PRE-MEETING:

The board members in attendance were: Jason Lanoha, Jeremy Aspen, Sean Kelley 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, November 4, 2019 (Use Waivers) and Thursday, November 7, 2019.

MEMBERS PRESENT: Jason Lanoha – Chair
Jeremy Aspen – Vice Chair
Sean Kelley
Kristine Moore

MEMBERS NOT PRESENT: Brian Mahlendorf
Dusty Friedman (Alternate)
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 explained the procedures for hearing the cases. Mr. Lanoha stated that there were only four board members available so the applicants had the option of laying over their case so that it could possibly be heard before a full board of five members.
LAYOVER CASES:

1. Case No. 19-111 (from 10/10/19)
   Julio Gonzalez
   5019 South 50th Street
   Omaha, NE 68117

REQUEST: Waiver of Sections 55-108 & 55-740(e) - Variance to the interior side yard setback from 25' to 5' and 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 November 14, 2019, Julio Gonzalez appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that this request had been laid over at the October 10, 2019 meeting since it had been determined that an additional waiver was needed. He noted that the need for the waivers could be eliminated if a door smaller than 5' in width was installed on the proposed garage since it would eliminate the hard surface drive requirement. He added that, if the applicant were to submit an application to rezone the property to R4, the side yard setback would be reduced to 5' which would also eliminate the need for a waiver. The Planning Department continued to find no hardship or practical difficulty to support the request and did not change the original recommendation of denial.

Mr. Gonzalez presented his plan for the 40' x 30' garage to the board. Ms. Moore recalled that the applicant had indicated that no vehicles would be stored in the garage. She noted that, because of the existing retaining wall, it would be difficult to get a vehicle behind the building. Mr. Lanoha also noted that the neighbor who would be most affected had come before the board at the October meeting and expressed his support for the request. In response to Mr. Lanoha, Mr. Gonzalez stated that he could make the garage be similar in appearance to that of his home.

Ms. Moore moved to APPROVE in accordance with the plans submitted subject to the garage being the same color as the home. Mr. Aspen seconded the motion.

AYES: Aspen, Kelley, Moore, Lanoha

MOTION CARRIED: 4-0.
NEW CASES:

2. Case No. 19-115
   Angelica Ramos
   4519 Nebraska Avenue
   Omaha, NE 68104

   REQUEST: Waiver of Section 55-186, 187(e) - Variance to the front yard setback from 35’ to 22’ to allow for construction of a new garage and covered porch.

   LOCATION: 4519 Nebraska Avenue
   ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on November 14, 2019, Angelica Ramos appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new home and garage addition but was unable to meet the required 35’ front yard setback. The proposed addition would consist of a new garage and a covered porch that would bring the already non-conforming home an additional 8’ into the required 35’ front yard setback, placing it at 22’ from the front property line. He noted that the request was the result of a design preference and there was no hardship or practical difficulty to support the request. The Planning Department recommended denial of the request.

Ms. Moore noted that there was already a covered area at the front of the home. It was determined that the proposed covered front porch would encroach approximately 4’ further than the existing front porch.

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

AYES: Kelley, Moore, Aspen, Lanoha

MOTION CARRIED: 4-0.
3. Case No. 19-116
Ron Hackett
3515 Oakridge Road
Omaha, NE 68112

REQUEST: Waiver of Sections 55-206 & 55-715 - Variance to the minimum interior side yard setback from 7’ to 5’, to the front yard setback from 25’ to 20’, to the minimum lot width from 60’ to 50’, to the minimum lot size from 6,000 sq. ft. to 4,825 sq. ft., to the minimum depth of street yard landscaping from 15’ to 4’, and to the minimum percentage of street yard landscaping from 55% to 46% to allow for the construction of a new duplex.

LOCATION: 4628 Capitol Avenue
ZONE: R4(35) (R5 PENDING)

PLANNING DEPARTMENT RECOMMENDATION: Approval of the variance to the minimum lot width from 60’ to 50’ and to the minimum lot size from 6,000 square feet to 4,825 square feet and denial of the variance to the minimum interior side yard setback from 7’ to 5’, to the front yard setback from 25’ to 20’, to the minimum depth of street yard landscaping from 15’ to 4’, and to the minimum percentage of street yard landscaping from 55% to 46%.

