PRE-MEETING:

The board members in attendance were: Jeremy Aspen, Dustin Friedman, Matthew Kortright, Brian Mahlendorf and Jason Lanoha. Planning Department staff in attendance were: Cliff Todd and Clinette Ingram. Ryanne Glenn (Husch Blackwell) appeared for her client Buck’s, Inc. (Case 19-045).

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, April 29, 2019 and Thursday, May 2, 2019.

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

MEMBERS NOT PRESENT: Sean Kelley
Kristine Moore

STAFF PRESENT: Cliff Todd, Zoning Board of Appeals Administrator
Mike Carter, Current Planning
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, City staff and explained the procedures for hearing the cases.
LAYOVER CASES:

1. Case No. 18-088 (from 8/9/18)  
   Tammy Darmody  
   16417 Leavenworth Circle  
   Omaha, NE 68118  
   REQUEST: Waiver of Section 55-786(e) - Variance to the residential fence regulations to allow a 6’ tall, privacy fence in the street side yard setback.  
   LOCATION: 15454 Mormon Circle  
   ZONE: R4

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on May 9, 2019, the applicant failed to appear before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a 6’ privacy fence on their property line along Mormon Street. The applicant had indicated that they own two large dogs and a 4’ fence would be too short. The Planning Department found no hardship or practical difficulty to support the request since it was the result of a design preference and recommended denial of the waiver request.

There were no opponents in attendance.

The case was moved to the end of the agenda to give the applicant the opportunity to appear.

Mr. Aspen moved to LAYOVER the case until the June 13, 2019 meeting of the board. Mr. Kortright seconded the motion.

AYES: Aspen, Kortright, Mahlendorf, Freidman, Lanoha

MOTION CARRIED: 5-0.
NEW CASES:

2. Case No. 19-045
   Buck’s Inc.
   c/o John Perlebach
   7315 Mercy Road
   Omaha, NE 68124

   REQUEST: Waiver of Section 55-716 - Variance to the minimum bufferyard requirement between a GC and R3 district from 13.5' with screening to 5.5' with screening (west) and from 30' with screening to 17' with screening (south).

   LOCATION: 5003 Dodge Street & 106 South 50th Street
   ZONE: GC-ACI-2(50)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on May 9, 2019, Ryanne Glenn (Husch Blackwell – 13330 California Street, Suite 200) and John Perlebach before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant operates a Bucky’s gas service station at this site. The applicant also owns the adjacent parcel immediately to the south, 106 South 50th Street, upon which had been installed, without required permits, rezoning, or a master plan amendment, an ingress/egress driveway for the users of the automated car wash on the service station property. The improvement did not include the required bufferyard that would protect the residential homes that are adjacent to this commercial property. The applicant stated that having to remove or relocate their work would be too expensive and would cause an unfair financial hardship. The Planning Department found no hardship or practical difficulty to support the request and recommended denial of the waiver request.

Ms. Glenn explained that, since the carwash had been installed, customers would consistently damage their vehicles and the building while attempting to make the sharp turn into the carwash. Buck’s hired someone to widen the driveway which resulted in the City issuing a citation because the necessary permits had not been obtained and the driveway was not allowed. Buck’s submitted a request to rezone the south parcel to General Commercial. City Council approved the rezoning of the property at its March 5, 2019 meeting (Cases #C10-18-221 & C3-18-234). In addition, the City and Buck’s, Inc. entered into a development agreement that restricts the applicant from further expanding the existing footprint of the convenience store or any other current uses. Ms. Glen indicated that the neighbors immediately to the south of the carwash attended the City Council meeting and spoke in favor of the applicant. She believed that there were hardships/practical difficulties associated with complying with the existing regulations since the property is very small and compliance with those regulations would render the driveway almost unusable. She added that there would be the hardship of removing the driveway and coming back before the board to seek the same variance. She admitted that the proper procedures had not been followed and that Steve Buchanan had publicly apologized to the Planning Department and City Council. She apologized to the Zoning Board of Appeals on behalf of her client.

