PRE-MEETING:

The board members in attendance were: Jason Lanoha, Jeremy Aspen, Sean Kelley, Brian Mahlendorf, and Kristine Moore. Planning Department staff in attendance were: Cliff Todd and Clinette Ingram. The cases were reviewed. Mr. Todd advised that the applicant for Cases 18-18-149 had requested a layover.

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, December 3, 2018 and Thursday, December 6, 2018.

MEMBERS PRESENT: Jason Lanoha, Chair
Jeremy Aspen, Vice-Chair
Sean Kelley
Brian Mahlendorf
Kristine Moore

MEMBERS NOT PRESENT: Dustin Friedman (Alternate)

STAFF PRESENT: Cliff Todd, Zoning Board of Appeals Administrator
Jake Placzek, City Planner
Jennifer Taylor, City Attorney
Clinette Ingram, Recording Secretary

The meeting was called to order at 1:00 p.m. Mr. Lanoha introduced the board members and staff, and explained the procedures for hearing the cases. He noted that the applicants for Cases 18-149 and 18-168 had requested layovers.

Mr. Aspen moved to LAYOVER Cases 18-149 and 18-168 until the January 10, 2019 meeting. Ms. Moore seconded the motion.

AYES: Aspen, Kelley, Mahlendorf, Moore, Lanoha

MOTION CARRIED: 5-0.
LAYOVER CASES:

1. Case No. 18-149  **(from 11/8/18)**
   Dave Paladino
   2816 B Street, LCC
   2702 Douglas Street
   Omaha, NE 68131

   REQUEST: Waiver of Section 55-843 - Variance to the maximum size for a pole sign from 150 sq. ft. to 432 sq. ft. and to the maximum height from 35' to 55' to allow for a new electronic messaging center.

   LOCATION: 2816 “B” Street
   ZONE: GI

This case was laid over at the request of the applicant.
NEW CASES:

2. Case No. 18-161
   Clara Lesac
   3356 “X” Street
   Omaha, NE 68107
   REQUEST: Waiver of Sections 55-715 & 55-742 - Variance to the street yard landscaping percentage from 60% to 20% and to allow parking in the front yard setback.
   LOCATION: 3356 “X” Street
   ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on December 13, 2018, Diane Davis, 3356 “X” Street, appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to construct a parking pad in the front yard of the home, noting that she is elderly and wanted easier access to the front of the house. The Planning Department found no hardship or practical difficulty to support the request since there is hard surface parking and the availability of an attached garage via the alley in the rear of the property. The Planning Department recommended denial of the request.

Ms. Davis explained that she is the daughter of the applicant and that she helped her mother to get around. She stated that Ms. Lesac had some problems getting in and out of the house.

Mr. Aspen inquired about the access to a garage and driveway to the rear of the home through the alley. Ms. Davis stated that the alley is not paved causing it to be really slick in the winter. She added that her mother is in her 80’s and cannot walk long distances or go down the basement stairs very well. Mr. Aspen did not feel there was a reason to support the waiver when other options were available. Mr. Mahlendorf agreed, adding that he did not think there was enough room to allow parking. Ms. Davis further explained that the only way to get close to the home was to pull into the neighbor’s driveway which blocked the neighbors in.

Mr. Mahlendorf moved to DENY. Mr. Aspen seconded the motion.

AYES: Kelley, Mahlendorf, Moore, Aspen, Lanoha

MOTION CARRIED: 5-0.
3. Case No. 18-162
   Nakia Vasser-Brye
   4548 Bedford Avenue
   Omaha, NE 68104
   REQUEST: Waiver of Section 55-734 - Variance to the required number of off-street parking stalls from 5 to 2.
   LOCATION: 4548 Bedford Avenue
   ZONE: R7

   PLANNING DEPARTMENT RECOMMENDATION: Approval of the waiver request, subject to this applicant and for this use only.

   At the Zoning Board of Appeals meeting held on December 13, 2018, Nakia Vasser-Brye appeared before the board.

   Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant operated an adult living facility at this location that houses adults who have been diagnosed with mental impairments. The facility is staffed by a single employee and none of the residents drive. After reviewing this information, the Planning Department believed that 5 spots were unnecessary and that the 2 available stalls were acceptable. The Planning Department recommended approval of the request for this applicant and this use only.

   Ms. Vasser-Brye stated that she currently had 8 female residents that all have guardians that assist them. She indicated that none of the residents drove. She added that they all received Medicaid which helped them with transportation to and from appointments.

   Mr. Aspen moved to APPROVE in accordance with the plans submitted for this applicant only. Mr. Kelley seconded the motion.