At the Zoning Board of Appeals meeting held on November 14, 2019, Ron Hakett (RDH Design) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new duplex on this undeveloped site. The Planning Department supported the request to reduce the minimum lot width and size; however, it did not support the additional requests since they were for new construction and a plan could be designed to fit the available area without the need to encroach upon the neighboring properties. The Planning Department recommended approval of the variance to the minimum lot width from 60’ to 50’ and to the minimum lot size from 6,000 square feet to 4,825 square feet and denial of the variance to the minimum interior side yard setback from 7’ to 5’, to the front yard setback from 25’ to 20’, to the minimum depth of street yard landscaping from 15’ to 4’, and to the minimum percentage of street yard landscaping from 55% to 46%.

In response to Mr. Kelley, Mr. Hackett stated that waivers were critical to the function of the residences. He noted that the front yard setback waiver would allow the project to align with the existing, adjacent properties. He further explained that the street yard landscaping waiver was needed for the concrete driveways that would allow for access to the garages.

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

AYES: Moore, Aspen, Kelley, Lanoha

MOTION CARRIED: 4-0.
4. Case No. 19-117
   Habitat for Humanity
   Ed Thiele
   1701 North 24th Street
   Omaha, NE 68110

   REQUEST: Waiver of Section 55-206 - Variance to the
            minimum lot area requirement from 5,000
            sq. ft. to 4,800 sq. ft. and to the minimum lot
            width from 50' to 40' to allow for construction
            of two new single-family homes.

   LOCATION: 3906 North 18th Street and 3922 North 19th
              Street

   ZONE: R5

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

   At the Zoning Board of Appeals meeting held on November 14, 2019, Ed Thiele appeared before the board.

   Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct
   new, single-family homes on these lots that did not meet the minimum R5 requirements. A hardship
   existed because the proposed lot widths could not be enlarged to meet code regulations and their overall
   size was consistent with existing development in the neighborhood. The Planning Department supported
   the requests and recommended approval in accordance with the plans submitted.

   Mr. Thiele explained that the lots were very narrow and could not be developed unless some waivers were
   granted.

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

   AYES: Aspen, Kelley, Moore, Lanoha

   MOTION CARRIED: 4-0.
5. Case No. 19-118  
   Robert and Judith Evans  
   8002 Kilpatrick Parkway  
   Bennington, NE 68007  

   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: 8002 Kilpatrick Parkway  
   ZONE: R4  

PLANNING DEPARTMENT RECOMMENDATION: Denial.  

At the Zoning Board of Appeals meeting held on November 14, 2019, the applicants failed to appear  
before the board.  

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicants were proposing to construct a  
new, 6’ privacy fence, placed 5’ inside of the property line along Reynolds Street. He explained that a 6’  
tall, privacy fence that was located within the required street yard would pose a safety concern for  
automotive and pedestrian traffic along Reynolds Street to the west of the home. He further explained  
that the applicants could legally construct a 6’ privacy fence at the required 15’ setback or they could build  
a legal 4’ tall, 50% open fence on the property line. The Planning Department found no hardship or  
practical difficulty to support the request, noting that the waiver request was the result of a design  
preference, and recommended denial.  

The board decided to vote to layover the case to give the applicant the opportunity to appear.  

Mr. Kelley moved to LAYOVER until the December 12, 2019 meeting. Mr. Lanoha seconded the motion.  

AYES: Kelley, Moore, Aspen, Lanoha  

MOTION CARRIED: 4-0.
6. Case No. 19-119  
Shane Graeve  
2916 South 217th Circle  
Omaha, NE 68022

REQUEST: Waiver of Sections 55-126 & 55-715 - Variance to the minimum interior side yard setback from 25’ to 11’10” and to the minimum depth of street yard landscaping from 30’ to 10’ to allow for the construction of a new garage and driveway addition.

LOCATION: 2916 South 217th Circle

ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on November 14, 2019, Shane Grave appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new, 436 square foot garage and driveway addition on the north side of the home that would encroach into the required 25’ interior side yard setback, leaving a distance of 11’10”. The proposed driveway addition provides only a minimum depth of 10’ as opposed to the required 30’ of street yard landscaping. The Planning Department found no hardship or practical difficulty to support the request, noting that the waiver request was the result of a design preference, and recommended denial.