Mr. Mahlendorf expressed his disappointment that the case had come before the board in the matter that it had. He noted that the applicant was very experienced. He added, however, that City Council had already come to an agreement on the issue and that he supported the decision that they had already made.

In response to Mr. Lanoha, Ms. Glenn explained that a hardship existed because the existing development agreement would prohibit expansion of the existing use which she indicated is the only practical use that can exist for the parcel.
In response to Mr. Lanoha, Mr. Perlebach explained how the case was brought before the board. Mr. Lanoha stated for the record that anything that comes before the board from this applicant would have a difficult time obtaining his support for a waiver since they had ignored the process.

Mr. Aspen believed that there was a hardship since the City Council approved the lot to be used for its existing purpose. He added that it would not be practical to remove the concrete and put something else in that spot. He stated that the financial aspect was considered while reviewing the case. He also noted that the most affected neighbor was in support of the request.

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

ASPEN: Kortright, Mahlendorf, Friedman, Aspen, Lanoha

MOTION CARRIED: 5-0.
3. Case No. 19-046
   Oldenhuis Contracting
   4501 Leavenworth Street
   Omaha, NE 68106

   REQUEST: Waiver of Section 55-186 - Variance to the front yard setback from 35' to 14' to allow for the repair and expansion of an existing enclosed porch.

   LOCATION: 5531 Hickory Street
   ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on May 9, 2019, Blayne Beebe, Oldenhuis Contracting, appeared before the board on behalf of the property owner.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to improve the front of the home that which would include repair and extension of the existing enclosed porch. The home was constructed in 1910 and, like the other homes on the block, did not meet the required 35' front yard setback. The home sat at approximately 14'. The Planning Department believed that the request is a design preference and that the home should be built in compliance with zoning regulations. The Planning Department recommended denial of the waiver request.

Mr. Beebe explained that the property would encroach no further into the street or neighboring properties than it already does. He noted that the lot that it would encroach into is also owned by the property owner. He indicated that the property owner had applied for an Administrative Subdivision to connect both lots.

Mr. Mahlendorf believed there was a hardship/practical difficulty since none of the homes on the street complied with the zoning regulations. He added that there would be no negative impact to the neighborhood or the adjacent neighbors.

Mr. Mahlendorf moved to APPROVE in accordance with the plans submitted. Mr. Friedman seconded the motion.
4. Case No. 19-047
Michael Hassenjager
5811 Craig Avenue
Omaha, NE 68152

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

LOCATION: 5811 Craig Avenue
ZONE: R2

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on May 9, 2019, Michael Hassenjager appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant received a building permit to construct a new, detached garage with a hard-surface driveway to the rear of his home. As per the zoning and building codes, a hard-surface driveway is required to be paved to the doors of the garage due to the size of the doors. The applicant indicated that, due to the slight elevation change of the driveway, water pooled on the paved driveway. He believed that asphalt millings would aid in helping to absorb some of the water. The Planning Department believed the request to be a design preference and recommended denial.

Mr. Hassenjager requested that the existing asphalt millings be used for his permanent driveway. He explained that the water from the winter had pooled on his driveway and gotten into the garage. He referred to pictures that he had previously submitted to show the condition of the driveway.

Mr. Lanoha stated that, given the current state of Craig Avenue which was not paved, he could support the request subject to the applicant paving the first 50’ of the driveway at such time that Craig Avenue is paved.

Mr. Aspen moved to APPROVE in accordance with the plans submitted subject to the applicant paving the first 50’ of the driveway at such time that Craig Avenue is paved. Mr. Lanoha seconded the motion.

AYES: Friedman, Aspen, Kortright, Mahlendorf, Lanoha

MOTION CARRIED: 5-0.
5.  Case No. 19-048  
Robert Duvall  
1044 North 115th Street  
Omaha, NE 68107

REQUEST:  Waiver of Section 55-526 - Variance to the front yard setback from 50' from the center line of the fronting street to 40.3' from the center line of the fronting street to allow for the replacement of electrical switchgear.

