PRE-MEETING:

The pre-meeting began at 9:20. The board members in attendance were: Jason Lanoha, Jacque Donovan, Brian Mahlendorf, Kris Moore and Sean Kelley. Planning Department staff in attendance were: Michelle Alfaro, Cliff Todd and Clinette Ingram.

Ms. Alfaro discussed with the board the Planning Department’s recommendation for all of the cases listed on the agenda.

The board decided to visit 4830 Poppleton Avenue and 6237 Underwood Avenue.

The pre-meeting ended at 10:20.

SITE VISITS:

Site visits began at 10:40. Those in attendance were Jason Lanoha, Jacque Donovan, Brian Mahlendorf, Kris Moore and Sean Kelley, Michelle Alfaro and Cliff Todd.

At 6237 Underwood they observed the property, the existing driveway and other hammerhead driveways in the area. At 4830 Poppleton Avenue they toured the neighborhood and drove down the alley to get a feel for the area.

Site visits ended at 11:09.
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.

**LAYOVER CASES:**

1. **Case No. 18-024**  
   Dave and Lisa Manning  
   5707 Harney Street  
   Omaha, NE 68132  

   **REQUEST:** Waiver of Section 55-166 & 55-767(c) – Variance to the minimum rear yard setback from 25’ to 4’, to the minimum interior side yard setback from 7’ to 3’, to the maximum impervious coverage from 50% to 56.49%; and to allow a home occupation in an accessory building; to allow for construction of a new 1½ story garage with an office.

   **LOCATION:** 5707 Harney Street  
   **ZONE:** R3

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

At the Zoning Board of Appeals meeting held on April 12, 2018, Dave Manning and Paul Kelly appeared before the Board.

Michelle Alfaro, Zoning Board of Appeals Administrator, recalled that the case had been laid over to give the applicant time to obtain documents of support from adjacent neighbors and to give the applicant the opportunity for the case to be heard before a full board. Documents were provided that showed that the four adjacent neighbors had no objections to the proposed plan. The Planning Department found no hardship or practical difficulty to support the request and recommended denial.

Mr. Kelly indicated that the garage would be moved approximately 2’ to the north which would help to reduce impervious coverage on the site.

Mr. Mahlendorf stated that he was hesitant to support the request since there were no other 2-story, detached garages in the neighborhood. In response to Ms. Donovan, Mr. Kelly stated that there would be no plumbing in the addition and it would match the existing home.

Sean Kelley stated that he was hesitant to set a precedent in the area by supporting the addition. Mr. Lanoha inquired as to whether it was possible to attach the addition to the home. Mr. Kelly responded that it would be difficult to do so due to the constraints of the lot. In response to Ms. Donovan, Mr. Kelly stated that the ridge height of the garage could possibly be reduced by at least 1’. Mr. Mahlendorf stated that if the floor plan was reduced by approximately 2’ and the second floor was reduced to about 10’ x 20’, a waiver to the setbacks would not be necessary.

Mr. Mahlendorf moved to APPROVE the request as amended. Ms. Donovan seconded the motion.

**AYES:** Donovan, Kelley, Mahlendorf, Moore, Lanoha  
**MOTION CARRIED:** 5-0

**NEW CASES:**
2. Case No. 18-021
   Jordan Farrell
   3910 South 202nd Avenue
   Omaha, NE 68130

   REQUEST: Waiver of Section 55-786(e)(1) – Variance to the residential fence regulations to allow a 6’ tall, privacy fence within the street side yard setback.

   LOCATION: 3910 South 202nd Avenue
   ZONE: R4

   PLANNING DEPARTMENT RECOMMENDATION: Denial.

   At the Zoning Board of Appeals meeting held on April 12, 2018, Jordan Farrell appeared before the Board.

   Michelle Alfaro, Zoning Board of Appeals Administrator, stated that the applicant was proposing to install a 6’ tall, privacy fence in the street side yard setback. She noted that a 10’ landscape easement had been recorded on the original plat for this property. The Planning Department found no hardship or practical difficulty to support the request and recommended denial. She advised that if the board was inclined to approve the request, the applicant would be required to go through the Administrative Subdivision process to have the landscape easement removed before a building permit could be issued. She also noted that the applicant had received letters of support from his adjacent neighbors, including the owner of the mixed-use property to the west.

