

ANDOVER CITY PLANNING COMMISSION /  
BOARD OF ZONING APPEALS

November 20, 2007

Minutes

The Andover City Planning Commission met for a regular meeting on Tuesday, November 20, 2007 909 N. Andover Road in the Andover Civic Center. Chairman Quentin Coon called the meeting to order at 7:00 p.m. Commission members present were John Cromwell, Lynn Heath, Jan Cox, Dan Beck, Byron Stout, and Jeff Syrios. Others in attendance were City Administrator Jeff Bridges, Director of Public Works and Community Development Les Mangus, and Administrative Secretary Joan Yunker. Member absent City Council Liaison Member J.R. Jessen.

Call to order

**Review the minutes of the regular October 16, 2007 Planning Commission meeting.**

Review the October 16, 2007 minutes

*Lynn Heath made a motion to approve the minutes as presented. Jeff Syrios seconded the motion. Motion carried 4/0, and Byron Stout and Quentin Coon abstentions.*

**Communications:**

Communications

**Review the City Council minutes from the October 9, 2007 and October 30, 2007 meetings.**

Chairman Coon had a question for Jeff Bridges, the comment from Council Member Roberts that stated the Council needs to make a stand somewhere regarding the requests for vacation, could you explain this comment. Jeff Bridges responded the issue we are having is repetitive requests from well drillers. They are drilling in the easements, rather than to remove the well, they are asking for a release of the easement or a vacation of the easement to cure the inaccuracy of the drill. Chairman Coon responded is there any action that we need to take here at this committee? Les Mangus responded, the engineers need to do a better job of only platting easements that they need. It has become common practice just to plat a 25' easement on either side of the street whether they need it or not. Which becomes kind of encumbrance to the homeowner when they want to do something in their front yard.

Lynn Heath asked about the comment made by Council Member Julie Reams on page 8 of 9 wanting the Planning Commission to be aware that some developments are not fulfilling promises made to home buyers. Les Mangus responded that those comments are out of context, they were more real estate purchase promises and covenants than platting issues. Lynn Heath responded that this does not apply to this committee. Les Mangus responded yes.

The minutes were received and filed.

**Review the Subdivision Committee minutes from the November 13, 2007 meeting.** The minutes were received and filed.

**Review the Site Plan Review Committee minutes from the October 2, 2007 meeting.** The minutes were received and filed.

**Review the Potential Residential Development Lot Report.**

John Cromwell asked Les, on Montana Hills 2<sup>nd</sup> Addition the permits Issued, is that when the permits are issued when the starting of construction begins. Les Mangus responded yes. John Cromwell stated that a 1/3<sup>rd</sup> of those 33 have been started. Les Mangus responded the report for some reason is not picking that up. It shows 36 percent have building permits, but it is not showing in the permits issued. I will have this corrected.

**Approval of Planning Commission & Board of Zoning Appeal Meeting & Closing Date Schedule for 2008.**

Lynn Heath made a motion to accept the calendar as published. Jeff Syrios seconded the motion. Motion carried 6/0.

**Z-2007-09: Public hearing on the proposed change of zoning district classification from R-1 Single-Family Residential District to the B-3 Central Shopping District at 565 S. Andover Rd.**

Z-2007-09: Public hearing from R-1 Single-Family Residential District to the B-3 Central Shopping District at 565 S. Andover Rd.

From Les Mangus Memo: This application arises for the contract purchaser's desire to rezone the subject property the same as his adjacent property in the River subdivision. The Comprehensive plan recognizes the increasing demand to rezone properties adjacent to Andover Rd. by allowing case by case review. The subject property is surrounded by commercial properties on the south and east. Staff subject the proposal as applied for.

Chairman Coon opened the podium to the applicant.

Kevin Dreiling, 213 Chaparrel Court, Andover, Kansas, representing the applicant Hal McCoy. The applicant owns the property to the north and northwest, along either side of Cloud Avenue up to Highway 54. The applicant had an opportunity to purchase this property and would like it to be rezoned to be the same zoning as the property just adjacent to the north. That is the applicant request.

Chairman Coon asked if there is anyone from the public that would want to make a comment. No response, the public hearing is closed.

