

**ANDOVER CITY PLANNING COMMISSION/
BOARD OF ZONING APPEALS
Tuesday, August 21, 2012
Minutes**

1. Call to order.

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

2. Roll call.

Planning Commission members present were Chairman Quentin Coon, John Cromwell, Lynn Heath, Ken Boone, Lee Butler, Aaron Masterson and William Schnauber. Others in attendance were Director of Public Works and Community Development Les Mangus, City Administrator Sasha Stiles and Administrative Secretary Dayna DuFriend.

3. Approval of the minutes of the July 17, 2012 meeting.

A motion was made by John Cromwell, seconded by Lynn Heath to approve minutes of the July 17, 2012 meeting. Motion carried 5/0 with 2 abstaining.

4. Communications:

- A. City Council minutes.
- B. Committee and Staff Report.
- C. Potential Residential Development Report.

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

A motion was made by Ken Boone, seconded by Lynn Heath to recess Planning Commission and Convene the Board of Zoning Appeals. Motion carried 7/0.

- 5. [BZA-V-2012-08- Public hearing on an application filed by Matt Forney requesting a variance from the zoning regulation to maintain the current structure in the side yard setback located at 314 W. Pineview Dr. STAFF: Mr. forney has owned the subject property for many years. The structure in question was at one time a shelter for swimming pool equipment, but at some point was converted to a storage enclosure. Nonetheless the structure encroaches in the required 8 foot side yard. Mr. Forney’s request is to bring the existing lean-to structure in to compliance through the granting of a variance. Staff supports the variance, but would suggest that Mr. Forney acquire a maintenance agreement from the adjacent neighbor, which would allow egress to maintain the structure on the common property line.](#)

Matt Forney, 314 W. Pineview Dr. was present to represent the application.

Mike Stegen, 226 W. Pineview Dr. was present and expressed no opposition to this variance request.

Variance Report

ANDOVER BOARD OF ZONING APPEALS

Agenda Item No. 5

For August 21, 2012

VARIANCE REPORT *

CASE NUMBER: BZA-V-2012-08

APPLICANT/AGENT: Matt Forney

REQUEST: Matt Forney, 314 W. Pineview Dr., Andover, Kansas, pursuant to Section 10-107 of the City Zoning Regulations, requests a variance from the zoning regulation to maintain the current structure on the easement on property zoned as the R-2 Single-Family Residential District.

CASE HISTORY:

LOCATION: Legal description: Lot 7, Block 2, Andover Heights 4th Addition to the City of Andover, Kansas.

General location: 314 W. Pineview Dr., Andover, Kansas.

SITE SIZE: . sq. ft.

ADJACENT ZONING AND EXISTING LAND USE:

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

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

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

West: R-3 Multi-Family Residential

*NOTE: This report has been prepared by the Zoning Administrator to assist the Board of Zoning Appeals to determine their findings from the evidence presented at the hearing so as to base their decision for a variance on the required five findings found in Section 10-107 D 1 of the Zoning Regulations. The Board may grant a request upon specific written findings of fact when all five conditions, as required by state statutes, are found to exist. The responses provided need to be evaluated with the evidence and reworded as necessary to reflect the Board of Zoning Appeals considered opinion. Conditions attached to the motion, if any, should be carefully worded to provide instructions to the applicant and facilitate enforcement by the Zoning Administrator.

BACKGROUND INFORMATION:

DOES THE EVIDENCE DEMONSTRATE THAT:

1. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee or occupant, as distinguished from a mere inconvenience, if the provisions of these regulations were literally enforced, **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, **True**,
4. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion on public streets or roads, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood, **True**,

SPECIFIED CONDITIONS TO BE MET:

The Board may grant a variance upon specific written findings of fact based upon the particular evidence presented at the hearing so that all five of the conditions required by K.S.A 12-759(e) have been met which are listed below. If any of the conditions cannot be met, the condition(s) needs to be reworded from a positive to a negative statement and the variance not granted.

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**,

2. That granting of the variance will not adversely affect the rights of adjacent property owners or residents, **True**,
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**,
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, **True**,
5. That granting the variance desired will not be opposed to the general spirit and intent of these regulations, **True**,

A motion was made by Lynn Heath, seconded by Ken Boone to approve variance as submitted. Motion carried 7/0.

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

A motion was made by Ken Boone, seconded by Lynn Heath to approve Adjourn the Board of Zoning Appeals and Reconvene the Planning Commission. Motion carried 7/0.

6. VA-2012-05- Public hearing on a petition for a vacation of the 10 foot rear yard utility easement located at 1032 E. Lakecrest Dr., Lot 8, Block 1, Crescent Lakes 4th Addition. STAFF: Since no public utilities are located in the easement and no conflicts have been identified Staff supports the vacation as requested.

Galen McCarthur, 2122 W. 60th St. N., Wichita, KS was present to represent the petition. He explained that he is the father-in-law representing the property owners as they are out of town.

Ken Boone commented that this type of request has been heard before.

A motion was made by Ken Boone, seconded by Lynn Heath to approve vacation of the 10 foot rear yard utility easement. Motion carried 7/0.

7. [Butler County Case CU-12-11- A request for a conditional use permit application and development plan regarding office space-owner occupied on land zoned Rural Residential \(RR\) by Applicant/Owner-Global Energy of Wichita, LLC and Agent/Jacob, Lucas and Kim Hocker DBA Triple H LLC located at 13323 S.W. Butler Road.](#)

Chairman Coon asked if the conditional use permit was to continue the propane business.

Lee Butler asked if this permit was for rebuilding what was torn down.

Les Mangus said the permit is to continue the business and build a new contractors office and shop. This is all new construction.

A motion was made by John Cromwell, seconded by Lynn Heath to recommend that the Butler County Commission does not approve this request and that the owners petition for annexation from the City of Andover. Motion carried 6/1. Lee Butler opposed.

8. [Review recommended changes to the Site Plan Review procedure and criteria and set a public hearing on the proposed amendment to the zoning regulations. STAFF: The Site Plan Review Committee has suggested revisions to the Procedure and Criteria that would eliminate the burden of submission of a full site plan document for small improvements, and recommended some prescriptive guidelines for certain elements of a building project such as lighting, landscaping, trash enclosures, parking lot screening, etc.](#)

A motion was made by John Cromwell, seconded by Ken Boone to approve setting the public hearing for the next Planning Commission meeting to discuss these guidelines and determine if we want to recommend it to the City Council. Motion carried 7/0.

9. [Member items.](#)

A motion was made by Lynn Heath, seconded by William Schnauber to adjourn. Motion carried 7/0.

Meeting adjourned at 7:43 p.m.

Respectfully Submitted by

Daynna DuFriend
Administrative Secretary

Approved this 16th of October, 2012 by the Andover City Planning Commission/Board of Zoning Appeals, City of Andover.