ZONING BOARD OF APPEALS
REGULAR MEETING - THURSDAY, NOVEMBER 9, 2017
LEGISLATIVE CHAMBER, LC LEVEL – 1:00 P.M.
OMAHA/DOUGLAS CIVIC CENTER
1819 FARNAM STREET
OMAHA, NEBRASKA

Certification of Publication: Zoning Board of Appeals Administrator certifies publication of this agenda in the Daily Record, the official newspaper of the City of Omaha on Monday, October 30, 2017 and Thursday, November 2, 2017.

MEMBERS PRESENT: Brian Mahlendorf, Chair
Jacque Donovan, Vice-Chair
Sebastian Anzaldo
Jeremy Aspen
Jason Lanoha

MEMBERS NOT PRESENT: Sean Kelley (Alternate)
Kristine Moore (Alternate)

STAFF PRESENT: Michelle Alfaro, Zoning Board of Appeals Administrator
Jennifer Taylor, City Attorney
Clinette Ingram, Recording Secretary

The meeting was called to order at 1:00 p.m. Mr. Mahlendorf introduced the board members and staff, and explained the procedures for hearing the cases.
LAYOVER:

1. Case No. 17-138 (from 10/12/17)  REQUEST: Waiver of Section 55-146 & 55-715 – Variance to the minimum front yard setback from 40’ to 30’, to the minimum street yard landscaping percentage from 70% to 60% and to the minimum street yard landscaping depth from 25’ to 0’ to allow for construction of a new single-family home.
   
   LOCATION: 1010 South 91st Circle
   ZONE: R2

This request was withdrawn at the request of the applicant.
NEW CASES:

2. Case No. 17-125
   Exchange Bank
   1204 Allen Drive
   Grand Island, NE 68803
   REQUEST: Waiver of Section 55-716, 55-740(f), 55-928 & 55-836 – Variance to the bufferyard requirement from CC to R7 from 20’ to 9.39’ and 10’, to the minimum perimeter parking lot landscaping from 10’ to 9.39’ and 9.5’, to the minimum green parking area perimeter landscaping from 15’ to 12’ to allow for construction of the site; and to the front yard setback from 12’ to 6’ and the street side yard setback from 6’ to 3’ to allow for a new monument sign.
   LOCATION: Northwest corner of West Dodge Road and North 80th Street
   ZONE: CC-ACI-2(65)

PLANNING DEPARTMENT RECOMMENDATION: Approval of the variance to the bufferyard requirement from CC to R7 from 20’ to 9.39’ and 10’, to the minimum perimeter parking lot landscaping from 10’ to 9.39’ and 9.5’ and to the minimum green parking perimeter landscaping from 15’ to 12’, subject to the applicant submitting an acceptable landscaping/screening plan that mitigates the negative impacts to the adjacent residential neighbors by providing the appropriate screening. Denial of the variance to the front and street side yard setback for the monument sign.

At the Zoning Board of Appeals meeting held on November 9, 2017, Kyle Crouch (DLR Group) appeared before the Board.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new bank and parking lot on the site. The applicant was encouraged to continue to work with the City on an acceptable landscape plan that shows that the appropriate screening will be provided for the benefit of the adjacent neighbors. The Planning Department found no hardship or practical difficulty to support the waivers to the front and street sideyard setbacks for the installation of a monument sign on the southeast corner of the property and recommended denial of that request. However, approval was recommended for the waivers to the bufferyard requirement, the minimum perimeter parking lot landscaping and the minimum green parking perimeter landscaping subject to the applicant submitting an acceptable landscape and screening plan.

Mr. Crouch stated that shrubs and canopy trees would be placed throughout the property for screening. He indicated that the requirements for the monument sign would be met thus eliminating the need for waivers to the front and street sideyard setbacks.

Bob Graeve (8010 Davenport Street) appeared before the board. He had concerns about the flow of traffic onto Davenport Street. It was determined that no driveway would exit out onto Davenport Street. He was also concerned about whether two large, existing trees on Davenport would be removed.

Terry Mayfield (8020 Davenport Street) appeared before the board. He was also concerned about whether traffic would exit out onto Davenport Street and the amount of buffering that would be put in place. He stated that no one had contacted the neighbors about the project.

Mr. Crouch in order to meet the ACI requirements for sidewalks, the three existing trees had to be removed. He explained that construction would more than likely damage the roots, which would cause the trees to die. He added that the large trees would be removed and replaced with ten canopy trees. He further indicated that there would be 8’ from the back of the curb to grass, a 5’ sidewalk and 1’ to the new property line.