ANDOVER CITY PLANNING COMMISSION

Agenda Item No. 5

REZONING REPORT \*

- CASE NUMBER: Z-2007-09
- APPLICANT/AGENT: Gerard Henriques/Hal McCoy & Kevin Dreiling
- REQUEST: Proposed change of zoning district classification from the R-1 Single Family Residential District to the B-3 Central Shopping District.
- CASE HISTORY: Existing single family residence on Andover Rd. adjacent to the River commercial subdivision.
- LOCATION: One lot south of Cloud Ave. on the west side of Andover Rd.
- SITE SIZE: 135' X 250'=33,750s.f.
- PROPOSED USE: Commercial development

**ADJACENT ZONING AND EXISTING LAND USE:**

- North: B-3 The River Addition undeveloped commercial subdivision
- South: R-1 Existing Single Family Residences
- East: B-4 Marketplace East Addition undeveloped subdivision/ future Dillon’s site
- West: R-1 Existing Single Family Residences

**Background Information:** Existing platted single family residence

\* 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 is the character of the subject property and in the surrounding neighborhood in relation to existing uses and their condition?
 

YES	NO	
X		STAFF: See adjacent zoning and existing land use above
X		PLANNING:
		COUNCIL:
  
2. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the requested zoning change?
 

YES	NO	
X		STAFF: See adjacent zoning and existing land use above
X		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: The subject property is contiguous to commercial property with City public utilities available on a five-lane arterial street a short distance from US-54.  
 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: Public water, sewer, and streets are available to the site.  
 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: The property is currently platted.  
 X PLANNING:  
 COUNCIL:
8. Would a screening plan be necessary for existing and/or potential uses of the subject property?
- YES NO  
 X STAFF: Screening and site plan review are required.  
 X PLANNING:  
 COUNCIL:
9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?
- YES NO  
 X STAFF: Undeveloped commercial property is 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  
 X STAFF: More services and employment opportunities could be provided.  
 X PLANNING:  
 COUNCIL:

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

YES NO  
 X STAFF: The adjacent commercial development and Andover Rd. traffic make the property less desirable for residential use.  
 X PLANNING: Comment that the staff made is also true.  
 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  
 X STAFF: The additional commercial uses allowed by the proposed zoning would slightly increase traffic, noise, light, etc.  
 X PLANNING: Screening.  
 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 indicates the subject property could be reviewed on a case by case basis for commercial zoning.  
 X PLANNING:  
 COUNCIL:

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

YES NO  
 STAFF: None at this time  
 PLANNING: None at this time.  
 COUNCIL:

16. Are there any information or are there recommendations on this request available from knowledgeable persons which would be helpful in its evaluation?

YES NO

X STAFF: Approval as applied for  
 X PLANNING:  
 COUNCIL:

17. If the request was not approved, would this result in a relative gain to the public health, safety and general welfare which would outweigh the loss in property value to or the hardship experienced by, the applicant?

YES NO  
 X STAFF: No detriment to the public is perceived.  
 X PLANNING:  
 COUNCIL:

Chairman Coon asked any discussion.

Byron Stout asked Mr. Dreiling, what is the intent for B-3 and not B-2?

Kevin Dreiling responded, the reason for B-3 is the applicant owns B-3 adjacent to this property. It will allow a larger parcel to be developed over time, there is no intended use today, it is for a long term hold and to offer consistency with the adjacent land, which the applicant also owns.

Byron Stout stated, would the applicant consider a B-2?

Kevin Dreiling responded, the applicant would prefer B-3, the applicant may consider B-2, I don't know if he would precede.

Byron Stout stated, Thank you Kevin Dreiling, Mr. Chairman the zoning books has B-2 as Neighborhood Business District and B-3 Central Shopping District.

Les Mangus responded, B-2 is intended to be businesses that would service a neighborhood more than a community.

Dan Beck asked Les what is the traffic flow expectation?

Les Mangus responded, we are projecting a 4% growth per year for the next 20 years, which in 20 years will be double the existing 15,000 cars a day.

John Cromwell asked, is the road going to expand to 4 lane to Harry?

Les Mangus responded, it will be 5 lanes.

John Cromwell stated, if it is zoned as a B-2 now, it could be zoned a B-3 at a later time.

Chairman Coon opened public hearing for a comment from the public.

Wayne Longnecker, 601 S. Andover Road, Andover, Kansas, I have lived there for 30 years, the noise is not going to get any worst than what it is now. I have no opposition to this property being zoned as B-3.

Chairman Coon closed the public hearing, and asked do we have a motion?

