PRE-MEETING:

The board members in attendance were: Jason Lanoha, Dustin Friedman and Kristine Moore. Planning Department staff in attendance were: Cliff Todd (Zoning Board of Appeals Administrator) and Clinette Ingram (Recording Secretary). The board reviewed the cases.

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, September 30, 2019 (Use Waivers) and Thursday, October 3, 2019.

MEMBERS PRESENT: Jason Lanoha – Chair
Dustin Friedman (Alternate)
Brian Mahlendorf
Kristine Moore

MEMBERS NOT PRESENT: Jeremy Aspen – Vice Chair
Sean Kelley
Matthew Kortright (Alternate)

STAFF PRESENT: Mike Carter, Current Planning Manager
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 City staff. He also explained the procedures for hearing the cases. Mr. Lanoha advised the applicants that there were only four board member available so they had the option of laying over their case so that it could possibly be heard before a full board of five members. He mentioned that the applicant for Case 19-097 had requested a layover.
LAYOVER CASES:

1. Case No. 19-092 (from 9/13/19)  
   Brian Troia  
   901 South 86th Street  
   Omaha, NE 68114  
   REQUEST: Waiver of Section 55-146 - Variance to the minimum street side yard setback from 20' to 18' to allow for a home addition to an existing non-conforming structure.  
   LOCATION: 901 South 86th Street  
   ZONE: R2  

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 10, 2019, Justin Roberts (Attorney) and Sarah Troia appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that this case had been laid over at the September 13, 2019 meeting to give the applicant time to provide the board with an updated survey of the property so that it could be determined whether or not a waiver was actually needed. It was determined that the existing addition was constructed at 18’ instead of the required 20’. The board was then able to consider the waiver request for the 2016 addition as well as the new addition with regards to the reduction of the minimum street side yard distance from 20’ to 18’. The Planning Department found no hardship or practical difficulty to support this request since an addition that would comply with the municipal code could be constructed without the need for waivers. The Planning Department recommended denial.

Mr. Roberts stated that when his client purchased the property in 2012 he believed that it was at 18’ and that the previous addition did not encroach further into the setback. The applicant wanted to continue to build at 18’ along 86th Street. Mr. Roberts submitted and discussed the paperwork he submitted to confirm his client’s statements. He also noted that most of the homes along Shamrock Road encroached into the setback.

Ms. Moore inquired as to whether the addition could be built so that it met the required setback. Ms. Troia responded that the new addition would include a stairway to the upper level of the garage where bedrooms and a living area would be located. She explained that if the addition was moved back the addition would not flow correctly.

Mr. Roberts noted that the applicant was also seeking a waiver for the addition that had already been built.

Mr. Mahlendorf believed that there was a hardship because a variance was not granted for the addition that was built in 2016.

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

AYES: Mahlendorf, Friedman, Moore, Lanoha  
MOTION CARRIED: 4-0.
2. Case No. 19-097 (from 9/13/19)
   Kirk Koehler
   1701 Washington Street
   Bellevue, NE 68005

REQUEST: Waiver of Section 55-246 - Variance to the
minimum lot size in an R7 district from 3,000
sq. ft. to 1,260 sq. ft.; to the minimum site
area per unit from 3,000 sq. ft. to 1,260 sq.
ft.; to the minimum front yard setback from
35' to 0'; to the minimum street side yard
setback from 15' to 5'; to the minimum
interior side yard setback from 7' to 5'; to the
minimum rear yard setback from 25' to 5'; to
the maximum building coverage from 60%
to 63% and to the maximum impervious
coverage allowed from 70% to 73% to allow
for the construction of new Single-Family
(Attached) housing.

LOCATION: 2518 Mason Street
ZONE: R7

The applicant requested a layover of this request.

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

AYES: Friedman, Moore, Mahlendorf, Lanoha

MOTION CARRIED: 4-0.
3. Case No. 19-105 (from 9/13/19)  
Daffer Properties, LLC  
920 Quail Hollow Circle  
Dakota Dunes, SD 57049  

REQUEST: Waiver of Section 55-206 - Variance to the maximum impervious coverage in an R5(35) district from 55% to 63%; to the street side yard setback from 15' to 0'; and to the rear yard setback from 25' to 18' to allow for construction of a driveway expansion and the permanent installation of a storage container.

LOCATION: 2567 Fowler Avenue  
ZONE: R5(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 10, 2019, the applicant failed to appear before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that this case had been laid over at the September 13, 2019 meeting to give the applicant time revise his site plan and to discuss any new information with the Planning Department. Since that time no new information had been received and the Planning Department continued to recommend denial.

The case was moved to the end of the agenda and the board decided at that time to vote to layover the case.

Mr. Mahlendorf moved to LAYOVER. Ms. Moore seconded the motion.

