 35%.</p>
<p>BZA Concur.</p>	
<p>3. Granting the variance will not adversely affect the rights of adjacent property owners or residents.</p>	<p>STAFF The intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 0.7-acres, which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage of 35% and providing adequate separation from adjacent neighbors.</p>
<p>BZA Concur.</p>	
<p>4. The requested variance will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.</p>	<p>STAFF The subject property is two conforming lots combined to create a 0.7-acre parcel. The unusually large parcel provides adequate space while allowing adequate separation from nearby residences.</p>
<p>BZA Concur.</p>	
<p>5. The requested variance will not be opposed to the general spirit and intent of these Zoning Regulations.</p>	<p>STAFF The intent of lot coverage maximum is to promote the health, safety and general welfare of residents. The subject property is 0.7-acres, which provides a substantial area for accessory structures while remaining below the zoning district's maximum allowable lot coverage of 35% and providing adequate separation from adjacent neighbors.</p>
<p>BZA Concur.</p>	

*Having considered the evidence at the hearing and determined that the findings of fact have been found that support all five conditions set out in Subsection 11-106.B.2 of the Zoning Regulations and K.S.A. 12-759(e), Kirsten Barnes made a motion to authorize the Chairperson to sign a resolution granting the variance for case BZA-V-2021-07. Motion seconded by Erik Pedersen. Motion carried 4/0.*

*Erik Pedersen made a motion to adjourn the Board of Zoning Appeals and reconvene the Planning Commission. Motion seconded by Kirsten Barnes. Motion carried 4/0.*

### **5.3 FINAL PLAT – REVIEW AND APPROVAL OF THE WEATHER STONE SPLIT ADDITION REPLAT GENERALLY LOCATED EAST OF N. ANDOVER ROAD AND SOUTH OF CRESCENT LAKES DRIVE, ANDOVER, KANSAS**

Mr. Constantino stated that the subject property is generally located east of N. Andover Road and south of Crescent Lakes Drive in the Weatherstone Place shopping center. Mr. Constantino stated that the proposed Weather Stone Split Addition is a replat of Lot 1, Block 1 of the Wendt First Addition into two lots around two existing buildings. Mr. Constantino stated that at their July 13<sup>th</sup> meeting, the Subdivision Committee recommended that the Planning Commission approve the final plat with the condition that the applicant revise the platter's text to include language addressing cross access between the proposed Weather Stone Split Addition and existing Lot 2, Block 1 of the Wendt First Addition and that the County Clerk name be revised under the Transfer Record signature block. Mr. Constantino stated that the applicant has submitted a revised final plat reflecting the requested changes and has be updated in the agenda packet.

Mr. Garwood confirmed that the Subdivision Committee reviewed the documents and that the changes appear to have been made.

Donn Armstrong of Armstrong Surveying, representing the applicant, stated that the cross lot access language covers the entire parking lot area and that the subject property is being replatting because the applicant desires to sell one of the two buildings. Mr. Armstrong stated that the contract discussions are ongoing and there is some discussion between the buyer and seller whether the subdivision is a 50/50 split of the property. Mr. Armstrong stated that the proposed Lot 1 is currently 48% and Lot 2 is currently 52%, so any changes would amount to adjusting the south line of Lot 1 approximately 12 feet south but that the change would not affect the cross lot access.

Mr. Garwood asked if the lot shift was likely to happen or only a possibility. Mr. Armstrong stated that it was a possibility.

Mr. Pedersen asked how that would impact the Planning Commission's decision. Mr. Constantino stated that the proposed replat could be approved by the Planning Commission as presented and should the applicant pursue a revision, it would be considered a boundary shift that would be executed by Butler County.

*Vance Garwood made a motion to approve the Weather Stone Split Addition Final Plat and recommend that the Governing Body accept the dedication of land for public purposes. Motion seconded by Kirsten Barnes. Motion carried 4/0.*

### **5.4 ZA-2021-01 – REVIEW OF AND RECOMMENDATION ON AN AMENDMENT TO THE UNIFIED DEVELOPMENT MANUAL TO INCLUDE LANGUAGE ON THE LOCATION OF SIGNS IN THE CITY OF ANDOVER**

Chairperson Pedersen opened the public hearing at 7:32 pm.