Lynn Heath made a motion to approve the zoning change district classification from R-1 Single-Family Residential District to B-3 Central Shopping District based on the supporting comments: 1, 2, 5, 6, 10, 14, & 15 from the rezoning report. Byron Stout seconded the motion. Motion carried 6/0.

**Recess the Planning Commission and Convene the Board of Zoning Appeals.**

Jeff Syrios made a motion to recess the Planning Commission and convene the Board of Zoning Appeals. Byron Stout seconded the motion. Motion carried 6/0.

**BZA-A-2007-01: Public hearing on an appeal of the Site Plan Review Committee requirement to provide one foot candle of illumination on a parking area on property zoned as the R-4 Multiple-Family Residential District in the 300 block of East Central Ave.**

BZA-A-2007-01:  
Public Hearing on  
an appeal of the  
Site Plan Review  
Committee, R-4  
Multiple-Family  
Residential District  
in the 300 block of  
East Central Ave.

From Les Mangus Memo: This appeal arises from the applicant’s desire to get relief from the Site Plan Review Committee’s decision to require the lighting of all parking areas to a minimum of one foot candle at the Fountains Extended Care Facility. The applicant contends that the project is residential in nature, and should not require lighting like a commercial venture. Staff and the Site Plan Review Committee stand by the Site Plan Review Criteria requirement for lightning of any parking area on a project that must be submitted for site plan approval. The facility has 15 employees on duty at any given time, 24 hours a day, 7 days a week, and frequent visitors beyond daylight hours.

Chairman Coon asked Les Mangus do you have any comments before Mr. Bush makes his presentation.

Les Mangus responded, Some of you have sat in this position before on an appeal from the Site Plan Review Committee requirements, what your job tonight is to establish whether the conditions that were imposed are reasonable or not in the given situation. I have provided you with the quote from the regulations as to the requirement for the lightning, the requirement for Site Plan Review and Mr. Bush is here to debate whether that is reasonable or not.

Dennis Bush, 726 S. 159<sup>th</sup> Street, representing Lemons & Lehr, LLC, Dr. Lemons, Dr. Lehr and myself own the Fountains which is adjacent to this property. It is our intent to purchase the property from Lemons & Lehr, LLC in order to build an extended care nursing home facility on this property. When we went thru the process of the Site Plan Review Committee the illumination requirement is 1 foot candle in the parking lot. I am asking for you to eliminate that restriction in our case, just because it will be unfair burden for those residents who live in the extended care facility. With the required lightning, I will have to make sure that I position the lightning in such a way that it does not shine on my neighbors. Because they are residential, we are also residential, and we had the same requirement in the Fountains which is the assisted living next door. They have 1 foot candles in the parking lot and I can tell you that I have had a significant amount of complaints from my residents (88 individuals) in the facility. Wichita does not even have a regulation for illumination requirement for a facility like ours, because it is considered residential. This is more of a problem for us to have

lights that are shining in the windows of the nursing home than assisted living because the people in assisted living are ambulatory, they can pull their shades. Many of those in the extended care will not be able to pull their shades if it is bothering them.

Chairman Coon stated you do not want to put in 1 foot candle, is that correct.

Mr. Bush responded, on three sides I have commercial, so I will have extensive amount of lighting. I do not want to put lighting on the residential side.

Chairman Coon stated do you have a circle drive.

Mr. Bush responded yes, there is parking all the way around, and the Fountains have 1 foot candles which were required by the Site Plan Review. I feel that there is plenty of lighting coming from the 3 different commercial properties in that area which will probably meet at least ½ foot candle.

Jan Cox asked, will there be an employee door to enter into the building.

Mr. Bush responded, this facility has four separate units, there are multiple entrances into the facility itself.

Chairman Coon asked Les Mangus, do you have any idea what the city hall parking lot is?

Les Mangus responded, 1 foot candle.

Chairman Coon stated Mr. Bush your main concern is the residents that will be living at the assisted living.

Mr. Bush responded yes.

Lynn Heath asked Les, your main concern is the safety of the employees, and visitors entering the facility.

Les Mangus responded yes, with 15 employees on a shift at one time, at shift changes making the total of 30 employees at the facility. The parking lot has 43 parking spaces and 3 of those are handicap parking spaces.

Byron Stout stated we must not forget about the visitors that will be at the facility. The parking behind the shopping center would be more of a potential area of my concern for safety issues.

Lynn Heath stated my main concern is the safety of any individuals entering the facility.

Chairman Coon asked do we have any more questions for Mr. Bush or any other comments.