   Mr. Farrell stated that he wanted the fence to protect his children.

   Although Mr. Mahlendorf believed that a hardship resulted from the configuration of the lot, he did not think that it was necessary to allow the fence to be built on the property line. After some discussion, it was decided that the proposed fence would be built according to Design 3 of the plan (Exhibit 2).

   Mr. Mahlendorf moved to APPROVE subject to the fence being constructed 5’ from the property line (Exhibit 2) and the applicant applying for an administrative subdivision to eliminate the 10’ landscape easement prior to issuance of the building permit. Mr. Kelley seconded the motion.

   AYES: Kelley, Mahlendorf, Moore, Donovan, Lanoha

   MOTION CARRIED: 5-0
3.  Case No. 18-034
Gerald Jackson
5602 North 131st Street
Omaha, NE 68164

REQUEST:  Waiver of Section 55-786(e)(1) – Variance to the residential fence regulations to allow a 5’ tall, 50% open picket fence in the street side yard setback.

LOCATION:  5602 North 131st Street
ZONE:  R4

PLANNING DEPARTMENT RECOMMENDATION:  Denial.

At the Zoning Board of Appeals meeting held on April 12, 2018, Gerald Jackson appeared before the Board.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that the applicant was proposing to install a 5’, 50% open picket fence in the street side yard setback. There was an existing 4’, 50% open fence that complied with zoning regulations. The Planning Department found no hardship or practical difficulty to support the request and recommended denial.

Mr. Jackson stated that he lived alone and wanted the fence for privacy and security. In response to Mr. Mahlendorf, Mr. Jackson stated that the request was for the fence along Ellison Avenue. Ms. Donovan noted that the applicant’s home sat adjacent to two main streets and near an apartment complex.

Ms. Moore moved to APPROVE. Mr. Kelley seconded the motion.

AYES: Mahlendorf, Moore, Donovan, Kelley, Lanoha

MOTION CARRIED: 5-0
4. Case No. 18-035
   Gary & Debra Fox
   15036 Cuming Street
   Omaha, NE 68154
   REQUEST: Waiver of Section 55-186 – Variance to the minimum rear yard setback from 25’ to 13’ 46’ to allow for construction of a new deck.
   LOCATION: 15036 Cuming Street
   ZONE: R4

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on April 12, 2018, David Robinson (Contractor) – 9957 Olive Street, appeared before the Board on behalf of the applicants.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that the applicants were proposing to replace an existing deck that encroached into the rear yard setback. It could not be determined if the original deck was lawfully constructed. The Planning Department found no hardship or practical difficulty and recommended denial.

Mr. Robinson stated that the non-conforming deck was original to the home. He added the new deck would be the same size as the existing deck. In response to Mr. Mahlendorf, Mr. Robinson stated that the stairs to the deck could be reconfigured so that they run from east to west. This would make the encroachment 16’ instead of 13’.

Mr. Mahlendorf moved to APPROVE the request as AMENDED. Ms. Donovan seconded the motion.

AYES: Moore, Donovan, Kelley, Mahlendorf, Lanoha

MOTION CARRIED: 5-0
5. Case No. 18-036
Consolidated Concrete, LLC
9555 South 147th Street
Omaha, NE 68138

REQUEST: Waiver of Section 55-767(a)(6) – Variance to the miscellaneous uses to allow a permit to exceed the maximum duration allowed from 180 days to 365 days.