Mr. Graeve believed that the irregular shape of his lot proved to be a hardship. He stated that the site was 120’ wide at the front and 200’ wide at the rear. He added that part of the subdivision was zoned R1 and other sites zoned DR. He explained that over 90% of the homes in the neighborhood had 3-car garages while he only had a 2-car garage. He indicated that the neighbors and fellow SID board members were in agreement with his plans.

Kirk Larson, 2926 South 217th Circle, appeared in support of the request. He stated that he would be building the addition. He explained that, although there was a lot of room behind the home, the slope of the site was too severe to build a driveway.

Mr. Graeve indicated that he had spoken with his neighbors to the north (Calli-Ann and Alan Chock – 2906 South 217th Circle) and that they supported the request. He also discussed the differences in zoning.

Mr. Lanoha clarified that the interior side yard setback for both DR and R1 was 25’.

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

AYES: Moore, Aspen, Kelley, Lanoha

MOTION CARRIED: 4-0.
7. **Case No. 19-120**  
Craig Baumgart  
827 South 42nd Street  
Omaha, NE 68105  

**REQUEST:** Waiver of Sections 55-782(b)(2) & 55-786(e)(1) - Variance to the required setback for a patio from 5’ to 0’ and to the residential fence regulations to allow a 6’ tall, privacy fence within the street side yard setback.  

**LOCATION:** 827 South 42nd Street  

**ZONE:** R4(35)  

**PLANNING DEPARTMENT RECOMMENDATION:** Denial.  

At the Zoning Board of Appeals meeting held on November 14, 2019, Craig Baumgart appeared before the board.  

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant had constructed a privacy fence and patio within the required street side yard setbacks along a portion of Marcy Street. The Planning Department found no hardship or practical difficulty to support the request, noting that the waiver request was the result of a design preference, and recommended denial.  

Mr. Baumgart stated that the waivers were needed to make the patio area more secure and usable.  

Roger Baumgart appeared in support of the request. He explained that in order to replace the deteriorated retaining wall, the fence needed to be removed and replaced. He added that the fence would be put in the same location and at the same height as the previous fence.  

Mr. Lanoha noted that the zoning for this area was probably not what it should be since it had last been updated in 1987.  

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

**AYES:** Aspen, Kelley, Moore, Lanoha  

**MOTION CARRIED:** 4-0.
8.  Case No. 19-121
Jack and Sue Dyson
  c/o Mike Jansen Custom Decks
  6223 South 170th Street
  Omaha, NE 68135

REQUEST: Waiver of Section 55-166 - Variance to the rear yard setback from 25’ to 14’ to allow for the replacement of an existing deck.

LOCATION: 6706 South 52nd Avenue Circle
ZONE: R3

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on November 14, 2019, Mike Jansen appeared before the board on behalf of the property owners.

Cliff Todd, Zoning Board of Appeals Administrator, stated the applicants were proposing to replace their existing deck with a new 14’ x 17’ design that would encroach approximately 11’ into the required 25’ rear yard setback. The Planning Department found no hardship or practical difficulty to support this request, noting that this is a design preference and a deck could be constructed that would meet the required setbacks. The Planning Department recommended denial.

Mr. Jansen explained that, since the deck was approximately 20” off the ground, it was allowed to encroach into the setback. However, because the homeowners wanted to add railings to the deck, a waiver was needed.

Mr. Aspen mentioned the odd shape of the lot and Mr. Lanoha noted that this was for the replacement of an existing deck.

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

AYES: Kelley, Moore, Aspen, Lanoha

MOTION CARRIED: 4-0.
9. Case No. 19-123
   Al Smith & Amy Ruf
   310 South 51st Street
   Omaha, NE 68132

   REQUEST: Waiver of Sections 55-166 & 55-782(b)(2) - Variance to the rear yard setback from 25' to 18' feet, to the interior side yard setback from 7' to 5', to the maximum impervious coverage allowed from 45% to 60% and to the required setback for a patio from 3' to 1.5' to allow for a home addition.

   LOCATION: 310 South 51st Street
   ZONE: R3

   PLANNING DEPARTMENT RECOMMENDATION: Denial.

   At the Zoning Board of Appeals meeting held on November 14, 2019, Al Smith and Amy Ruf appeared before the board.

   Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicants were proposing a new addition to the home that would not meet some setbacks. He explained that the setbacks exist to protect property owners from encroachment from adjacent properties. He stated that any new construction could be designed to fit within the buildable area of the property. The Planning Department found no hardship or practical difficulty to support the request, noting that the waiver requests were the result of design preferences, and recommended denial.