AYES: Moore, Mahlendorf, Friedman, Lanoha

MOTION CARRIED: 4-0.
### NEW CASES:

<table>
<thead>
<tr>
<th>Case No. 19-106</th>
<th>REQUEST: Waiver of Section 55-506 - Variance to the rear yard setback from 10' to 0' to allow for the rezoning and subdividing of existing property and structures.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leo Ascencio</td>
<td>LOCATION: 1464 Evans Street</td>
</tr>
<tr>
<td>c/o Matt Tinkham,</td>
<td>ZONE: GI &amp; HI (GI Pending)</td>
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<tr>
<td>Lamp Rynearson</td>
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<tr>
<td>14710 West Dodge Road</td>
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<tr>
<td>Suite 100</td>
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<tr>
<td>Omaha, NE 68154</td>
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**PLANNING DEPARTMENT RECOMMENDATION:** Approval, subject to the plans submitted.

At the Zoning Board of Appeals meeting held on October 10, 2019, David Skalka (Attorney – 2120 South 72nd Street) and Leo Ascencio appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was subdividing the existing property and, due to the proximity of the existing structures, was not be able to meet the required rear yard setback. At its October 2, 2019 meeting, the Planning Board recommended approval of the Preliminary and Final Plat of ASCENCIO, with rezoning to GI (General Industrial). As a result of the proposed replatting, each of the existing buildings would be located on separate lots and, when factoring in the configuration of the existing buildings, it would make it impossible to meet the required setbacks for the GI District. A hardship existed due to the location of the existing buildings. The Planning Department supported the waiver request and recommended approval subject to the plans submitted.

Mr. Skulka stated that his client agreed with the Planning Department's recommendation and that the intention was to rezone the site from Heavy Industrial to General Industrial which caused an issue with the setback.

Ms. Moore moved to APPROVE subject to the plans submitted. Mr. Lanoha seconded the motion.

**AYES:** Mahlendorf, Friedman, Moore, Lanoha

**MOTION CARRIED:** 4-0.
5. Case No. 19-107
Sandra Delgado
1017 South 36th Street
Omaha, NE 68105
REQUEST: Waiver of Section 55-764(d)(2) - Variance to the capacity limitations for a Daycare services (general) use in an R4 district from 12 to 29 individuals.
LOCATION: 5815 & 5819 South 14th Street
ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Approval, subject to the plans submitted.

At the Zoning Board of Appeals meeting held on October 10, 2019, Jennifer Vera (daughter of applicant) and Sandra Delgado (Owner) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the maximum number of individuals for Daycare Services in a parcel zoned R4 is 12. The Planning Board recommended approval of a Special Use Permit for a Daycare Service use, with one of the conditions being a waiver from the Zoning Board of Appeals for the maximum capacity. The Planning Department did not believe that the request to expand the capacity from 12 to 29 individuals was unreasonable because of the hardship that existed due to the R4 residential zoning district that did not take into consideration large civic uses such as large daycare facilities, schools and churches. The Planning Department recommended approval subject to the plans submitted.

Ms. Vera explained that the space is large and there would be more people working at the daycare to accommodate the number of individuals. She requested a commercial use instead of residential. She also explained that one of the lots would be used as a parking lot while the other would be used for the daycare center.

Mr. Todd clarified that the applicant only wanted to increase the capacity and was not attempting to rezone the property. Mr. Mahlendorf agreed that there was a hardship and he noted that there would be sufficient parking since it was included as part of the plan.

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

AYES: Friedman, Moore, Mahlendorf, Lanoha

MOTION CARRIED: 4-0.
6. **Case No. 19-108**  
Doug Riddington  
8753 Dorcas Street  
Omaha, NE 68124  

**REQUEST:** Waiver of Section 55-146 - Variance to the minimum front yard setback from 40' to 33'-9" to allow for the construction of a covered front porch.  
**LOCATION:** 8753 Dorcas Street  
**ZONE:** R2  

**PLANNING DEPARTMENT RECOMMENDATION:** Denial.

At the Zoning Board of Appeals meeting held on October 10, 2019, Doug Riddington appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to construct a new 6’ x 13’ covered porch on the front of the home and was not be able to meet the required 40’ front yard setback. The Planning Department found no hardship or practical difficulty to support the request, noting that this was a design preference, and recommended denial of the waiver request.

Mr. Riddington explained that he wanted to extend the porch 2’ towards the curb. He indicated that there was 54’ 10” from the back of the curb to his existing porch. He added that there were 7 neighbors within a 2 block radius that had similar existing situations. He added that he had learned that there had been several waivers that had been granted in his neighborhood.