Dan Beck asked Mr. Bush is their anyway at all to have the employees enter the facility in the front?

Mr. Bush responded yes, it would preferably be the common area between the Fountains Assisted Living and the nursing home, which is also the least amount of residential rooms.



Chairman Coon stated that would be the east line.

Mr. Bush responded yes.

Byron Stout asked is their any lights on the back of the strip mall?

Les Mangus responded, only small wall packs above the doors on the back side of the shopping center, there are no pole fixtures.

Chairman Coon asked any one else from the public that would like to comment on this. No response. The public hearing will be closed.

Jeff Syrios stated just so that I understand the question that we have to answer is, the application of the regulation is law reasonable or is it that the exception exists or that the law itself is unreasonable.

Les Mangus responded that the application of the regulation or the regulation is unreasonable.

Lynn Heath stated how about 1foot candle in the front of the facility and ½ on the other 3 sides for the facility.

Jeff Syrios stated the issue of safety that would go against the regulations.

Byron Stout asked Les Mangus has this been an issue before.

Les Mangus responded, no.

Dan Beck responded this is different because this is a hybrid residential.

Les Mangus responded correct and I feel for Mr. Bush concerns for his residents, but then again I am looking out for the safety of the employees and the guests.

Chairman Coon stated 1 foot candle at all entrances would be reasonable.

Jan Cox responded I agree.

Byron Stout stated 1 foot candle is not that bright.

Chairman Coon asked would anyone from the public like to make a comment.

Jeff Duerr, 203 W. Douglas, I am an electrician for Graf Electric. I agree with Mr. Bush, we do a lot of commercial work in Wichita and we are not required to have 1' candle. Mr. Bush did point out that the residents are bed ridden, they are not able to get out of bed and closed the blinds. As far as lighting just the entry ways where people can come in and out safely, I feel that is plenty of lighting. This requirement is a lot of light if you are trying to sleep.

Chairman Coon stated thank you Jeff for your input. Les is there someway that the committee can define 1 foot candle at all the entrances?

Les Mangus responded, this debate has to do with the way the facility is designed, where it has parking all the way around. We would not be having this debate if the parking was at one side or another. He could arrange it so

that his business offices and entrance were close to the parking and lighting. It's a little hard to vary the standards all the way around the building in my opinion.

Byron Stout stated the main concern is the responsibility of safety for the visitors and the employees is the important factor and if the standard is there for a reason then it should be enforced.

Chairman Coon asked do we have a motion.

Byron Stout made a motion to affirm the requirement of the Site Plan Committee.

Lynn Heath seconded the motion.

Chairman Coon stated that we have a motion and a second to affirm the Site Plan Committees requirement for 1 foot candle. Any more discussion?

Jeff Syrios stated it seems to me it comes down to the safety of the people coming in and out verses the quality of night life of the residents. I have not heard any proposals from anybody to make it safer to counter the low candle light. Common sense tells me that there is a alternative to make it darker in a residents room which would be the staff pulling the shades down. Without hearing any alternatives to making it safer, I will vote affirmative.

Jan Cox stated but it is possible that it could be safe still with a little less light, but not going from light to dark.

Chairman Coon motion and seconded to affirm the Site Plan Committee requirement for a 1 foot candle. Call for a vote motion carried 5/2. Jan Cox and Chairman Coon opposed.

Mr. Bush asked if he could suggest to the planning commission, a ½ foot candle with motion detectors that would bring the candle up to a 1' candle, would that be acceptable. I think that the committee should look also at this suggestion if motion sensors are installed.

Jeff Syrios stated your question is would we consider it? Of course we would have to consider any motion, but I think we would all be open to any kind of a suggestion if you can provide a reasonable basis.

Byron Stout asked Les Mangus what is the process now that this has been voted on the way it has been.

Les Mangus stated the applicant may have to apply again which means another 45 days.

Jeff Bridges stated the applicant still has an open application before the Site Plan Review Committee.

Les Mangus responded, he could amend his site plan but the Site Plan Review Committee has no flexibility in their application of their own regulations, the rules state 1 foot candle. If that is unreasonable then it is sent to this board for relief.

Byron Stout stated we have had nothing presented to the committee, there is

no option. This is why the committee voted the way we did.

Chairman Coon stated the committee would like to send their comments to the Site Plan Review Committee that we are open to some alternative means in the unique situation like this.

