PRE-MEETING:

The board members in attendance were: Jeremy Aspen, Dustin Friedman, Matthew Kortright, Kristine Moore and Jason Lanoha. Planning Department staff in attendance were: Cliff Todd and Clinette Ingram. Eric Englund appeared to advise the board regarding Case 19-029. The remaining cases were reviewed.

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, March 4, 2019 and Thursday, March 7, 2019.

MEMBERS PRESENT: Jason Lanoha, Chair
Jeremy Aspen, Vice-Chair
Matthew Kortright (Alternate)
Brian Mahlendorf
Kristine Moore

MEMBERS NOT PRESENT: Dustin Friedman (Alternate)
Sean Kelley

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

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

1. Case No. 19-025  
   Sherm Sleeper  
   Encore Design & Construction  
   5355 Parsonage Drive  
   Omaha, NE 68152  
   REQUEST: Waiver of Section 55-126 - Variance to the interior side yard setback from 25’ to 16’4” to allow for an addition to an existing garage.  
   LOCATION: 10416 North 48th Street  
   ZONE: R1-ED

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on March 14, 2019, Sherm Sleeper appeared before the board on behalf of the homeowner.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to add a new addition to their existing home that included a 25’ expansion of the garage. He explained that there is a provision in the code which would allow the applicant to legally construct an addition to the non-conforming structure but it would be a maximum of 19.5’ due to the length of the existing north wall. The Planning Department found no hardship or practical difficulty to support this request as this is a design preference. Since the zoning code provides a provision that would allow for a conforming addition to be built, the Planning Department recommended denial of the request.

Mr. Sleeper stated that the owner of the property, who intends to remain in the home, uses a walker to get around and anticipated that he would be using a wheelchair in the near future. The existing 20’ x 20’ garage made it difficult to navigate with two cars inside.

Mr. Aspen noted that the addition would be placed adjacent to a driveway and would not protrude any further than the garage on the property to the south.

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

AYES: Aspen, Kortright, Mahlendorf, Moore, Lanoha

MOTION CARRIED: 5-0.
2. Case No. 19-026
Ken Oster
Oster Homes
15710 L Street
Omaha, NE 68022

REQUEST: Waiver of Sections 55-126, 55-715 & 55-740(e) - Variance to the interior side yard setback from 25' to 10', to the minimum street yard landscaping from 30' to 0' and to the hard-surface driveway requirement to allow for construction of a new circular driveway and pool house.

LOCATION: 160 South 211th Street
ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on March 14, 2019, Ken Oster appeared before the board on behalf of the homeowner.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new pool house and circular driveway on the property. The applicant had indicated that the placement of the pool house was designed to fit the topography of the lot and facilitate current and future septic needs. This created the need for the waiver of the interior side yard setback. The Planning Department found no hardship or practical difficulty to support the requests since the waivers would be for new construction and are the result of design preferences. The Planning Department recommended denial of the waiver requests.

Mr. Oster explained that a septic system for sanitary sewer use is required. He indicated that there was a level area in the rear yard that would accommodate the tank, absorption field and a future absorption field. The addition of the pool and pool house reduced the amount of space needed for the septic sewer system which resulted in the request to move it to 10' from the interior side yard setback.

In response to Mr. Mahlendorf, Mr. Oster stated that the septic system had not yet been installed. Mr. Mahlendorf stated there would probably be no support for the waiver to the interior side yard setback. He believed that with some minor changes, the site could comply with the minimum street yard landscaping requirement. With regards to the interior side yard setback, he believed that the site was large enough to accommodate the 25' requirement. Mr. Oster explained that the location of the septic system was challenging due to the topography of the site. He indicated that some of the areas in the ravine are approximately 20’ – 30’ lower than the location of the septic tank. In response to Mr. Lanoha, Mr. Oster stated that on the west back end of the lot is a small vineyard. He stated that the design could be changed; however, what he was presenting was the preference of the property owner. It was also noted that the homeowner’s association has seen the proposed plans. Mr. Oster stated that the neighbor to the south was approximately 30’ – 40’ below the level of the proposed pool deck and should not be impacted.

Michelle Peters, Law Department, advised the board that they could vote on each waiver separately since they were not contingent upon one another.

Mr. Mahlendorf moved to APPROVE the hard-surface driveway requirement to allow for construction of a pool house with a 6’ wide door. Ms. Moore seconded the motion.