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

**AYES:** Moore, Mahlendorf, Friedman, Lanoha  

**MOTION CARRIED:** 4-0.
7.  Case No. 15-151  
   Kiewit Infrastructure Group  
   c/o Noddle Companies  
   2285 South 67th Street  
   Omaha, NE 68106

   REQUEST:  Waiver of Sections 55-718 & 55-928(e) - Variance to the required landscaping plantings for a surface parking lot for a period of no more than 4 years from the date of the approval of the Conditional Use Permit for Surface Parking.

   LOCATION:  1515 Cuming 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 October 10, 2019, Todd Swirczek (Noddle Companies) appeared before the board on behalf of the applicant.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to continue the use of a 148 stall, paved parking lot as a staging area for the construction of the 180,000 square foot Kiewit World Headquarters building and adjacent parking garage for a period of no more than 4 years. At its October 2, 2019 meeting, the Planning Board approved a Major Amendment to a Conditional Use Permit for the surface parking use with one of the conditions being that the applicant obtained a waiver from the Zoning Board of Appeals for the landscaping requirement. This request was similar to the one approved in 2015 but allowed for a 4-year waiver extension for a delay of the installation of the landscape requirements. Considering the temporary nature of the request and the extensive redevelopment of the adjacent site, the Planning Department found the temporary waiver to be acceptable and recommended approval of the waiver request in accordance with the plan submitted.

Mr. Swirczek stated that in the last four years, three major projects had been built and this lot had been used as a type of construction staging/parking area during that time. He added that the additional four year request would allow time for the Kiewit World Headquarters building and the adjacent parking garage to be constructed. At that time, New Street had the option to purchase the lot for future development.

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

AYES: Mahlendorf, Friedman, Moore, Lanoha

MOTION CARRIED: 4-0.
8. Case No. 19-109
Ron Kwiatkowski
  c/o Mick McGuire
  Straightline Designs
  3925 South 147th Street
  Omaha, NE 68144

REQUEST: Waiver of Section 55-146 - Variance to the minimum interior side yard setback from 10' to 5.8' to allow for construction of a garage addition.

LOCATION: 1510 South 93rd Street

ZONE: R2

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 10, 2019, Mick McGuire and Ron Kwiatkowski appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to construct a garage addition on the north side of his home that would encroach into the 10' side yard setback and reduce it to 5.8'. The Planning Department found no hardship or practical difficulty to support the request, noting that this was a design preference, and recommended denial of the waiver request.

Mr. McGuire explained that the homeowners wanted a 3rd car garage added to their property. This would be done by utilizing the existing pad located next to the current garage. He stated that the applicant had spoken with several of the neighbors and submitted a document with their signatures (Exhibit B). He stated that there was 39' from the property in question to the home to the right. He also mentioned that a survey had been performed (Exhibit C) to ensure that locations were exact. He noted that the home did not meet the front yard setback since it was at 38' instead of 40'. The garage addition would meet the 40' front yard setback.

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

AYES: Friedman, Moore, Mahlendorf, Lanoha

MOTION CARRIED: 4-0.
9. Case No. 19-110  
   Michael Wieland  
   3019 South 30th Street  
   Omaha, NE 68105  
   REQUEST: Waiver of Sections 55-206 & 55-782(b)(6)(a) - Variance to the street side yard setback from 15’ to 9.8’ and to the accessory structure setback adjustment from 60’ to 45’, to allow for construction of a 20’ x 20’ detached garage and new driveway.  
   LOCATION: 3004 Frederick Street  
   ZONE: R5(35)  

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 10, 2019, Michael Wieland appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new 20’ x 20’ detached garage that would not meet the minimum accessory structure or street side yard setback requirements of the R5 base district. The Planning Department found no hardship or practical difficulty to support the request, noting that this was a design preference, and recommended denial of the waiver request.

Mr. Wieland stated that the garage would not extend towards the property to the north and that it would be in line with the front of the home. He added that the garage would not stick out any further than the two properties to the north.

Mr. Mahlendorf noted that the off-street parking would provide some relief for the neighborhood.

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

AYES: Moore, Mahlendorf, Friedman, Lanoha

MOTION CARRIED: 4-0.
10. Case No. 19-111
Julio Gonzalez
5019 South 50th Street
Omaha, NE 68117

REQUEST: Waiver of Section 55-740(e) - Variance to
the hard-surface driveway requirement to allow for construction of a detached garage.

LOCATION: 5019 South 50th Street
ZONE: DR

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 10, 2019, Julio Gonzalez appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new detached garage in his backyard and felt that the grade change from the street would make it difficult and unnecessary to install a hard-surface driveway to the door of the garage from south 50th Street. He noted that if the garage door was less than 6’ in width, a waiver would not be required since the hard surface requirement would go away. He further noted that, while it was not included with this submittal, the applicant also needed to request a waiver to the interior side yard setback from 25’ to 5’ since the garage was over 750 square feet. He suggested that the applicant lay the case over until the next month so that both waivers could be considered or he could submit an application to rezone the property to R4 which would reduce the interior side yard setback to 5’. The Planning Department found no hardship or practical difficulty to support the request, noting that this was a design preference, and recommended denial of the waiver request.