**BZA-V-2007-06: Public hearing on a variance of 420 square feet from the required 300 square foot maximum gross floor area allowed for a single accessory storage structure limitation for the purpose of constructing a 720 square foot detached workshop/garage on property zoned as the R-2 Single Family Residential District at 134 Lexington Court.**

BZA-V-2007-06:  
Public hearing on a  
variance, 134  
Lexington Court.

From Les Mangus Memo: This application arises from the owner's desire to construct a 720 square foot workshop garage in the rear yard of the property. The Zoning regulations limit the size of accessory storage structures to 300 square feet in the R-2 District. The lot is 27,700 square feet, which is over 2 ½ times the 10,000 square foot minimum lot area. Staff has had calls from adjacent property owners about the case who have voice concerns for the size and appearance of the building. Staff supports the variance with conditions that the building be limited to one-story and siding and roofing materials similar to the house.

Chairman Coon stated the committee has received a letter from Mark Brosz, I have also received a phone call.

Lynn Heath stated I have received a phone call from Mark Brosz, and also Norma Shepler, 118 W. Lexington.

Byron Stout stated I have also received a phone call from Mark Brosz.

Jeff Syrios stated I have also received a phone call from Mark Brosz.

John Cromwell stated I have also received a phone call but had no conversation.

Chairman Coon stated the committee is ready to hear from the applicant.

Chris Doyle, 134 Lexington Court, we have just recently moved to this location about 90 days ago, after finding this home that had a large ¾ acres lot, which is the largest lot in the subdivision. When we purchased the home the real estate agent stated that this area had no covenants, and no homeowners association. Our real estate agent also informed us that we could build a building up to 900 square foot on this location, but after researching we found out that we would be required to file a variance. The reason for the building is February 2004, I was a Wichita police officer and was injured in the line of duty, then forced to retire in November 2005. I could do a little bit wood working, and my stained glass work. This is not a business; I give it away to my family as gifts. The single car garage/workshop is because the original garage that is attached to the house is too short for my truck. The building that we are wanting to build is a steel Stockade Building will have a evergreen roof, evergreen trim, with beige siding on the building, will have guttering, and will have electric and water. My lot is very large, I am here to be a good neighbor. The yard has not ever been landscaped in the back, I am planning to plant numerous amount of trees and scrubs. The building will be a very nice building it does not look like a steel building, the paint on the

building is guaranteed for 40 years not to fade.

Byron Stout asked what type of siding?

Chris Doyle responded it will be painted steel siding.

Chairman Coon asked will the color match your home.

Chris Doyle responded, we have contacted Continental Siding and we are going to sign a contract with them for \$22,000 to reside the entire home to match the color of the workshop/garage. The building will set closer to our home, you will only be able to see the single garage from the front of the street. I am also going to have the fence redone, and a concrete driveway that will go to the workshop/garage.

Chairman Coon asked, what is the height of the workshop side wall?

Chris Doyle responded, a 10' side wall.

Byron Stout asked is the height of this structure going to be higher than the house, and you are planning on matching the colors.

Chris Doyle responded, the workshop/garage will be lower than the house and the workshop/garage will match the home.

Lynn Heath stated the wall will be 10' and what will the height of the peaks be?

Chris Doyle responded 13.5' will be at the peak of the roof.

Chairman Coon asked is their anything strategic on your layout of the location?

Chris Doyle responded yes, the building is going to be 15' to 20' away from our south fence on the south property line and approximately 29' away from the house.

Chairman Coon asked if anyone else had any questions for Mr. Doyle. No one responded. Thank you Mr. Doyle, we are now ready for any comments from the public.

Mark Brosz 117 W. Douglas Avenue, I am speaking on my behalf and also on the behalf of Harold R. and Wilma J. Day at 139 Lexington Court, I have provided the committee with documentation of my authorization to speak on their behalf.

Jeff Syrios asked which lot are you in and which lot are you speaking for?

Mark Brosz responded, I am at 117 W. Douglas Avenue to north and I am also speaking for 139 Lexington Court which is directly across the street from the applicant. Just to follow up my letter to the committee and addition to my comments in my letter to the board, my biggest problem with the building that is proposed is the size of the building. That is a large building, I also am aware that Mr. Doyle does have a very large lot and just to inform the Doyle there are covenant for the neighborhood and they will be enforced by private homeowners if necessary. If the building was 300' square feet which would

conform to the current zoning, I would not have any problem with it and this would not be an issue. If you were building on that much of an addition to the current garage, then that also would be acceptable alternative and again would not obtaining a variance. If you grant a variance this opens the door for other homeowners in the same neighborhood to ask for a variance of the similar nature in the future. There are again alternatives to building such a large building in some ones back yard, you could add on to an existing home, to do a car addition, I don't have a problem with that it will also improve his property value and my property value.