   Mr. Smith explained that the home was being designed in such a way that he and his wife could live in it long term. He wanted to add a second car stall to the garage for security reasons. The addition would also create a larger and more functional kitchen. Ms. Ruf further explained that the waivers would allow the existing structure to remain untouched.

   Mr. Kelley mentioned that other waivers had been granted in this area and that improvements would be difficult without them.

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

   AYES: Moore, Aspen, Kelley, Lanoha

   MOTION CARRIED: 4-0.
10. Case No. 19-124
    Gary Harless
    c/o Kevin LaPorte
    6403 Chicago Street
    Omaha, NE 68132

    REQUEST: Waiver of Section 55-186, 187(e) - Variance to the front yard setback from 35’ to 16’ to allow for the construction of a new covered porch.

    LOCATION: 6268 Pine Street
    ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on November 14, 2019, Kevin LaPorte (LaPorte Building & Remodeling) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new 8’ x 11’ covered porch on the southeast corner of his home that would be built to match up with the existing covered stoop on the front of home. The Planning Department found no hardship or practical difficulty to support the request, noting that the waiver requests were the result of design preferences, and recommended denial.

Mr. LaPorte stated that the new porch and stairs would encroach approximately 4’ further into the setback than what was existing. He noted, however, that this home was further from the setback than most of the homes on the block.

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

AYES: Aspen, Kelley, Moore, Lanoha

MOTION CARRIED: 4-0.
11. Case No. 19-125  
GESU Housing  
Dale Barr  
5008 ½ B Dodge Street  
Omaha, NE 68132

REQUEST: Waiver of Section 55-186, 187(e) & 55-742(b) - Variance to the front yard setback from 35' to 25', to the street side yard setback from 15' to 5' and to allow parking in the front yard setback for construction of a single-family home.

LOCATION: 4252 Corby Street  
ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Approval, in accordance with the plans submitted, subject to submitting an application for rezoning to R4.

At the Zoning Board of Appeals meeting held on November 14, 2019, Dale Barr appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a single-family home at this location. A practical difficulty existed since all the homes on this block are closer to the front property line along Corby Street than the required 35’ setback. He added that the 50’ corner lot width made it difficult to construct a modern home and comply with the street side yard setbacks. The Planning Department recommended approval in accordance with the plans submitted, subject to submittal of an application to rezone the property to R4.

Mr. Aspen moved to APPROVE in accordance with the plans submitted, subject to submittal of an applicant to rezone the property to R4. Ms. Moore seconded the motion.

AYES: Aspen, Kelley, Moore, Lanoha

MOTION CARRIED: 4-0.
12. Case No. 19-126  
Derek Baty  
6349 Seward Street  
Omaha, NE 68104  

REQUEST: Waiver of Section 55-186, 187(e) - Variance to the maximum impervious coverage allowed from 50% to 62% to allow for repair of an existing driveway.

LOCATION: 6349 Seward Street
ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on November 14, 2019, Derek Baty appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant had repaved an existing driveway and exceeded the maximum impervious coverage amount allowed in the R4(35) district. He explained that a practical difficulty existed due to the age of the home and the existing impervious coverage, most of which appeared to be approximately 40 years old. Although the additional paving had increased the applicant’s impervious coverage percentage, the Planning Department recognized that this improvement brought his driveway up to code and helped to mitigate the chance of any loose rock or gravel being brought from the driveway onto 65th street where it could potentially interfere with auto or pedestrian traffic. The Planning Department supported the waiver request and recommended approval.

Mr. Baty explained that he had been maintaining the alley for several years. He indicated that there was support from the neighbors down the hill.

William Muth (6342 Charles Street) appeared before the board. He believed that the situation was greatly improved since there was less mud running down the alley.