LOCATION: 14411 Pacific Street
ZONE: DR(Pending R4 and MU)

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

At the Zoning Board of Appeals meeting held on April 12, 2018, Lee Hamann (McGrath North Law Firm – 1601 Dodge Street) and Aaron Luth (Consolidated Concrete) appeared before the Board.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that the applicant was requesting a waiver to extend the maximum duration allowed to operate a temporary concrete batch plant. The plant would assist in the development of streets, infrastructure and related improvements for the South and West Farm developments. The Planning Director approved a Temporary Use Permit that allowed the batch plant to operate for 180 days. Ms. Alfaro explained that allowing the applicant to operate at this location results in less wear and tear on city streets and reduces heavy traffic along main roads and residential streets. The Planning Department recommended approval in accordance with the plans submitted. She noted that there was one letter from a neighbor concerned about the amount of dust created from the operation.

In response to Mr. Kelley, Mr. Luth stated that the concrete produced on the site would be used for projects on the north and sides of Pacific Street that pertain to the South and West Farm developments. Mr. Hamann mentioned that the projects could go on longer than one year which would require the submittal of another Temporary Use Permit.

Mr. Kelley moved to APPROVE subject to the site being used for projects relating to that location only. Mr. Lanoha seconded the motion.

AYES: Kelley, Mahlendorf, Moore, Donovan, Lanoha

MOTION CARRIED: 5-0
6. Case No. 18-037
   Todd Schuiteman
   Quality Living, Inc.
   6404 North 70th Plaza
   Omaha, NE 68104
   REQUEST: Waiver of Section 55-786 – Variance to the
   maximum height of a fence within a front or street side yard from 4’ 50% open to 6’ 50% open to allow for installation of a new fence.
   LOCATION: 6404 North 70th Plaza
   ZONE: R7

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

At the Zoning Board of Appeals meeting held on April 12, 2018, Todd Schuiteman appeared before the Board.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that on February 7, 2018, the applicant’s request for approval of a Major Amendment to a Conditional Use Permit was approved to allow Convalescent Services for the proposed fencing. The proposed 6’ fencing would provide security for the site. It would be comprised primarily of wrought iron with approximately 7’ tall brick columns. The Planning Department has historically been supportive of reasonable waivers for large campus type sites. The Planning Department believed that the request was not excessive considering the size of the property with its multiple street frontages and accesses. The Department recommended approval in accordance with the plans submitted.

Mr. Schuiteman stated that the gate was for the east side of the property and would complete fencing for the perimeter of the site.

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

AYES: Kelley, Mahlendorf, Moore, Donovan, Lanoha

MOTION CARRIED: 5-0
7. Case No. 18-038
Sophia Kochanowicz
4830 Poppleton Avenue
Omaha, NE 68103

REQUEST: Waiver of Section 55-186 – Variance to the maximum impervious coverage percentage from 50% to 53% to allow for construction of a new garage, driveway and addition with a request for reasonable accommodation.

LOCATION: 4830 Poppleton Avenue
ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on April 12, 2018, Julie Fowler (Fowler & Kelly Law, LLP) – 1904 Farnam Street, Suite 101, appeared before the Board.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that the applicant had submitted a Reasonable Accommodation request to allow the proposed improvements. The applicant indicated that she uses an electric wheelchair and needed a double-car garage to enter and exit her vehicle. The addition would also expand the space around the bedroom for wheelchair accessibility. Ms. Alfaro noted that the applicant provided two options: Option A which was their ideal plan and Option B, which met the requirements of the code. Because Option B complied with the code requirements, the department is unable to support the request for Option A. The Planning Department recommended denial.

Ms. Fowler indicated that the applicant was proposing to do the following: 1) add a second story with a large bedroom and bathroom for caretaker’s quarters; 2) extend the existing two bedrooms to make them wheelchair accessible, and 3) add a two-car garage to the rear of the home. She explained that the family uses a van with a side-lift to transport the family member that uses a wheelchair. She stated that the variance would allow the family member to remain in the home.

Mr. Lanoha noted that the board was able to visit the site, which included the alley.

Mr. Mahlendorf agreed with the Planning Department and did not believe that this case met all of the requirements for Reasonable Accommodation, specifically Page 5, Step 2C which states “in the City’s effort to comply with the spirit of the Applicant’s request, an alternative accommodation is approved that provides an equivalent level of benefit and effectively addresses the need for accommodation stated in the Application”. He noted that there was another option presented that did not require a waiver. He believed that the waiver was not necessarily related to the Reasonable Accommodation policy; however, he felt that the request was worth considering since it fit the neighborhood and was not excessive.