Chairman Coon asked any questions from the committee.

Byron Stout asked Les Mangus what is the current zoning?

Les Mangus responded, the current zoning does allow a total of 600' square feet of accessory structure with the largest building being 300' square feet.

Byron Stout stated, I am also concerned about the size and so forth, but a person could get to that in this case to the ultimate square footage with 2 separate buildings.

Les Mangus responded no, he is asking for 720' square feet in one building, the total aggregate area of all accessory structures could only be 600' square feet with the largest building being 300' square feet.

Dan Beck stated it could be attached to his garage correct.

Les Mangus responded if it was attached to the house there would be no limitation.

Byron Stout stated he could go back as far as he wanted.

Les Mangus responded correct.

Dan Beck stated as long as it did not diminish the lot size.

Les Mangus responded up to 35' feet high within 8' feet of the property line.

Chairman Coon asked if this would take up 35% of the lot.

Les Mangus responded this is a 22,000 square foot lot, I don't think lot coverage will come into the equation.

Byron Stout stated my point of question if the person wanted to get to the square footage they could really put 2 structures up, and I am not saying that I think one is better than 2, but they would not have had to come to this board to ask for approval. I just want to make sure we are careful of what we are wishing for if we think it is to big.

Les Mangus responded correct.

Chairman Coon asked if anyone else from the public would like to make a comment.

Jeff Duerr 203 W. Douglas, I visited with Norma Shepler at 118 Lexington who would be the one most affected, she really does not have a problem with

the building. Norma Shepler would like to ask if at all possible to move it farther back or maybe if you moved it to the north and west a little bit farther behind Mr. Doyle's house, it would not be quite as visible then. As far as the covenants, without a homeowners association they are not enforceable. Some of the covenants that are in our community also states that you are not to have an outside storage building in that addition, about 90% of our community have storage buildings in their back yards. We are not to have any boats or motor homes parked in the drive way and are not to have your garage door open for a long period of time. My opinion is the building is fine and I am in favor of this project.

Chairman Coon stated Thank You Mr. Duerr, anyone else that would like to make any comments.

Margaret Seiwart 209 W. Douglas, my suggestion, would be to scale down the workshop/garage square foot area. I am not in favor of this project.

Chairman Coon stated Thank you Mrs. Seiwart, anyone else?

Byron Stout asked can we determine whether or not there is a covenant or not.

Les Mangus responded the city does not keep the record on the covenants; the county keeps covenant records which is an agreement between the owners.

Jeff Syrios asked, can you come up with any kind of a compromise, sounds like the issue is the size of the building.

Chris Doyle responded, I can not go any smaller.

Chairman Coon stated this is not all workshop part is also a single garage.

Chris Doyle responded yes.

Byron Stout asked would there be a possibility to the location of the building to be adjusted?

Chris Doyle responded yes, I would be willing to get with the neighbor to the south and see where she would be comfortable with the location.

Jeff Syrios asked Les Mangus, I understand that originally you wanted like siding on the out structure, were you talking about just color or material.

Les Mangus responded, one of the concerns that I had heard from the neighborhood was that is this going to be a metal building in our back yard that is going to be contrary to our traditional wood sided, composition roof.

Jeff Syrios stated you were just saying a concern and not a recommendation or were you recommending?

Les Mangus responded my opinion the lot will support a 720' square foot building, but the surroundings are residential in nature in materials, so the building should be of the same material in my opinion.

Jeff Syrios asked Mr. Doyle would you consider that proposal.

Chris Doyle responded no.

John Cromwell asked in regards to the landscaping, how much of the building is going to be surrounded by trees.

Chris Doyle responded we will try to surround most of the building with plants and trees.

John Cromwell asked as well as to the north.

Chris Doyle responded yes.

Chairman Coon asked what type of material is the roof?

Chris Doyle responded, metal.

Chairman Coon asked any other comments from the public?

Mark Brosz responded, my home is a 2-story home and his property sits lower than mine. If he puts a metal roof on, then I am going to have a really good view out of my second floor of a metal roof building.