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

AYES: Moore, Aspen, Kelley, Lanoha

MOTION CARRIED: 4-0.
13. Case No. 19-127
Nebraska Methodist Hospital
c/o Tod Trigg
HDR, Inc.
1917 South 67th Street
Omaha, NE 68106
REQUEST: Waiver of Section 55-326 - Variance to the front yard setback from 25' to 0' to allow for a building addition.
LOCATION: 8303 Dodge Street
ZONE: GO

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

At the Zoning Board of Appeals meeting held on November 14, 2019, Andrew Smith (HDR) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing an expansion of the emergency department and due to limited space, asked for a setback adjustment along Dodge Street. He explained that practical difficulties existed for the following reasons: 1) the inability to further expand the hospital site, 2) the irregular shape of the property, 3) the civic nature of the use, and 4) the growing demands for services at this facility. This new expansion would push the building footprint towards Dodge Street to a distance of 0' from the property line. At its November 6, 2019 meeting, the Planning Board approved a Major Amendment to a Conditional Use Permit with the condition that the waiver request be approved by the Zoning Board of Appeals. The Planning Department found the requested waivers to be acceptable and recommended approval in accordance with the plans submitted.

Mr. Smith clarified that the addition would extend to 4'6" from the property line, not 0’. He explained that the only way the building could be expanded was to the north so as not to interfere with the loading dock area. He further explained that the addition would be two stories and would extend as far as the existing retaining wall.

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

AYES: Aspen, Kelley, Moore, Lanoha

MOTION CARRIED: 4-0.
14. Case No. 19-128  
Celestino Bustamante  
c/o Paula Wells  
3919 Cuming Street  
Omaha, NE 68131  

REQUEST: Waiver of Section 55-734 - Variance to the required number of off-street parking spaces from 12 to 0 for an expansion of an existing restaurant.

LOCATION: 2216 South 16th Street

ZONE: GC

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on November 14, 2019, Paula Wells appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to expand the business and was unable to provide the required number of off-street parking stalls. The Planning Department found no hardship or practical difficulty to support the request, noting that the waiver requests were the result of design preferences, and recommended denial.

Ms. Wells submitted a site plan to the board (Exhibit B). She explained that the current business was a walk-in restaurant. She indicated that the two-story building to the south that was used for storage and would be demolished and replaced with a larger building that would have space for diners to eat inside. She mentioned that the Planning Department had suggested that the alley be used by patrons to access parking at the rear of the building. She displayed pictures of the alley which she stated was gravel and at a 19% grade. She added that there were no sewer inlets on 16th Street which resulted in water running down the alley. She further added that the only access to the alley was by way of 17th Street. She indicated that there was sufficient parking on both sides of the street.

Geoff Deold (1717 ½ Vinton Street) appeared before the board. He stated that he lived in the neighborhood and would be the architect for the addition. He explained that the project would contribute to the redevelopment and rehabilitation of the commercial cluster at 16th and Martha Streets. He spoke further about the importance of the South 16th Street corridor and the Vinton Street Business District. He also believed that there was sufficient street parking for the restaurant.

In response to Mr. Aspen, Mr. Deold stated that the plan was to have the addition match the existing building.

Mr. Aspen moved to APPROVE in accordance with the plans submitted subject to addition matching the existing building. The waiver is in effect until the City of Omaha brings the current alley to Public Works standards; at that time off-street parking will be required. Ms. Moore seconded the motion.

AYES: Kelley, Moore, Aspen, Lanoha

MOTION CARRIED: 4-0.
15. Case No. 19-129  
McGill Development, LLC  
c/o Don Heine  
TD2  
10836 Old Mill Road  
Omaha, NE 68154  

REQUEST: Waiver of Section 55-716, 55-740 & 55-938 (e)(1) - Variance to the minimum bufferyard requirement between an LO and R4 district from 20' to 10', to the minimum perimeter parking lot landscaping from 10' to 8.4' and to the required perimeter landscaping from 15' to 7.5' to allow for the renovation of an existing commercial building and new parking lot.

LOCATION: 1411 North 72\textsuperscript{nd} Street  
ZONE: LO-ACI-2(50)

PLANNING DEPARTMENT RECOMMENDATION: Approval of the variance to the required perimeter landscaping from 15’ to 7.5’; denial of all other waiver requests.

At the Zoning Board of Appeals meeting held on November 14, 2019, Don Heine and Tim McGill (2821 Grebe Street) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant had renovated the existing office building and parking lot and was unable to meet a number of required setbacks and landscaping requirements. While remodeling the existing office building, the applicant removed and reconfigured the original parking lot without obtaining the necessary permits which resulted in many of the changes to the property not complying with the zoning code. As these were design preferences, only one waiver request could be supported since there were no hardship or practical difficulties to support any of the others. The Planning Department recommended approval of the variance to the required perimeter landscaping from 15’ to 7.5’ and denial of all other waiver requests.