Ms. Donovan moved to APPROVE the waiver for the bufferyard requirement, minimum perimeter parking lot landscaping and minimum green parking area perimeter landscaping but NOT for the front yard setback or street side yard setback.
AYES: Aspen, Donovan, Lanoha, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0
3. Case No. 17-141  
Mark Schlickbernd  
503 South 36th Street  
Omaha, NE 68105

REQUEST: Waiver of Section 55-166 – Variance to the minimum lot area from 7,500 sq. ft. to 6,463 and 6,042 sq. ft. and to the minimum lot width from 60’ to 58.76’ and 54.92’ to allow for an administrative subdivision.

LOCATION: 315 and 319 North 41st Avenue  
ZONE: R3

PLANNING DEPARTMENT RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on November 9, 2017, Jeri Schlickbernd appeared before the board.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that, as a result of a lawsuit filed in District Court, the lot line was adjusted which added a .4’ by 53.92’ strip of land to the property at 315 North 41st Avenue. The Planning Department could not accept the adjustment until an official administrative subdivision was approved and recorded. In 1984, the Planning Department recommended that the property owners of 315 and 319 North 41st Avenue submit an administrative subdivision, which was not done. The current owner of 319 North 41st Avenue intended to sell the property; however, the prospective buyer discovered that the administrative subdivision was not in place. The Planning Department approved of the request and recommended approval in accordance with the plans submitted.

John Hruska (315 North 41st Avenue) appeared in support of the request. He stated that he believed that the matter had been settled in 1980. He indicated that he was never informed that the City had not accepted the decision of the court.

Mr. Aspen moved to APPROVE in accordance with the plans submitted. Mr. Lanoha seconded the motion.

AYES: Donovan, Lanoha, Anzaldo, Aspen, Mahlendorf

MOTION CARRIED: 5-0
4. Case No. 17-142
Seventy Five North Revitalization Corp.
4383 Nicholas Street
Suite 204
Omaha, NE 68131

REQUEST: Waiver of Section 55-764(d)(2)(c) – Variance to the capacity limitations for a Daycare services (general) use in a GI (pending R5) district from 12 to 164 individuals.

LOCATION: 3200 North 30th Street

ZONE: GI (R5 pending)

PLANNING DEPARTMENT RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on November 9, 2017, Luke Weatherly (Olsson Associates) appeared before the board on behalf of the applicant.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that applicant planned to construct a new building for the Kennedy Early Childhood Center. The first floor of the facility would serve up to 164 children ages 6 weeks to 5 years old in an all-day, year-long program. The upper level would house the offices of the Nebraska Early Childhood Collaborative and a training area. At its August 2, 2017 meeting, the Planning Board recommended approval of a Special Use Permit, subject to the applicant obtaining a waiver from the Zoning Board of Appeals that would allow more than 12 individuals in the daycare in a R5 district. The Planning Department believed that the use of the site is acceptable and recommended approval.

Mr. Weatherly explained that the Omaha Public Schools and the Buffet Early Learning Center are also involved with this project. He added that approval of the R5 zoning had yet to be approved by City Council.

Mr. Anzaldo moved to APPROVE. Ms. Donovan seconded the motion.

AYES: Lanoha, Anzaldo, Aspen, Donovan, Mahlendorf

MOTION CARRIED: 5-0
5. Case No. 17-143
Dale Thelen
1343 Turner Boulevard
Omaha, NE 68105

REQUEST: Waiver of Section 55-782(b)(6)(a) – Variance to the setback adjustment from 60' to 45' to allow for construction of a 7’ x 10' shed.

LOCATION: 1343 Turner Boulevard
ZONE: R3

PLANNING DEPARTMENT RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on November 9, 2017, Dale Thelen appeared before the board.

Michelle Alfaro, Zoning Board of Appeals Administrator, explained that the code allows a shed under 750 square feet to be placed 3’ from the side and rear property lines and 60’ from the front property line. Due to the narrow size of the lot, the proposed shed would be 45’ from the front yard setback instead of the required 60’. The Planning Department found that the request was appropriate in this situation and recommended approval in accordance with the plans submitted.

Mr. Thelen explained that the lot is approximately 61’ long. He added that, since there is no garage or outside storage on the property, most items are stored in the basement. He believed that there would be minimal impact on the adjacent neighbors since the shed would meet or exceed the 3’ requirement from from the side and rear property lines. He indicated that the shed could not be placed to the north because there is an existing alley and a steep slope from the side of the home.