   AYES: Mahlendorf, Moore, Aspen, Kelley, Lanoha

   MOTION CARRIED: 5-0.
4. Case No. 18-163
Jim Baxter
2543 North 61st Street
Omaha, NE 68104

REQUEST: Waiver of Section 55-742 - Variance to allow off-street parking for a single-family use within the required front yard to allow for construction of a new parking pad.

LOCATION: 2543 North 61st Street
ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on December 13, 2018, Jim Baxter appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the subject property is located approximately one block south of the Benson entertainment district. He explained that on many nights, especially weekends, parking for the Maple Street establishments is unavailable, causing people to search the surrounding side streets and neighborhoods for parking. As a result, the applicant wanted to construct a parking pad in the front yard setback since on-street parking in the neighborhood could be very limited. The Planning Department found no hardship or practical difficulty to support this request as the applicant could construct a code compliant driveway which would allow parking next to his home on the north side of his property. In addition, the property has a usable alley behind it. The applicant could construct a permanent parking area in his rear yard which would be accessible via the alley. The Planning Department recommended denial of the request.

Mr. Baxter stated that his is the only house within two blocks that does not have a garage that allowed him to park in the front of his home. He explained that it would be too expensive for him to remove snow from the alley so that he could access his property. He stated that the condition of the alley is so bad that trash collectors told him that he needed to sit his garbage in front of his home. He indicated that the driveway could not be constructed on the north side of the home since water and gas lines ran along that side.

Mr. Lanoha stated that he was hesitant to support a waiver that would allow parking in the front and was concerned about the precedent that it would set. He believed that parking could be put on the side of the home without effecting gas and water lines. Mr. Baxter indicated that he had pictures of other homes in the neighborhood that had parking in the front of the home. He stated that the alley was too dark and not safe for parking. He explained that in order to add parking on the north side he would have to dig into a 4’ bank. Mr. Mahlendorf responded that if the applicant did put in a driveway with a slope of 40° not much dirt would have to be removed. He believed that the north side of the home was the best location for parking. Mr. Baxter stated that his driveway would be just 3’ from his neighbor’s window.

Mr. Mahlendorf moved to DENY. Mr. Lanoha seconded the motion.

AYES: Moore, Aspen, Kelley, Mahlendorf, Lanoha

MOTION CARRIED: 5-0.
5.  Case No. 18-164  
Ray Plumb  
Schlick Construction  
503 South 36th Street  
Omaha, NE 68105  

REQUEST: Waiver of Section 55-186 - Variance to the front yard setback from 35' to 22'11" to allow for construction of a new, detached garage.

LOCATION: 5910 North 35th Street  
ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on December 13, 2018, Ray Plumb appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new 400 sq. ft. detached garage that would be aligned with the front of the existing house. The home sits approximately 22'11" from the front property line and does not meet the required 35' front yard setback. The Planning Department found no hardship or practical difficulty to justify an exemption and believed that the garage could be built in compliance with zoning regulations. The Planning Department recommended denial.

Mr. Plumb stated that the home was built in 1915, before the zoning regulations existed. He stated that if the garage was built at the 35' setback it would be pushed into an existing retaining wall and would create the need to grade into a hillside. He believed that the waiver would make the property more aesthetically pleasing with little to no impact on the environment.

Mr. Aspen inquired as to whether the applicant would agree to push the garage back 10' from the front yard setback. Mr. Plumb responded that the garage would then be pushed into the hillside. The board noted that the garage would be close but should not impact the retaining wall. Mr. Mahlendorf clarified that the back of the garage would be flush with the back of the home. Mr. Plumb stated that the garage could probably be pushed 3' more without affecting the retaining wall.

Mr. Mahlendorf moved to APPROVE a variance to the front yard setback from 35' to 28' to allow for construction of a new, detached garage. Mr. Kelley seconded the motion.

AYES: Kelley, Mahlendorf, Aspen, Lanoha  
NAYES: Moore  
MOTION CARRIED: 4-1.
6. Case No. 18-165
   REQUEST: Waiver of Section 55-740(e) - Variance to the hard-surface driveway requirement to allow a gravel driveway to a new home and garage.
   Paul Childers
   Childers Custom Homes, Inc.
   13110 North 144th Plaza Circle
   Omaha, NE 68152
   LOCATION: 11505 North 69th Street
   ZONE: DR-ED

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted, subject to the applicant paving the first 50' inside the property line.

At the Zoning Board of Appeals meeting held on December 13, 2018, Paul Childers appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new, single-family home on the site and wanted a rock driveway instead of a paved one. The Planning Department has typically required the applicant to pave the approach and the first 50' of the drive inside the property line to minimize any environmental impact of the ED district. The Planning Department supported the request and recommended approval in accordance with the plans submitted, subject to the applicant paving the first 50' inside the property line.