LOCATION:  4111 Gibson Road  
ZONE:  HI

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

At the Zoning Board of Appeals meeting held on May 9, 2019, Jason Heinze (Schemmer & Associates – 1044 North 115th Street, Suite 300) appeared before the board on behalf of the applicant.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was requesting a setback variance in order to replace and upgrade existing electrical equipment located along the west side of the building. The proposed project is located on a dead-end street with minimal traffic except for truck traffic entering and leaving the facility. The Planning Department has been supportive of similar requests in this area in the past, including 4 on this site. The Planning Department recommended approval in accordance with the plans submitted.

Mr. Heinze stated that the property owners wanted to install a larger switch gear to minimize the down time when the old equipment is removed and replaced.

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

AYES: Aspen, Kortright, Mahlendorf, Friedman, Lanoha

MOTION CARRIED: 5-0.
6. Case No. 19-049
   Michael Alley
   c/o Alley Poyner Macchietto
   Architecture
   1516 Cuming Street
   Omaha, NE 68102
   REQUEST: Waiver of Section 55-715 - Variance to
   the street yard landscaping percentage
   from 75% to 68% to allow for a
   driveway expansion.
   LOCATION: 142 North Elmwood Road
   ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on May 9, 2019, Michael Alley appeared before the
board on behalf of the property owner.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the home was constructed in 1932
on a site that slopes severely to the south. The garage was accessed via Elmwood Road on the
north side of the property. Visitors to the home are required to traverse a full story of exterior
stairs in order to access the front door which can be very difficult during inclement weather. The
applicant wanted to construct a new home addition on the south side of the home that would
include a new front entrance as well as a new main level garage. The Planning Department
found no hardship or practical difficulty to support the request since it was a design preference
and recommended denial of the waiver request.

Mr. Alley stated that the original driveway did not comply with current zoning regulations for the
front yard landscaping requirements. After considering several options, the applicant decided
that placing the garage on the south side of their home where it would not be visible from the
street was the best option since it would not impact the street façade. He explained that the
additional paving would be a .42% increase. He indicated that if the west portion of the circular
drive was removed to meet the zoning regulations, historical elements of the property would
need to be removed, thereby, destroying the historic character of the home. He noted that there
was a heavily landscaped area in the front yard. He added that a neighborhood meeting was
held and a petition was signed by 22 of the neighbors who supported the project.

In response to Mr. Mahlendorf, Mr. Alley stated that the existing street yard landscaping
percentage was 68.42% instead of the required 75%. In order to get the percentage down to
68% he indicated that some sidewalk would be removed from the property. The board expressed
support for the request.

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

AYES: Kortright, Mahlendorf, Friedman, Aspen, Lanoha

MOTION CARRIED: 5-0.
7. Case No. 19-051
   Scott & Shirley Farrington
   1014 North 64th Street
   Omaha, NE 68132

   REQUEST: Waiver of Section 55-716 - Variance to
   the minimum bufferyard requirement
   between a GC and R3 district from 30'
   with screening to 8' with screening.

   LOCATION: 303 North Saddle Creek Road – Indian
   Creek Nursery
   ZONE: GC-MCC (Pending)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on May 9, 2019, Scott Farrington (Owner) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicants were expanding their nursery business and was unable to meet the 30’ bufferyard requirement. The applicant felt that a reduction in the bufferyard depth from 30’ to 8’ would help to alleviate the practical difficulty of being able to supply the numbers and types of plants wanted by their customers. The Planning Department found no hardship or practical difficulty to support the request since it was a design preference. He explained that the purpose of a bufferyard is to provide protection for residentially zoned properties from the increased noise and activity created by commercial uses. The Planning Department recommended denial of the waiver request.

Mr. Farrington explained that the physical footprint of the operation would be reduced under the proposed plan. He purchased a commercial property to the east of the existing building, with a portion of it being zoned residential. He wanted to build new greenhouses and have some space for displays. Mr. Farrington stated that the Dundee/Memorial Park, Joslyn Castle and several other neighborhood associations surrounding the nursery had submitted letters of support. In addition, Scott Wilson, the property owner of 4404 Wakely Street which is adjacent to the property, submitted a letter of support for the applicant. He claimed that Mr. Wilson preferred a screening fence on his property line instead of it being located west of the buffer. He felt that it would be a hardship to the neighborhood if the nursery was not allowed to continue its operation. He indicated that his business had operated with no more than 5’ between the adjacent home since 1981 and that an 8’ buffer would meet the needs of the neighborhood. He displayed pictures of the existing conditions between commercial and residential properties in the area (i.e. Walgreen’s, Cricket Store, Ethiopian restaurant that was formerly a Pizza Hut).