Ms. Donovan moved to APPROVE the variance to the maximum impervious coverage percentage from 50% to 53% to allow for construction of a new garage, driveway and addition. Mr. Lanoha seconded the motion.

AYES: Mahlendorf, Moore, Donovan, Kelley, Lanoha

MOTION CARRIED: 5-0
8. Case No. 18-040
Paul Kelly, AIA
440 North 61st Street
Omaha, NE 68132

REQUEST: Waiver of Section 55-126, 55-715, 55-740(f)(4) & 55-741 – Variance to the maximum impervious coverage percentage from 30% to 37.79%; to the minimum street yard landscaping percentage from 25% to 26.48%; to the minimum street yard landscaping depth from 30’ to 7’; to the minimum perimeter landscaping requirement from 10’ to 1’; and to allow parking in the front yard setback to allow for a new hammerhead driveway.

LOCATION: 6237 Underwood Avenue
ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on April 12, 2018, Paul Kelly appeared before the Board on behalf of the property owners.

Michelle Alfaro, Zoning Board of Appeals Administrator, recalled that a similar request had been submitted for this site in 2017. The 2017 request was for a circular drive, which was denied; the current request was for a hammerhead drive. The applicant indicated that the hammerhead drive would allow vehicles to access Underwood Avenue in a forward position. The Planning Department found no hardship or practical difficulty to support the request and recommended denial.

Mr. Kelly stated that the property owners were concerned about cars backing out of their driveway onto Underwood Avenue. The hammerhead would allow enough room for cars to pull in and drive out onto Underwood Avenue. He added that an 18’ wide driveway was being proposed that would match what the adjacent neighbors have. Their current driveway is 10’ wide.

Mr. Lanoha mentioned that the board had visited the site.

In response to Mr. Mahlendorf, Mr. Kelly stated that there was not enough room at the rear of the home to add more impervious coverage. Ms. Donovan stated that she did not support the proposal to widen the driveway to 18’. In response to Ms. Donovan, Mr. Kelly proposed that a 4’ apron be added to the existing 10’ wide driveway as compromise. He stated that the hammerhead could be pulled back 4’ so that it did not extend so far across the front yard.

Ms. Donovan moved to APPROVE subject to the driveway going up to the hammerhead not exceeding 14’ and the hammerhead portion of the driveway not exceeding 30’ off the driveway. Mr. Kelley seconded the motion.

AYES: Moore, Donovan, Kelley, Mahlendorf, Lanoha

MOTION CARRIED: 5-0
9. Case No. 18-042 Myrtle & Cypress, LLC 517 North 33rd Street Omaha, NE 68131

REQUEST: Waiver of Section 55-732(1), 55-734 & 55-735 – Variance to the required number of off-street parking from 14 stalls to 0 stalls to allow for a restaurant (limited) use.

LOCATION: 517 North 33rd Street
ZONE: GC

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on April 12, 2018, Martin Janousek appeared before the Board on behalf of the property owners.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that the applicant was proposing to operate a coffee shop at the site where off-street parking is required. The applicants had previously indicated that they had a parking agreement with Circle Development to use a parking lot to the west; however, it is not a legal parking lot and could not be used to satisfy the parking requirements. The Planning Department recommended denial of the request. She noted that the Department had received several letters of support from adjacent businesses, neighbors and the Gifford Park Neighborhood Association.

Mr. Jonousek (4602 Center Street) provided some historical information about the neighborhood. He stated that the neighborhood association is extremely active in the area and that many activities occur in the neighborhood.

Chris Foster (3413 California Street) appeared before the board. He explained that the neighborhood association was attempting to create a neighborhood with green space that also attracted pedestrian and bike traffic. He stated that the neighborhood had also been recently designated as a “Community Arboretum”. He submitted a newsletter (Exhibit B) that highlighted some of the activities that occur in the neighborhood. He further added that the neighborhood association had worked with the Planning Department on a “Code of Conduct” to help improve the neighborhood.