Mr. Constantino stated that the UDM was first adopted by the City of Andover in 2018 and effective on January 1, 2019, and that the text of the UDM is reviewed annually and updated as necessary. Mr. Constantino stated that staff is requesting that the Planning Commission consider a recommendation that the City Council adopt

changes to the Zoning Regulations within UDM for the purpose of clarifying the permitted location of signs within the City limits. Mr. Constantino stated that a public hearing is required to be held by the Planning Commission and that the proposed changes include the addition of language added that states that signs "must be located outside of the public right-of-way, outside of any vision triangle, and must not obstruct sidewalks, except for during the 45 day period prior to any election and the 2 day period following the election."

Mr. Pedersen asked if there was any particular incident that prompted the text change. Mr. Constantino stated that no such incident occurred but that staff regularly fields questions about the location of signage during election season.

Chairperson Pedersen closed the public hearing at 7:37 pm.

*Erik Pedersen made a motion to recommend that the City Council adopt zoning amendment ZA-2021-01 amending Section 110, Article 8, Part 2 of the Unified Development Manual, Zoning Regulations as adopted by Ordinance No. 1693 pertaining to sign requirements. Motion seconded by Marla Canfield. Motion carried 4/0.*

## **5.5 2022-2026 CAPITAL IMPROVEMENT PROGRAM UPDATE**

Mr. Onstott stated that the CIP is a blueprint for planning the community's capital expenditures, and is defined as any purchase in which the dollar amount is \$5,000 or greater and the item has a useful life of three or more years. Mr. Onstott stated that City uses a 5-year program window and that the CIP helps staff project our future budget and links our planning and budgeting systems. Mr. Onstott stated that the City is required to have an adopted comprehensive development plan and that every proposed facility or project must be in conformance with the City's comprehensive plan and that the Planning Commission is tasked with ensuring that the CIP complies.

Mr. Onstott presented an overview of the 5-year CIP with the Planning Commission.

Mr. Pedersen asked if the City plays a role in the US Highway 54 expansion project. Mr. Onstott said yes, the planning department actively seeks right-of-way along the US 54/400 corridor and the City will put aside money over the next five years to acquire right-of-way where necessary. Mr. Onstott stated that there is also an engineering cost for the future construction of the highway and that the City will be working closely with the Kansas Department of Transportation (KDOT) to refresh our corridor study.

Mr. Garwood asked how much the extra TIF is for The Heritage. Mr. Onstott stated that there are two incentives in the TIF district and that the property tax revenue pays for the improvements within the district and a community improvement district sales tax, which is 2%.

Mr. Garwood asked if the bonds for the 13<sup>th</sup> Street park would be worked on after the CIP is approved by the City Council. Mr. Onstott said yes, assuming the funding sources are solidified.

Mr. Pedersen asked about an approximate timeline for right-of-way acquisitions along US Highway 54. Mr. Onstott stated that the process will begin as soon as possible and that the City has already acquired significant right-of-way in the area.

Ms. Canfield asked how much farther east would the City be acquiring right-of-way. Mr. Onstott said that the City limits end at Prairie Creek Road and that the City does not have any plans to annex further east at this time.

*Vance Garwood made a motion to approve the 2022-2026 Capital Improvement Plan. Motion seconded by Kirsten Barnes. Motion carried 4/0.*

**6. MEMBER ITEMS**

None.

**7. ADJOURN**

*Erik Pedersen made a motion to adjourn the meeting. Motion seconded by Marla Canfield. Motion carried 4/0. The meeting was adjourned at 8:08 pm.*

Respectfully submitted by:

Justin Constantino, AICP  
Assistant Director of Community Development

Approved on the 17th day of August 2021 by the City of Andover Planning Commission.