

ANDOVER CITY PLANNING COMMISSION /
BOARD OF ZONING APPEALS

January 19, 2010

Minutes

The Andover City Planning Commission met for a regular meeting on Tuesday, January 19, 2010 at 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 Lynn Heath, Jan Cox, John Cromwell, Byron Stout and Ken Boone. Others in attendance were City Council Liaison member Dave Tingley, City Administrator Sasha Stiles, Director of Public Works and Community Development Les Mangus and Administrative Secretary Kandace Hunt. Member Dan Beck was absent.

Call to order

Review the minutes of the December 15, 2009 Planning Commission meeting.

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Jan Cox made a motion to approve the minutes as presented. Byron Stout seconded the motion. Motion carried 5/0/1 with John Cromwell abstaining.

Communications:

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Review the City Council minutes from the December 8, 2009 and December 29, 2009 meetings. The minutes were received and filed.

Review the minutes of the December 1, 2009 Site Plan Review Committee meeting. The minutes were received and filed.

Review the Potential Residential Development Lot Report.

Z-96-06 – A public hearing on a proposed amendment to the Andover Crossing Preliminary Planned Unit Development Plan as an overlay on the B-3 Central Shopping District to allow for the following uses on Lot 5, Block 1: A country store including but not limited to retail sales of animal supplies and feeds, lawn and garden supplies, tools and hardware, sporting goods, clothing and gifts. The applicant further requests a reduction from the off street parking regulations as recorded in Section 4-116 B1a (11) of the Zoning Regulations of the City of Andover, Kansas. The applicant additionally requests a modification of Section 4-111 3 to allow the proposed outdoor display and sale of farm equipment and landscaping materials.

Z-96-06

From Les Mangus' Memo: This application for an amendment of the Andover Crossing Preliminary PUD is the result of the future tenant's product line and outdoor storage not being outright permitted in the B-3 Central Shopping District. Atwood's stores sell a line of farm and home supplies and equipment very similar to that which was granted to the Walnut Valley Country store across the street in the B-5 Highway Business District. The subject parcel was specifically zoned B-3 for the Dillon's grocery store in order to avoid larger setbacks required of the more restrictive zones. The existing parking area has over 340 spaces to comply with the PUD requirements to provide parking similar to a mall, which is double the typical parking required for commercial operations. Staff's opinion is that the permanent outdoor storage of farm supplies and equipment, and landscaping materials should be limited to an area near the northwest corner of the site,

that the seasonal display of plants, landscaping materials, lawn furniture, etc. be allowed on the sidewalk in front of the building and south of the building and that parking comply with the typical Article 5 requirements of one space per 300 square feet of building area.

Chairman Coon informed the Commission the applicant has requested an extension to the February 16, 2010 Planning Commission meeting.

Lynn Heath made a motion to continue case Z-96-06 to the February 16, 2010 Planning Commission meeting. Jan Cox seconded the motion. Chairman Coon asked if there was any further discussion. There was none. Motion carried 6/0.

Lynn Heath made a motion at 7:05 p.m. to recess the Planning Commission and Convene the Board of Zoning Appeals. Byron Stout seconded the motion. Motion carried 6/0.

Recess the
Planning
Commission and
Convene the Board
of Zoning Appeals

BZA-V-2009-03- A public hearing on a request of a variance of five feet from the required 25 foot front yard setback and a variance of 15 feet from the required 25 foot rear yard setback for the purpose of constructing a duplex on property zoned as the R-3 Multiple-Family Residential District.

BZA-V-2009-03

From Les Mangus' Memo: This variance arises from the unusual shape of the subject property at the east end of Lafayette Street. The intersection of Lafayette Street and the railroad creates a triangular shaped piece of property that is further encumbered by a north-south utility easement. The area complies with the minimum lot area, but because of the triangular shape of the property it would be difficult to comply with the required 25' front and rear yard requirements. Similar variances were granted back in 2002 when the subject property was first platted as the Summerfield Addition, but since lapsed because of inactivity. Staff supports the variance as applied for.