Mr. Lanoha suggested that the letter from Scott Wilson be submitted (Exhibit B). Mr. Todd stated that he had received 5 letters of support from various neighborhood associations.

In response to Mr. Mahlendorf, Mr. Farrington stated that there was approximately 15’ from the greenhouse to the east to the property line. He planned to put trees and shrubs in some of that space. He also wanted a fence along the 8’ buffer.

Mr. Mahlendorf suggested that the two proposed greenhouses be built closer to the existing greenhouse building so that there could be a 20’ bufferyard instead of the 8’ being requested. Mr. Farrington responded that he preferred a 15’ bufferyard instead of 20’ so that there would be space to maneuver around the buildings.

Mike Carter, Current Planning Manager, explained that the 8’ is where the landscaped buffer would be located. He added that the applicant wanted to display product in the buffer area which is not allowed. Mr. Farrington stated that the additional space would allow for maintenance and
access to the rear of the building. He added that what would be displayed in the buffer would be aesthetically pleasing.

Mr. Lanoha expressed concern about allowing commercial properties to encroach into residentially zoned areas. He was also concerned about the precedent that would be set if such a waiver was allowed.

Mr. Aspen approved of the use of the building and appreciated that there was support from several neighborhood associations and the neighbor that would be most affected.

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

AYES: Friedman, Aspen, Kortright

NAYES: Mahlendorf, Lanoha

MOTION FAILED: 3-2

After some discussion another motion was made.

Mr. Mahlendorf moved to APPROVE the variance to the minimum buffer yard requirement between a GC and R3 district from 30’ with screening to 20’ with screening. Mr. Lanoha seconded the motion.

AYES: Mahlendorf, Friedman, Aspen, Kortright

NAYES: Lanoha

MOTION CARRIED: 4-1.
8. Case No. 19-052
   James Sinclair
   9209 Hickory Street
   Omaha, NE 68124

   REQUEST: Waiver of Section 55-146 - Variance to the minimum interior side yard setback from 10’ to 4’ to allow for an existing non-conforming structure to be integrated into the existing home.

   LOCATION: 9209 Hickory Street
   ZONE: R2

   PLANNING DEPARTMENT RECOMMENDATION: Denial.

   At the Zoning Board of Appeals meeting held on May 9, 2019, Sarah Sinclair appeared before the board.

   Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant had an existing, detached garage with a finished 2nd story to the west of the home. The applicant wanted to connect the garage to the home using an elevated sky bridge in order to integrate the living space into their existing home. The detached garage sits approximately 4’ from the west property line and measures approximately 950 square feet with the second story. As per the municipal code, a garage larger than 750 square feet must be at least 10’ from an interior side yard. With or without the proposed connection to the home, the current structure was non-conforming. The Planning Department found no hardship or practical difficulty to support the request as this is a design preference. There was room on the property to add additional living space that could be built in compliance with the zoning code. The Planning Department recommended denial of the request. Mr. Todd noted that he corresponded with the adjacent neighbor to the west who supported the project.

   Ms. Sinclair explained that the sky bridge would allow ingress/egress on the east side of the home to the mother-in-law apartment above the detached garage. The apartment would be for her parents who have health issues. After looking into other options, she decided that this would be the best solution so that she could be in close proximity to her parents while having some separation. She added that her husband had discussed the plan with the surrounding neighbors.

   In response to Mr. Aspen, Ms. Sinclair stated that the materials used for the sky bridge would be cedar to match the detached garage.

   Mr. Mahlendorf stated that this request could potentially meet the requirements of a request for Reasonable Accommodation since the sky bridge would be the means of egress for the mother-in-law apartment. He supported the request and believed that it did not change the configuration of the site.