Eric Purcell (3152 Chicago Street) appeared before the board. He stated that he was one of the owners of the restaurant. He discussed several factors that supported the fact that individuals in the Gifford Park neighborhood used other means of transportation, including walking, more often than individuals in other areas of the city. He believed that adding an off-street parking lot would destroy the essence and economic viability of the area. He also mentioned the many letters that had been submitted from neighbors and businesses that supported the request.

Angie Pasho (3224 Lincoln Boulevard) appeared before the board. She stated that a bike hub was being added at the corner of California Street that would make the area more accessible.

Mr. Mahlendorf stated that there was a hardship since the building had no available parking. Mr. Kelley believed that the coffee shop was the best use for this property.

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

AYES: Donovan, Kelley, Mahlendorf, Moore, Lanoha

MOTION CARRIED: 5-0
10.  Case No. 18-046
    Robert Zagozda
    Westside Community Schools
    Omaha District 66
    909 South 76th Street
    Omaha, NE 68114
    REQUEST:  Waiver of Section 55-735(b) – Variance to allow off-street parking for a non-residential use in the front yard setback of a residential district to allow for additional and reconstructed parking lots at Westbrook Elementary School.
    LOCATION:  1312 Robertson Drive
    ZONE:  R4(35)

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

At the Zoning Board of Appeals meeting held on April 12, 2018, Joe Zadina (Lamp Rynearson & Associates – 14710 West Dodge Road) and Robert Zagozda appeared before the Board.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that the applicant was proposing a new parking plan where the parking lot would be located to the south. A new parking lot was proposed to the east to provide parking for the Boys & Girls Club. The new parking plan would allow access to the front entry for visitors. She explained that the parking design proposed parking in the front yard, which is not allowed; however, was common for schools in residential districts. The applicant would be required to comply with all applicable landscaping and screening requirements before a building permit could be issued. The Planning Department found that the request was appropriate for the large civic use and recommended approval in accordance with the plans submitted.

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

AYES: Kelley, Mahlendorf, Moore, Donovan, Lanoha

MOTION CARRIED: 5-0
11. Case No. 18-047
Robert Zagozda
Westside Community Schools
Omaha District 66
909 South 76th Street
Omaha, NE 68114

REQUEST: Waiver of Section 55-715 & 55-735(b) – Variance to the minimum street yard landscaping depth from 25’ to 10’ and to allow off-street parking for a non-residential use in the front yard setback at Swanson Elementary School.

LOCATION: 8601 Harney Street
ZONE: R2

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

At the Zoning Board of Appeals meeting held on April 12, 2018, Joe Zadina (Lamp Rynearson & Associates – 14710 West Dodge Road) and Robert Zagozda appeared before the Board.

Michelle Alfaro, Zoning Board of Appeals Administrator, stated that the applicant was proposing a new parking plan for the school. The applicant met the minimum street yard landscaping requirement of 25’ across the site with the exception of the east corner which was designated as the bus drop off area. No cars would be allowed to park in this area. Parking would be provided in the setback along Harney Street to provide adequate parking stalls and accessibility. The applicant would be required to comply with all applicable landscaping and screening requirements prior to issuance of a building permit. The Planning Department found that the request was appropriate for the large civic use and recommended approval in accordance with the plans submitted.

Mr. Zadina mentioned that the school is situated next to an arboretum and explained that everything was done in a way that would preserve as many trees as possible.

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

AYES: Mahlendorf, Moore, Donovan, Kelley, Lanoha

MOTION CARRIED: 5-0
APPROVAL OF MINUTES:

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

AYES: Moore, Mahlendorf, Lanoha

ABSTAIN: Donovan, Kelley

MOTION CARRIED: 3-0-2

DISCUSSION:

Jennifer Taylor, City Law, stated that the Bruning case had been appealed to the Nebraska Court of Appeals.

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:24 p.m.

____________________________________________
Approved (date)

____________________________________________
Jason Lanoha, Chair

____________________________________________
Clinette Ingram, Secretary