AYES: Kortright, Mahlendorf, Moore, Aspen, Lanoha

MOTION CARRIED: 5-0.
Mr. Aspen moved to APPROVE the variance to the minimum street yard landscaping requirement from 30’ to 0’. Mr. Lanoha seconded the motion.

AYES: Kortright, Moore, Aspen, Lanoha

NAYES: Mahlendorf

MOTION CARRIED: 4-1.

Mr. Mahlendorf moved to DENY the variance to the interior side yard setback from 25’ to 10’. Ms. Moore seconded the motion.

AYES: Kortright, Mahlendorf, Moore

NAYES: Aspen, Lanoha

MOTION FAILED: 3-2.
3. Case No. 19-027
Mark Sanford
1306 North 162nd Street
Omaha, NE 68118

REQUEST: Waiver of Section 55-734 - Variance to the required off-street parking stalls from 4 to 2 to allow for a new Social Club.

LOCATION: 3713 North 24th Street
ZONE: R7

PLANNING DEPARTMENT RECOMMENDATION: Approval, subject to submittal of a revised site plan showing two code compliant off-street parking stalls.

At the Zoning Board of Appeals meeting held on March 14, 2019, Mark Sanford and George Robinson (5416 Ida Street) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing a membership-based establishment to be used as a social networking and gathering spot for individuals age 21 and over. A hardship existed due to the location and age of the building. A site plan was submitted that did not meet the minimum parking standards due to the necessary landscaping requirements. After numerous meetings with the applicant, the Planning Department was comfortable with the proposed plan and supported the request. The Planning Department recommended approval subject to submittal of a revised site plan showing two code compliant, off-street parking stalls.

Mr. Sanford explained that the stalls are at the rear of the building along an unimproved alleyway. He explained that, because of the condition of the alleyway, the parking stalls were somewhat inaccessible and the building owner wanted to request that the required number of parking stalls be reduced to 0. He intended to utilize on-street parking for his business. Mr. Lanoha responded that the new request would need to be re-advertised.

Mr. Robinson explained that the alleyway was too narrow for a vehicle to drive through without vegetation hitting the sides of the car. He added that it had been several years since the alley had been maintained.

The board and applicant decided to vote on the requested waiver. Mr. Mahlendorf suggested that the applicants reach out to Public Works for maintenance on the alley.

Mr. Aspen moved to APPROVE in accordance with the plans submitted, subject to submittal of a revised site plan showing two code compliant, off-street parking stalls. Ms. Moore seconded the motion.

AYES: Mahlendorf, Moore, Aspen, Kortright, Lanoha

MOTION CARRIED: 5-0.
4. **Case No. 19-028**  
Brian Timmons  
The Garage Company  
8301 Q Street  
Omaha, NE 68127  

**REQUEST:** Waiver of Section 55-503 - Variance to the permitted use regulations of the GI district to allow single-family residential, a use not otherwise permitted.  

**LOCATION:** 2021 Madison Circle  
**ZONE:** GI  

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

At the Zoning Board of Appeals meeting held on March 14, 2019, Brian Timmons appeared before the board.  

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to replace an existing detached garage on his property. A hardship existed because the property is zoned GI (General Industrial); however, 100% of the developable block is used for single-family residential. He noted that in 2008 the Zoning Board of Appeals approved a similar waiver request that allowed Habitat for Humanity to construct a new single family home at 2015 Madison Circle, which is approximately 50’ east of the subject site (Case #08-079). The Planning Department recommended approval of the request in accordance with the plans submitted.

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

AYES: Moore, Aspen, Kortright, Mahlendorf, Lanoha  

MOTION CARRIED: 5-0.
5. Case No. 19-029  
Araceli Gonzalez  
9603 Military Road  
Omaha, NE 68134  

| **REQUEST:** | Waiver of Section 55-105 - Variance to temporarily allow multiple-family residential, a use not permitted in a DR district, in order to allow for the construction of a new primary residence. |
| **LOCATION:** | 9603 Military Road |
| **ZONE:** | DR |

PLANNING DEPARTMENT RECOMMENDATION: Approval of the request subject to: 1) There will be a note on the building permit stating that the other two homes on the property must be removed prior to completion of the new home; and 2) It will be agreed and understood by the applicant that the City of Omaha will not perform a Final Inspection of the home to allow occupancy until the other two homes on the property are removed.