   Mr. Mahlendorf moved to APPROVE in accordance with the plans submitted subject to the sky bridge matching the materials and culture of the existing home.

   AYES: Friedman, Aspen, Kortright, Mahlendorf, Lanoha

   MOTION CARRIED: 5-0.
9. Case No. 19-053  
St. Robert Bellarmine Church  
c/o Chris Snere  
11802 Pacific Street  
Omaha, NE 68154  

REQUEST: Waiver of Section 55-146 - Variance to the maximum impervious coverage from 40% to 51.6% to allow for the construction of a new Early Learning/Day Care facility and future parking lot.

LOCATION: 11802 Pacific Street  
ZONE: R2

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

At the Zoning Board of Appeals meeting held on May 9, 2019, Ron Hackett (RGH Design - 3515 Oakridge Road, Omaha) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new Early Learning/Day Care facility and a future parking lot on the property of St. Robert Bellarmine Church. A hardship existed due to the residential zoning district, which does not take into consideration large civic uses such as schools and churches. The Planning Department recommended approval in accordance with the plans submitted. Mr. Todd added that he spoke with two neighbors about the project and neither was opposed.

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

AYES: Aspen, Kortright, Mahlendorf, Friedman, Lanoha  

MOTION CARRIED: 5-0.
10. Case No. 19-054
Mark McClellan
4815 Hickory Street
Omaha, NE 68105

REQUEST: Waiver of Section 55-734 - Variance to the required number of off-street parking stalls from 41 to 6 for an existing cocktail lounge.

LOCATION: 2514 Leavenworth Street
ZONE: DS-ACI-1(PL)

PLANNING DEPARTMENT RECOMMENDATION: Approved, subject to the applicant submitting an application to rezone the property to CBD - Central Business District.

At the Zoning Board of Appeals meeting held on May 9, 2019, Mark McClellan appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that this property was constructed in 1930 as a bar/tavern and had operated as such off and on until the end of 2018. The new owner planned to add a patio area in front of the building which would increase the customer area and in turn, increase the amount of required parking. Based upon the square footage of the space, the municipal code would require a total of 41 stalls. The facility currently had 6 parking spots and had operated with those for years. The Planning Department found that a hardship existed due to the age and size of the existing property. The Department supported the request and recommended approval as long as the applicant submitted an application to rezone the property to CBD – Central Business District. A cocktail lounge is a permitted use in CBD and there are no off-street parking requirements for that district.

Mr. McClellan stated that he was aware of the Planning Department’s recommendation.

Mr. Mahlendorf noted that it was difficult to apply current zoning regulations in some areas of the city. Mr. Lanoha noted that if the property was already zoned CBD, the waiver wouldn’t be needed.

Mr. Aspen moved to APPROVE in accordance with the plans submitted subject to submittal of an applicant to rezone the property to CBD (Central Business District). Mr. Mahlendorf seconded the motion.

AYES: Kortright, Mahlendorf, Friedman, Aspen, Lanoha

MOTION CARRIED: 5-0.
11. Case No. 19-055  
   Modus Studio  
   15 North Church Avenue, #102  
   Fayetteville, AR 72701  

   REQUEST: Waiver of Section 55-928(e) - Variance to the minimum perimeter landscaping from 15' to 10' (south) and 8' (west) to allow for construction of a new parking lot.

   LOCATION: 1920 Nicholas Street  
   ZONE: CBD-ACI-1(PL)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on May 9, 2019, Tim Roth (Casino Group - 305 West Commercial Street, Springfield, MO) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that this site was being constructed as a surface parking lot that would provide parking for the future residents of the Muse Apartments. The Planning Department believed that a parking lot could be constructed that complied with all applicable ACI design standards since it is new construction. In addition, the property is zoned CBD which has no off-street parking regulations reinforcing the fact that the parking lot could be designed properly, even at a loss of spaces, since no minimum number of parking spots is required. The Planning Department recommended denial of the request.