Mr. Heine indicated that the applicant had worked with the Planning Department on a plan for the site and he discussed the changes that were being proposed that required waivers. He explained that the site was non-conforming when it was purchased and that the parking lot had been in place for approximately 40 years. He explained that the business would provide collaborative law/mental-health/financial services that would serve the community. He believed that the improvements to the site would raise the value of the adjacent properties.

Mr. McGill stated that parking on the site was a necessity since the company provided programs to the community free of charge. He added that parking was also necessary since the business was on 72\textsuperscript{nd} Street and near residential housing. He discussed the upgrades to the parking lot and landscaping, which he felt added to the value of the neighborhood. He indicated that the neighbors that he had spoken with were very supportive of the project.

The board agreed that the project would be an improvement to the area.

After comments by Mr. Todd and Mr. Carter with regards to the financial services aspect of the business, Mr. McGill clarified that there would be financial education/planning programs only not financial institutions.

Mr. Lanoha mentioned that an adjacent neighbor, Robert Kemler – 7087 Charles Street, had some concerns about a privacy fence. The applicants stated that they would be willing to speak to Mr. Kemler about the specifics of the screening that would be installed.

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

AYES: Moore, Aspen, Kelley, Lanoha  

MOTION CARRIED: 4-0.
16. Case No. 19-130  
St. Margaret Mary’s Church  
c/o Don Heine  
TD2  
10836 Old Mill Road  
Omaha, NE 68154

REQUEST: Waiver of Section 55-166, 55-715 & 55-735(b) - Variance to the maximum impervious coverage allowed in an R3 District from 45% to 46%, to the minimum street yard landscaping depth from 20’ to 0’ and to allow non-residential parking in the front yard setback of a residential zoning district to allow for the redesign of an existing parking lot.

LOCATION: 100 North 62nd Street and 6102 Dodge Street

ZONE: R3-ACI-2(50)

PLANNING DEPARTMENT RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on November 14, 2019, Don Heine appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to redesign a portion of the existing parking area and as a result, would not be able to meet a number of landscaping and parking requirements. A practical difficulty existed due to the off-street parking needs of the church as well as for the parking it provides for the University of Nebraska at Omaha. At its October 2nd meeting, the Planning Board approved a Major Amendment to the Conditional Use Permit (assumed) to allow Religious assembly in the R3 District and to incorporate the adjacent property at 100 North 62nd Street into the church site at 6102 Dodge Street. He explained that this waiver request was a condition of the approval from the Planning Board. The City has historically supported waivers to the maximum impervious surface coverage, parking in the front yard setback, and minimum depth landscaping requirements for churches, schools, and other civic uses in residential zoning districts due to the needs of these facilities and the desire to have them located within residential neighborhoods. The Planning Department recommended approval of the waiver request.

Mr. Heine briefly discussed some details of the proposed plan.

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

AYES: Aspen, Kelley, Moore, Lanoha

MOTION CARRIED: 4-0.
17. Case No. 19-131  
Robert Ottemann & Kim Kalkowski  
1502 South 10th Street, #303  
Omaha, NE 68108  
REQUEST: Waiver of Section 55-186, 187(e) - Variance to the front yard setback from 35’ to 10’ to allow for construction of a new single-family home.  
LOCATION: 420 Center Street  
ZONE: R4(35)  

PLANNING DEPARTMENT RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on November 14, 2019, Kim Kalkowski appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new single-family home and was unable to meet the required 35’ front yard setback. A practical difficulty existed due to the topography of the lot as well as the age and design of the existing neighborhood. The Planning Department recommended approval of the waiver request.

Ms. Kalkowski explained that it would be difficult to build with the 35’ setback.

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

AYES: Kelley, Moore, Aspen, Lanoha

MOITON CARRIED: 4-0.
18. Case No. 19-132
Anne Konen
1218 North 97th Plaza
Omaha, NE 68114

REQUEST: Waiver of Section 55-716 - Variance to the minimum bufferyard requirement between a CC and R4 district from 6.5’ with screening to 0’ without screening to allow for the relocation of a waste container.