At the Zoning Board of Appeals meeting held on March 14, 2019, Araceli Gonzalez appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to construct a new, single-family home on this lot where there are already two existing homes. Multi-family residential is not an allowed use in a DR district. A hardship existed because the applicant purchased this property with the existing two homes on it. A new home is to be constructed prior to the existing homes being torn down. He noted that the applicant only wants to end up with one residence on the property and the *Multi-Family Residential* use designation is only temporary. The Planning Department supported the temporary waiver request subject to the following terms and conditions:

- There will be a note on the building permit stating that the other two homes on the property must be removed prior to completion of the new home.
- It will be agreed to and understood by the applicant that the City of Omaha will not perform a Final Inspection of the home to allow occupancy until the other two homes on the property are removed.

Ms. Gonzalez confirmed that the goal was to have just the one home on the property. She showed pictures of the existing homes to show how badly they had deteriorated. She submitted the photos of the existing homes along with a letter of support from the neighbors (Exhibit B).

Mr. Todd noted that the Planning Department had received numerous calls from neighbors who had received notification of the case. They were initially concerned about the waiver but were supportive when the details of the case were explained to them.

Mr. Aspen moved to APPROVE in accordance with the plans submitted subject to 1) there will be a note on the building permit stating that the other two homes on the property must be removed prior to completion of the new home; and 2) It will be agreed to and understood by the applicant that the City of Omaha will not perform a Final Inspection of the home to allow occupancy until the other two homes on the property are removed. Mr. Mahlendorf seconded the motion.

**AYES:** Aspen, Kortright, Mahlendorf, Moore, Lanoha

**MOTION CARRIED:** 5-0.
6. Case No. 19-030
Joe Zadina
Lamp Rynearson & Associates
14710 West Dodge Road
Omaha, NE 68154

REQUEST: Waiver of Section 55-740(e)(1)(3) - Variance to the hard-surfacing requirement for off-street parking areas and to the hard-surface driveway requirement to allow for gravel parking and drive access.

LOCATION: 11001 John J Pershing Drive
ZONE: DR-ED-FF & DR-ED-FW

PLANNING DEPARTMENT RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on March 14, 2019, Joe Zadina and John William (Parks Department) appeared before the board on behalf of the City Parks Department.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the City Parks department wanted to construct additional parking areas for new sports fields that are being added to the park. Since this area is prone to flooding, they wanted to install gravel in the lots as opposed to hard-surface paving. A practical difficulty existed due to the location of the property in an Environmental Overlay District that discourages increased storm water runoff and unnecessary grading. The Planning Department has supported similar requests in the past and recommended approval of the request.

Mr. Zadina explained that when flooding occurs the parking lots and fields are under water. He also mentioned that the City wanted to eliminate the camping pad sites and would repurpose the existing gravel for parking. He added that the cost to maintain the campground was very high.

Wendell Harding (10920 John J Pershing Drive) appeared in opposition to the request. His home is across the street from the proposed parking area. He stated that the gravel would cause more dirt to enter his home which sits 5’ from the edge of the street. He stated that the NP Dodge family had donated the land for a wildlife shelter and he was concerned that it was not being used for that purpose.

Mr. Williams estimated that the proposed parking lots would be about ¼ mile away from John J Pershing Drive. The area was an existing campground with multiple gravel roads and camper pads. He added that the actual square footage of gravel would be reduced to isolated parking lots.

Mr. Zadina explained the details of the proposed plan with Mr. Harding. In response to Mr. Mahlendorf, Mr. Zadina stated that approximately 25% of the existing gravel would be left when the project is completed with the remaining 75% being restored to natural grass. For the record it was stated that the proposed plan would be less impactful to Mr. Harding than current conditions.

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

AYES: Kortright, Mahlendorf, Moore, Aspen, Lanoha

MOTION CARRIED: 5-0.
At the Zoning Board of Appeals meeting held on March 14, 2019, Jared Gerber appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to convert the existing, attached single-car garage into living space which would limit their available parking to the front yard setback. The Planning Department found no hardship or practical difficulty to support this request since the alley behind the home is fully improved and at least three other residents, including the neighbor directly to the east, have constructed garages to eliminate the need to park in their front yard. The Planning Department recommended denial of the request.

Mr. Gerber stated that the garage door is only about 8’ wide and it was difficult to park a car inside if it. He stated that there is about a 7’ drop from the backyard to the alley. The owner wanted to complete the home first and construct a two-car garage in 1 to 2 years. He explained that, although most of the neighbors behind her have parking off the alley, none of them deal with the grade change that is on the north side of the alley.

Mr. Mahlendorf inquired as to whether a parking pad had been considered for the rear of the home. Mr. Gerber responded that a retaining wall would be needed to create one and then it would need to be torn out to construct the garage. Mr. Mahlendorf stated that he did not want to encourage parking in the front yard setback. Mr. Aspen suggested a temporary waiver to allow the parking in the setback for this applicant only.