Chairman Coon opened the public hearing at 7:05 p.m.

Ron Williamson was present to represent the application.

Mr. Williamson said the developers are are requesting the variance in order to construct a 1,664 square foot duplex on Lot 3.

Jan Cox asked if the request was for Lot 3 only. Mr. Williamson said the developers would like the request to cover all three lots in order to align the buildings, but it is not a necessity for Lots 1 and 2. Les Mangus noted the applicant applied for Lot 3 only. Ken Boone asked if the Board could amend the request to include all three lots. Les Mangus said no because the public hearing was advertised for Lot 3 only.

With no further public input Chairman Coon closed the public hearing at 7:11 p.m.

ANDOVER BOARD OF ZONING APPEALS

Agenda Item No. 6

For January 19, 2010

VARIANCE REPORT *

CASE NUMBER: BZA-V-2009-03

APPLICANT/AGENT: Craig Sharp

REQUEST: A variance of five feet from the required 25 foot front yard setback and a variance of 15 feet from the required 25 foot rear yard setback for the purpose of constructing a duplex on property zoned as the R-3 Multiple-Family Residential District.

LOCATION: 206 E. Lafayette (east 208 feet of Lot A Summerfield Addition).

SITE SIZE: .23 acres

ADJACENT ZONING AND EXISTING LAND USE:

North: R-1 Single-Family Residential – USD 385 Andover Middle School

South: R-2 Single-Family Residential & R-3 Multiple-Family Residential - Mixed one & two family dwellings

East: R-3 Multiple-Family Residential. – Multiple family dwellings

West: R-2 Single-Family Residential. – Legal nonconforming commercial buildings

*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:

This property was granted similar variances in 2002, which have since expired for inactivity.

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, **True**, because of the triangular shape of the lot and location of the utility easement.

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**, because the variance creates no more opportunities for additional dwelling units,
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, **True**, because the property has no adjacent neighbors, who would be affected by the building being located closer to the property line,
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, **True**, because the property has no adjacent neighbors, who would be affected by the building being located closer to the property line.

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, **True**, because the alignment of the railroad right of way and the old grid street system create the triangular shape of the subject property;
2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **True**, because the subject property is not physically adjacent to any property owned by anyone other than the applicant and public rights-of-way;
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, **True**, because the applicant would be forced to build a taller structure to reach the necessary building size, which could create an obstacle for potential tenants with disabilities,

- 4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, **True, because no adjacent properties are affected by the variance.**

- 5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **True, because the BZA is specifically authorized to grant variances of bulk regulations and dimensional provisions for yards where unique conditions are found to be a hardship for the owner.**

Byron Stout made a motion to approve case number BZA-V-2009-03 as presented. John Cromwell seconded the motion. Chairman Coon asked if there was any further discussion. There was none. Motion carried 6/0.

Byron Stout made a motion at 7:17 p.m. to adjourn the Board of Zoning Appeals and reconvene the Planning Commission. Lynn Heath seconded the motion. Motion carried 6/0.

Adjourn the Board of Zoning Appeals and reconvene the Planning Commission

Member Items: John Cromwell asked if any progress has been made regarding improvements to Harry between Aspen Creek and Montana Hills as large pot holes are returning and Bruno Township has taken no action. Les Mangus said the city is working with the county and township for joint participation on improvements. He continued by saying he will inform the county engineer of the pot hole issue.

Member Items:

Les Mangus reminded members of the joint City Council, Planning Commission and Site Plan Review Committee planning and zoning workshop on Monday, January 25 beginning at 7pm at Central Park Lodge.

Jan Cox made a motion to adjourn the meeting at 7:24 p.m. Lynn Heath seconded the motion. Motion carried 6/0.

Respectfully Submitted by

Kandace Hunt
Administrative Secretary

Approved this 16th day of February 2010 by the Andover City Planning Commission/ Board of Zoning Appeals, City of Andover.