Mr. Mahlendorf stated that the board had visited the site. He also mentioned that a letter of opposition had been submitted from the neighbor to the south. In response to Mr. Mahlendorf, Mr. Thelen stated that he had spoken to the neighbors to the south and east and that both had initially expressed support for the project. He added that opposition began from the neighbor to the south after the shed had been purchased and construction began.

John Brown (Attorney) appeared on behalf of his client Mike Bednarz (3322 Woolworth Avenue). He stated that the applicant’s home is located in a historic district and that the request should have been forwarded to the Landmarks Heritage Preservation Commission (LHPC) for approval. He stated that his client was concerned because the rear of his property, which includes his kitchen, would face the proposed shed.

Mr. Bednraz appeared in opposition to the request. He believed that the proposed shed would diminish the value of his property. He indicated that he had been advised that putting a structure between the two properties would be distasteful. He believed that rules should be followed that would preserve the historical nature of the district.

Mr. Aspen inquired as to whether the case should be forwarded to the LHPC. Jennifer Taylor (City Law Department) stated that it would not since the neighborhood is not a locally designated historic district but is a Nationally Register historic district. She explained that the National Register historic district brought no additional requirements with regards to approval for changes in that district. If it were a locally designated district then any changes to the home would require approval of the LHPC for any exterior changes.

In response to Mr. Aspen, Mr. Bednraz stated that his objection was to the proposed location of the shed. He believed that the shed could be constructed on the north side of the home adjacent to the alley.

Laura Sparks (3322 Woolworth Avenue) appeared in opposition to the request. She stated that the existing concrete slab had been poured several years ago.
Mr. Thelen stated that several neighbors were concerned about the shed being placed on the alley since they believed that it would be more visible in that location. The retaining wall would also need to be rebuilt to hold the structure. He verified that the concrete pad was already in place. He stated that he intended to paint the shed to match the existing home and use the same roofing tiles for the shed that are used for the home.

Tom Bockman (1339 Turner Boulevard) appeared before the board. His expressed his desire for the applicant and Mr. Bednraz to come to an agreement about the proposed shed. He did not believe that there was any room on the north side of the home to build the shed.

Mr. Lanoha moved to APPROVE in accordance with the plans submitted, subject to the shed matching the color and having similar roofing materials as the existing home prior to installation. Mr. Aspen seconded the motion.

AYES: Anzaldo, Aspen, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0
6. Case No. 01-228 Lakeside Auto Recyclers, Inc. 2813 North 9th Street Carter Lake, IA 51510

REQUEST: Waiver of Section 55-766(b)(3) – Variance to the required separation between a salvage yard and a residential district from 300’ to 200’, 196’, 213’, 222’ and 191’ to allow for an amendment to the existing Special Use Permit.

LOCATION: 1404 Grace Street ZONE: HI

PLANNING DEPARTMENT RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on November 9, 2017, Brent Beller appeared before the board on behalf of the applicant.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that the applicant was requesting a modification to an existing waiver of the required separation distance. She noted that railroad tracks separate the site from residentially zone properties. Storage of materials will be on the east side of the property, which is approximately 260 feet away from residentially zoned parcels to the north. There is also extensive vegetation on the west side of the property that serves as a natural screening buffer. The Planning Department originally supported the waiver in 2001 based on the practical difficulty that existed due to the grade change between the site and residential properties to the west. One of the conditions of the waiver prohibits storage of materials north of Grant Street. The applicant submitted a revised plan that shows the transfer station and storage approximately 500’ north of Grant Street up to Sherwood Avenue. At its September 6, 2017 meeting, the Planning Board recommended approval of a Major Amendment to the existing use permit, subject to the applicant receiving approval of the modification from the Zoning Board of Appeals. The Planning Department recommended approval in accordance with the plans submitted.

Mr. Beller discussed the characteristics of the property. He explained that the applicant intended to reorganize the site to make it more efficient for employees and customers. Concrete pads would be constructed along the eastern border of the property for temporary storage. This would relocate storage further away from residential properties to the west and would enable the applicant to keep piles of materials under 30’.

Ms. Donovan moved to APPROVE in accordance with the plans submitted. Mr. Aspen seconded the motion.

AYES: Aspen, Donovan, Lanoha, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0
7. Case No. 17-146 Lawrence Butler 4809 Northwest Radial Highway Omaha, NE 68104

REQUEST: Waiver of Section 55-734 – Variance to the required number of off-street parking stalls from 4 to 0 to allow for rehabilitation of the existing building into six multi-family residential units.