Mr. Aspen moved to temporarily APPROVE in accordance with the plans submitted for a period of 3 years for this applicant only. Mr. Mahlendorf seconded the motion.

AYES: Mahlendorf, Moore, Aspen, Kortright

NAYES: Lanoha

MOTION CARRIED: 4-1.
8. Case No. 19-032  
Davis Global Center  
701 S. 42ND Street  
Omaha, NE 68198  

REQUEST: Waiver of Section 55-834(3)(d)(3) - Variance to the minimum distance between Center Identification signs from 200’ to 46’ to allow for installation of two new monument signs.

LOCATION: 701 South 42nd Street  
ZONE: GO-ACI-1(PL)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on March 14, 2019, Gaby Ryan (Signworks – 4713 F Street), Eric Frieson (University of Nebraska Medical Center – 987100 Nebraska Medical Center) and Megan Lute (Alley Poyner Macchietto Architecture – 1516 Cuming Street) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to install two new center identification signs on the northeast corner of 42nd and Leavenworth Streets. This corner, as well as the northwest corner of the intersection will be undergoing an extensive landscape and art makeover as the University feels that 42nd Street will become a gateway to the UNMC campus. The Planning Department found no hardship or practical difficulty and believed that the waiver is the result of a design preference and recommended denial of the request.

Ms. Ryan stated that UNMC would like to make the gateway into the campus very prominent. Artwork and landscaping would be placed on the west side of the intersection when the existing Charlie Graham building is removed. The proposed signs would provide wayfinding for eastbound and westbound traffic on Leavenworth Street and northbound traffic on 42nd Street.

Mr. Lanoha recalled that in 2018 some waivers had been granted for this applicant for signage (Case 18-145). Ms. Ryan responded that those signs were reduced and the digital portions removed which resulted in the signs meeting the requirements of the code. Mr. Lanoha stated that the board has typically supported these types of requests for large campus uses.

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

AYES: Moore, Aspen, Kortright, Mahlendorf, Lanoha

MOTION CARRIED: 5-0.
9. Case No. 19-033  
James Mainelli  
Mainelli Construction  
21827 R & R Road #1  
Gretna, NE 68028

REQUEST:  Waiver of Sections 55-243 & 55-734 - Variance to the permitted use regulations of the R7 district to allow for construction of a Medical Office and to the required number of off-street parking stalls from 46 to 30 to allow for the expansion of the medical office.

LOCATION:  9006 Ohio Street  
ZONE:  R7

PLANNING DEPARTMENT RECOMMENDATION: Approval subject to the applicant submitting an application to rezone the property to an appropriate commercial zoning district in addition to including the MCC-Major Commercial Corridor overlay district.

At the Zoning Board of Appeals meeting held on March 14, 2019, James Mainelli appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to open a new medical office at this location which is a use that is not allowed in an area that is zoned R7. In addition, the applicant is unable to provide the required number of off-street parking spaces. He indicated that a hardship existed since the office was constructed in 1963 as a medical office and has been used as such since that time. He also noted that parking requirements would have been calculated differently at that time. As this property lies within a mixed-use boundary of the City of Omaha Master Plan Future Land Use map, the site should be rezoned to reflect the actual use of the property. In addition, since 90th Street is designated as a future MCC-Major Commercial Corridor any rezoning must include the MCC overlay district designation. The Planning Department recommended approval subject to the applicant submitting an application to rezone the property to an appropriate commercial zoning district in addition to including the MCC-Major Commercial Corridor overlay district.

Mr. Mahlendorf moved to APPROVE in accordance with the plans submitted subject to the applicant submitting an application to rezone the property to an appropriate commercial zoning district in addition to including the MCC-Major Commercial Corridor overlay district. Ms. Moore seconded the motion.

AYES: Aspen, Kortright, Mahlendorf, Moore, Lanoha

MOTION CARRIED: 5-0.
APPROVAL OF MINUTES:

Mr. Aspen moved to APPROVE the minutes for the February 14, 2019 meeting. Mr. Lanoha seconded the motion.

AYES: Aspen, Mahlendorf, Moore, Lanoha

ABSTAIN: Kortright

MOTION CARRIED: 4-0-1.

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:26 p.m.

____________________________________________
Approved (date)

____________________________________________
Jason Lanoha, Chair

____________________________________________
Clinette Ingram, Secretary