John McEachern 126 Lexington Court, I am the lot to the north and when the metal building was placed at 105 S. Andover Rd. I have put pine trees along all the south side of my property at 126 Lexington to screening that building and now they have gotten to the height where I can use my upstairs balcony without seeing the metal building. So the visual of this building is not going to affect me, even though I am next door. I suggested to Mr. Doyle that if the building have the same siding material as the home, and a composition roof as a compromise.

Mark Brosz stated if the building will conformed to the to the existing home as the terms as asphalt shingles and normal siding to match the home than that would not bother me.

Jeff Syrios responded even the size.

Mark Brosz responded the size would be much less of a consideration if it conformed to the existing home.

Guy Rupert 119 Lexington, I would compromise because I moved into a neighborhood where other people already lived. Saying yes this was my plan but, I need to look at compromising so that I could live with my neighbors and not saying I can't compromise because this is the smallest building that I can have and the least expensive. We need to compromise so that all parties can be satisfied.

Chairman Coon stated the public hearing is closed.

Lynn Heath stated the size does not bother me, as long as the outside does not look like metal, I would like the building to blend in with the neighborhood.

Chairman Coon stated lets go thru our findings to see if we can even make a judgment.

BOARD OF ZONING APPEALS ACTION

Publication Date  
October 25, 2007

VARIANCE

Hearing Date  
November 20, 2007

Case No. BZA-V-2007-06

Zoning District  
R-2 Single Family  
Residential  
Variances from the  
provisions of the  
zoning regulations  
shall be granted by  
the Board only in  
accordance with the  
standards in  
Section 10-1077(d),  
and only in the  
following instances  
and NO others:  
(A  
through G).

A.

B. To vary the applicable bulk regulations, including maximum height, lot coverage and minimum yard requirements:

1. The bulk regulations for this district are: 300 square foot maximum gross floor area for a single accessory storage structure.
2. Variance would change bulk regulations as follows: 420 square foot variance to allow a 720 square foot detached workshop/garage.

F.	The Board shall not grant a variance unless it shall, in each case, make specific written findings of fact directly based upon the particular evidence presented to it which support all the conclusions as required by K.S.A. 12-715 as listed below:	True/ Yes	False/ No
		_____	_____
1.	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 owners or the applicant;	True	_____
2.	The granting of the variance will not adversely affect the rights of adjacent property owners or residents;	True	_____
3.	The 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.	True	_____
4.	The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and	True	_____
5.	Granting the variance desired will not be opposed to the general spirit and intent of these regulations.	True	_____

G. In determining whether the evidence supports the conclusions required by Section 1-107(D)(1), the Board shall consider the extent to which the evidence demonstrates 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.

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.

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, and

True \_\_\_\_\_
- 4. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

True \_\_\_\_\_
- H. Restrictions imposed by the Board of Zoning Appeals as per Zoning Regulations Section 10-5G:

  - 1. None required.

Chairman Coon stated now we need a motion.

Jeff Syrios asked we have answer all affirmative, I don't have a problem with the size of the structure, I do have a problem with the material of the structure. It is important to compromise, it is a neighborly thing to do. I think compromise when you get into these neighborhood issues is the order of the day. Now the counter balance to that is, he moved into a house and the whole neighborhood on the east side has a metal building but it is a commercial B-1. So they are kind of living next to a not residential development they are sided on one side as a B-1, so there are some risks and down sides to moving into that area. The metal building is a risk, but you are next to a business district so there are down sides by choosing to live there.. I would have a problem with a metal building frankly, a green roof that sort of thing.

Lynn Heath stated I agree it needs to have a composition roof on it like the home, I am not so concerned about the walls. I do think it needs to set the standards for anyone else.

Chris Doyle responded, I would be willing to compromise and put a asphalt shingle roof on the metal building.

Lynn Heath made a motion that we approve BZA-V-2007-06 as requested with the exception of the requirement of an asphalt shingle roof to match the house, and with the landscaping that he had described, and also visit with Norma Shepler next door to see what you can do about the placement, slightly closer or further away to meet Norma Shepler's needs.

John Cromwell seconded the motion.

Chairman Coon stated we have a motion and second to approve the variance with the condition of a composition shingle roof, and color of the siding to match the house, 10' wall and 13.5' gable, landscaping, and consult the

neighbor on the south side to come to an agreement. Amended motion carried 6/0.

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

Jan Cox made a motion to adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. John Cromwell seconded the motion. Motion carried 6/0.

Chairman Coon, recess the Planning Commission meeting for a short break at 9:23 p.m.