Mr. Roth stated that there was an existing, three-story historic building that the applicant considered demolishing that would make room for 34 additional parking spaces. As part of the TIF (Tax Increment Financing) agreement with the City, the applicant agreed to save the building with the understanding that the City would work with them on maximizing the parking for the site. He explained that the waiver for the landscaping was needed since 247 units would eventually be added to the area, along with other existing and future developments, which would increase the amount of parking in that area. He added that fencing would be added to make the lot safe and secure for the residents and their vehicles. He noted that if the ACI regulations were followed it would result in the loss of 16 parking spaces.

In response to Mr. Lanoha, Mr. Roth stated that there would be over 200 parking stalls in a fenced area, which included another existing parking lot to the east.

After conferring with Mr. Carter, Mr. Lanoha stated that unattached surface parking was not a permitted use in a CBD zone. He explained that it is a conditional use and that a Conditional Use Permit would need to be approved by the Planning Board. City staff wanted to case to be laid over so that that option could be explored. Mr. Roth responded that the applicant had always intended to use existing lot for parking. After some discussion between Mr. Roth and Mr. Carter, Mr. Roth asked if he could check with his architect to see if there was a building permit in place for the parking lot.

Mr. Mahlendorf moved to continue deliberation of this case until the end of the agenda to allow the applicant to obtain additional information in response to Board inquiry. Mr. Lanoha seconded the motion.

AYES: Mahlendorf, Friedman, Aspen, Kortright, Lanoha

MOTION CARRIED: 5-0.
Mr. Carter suggested a layover so that it could be determined exactly what had been approved, and to give the Planning Board the opportunity to review the request and add conditions if necessary.

Mr. Mahlendorf discussed what the city was attempting to do with the overlay districts, especially those with TIF funding. He believed that the applicant should make every effort to comply with the regulations of the district.

Mr. Lanoha moved to LAYOVER until the June 13, 2019 meeting of the board for further clarification of the case. Mr. Friedman seconded the motion.

AYES: Mahlendorf, Friedman, Aspen, Kortright, Lanoha

MOTION CARRIED: 5-0.
12. Case No. 19-056
Jeff & Mari Rensch
5103 Webster Street
Omaha, NE 68132

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

LOCATION: 5102 Underwood Avenue
ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on May 9, 2019, Jeff Rensch appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to install a new, 6’ privacy fence on their property line along north 51st Street. The applicant showed pictures of other homes in the immediate area that had privacy fences that did not meet the required 15’ setback, similar to what they were requesting. The Planning Department found no hardship or practical difficulty to support the request, noting that it was a design preference and that a fence in compliance with the ordinance could be constructed on the property line. He explained that a 4’ tall, 50% open fence allows for vision clearance and safety considerations for traveling vehicles and pedestrians adjacent to corner lots. He added that additional landscaping could be installed to provide additional screening desired by the applicant. The Planning Department recommended denial.

Mr. Rensch stated that the home is located on a busy corner in downtown Dundee across from commercial properties to the east. He indicated that there was no obstruction to the 30’ view lines, the fence would create a safe space for his family and be aesthetically pleasing to the neighborhood.

Mr. Lanoha stated that, although he is usually opposed to these types of requests, in this case it makes sense due to the close proximity of commercial businesses to the home. He did note, however, that most of the existing fences that were shown to the board had not been approved by the Zoning Board of Appeals.

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

AYES: Friedman, Aspen, Kortright, Mahlendorf, Lanoha

MOTION CARRIED: 5-0.
APPROVAL OF MINUTES:

Mr. Aspen moved to APPROVE the minutes for the April 11, 2019 meeting. Mr. Mahlendorf seconded the motion.

AYES: Aspen, Kortright, Mahlendorf, Lanoha

ABSTAIN: Friedman

MOTION CARRIED: 4-0-1.

DISCUSSION:

Jennifer Taylor, Attorney – City Law Department, updated the board on the status of the Arbor Woods and Bruning cases.

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:53 p.m.

____________________________________________
Approved (date)

____________________________________________
Jason Lanoha, Chair

____________________________________________
Clinette Ingram, Secretary