LOCATION: 1609 Binney Street
ZONE: GC

PLANNING DEPARTMENT RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on November 9, 2017, Lawrence Butler appeared before the board.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that the applicant was proposing to rehabilitate the existing building into a six-unit, multiple-family residential structure. The units will consist of five, two-bedroom units and one, one-bedroom unit. There is no space on the site to provide off-street parking stalls; however, there is available on-street parking and access to public transportation as close as 20th and Binney Streets. At its September 6, 2017 meeting, the Planning Board recommended approval of a Conditional Use Permit, subject to the applicant receiving a waiver from the Zoning Board of Appeals. The Planning Department believed that the request was acceptable and recommended approval in accordance with the plans submitted.

Mr. Butler explained that the building is approximately 7’ away from an existing building to the east and 2’ on the south. It is approximately 2’ from the adjacent alley.

Mr. Aspen moved to APPROVE in accordance with the plans submitted. Mr. Lanoha seconded the motion.

AYES: Donovan, Lanoha, Anzaldo, Aspen, Mahlendorf

MOTION CARRIED: 5-0
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8. Case No. 17-147  
David Fjare  
Olsson Associates  
2111 South 67th Street  
Omaha, NE 68106  

REQUEST: Waiver of Section 55-126 & 55-786(e)(1) – Variance to the minimum front yard setback from 50’ to 15’ 25’ and to the maximum height of a residential fence in a front yard from 4’ 50% open to 10’ 50% open to allow for construction of a sports court.

LOCATION: 1302 North 143rd Avenue Circle  
ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Denial.

Ms. Donovan recused herself from this case.

At the Zoning Board of Appeals meeting held on November 9, 2017, David Fjare appeared before the board on behalf of the owner.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that the owner intended to construct a tennis court on the property. The Planning Department found no hardship or difficulty to support the waiver and believed that any new improvements should comply with zoning regulations. The Planning Department recommended denial.

Mr. Fjare stated that the owner was proposing to build the court in such a way that it was on top of existing sewer lines. The intention was to maintain a regulation orientation (north/south) of the tennis court without removing any existing, mature trees. He mentioned that there were four other instances where waivers had been granted in that area for tennis courts.

Ms. Alfaro noted that a letter of opposition had been submitted from the property owners at 915 North 143rd Circle. Mr. Mahlendorf stated that the project would not impact those particular property owners.

Jacque Donovan, 1221 North 143rd Street, appeared before the board. Her property is located across the street from the proposed tennis court. She requested that the court be pushed back approximately 10’. Mr. Fjare responded that the court could probably be pushed another 10’ to the west which would decrease the request from 50’ to 25’ into the setback instead of 15’ as proposed. He added that the fence that surrounds the tennis court would be 10’, 50% open and that it would be a black, vinyl chain-link fence. There would be a 6’, wrought-iron fence on the property line.

Mr. Lanoha moved to APPROVE in accordance with the plans submitted, subject to moving the sports court west 10’, reducing the waiver from 50’ to 25’. Mr. Anzaldo seconded the motion.

AYES: Lanoha, Anzaldo, Aspen, Mahlendorf

MOTION CARRIED: 4-0
9. Case No. 17-148
   Anant Enterprises, LLC
   Hupmobile, LLC
   P.O. Box 3847
   Omaha, NE 68103-0847
   REQUEST: Waiver of Section 55-740(f) & 55-928 – Variance to the minimum perimeter parking
   lot landscaping from 5’ to 0’ and 2’ and to the minimum parking lot interior landscaping
   for green parking areas from 7% to 2.1% to allow construction of a new parking lot.
   LOCATION: 2556 Harney Street
   ZONE: CBD-ACI-1(PL)

   PLANNING DEPARTMENT RECOMMENDATION: Approval, in accordance with the plans submitted.

   At the Zoning Board of Appeals meeting held on November 9, 2017, Nate Burnett (601 Old Cheney Road,
   Suite A, Lincoln, NE) appeared before the board.

   Michelle Alfaro, Zoning Board of Appeals Administrator, stated that proposed parking lot would serve the
   Hupmobile and Holiday Inn Express redevelopment project. The first floor of the Hupmobile building will
   be converted into office space and the second floor will house eight, loft-style apartments. The Planning
   Department believed that the requested waivers were acceptable and recommended approval in
   accordance with the plans submitted.

   Mr. Burnett stated that some waivers had been granted to the applicant from the Administrative Board of
   Appeals.

   Mr. Mahlendorf noted that the property was unique because of the irregular shape of the property.

   Ms. Donovan moved to APPROVE in accordance with the plans submitted. Mr. Mahlendorf seconded the
   motion.