LOCATION: 1506 South 60th Street
ZONE: CC

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on November 14, 2019, Anne Konen appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was requesting to allow a waste container within a required buffer yard without the use of screening. He explained that the applicant was the owner of the commercial property at 1506 South 60th Street which was required to have a trash dumpster for the volume of waste collected from the normal use of the property. For a number of years the dumpster was located in the parking lot behind the building but, due to the weight of the truck and the asphalt surfacing, the parking area had deteriorated and portions of the lot ended up in the alley behind the property. After working on these issues with both the Code Enforcement division of the Planning Department as well as Papillion Sanitation, the applicant decided to construct a retaining wall and a cement pad behind the property for better access by Papillion Sanitation. The Planning Department found no hardship or practical difficulty to support the request, noting that the waiver request was the result of a design preference, and recommended denial.

Ms. Konen stated that a complaint was filed with the city a couple of years ago about the asphalt that had crumbled into the alley. After some discussion with the city and Papillion Sanitation, a new location was chosen for the dumpster and she received a letter from the city stating that the problem had been resolved. She stated that another complaint had recently been filed with the city for a dumpster that was inadequately screened and placed in an alley where no commercial traffic was permitted. She explained that the waivers would allow her to take care of the problem permanently. She proposed adding a 12’ concrete pad with 8’ of 6’ tall screening.

Mr. Terry Reid (6007 Woolworth Avenue) and his mother Ms. Janet Reid (6007 Woolworth Avenue) appeared before the board. They both reside just west of the alley across from the dumpster. It was explained to Mr. Reid that the applicant wanted to keep the dumpster in its current location with the addition of screening. Mr. Reid stated that the lid to the dumpster was always open which constantly attracted flies and gnats. He indicated that there was always garbage on the ground near the dumpster and that he has had to frequently remove the garbage that had blown into his mother’s yard. He showed pictures of the property that included the dumpster and pictures of the alley to show its deteriorated condition. He stated that in 2016 a “no parking in the alley” sign was put up and in 2018 a “no commercial traffic” sign was put up. He mentioned that he talked with someone from the Planning Department who informed him that a dumpster should be 30’ from the middle of the alley and screened in with a wooden or masonry structure. He indicated that the dumpster was 42’ from the back door and 15’ from the property line. Ms. Reid stated that commercial traffic occasionally blocks the only access she has to her driveway.

Mr. Lanoha clarified that the 30’ rule for dumpsters did not apply in this case. In response to Mr. Lanoha, Ms. Konen stated that she planned to install a wooden fence that would conceal the dumpster.

With regards to the “no commercial traffic” sign that was put in the alley, Mr. Todd stated that Public Works had indicated to him that the sign was not meant to restrict garbage trucks. There was some discussion about other proposed locations for the dumpster.
In response to Mr. Lanoha, Ms. Reid stated that she did not believe that a screen wall would be effective because of her past experiences with the applicant.

Ms. Konen showed in detail where the dumpster could be placed. After some discussion, a motion was made.

Mr. Aspen moved to APPROVE the variance to the minimum bufferyard requirements between a CC and R4 district from 6.5’ with screening to 0’ with screening to allow for the relocation of a waste container. The screening shall be a 6’ tall, wooden fence that would extend 3’ from the stairs to the west, taking a 90° corner and going 8’ to the south along the alley. Mr. Kelley seconded the motion.

AYES: Moore, Aspen, Kelley, Lanoha

MOTION CARRIED: 4-0.

In response to Mr. Kelley, Ms. Konen stated that she would get the fence installed as soon as she could.
19. Case No. 19-133 Nancy Schlessinger c/o Adam Dusatko 2117 South 156th Circle Omaha, NE 68130 REQUEST: Waiver of Section 55-786(e)(1) - Variance to the residential fence regulations to allow a 6' tall, 50% open fence within the front yard setback. LOCATION: 3310 South 228th Terrace ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Denial.

Mr. Kelley moved to LAYOVER until the December 12, 2019 meeting. Mr. Lanoha seconded the motion.

AYES: Aspen, Kelley, Moore, Lanoha

MOTION CARRIED: 4-0.

APPROVAL OF MINUTES:

Mr. Lanoha moved to APPROVE the minutes of the September 12, 2019 meeting. Mr. Kelley seconded the motion.

AYES: Aspen, Kelley, Lanoha

ABSTAIN: Moore

MOTION CARRIED: 3-0-1.

The board decided to vote on the October 10, 2019 meeting minutes at the December 12, 2019 meeting when more board members were present.

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 3:13 p.m.

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Approved (date)

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Jason Lanoha, Chair

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Clinette Ingram, Secretary