Mr. Aspen moved to APPROVE in accordance with the plans submitted, subject to the applicant paving the approach and the first 50' inside the property line. Ms. Moore seconded the motion.

AYES: Kelley, Mahlendorf, Moore, Aspen, Lanoha

MOTION CARRIED: 5-0.
7. Case No. 18-166
Jeremy Madson
Omaha Public Schools
4041 North 72nd Street
Omaha, NE 68134

REQUEST: Waiver of Section 55-786 - Variance to the residential fence regulations to allow a 6' tall, chain link fence in the required front yard setback.

LOCATION: 5101 South 17th Street
ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on December 13, 2018, Mike Henrichs (Vireo – 1111 North 13th Street) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, explained that civic uses such as schools and their related facilities, including athletic fields and play areas, are commonly found in residentially zoned districts which have stricter limitations regarding fence height. The proposed fence is 6' tall, open-wire style and will be used to enclose a new soccer field. It would also provide security for the children of the school. The Planning Department believed that the request was acceptable considering the use and the security needs of the facility and recommended approval.

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

AYES: Mahlendorf, Moore, Aspen, Kelley, Lanoha

MOTION CARRIED: 5-0.
8. Case No. 18-167
   Nate Heimuli
   Rathskeller Bier House
   4524 Farnam Street
   Omaha, NE 68132

   REQUEST: Waiver of Section 55-786(f)(2) - Variance to the maximum height for a fence in the side yard of a commercial district from 8’ to 10’ to allow for the modification of an existing fence.

   LOCATION: 4524 Farnam Street
   ZONE: CC-ACI-2(PL)

   PLANNING DEPARTMENT RECOMMENDATION: Denial.

   At the Zoning Board of Appeals meeting held on December 13, 2018, Nate Heimuli appeared before the board.

   Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant appeared before the Zoning Board of Appeals on September 13, 2018 and received a waiver to allow an increase in fence height from 6’ to 8’. The current request would allow the fence to be raised to 10’ in order to match the height of the adjoining fence to the north. The Planning Department found no hardship or practical difficulty to support this request since this is a design preference and the applicant has already received one waiver to allow the fence to be constructed taller than what is legally permitted. The Planning Department recommended denial.

   Mr. Heimuli explained that in some areas the fence was already 8’8” and 9’4” because of the grade of the site. It should be noted that the waiver would apply to the western portion of the fence only.

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

   AYES: Moore, Aspen, Kelley, Mahlendorf, Lanoha

   MOTION CARRIED: 5-0.
9. Case No. 18-168  
Lawnfield LLC, ETAL  
c/o Omaha Neon Sign Company  
1120 North 18th Street  
Omaha, NE 68102  
REQUEST: Waiver of Section 55-831 - Variance to the overall sign budget from 40 sq. ft. to 163 sq. ft., to the maximum number of signs allowed from 2 to 3 and the installation of a roof sign not permitted in a R8 district.  
LOCATION: 7007 Oak Street  
ZONE: R8-ACI-4(PL)  

This case was laid over until the January 10, 2019 meeting.
10. Case No. 18-169  
Matt and Jaylene Eilenstine  
1618 South 213th Circle  
Omaha, NE 68022

REQUEST: Waiver of Section 55-166 - Variance to the rear yard setback from 25’ to 10’ to allow for construction of a new pool house/indoor sports court.

LOCATION: 1618 South 213th Circle  
ZONE: R3

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on December 13, 2018, Nate Heimuli appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicants were proposing to construct a new, 1,758 square foot pool house/indoor sports court on the adjacent lot to the north of their home. The current rear yard setback of 25’ places the proposed new construction directly in the path of the water that drains from their neighbor’s lot to the north. In order to maintain the unrestricted flow of water through these walkout lots, the applicant would like to reduce the rear yard setback to 10’ in order to keep the new building and drainage issues separate. The Planning Department found no hardship or practical difficulty to support the request since the property is large enough that the new building could be moved forward to match the same 35’ front yard setback of the existing home. Mr. Todd explained that by moving the building forward, the drainage issue can be avoided as proven by the location of the current home. The Planning Department recommended denial.

Mr. Eilenstine stated that, after speaking with a neighbor, the variance request had been adjusted to 15’ instead of 10’. He explained that the proposed layout of the site would allow them to have the building and off-street parking for guests since the cul-de-sac tended to get congested. He submitted signed statements of support from the neighbors and from the homeowner’s association (Exhibit B). Mr. Eilenstine explained that water flowed on the property from right to left. He planned to put in a drainage system to direct the water which he believed would improve drainage.