   AYES: Anzaldo, Aspen, Donovan, Lanoha, Mahlendorf

   MOTION CARRIED: 5-0
10. Case No. 17-149
   Brad Brooks
   18818 Fort LLC
   105 North 31st Avenue
   #100
   Omaha, NE 68131

   REQUEST: Waiver of Section 55-186 – Variance to the minimum front yard setback from 25’ to 15’ to allow for construction of a new single-family residential subdivision.

   LOCATION: 18818 Fort Street
   ZONE: AG (R4 Pending)

   PLANNING DEPARTMENT RECOMMENDATION: Approval, in accordance with the plans submitted.

   The applicant requested an indefinite layover of the case.

   Mr. Anzaldo moved to LAYOVER indefinitely. Mr. Aspen seconded the motion.

   AYES: Aspen, Donovan, Lanoha, Anzaldo, Mahlendorf

   MOTION CARRIED: 5-0
11. Case No. 17-150
Alex Harrington
1503 Farnam Street
Omaha, NE 68102

REQUEST: Waiver of Section 55-423 – Variance to the permitted use regulations of the CBD district to allow crop production, not otherwise permitted.

LOCATION: 306 South 15th Street
ZONE: CBD-ACI-1(PL)

PLANNING DEPARTMENT RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on November 9, 2017, Alex Harrington appeared before the board.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that the applicant operated a Pickleman’s Deli on the main level of the building and was requesting to utilize the lower level of the restaurant for a hydroponic farm. The farm would allow vegetables to be grown during the winter season for the restaurant and would potentially provide fresh vegetables at a cost to the community. The Planning Department found that the request complimented the existing use of the site and recommended approval in accordance with the plans submitted.

Mr. Lanoha move to APPROVE in accordance with the plans submitted. Mr. Aspen seconded the motion.

AYES: Donovan, Lanoha, Anzaldo, Aspen, Mahlendorf

MOTION CARRIED: 5-0
12. Case No. 17-151  
RHP Normandie, LLC  
c/o Jim Kunz  
P.O. Box 597006  
San Francisco, CA 94159  
REQUEST: Waiver of Section 55-246 – Variance to the front yard setback from 35’ to 26’ to allow for replacement of an existing portico (front porch) and stairs.  
LOCATION: 1102 Park Avenue – Normandie Apartments  
ZONE: R7  

PLANNING DEPARTMENT RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on November 9, 2017, A.J. Campbell (Holland Basham Architects) appeared before the board on behalf of the applicant.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that the applicant planned to replace the deteriorated stairs and portico that serve as an entrance into the apartment building. The new stairs and portico would be the same size as the existing structures and would not encroach any further into the front yard setback. The Planning Department found that a practical difficulty existed due to the location of the building, the size constraints of the site and the site being registered on the National Register of Historic Places. The Planning Department supported the request and recommended approval in accordance with the plans submitted.

The applicant was in agreement with the Planning Department’s recommendation.

Mr. Aspen moved to APPROVE in accordance with the plans submitted. Mr. Lanoha seconded the motion.

AYES: Lanoha, Anzaldo, Aspen, Donovan, Mahlendorf  

MOTION CARRIED: 5-0
13. Case No. 17-019  
Jon Alexander  
Junkstock, LLC  
1150 River Road Dr.  
Waterloo, NE 68069  
REQUEST: Waiver of Section 55-740(e) – Variance to the hard-surfacing requirement for a temporary parking lot for Junkstock events in December 2017 and in the 2018 calendar year.  
LOCATION: 1150 River Road Drive  
ZONE: AG-FW

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on November 9, 2017, Jon Alexander appeared before the board.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that the applicant was requesting a waiver to the hard-surface requirement for a temporary parking lot for the Junk Stock event to be held in December 2017, April 2018, June 2018 and October 2018. The applicant indicated that paved parking would not be practical for the temporary events hosted on the site. The Planning Department found no hardship or practical difficulty to allow the waiver and recommended denial.

Mr. Alexander stated that the shuttle service from Metropolitan Community College had proved to be successful. He clarified that there would not be a June event. In response to Mr. Mahlendorf, Mr. Alexander stated that there were no changes to the event from the previous years.

Mr. Lanoha moved to APPROVE in accordance with the plans submitted. Ms. Donovan seconded the motion.

AYES: Anzaldo, Aspen, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0
APPROVAL OF MINUTES:

Mr. Aspen moved to APPROVE the minutes for the October 12, 2017 meeting. Ms. Donovan seconded the motion.

AYES: Aspen, Donovan, Lanoha, Mahlendorf

ABSTAIN: Anzaldo

MOTION CARRIED: 4-0-1

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:41 p.m.

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Approved (date)

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Brian Mahlendorf, Chair

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Clinette Ingram, Secretary