Chairman Coon called the meeting back to order of the Planning Commission meeting at 9:35 p.m.

**Review of Final PUD Plan of the Riverstone Reserve Addition.**

Review of Final PUD Plan of the Riverstone Reserve Addition.

From Les Mangus Memo: This is the first phase of the Riverstone PUD. This phase completes the long loop street from SW 130<sup>th</sup> St. The layout of streets and lot sizes are reflective of those in the Preliminary PUD. All of the items from the checklist have been satisfied except for the statement from the pipeline operator on the minimum building setback. Staff supports the plan as submitted with the satisfaction of the remaining items from the checklist.

Phil Meyer of Baughman Company, P.A. represented the applicant and Tom Mack of Riverstone Development Company, LLC was present. What we have before you tonight is the Final Plat of Phase 1 of the Riverstone Reserve, we would like to proceed on with the plat as we presented. Their will be private roads into the development, we have proposed public sewer and water in the development. There are no sidewalks in this development. Are there any questions from the committee.

Lynn Heath asked if the detention pond in Reserve H will take care of the drainage.

Phil Meyer responded, yes.

Chairman Coon asked is there a dam at the Riverstone Street?

Les Mangus responded there is control structure under Riverstone Street.

Les Mangus asked were you able to get anything in writing from the pipeline company.

Phil Meyer responded, I have not yet received the documentation from the pipeline operator. I am asking the Planning Commission to approve the Phase 1 Final PUD, subject to the delivering of the documentation to Les Mangus.

Chairman Coon asked if there are any other questions from the committee?

Lynn Heath asked Les, have you received the drainage plan, and the utility plan.

Les Mangus responded, yes.

Lynn Heath made a motion to approve the Phase 1 Final PUD Plan of the Riverstone Reserve Addition with the condition of a statement from the pipeline operator on the minimum building setback. John Cromwell seconded the motion. Motion carried 6/0.

**Review of Final PUD Plan of the Fifth Phase of the Crescent Lakes Addition.**

Review of Final PUD Plan of the Fifth Phase of the Crescent Lakes Addition.

From Les Mangus Memo: This phase completes Crescent Lakes Addition. The final two phases have been combined, and the layout of the streets and reserves have been modified. The overall lot count has been reduced because of the demand for wider lots. The developer has deviated from the sidewalk plan, which was approved with the last amendment to the Preliminary PUD, but has a plan that met the approval of the Subdivision Committee. The other items on the Staff checklist have been remedied.

Phil Meyer of Baughman Company, P.A. represented the applicant, also attending is Randy Harder of Crescent Lakes Development, LLC. This is the Final Fifth Phase of Crescent Lakes Addition, has 117 lots, it is the eastern portion of the Crescent Lakes Preliminary PUD. We have made all the revisions, drainage reconciliations, application amendments, and the sidewalk revisions, and we have concurred with Les Mangus checklist. We have amended the sidewalk plan from the original sidewalk plan of Crescent Lakes which is in your packet. I would like to answer any questions from the committee.

Jan Cox stated on the application Covington Circle is not noted.

Les Mangus responded, we have an amended application.

Jan Cox stated everything has been corrected.

Les Mangus responded, yes.

Chairman Coon asked Les Mangus, do you have everything?

Les Mangus responded, yes.

Lynn Heath made a motion to approve Final PUD Plan of the Fifth Phase of the Crescent Lakes Addition. Byron Stout seconded motion. Motion carried 6/0.

**Member Items:**

Member Items:

John Cromwell asked Les Mangus, have you received any information on the Butler Road Study?

Les Mangus responded, I have met with the crew last week they are almost finished with the study.

John Cromwell asked when will the public hearing be.

Jeff Bridges responded, they have to present the preliminary findings to the governing bodies first, and then go into the public hearing. The meetings with the governing bodies will be after the holidays and public hearings in the spring.

John Cromwell responded, alright that is all that I have.

Jan Cox stated, Chairman Coon and I attended the 2007 Planning Commissioner's Workshop it was a very informative and educational.  
*Jeff Syrios made a motion to adjourn the meeting at 10:00 p.m. Byron Stout seconded the motion. Motion carried 6/0.*

Respectfully Submitted by

---

Joan Yunker  
Administrative Secretary

Approved this \_\_\_\_ day of \_\_\_\_\_ 2007 by the Andover City Planning Commission/ Board of Zoning Appeals, City of Andover.