Rex Vollahme, 1505 South 214th Street, appeared before the board. He owns the property to the rear of the proposed structure. He stated that he had no objection to the request; however, he did object to the 10’ setback. He wanted to make sure that any waiver would include a 15’ setback.

In response to Mr. Mahlendorf, Mr. Eilenstine stated that the pool would be located behind the existing home. Mr. Mahlendorf advised the applicant to be aware of impervious coverage issues. He believed that there should be enough room on the empty lot to construct a pool house. Mr. Eilenstine stated that if the pool house was moved to the east he would lose parking. Ms. Eilenstine stated that this would cause them to lose the flat green space at the front of the property. Ms. Moore stated that if the pool house was lined up with the existing home, there would still be green space.

Mr. Kelley stated that he could not find a hardship, except for drainage, because of the large size lot. Mr. Eilenstine responded that the plan would keep additional traffic off of the street.

Mr. Lanoha noted that anyone that could be affected by the project had signed in favor of the project. Mr. Aspen stated that he had a hard time supporting the request because of the size of the lot.
In response to Mr. Lanoha, Mr. Eilenstine stated that if the structure was built legally, it would sit in and block the drainage of water from the north.

There was some discussion about other options; however, Mr. Eilenstine stated that his neighbors had signed off on the plan that was presented to them, explaining that they may not support another design. Mr. Kelley suggested that the applicant be given the opportunity to present a new design.

Mr. Mahlendorf moved to APPROVE the variance to the rear yard setback from 25' to 15' to allow for construction of a new pool house/indoor sports court. Mr. Lanoha seconded the motion.

AYES: Lanoha

NAYES: Aspen, Kelley, Mahlendorf, Moore

MOTION FAILED: 4-1.

Mr. Mahlendorf moved to LAYOVER until the January 10, 2019 meeting to give the applicant time to review other options. Mr. Aspen seconded the motion.

AYES: Aspen, Kelley, Mahlendorf, Moore, Lanoha

MOTION CARRIED: 5-0.
11. Case No. 18-170
Paul Bratetic
Bratetic Construction
17163 County Road 36
Kennard, NE 68034
REQUEST: Waiver of Section 55-146 - Variance to the street side yard setback from 20' to 18'9" to allow for a home addition.
LOCATION: 11601 Frances Street
ZONE: R2

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on December 13, 2018, Paul Bratetic appeared before the board on behalf of the property owner.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new 676 sq. ft. addition on the rear of the existing home that would exceed the allowable 20' street side yard setback. The Planning Department found no hardship or practical difficulty to support the requesting, noting that it is a design preference. He explained that a smaller addition or a redesigned plan would provide for an addition that could meet the required setbacks and be built in compliance with the zoning code. The Planning Department recommended denial.

Mr. Bratetic explained that proposed plan aligned the home with the existing structure on the east side to allow for the continued use of a lower level garage. A surveyor confirmed that the house was built on the lot at a slight angle which causes the east corner of the home to be 6" over the 20' setback. The applicant requested the waiver to allow the east wall to be lined up with the existing home. He explained that the furthest the addition would go would be 13 ¼". He also mentioned the signatures that had been obtained from the neighbors.

Mr. Mahlendorf noted that there would be no additional impact to the adjacent neighbors.

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

AYES: Kelley, Mahlendorf, Moore, Aspen, Lanoha

MOTION CARRIED: 5-0.
12. Case No. 18-171
Dakota Cochrane
62566 250th Street
Glenwood, IA 51534

REQUEST: Waiver of Section 55-186 - Variance to the rear yard setback from 25' to 21' to allow for the replacement of an existing deck.

LOCATION: 10929 Jackson Street
ZONE: R4(35)-FF

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on December 13, 2018, Dakota Cochrane appeared before the board on behalf of the property owner.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant had reconstructed a deck which services the rear of the existing home as well as the above ground swimming pool. A portion of the deck does not meet the required 25’ rear yard setback. The Planning Department found no hardship or practical difficulty to support the request, noting that it is a design preference. He stated that the pool could be moved closer to the home or the portion of the deck which sits in the setback could be removed. The Planning Department recommended denial.

Mr. Cochrane stated that he reconstructed the deck with the exact same dimensions as it previously had.

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

AYES: Mahlendorf, Moore, Aspen, Kelley, Lanoha

MOTION CARRIED: 5-0.
APPROVAL OF MINUTES:

Mr. Mahlendorf moved to APPROVE the minutes for the November 8, 2018 meeting. Mr. Lanoha seconded the motion.

AYES: Moore, Aspen, Kelley, Mahlendorf, Lanoha

MOTION CARRIED: 5-0.

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:20 p.m.

____________________________________________
Approved (date)

____________________________________________
Jason Lanoha, Chair

____________________________________________
Clinette Ingram, Secretary