Mr. Gonzalez stated that he did not have enough storage space. He indicated that he had spoken with his adjacent neighbor and that he had no objection to the proposed garage.

Mr. Lanoha explained to the applicant that if he wanted to build according to his proposed plans then another waiver was needed.

Terrill Wozniak, 5009 South 50th Street, appeared before the board. He was the neighbor to the north that would be the neighbor most affected by the proposed garage. He stated that the applicant takes care of the home and he expressed support for the project.

Mr. Mahlendorf moved to LAYOVER until the November 14, 2019 meeting so that the necessary waivers could be properly advertised. Mr. Lanoha seconded the motion.

AYES: Mahlendorf, Friedman, Moore, Lanoha

MOTION CARRIED: 4-0.
11. Case No. 19-112  
Kiewit Building Group, Inc.  
c/o Noddle Companies  
2285 South 67th Street  
Omaha, NE 68106  

REQUEST: Waiver of Section 55-740(e)(1) - Variance to the hard-surfacing requirement to allow for the construction of a temporary parking lot.  

LOCATION: 1607 and 1613 Cuming Street & 816, 822 and 824 North 16th Street  

ZONE: DS-ACI-1(PL)  

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

At the Zoning Board of Appeals meeting held on October 10, 2019, Todd Swirczek (Noddle Companies) appeared before the board on behalf of the applicant.  

Cliff Todd, Zoning Board of Appeals Administrator, stated that applicant was proposing to install a temporary, crushed rock parking lot at this location that would be used as a construction staging/parking area. The use would have a termination date of March 31, 2021 after the new Peter Kiewit Headquarters building was constructed. The Planning Department believed the waiver to be acceptable considering the temporary nature of the request and the extensive redevelopment of the adjacent site. The Planning Department recommended approval in accordance with the plans submitted.  

Mr. Todd stated that after the termination date the site would be cleaned and returned to Creighton as a shovel-ready site for future development.  

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

AYES: Friedman, Moore, Mahlendorf, Lanoha  

MOTION CARRIED: 4-0.
At the Zoning Board of Appeals meeting held on October 10, 2019, Craig Tuttle (Builder/Contractor) appeared before the board on behalf of his client.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a garage and second story addition on the north side of the home. This remodel would encroach into the side yard setback approximately 5’, eliminating one half of the required 10’ distance. The Planning Department found no hardship or practical difficulty to support the request, noting that this was a design preference, and recommended denial of the waiver request. He mentioned that he received one phone call in opposition and an email in support for the project.

Mr. Tuttle explained that the garage was too small to be able to accommodate two vehicles. The additional width would allow the family to get in and out of the vehicles while in the garage.

In response to Mr. Lanoha, Mr. Tuttle stated that the email of support came from the adjacent neighbor to the north who would be most impacted.

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

AYES: Moore, Mahlendorf, Friedman, Lanoha

MOTION CARRIED: 4-0.
13. Case No. 19-114  
Horizon Realty  
c/o Josh Stover  
12509 Quail Drive  
Omaha, NE 68123

REQUEST: Waiver of Section 55-166 - Variance to the front yard setback from 35’ to 17’ and to the street side yard setback from 17.5’ to 15’ to allow for the construction of a new single-family home.

LOCATION: 8119 North 129th Avenue
ZONE: R3

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 10, 2019, Josh Stover 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 this unimproved lot. He explained that, since the site was undeveloped and this was new construction, a new home could be designed that would not need waivers. The Planning Department found no hardship or practical difficulty to support the request, noting that this was a design preference, and recommended denial of the waiver request.

Mr. Stover explained that the property was across from Davis Middle School and that the home would be similar to the other homes that had been recently constructed. He further explained that if the 35’ setback was followed there would barely be room for a shed. He indicated that he had spoken with an adjacent neighbor who supported the waiver request. He noted that there were no neighbors to the rear who would be impacted and there would be no issue with site obstructions.

Mr. Mahlendorf believed that there was a hardship due to the irregular shape of the lot that made it difficult to meet all of the zoning requirements.

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

AYES: Moore, Mahlendorf, Friedman, Lanoha

MOTION CARRIED: 4-0.
APPROVAL OF MINUTES:

Mr. Mahlendorf moved to APPROVE the minutes of the August 8, 2019 meeting. Mr. Lanoha seconded the motion.

AYES: Friedman, Moore, Mahlendorf, Lanoha

MOTION CARRIED: 4-0.

The board decided to vote on the September 12, 2019 meeting minutes at the November 14th meeting when more board members were present.

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:08 p.m.

____________________________________________
Approved (date)

____________________________________________
Jason Lanoha, Chair

____________________________________________
Clinette Ingram, Secretary