ZONING BOARD OF APPEALS
PRE-MEETING - THURSDAY, JUNE 13, 2019 - 11:00 A.M.
11TH FLOOR – CENTRAL CONFERENCE ROOM
OMAHA/DOUGLAS CIVIC CENTER - 1819 FARNAM STREET - OMAHA, NEBRASKA

PRE-MEETING:

The board members in attendance were: Jeremy Aspen, Sean Kelley, Brian Mahlendorf, Kristine Moore and Jason Lanoha. Planning Department staff in attendance were: Cliff Todd and Clinette Ingram. Mike Carter advised the board of the details of Case 19-055.

The board reviewed the cases.

ZONING BOARD OF APPEALS
PUBLIC MEETING - THURSDAY, JUNE 13, 2019
LEGISLATIVE CHAMBER, LC LEVEL – 1:00 P.M. - OMAHA/DOUGLAS CIVIC CENTER
1819 FARNAM STREET - OMAHA, NEBRASKA

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, June 3, 2019 (Use Waivers) and Thursday, June 6, 2019.

MEMBERS PRESENT: Jason Lanoha, Chair
Jeremy Aspen, Vice-Chair
Sean Kelley
Brian Mahlendorf
Kristine Moore

MEMBERS NOT PRESENT: Dustin Friedman (Alternate)
Matthew Kortright (Alternate)

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. 19-055 (from 5/9/19)  
   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) (Pending DS)  

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on June 13, 2019, Tim Roth (305 Commercial Street, Springfield, MO) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, recalled that this case had been laid over to give the applicant time to coordinate with the Planning Department regarding the proposed surface parking use within a CBD (Central Business District). Since that time the applicant had applied to rezone the property from CBD to DS (Downtown Service District). The rezoning had been recommend for approval by the Planning Board and was pending City Council approval. The Planning Department’s recommendation of denial of the waiver requests had not changed. The department believed that new construction on an undeveloped site should meet all zoning regulations.

Mr. Roth requested that the parking lot be approved as designed. He restated his hardship which was that the existing, three-story building that would remain, as per the TIF agreement with the City of Omaha. This would take away 34 planned parking spaces. He added that applicant had also applied for the permits for the parking lots which he previously believed had been done.

In response to Mr. Lanoha, Mr. Todd stated that the Planning Department supported the rezoning of the property to DS. Mr. Roth also explained that the three-story building would stay as long as it was deemed to be structurally sound.

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

AYES: Aspen, Kelley, Mahlendorf, Moore, Lanoha  

MOTION CARRIED: 5-0
NEW CASES:

<table>
<thead>
<tr>
<th>Case No.</th>
<th>Name</th>
<th>Address</th>
<th>Request</th>
<th>Location</th>
<th>Zone</th>
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<tbody>
<tr>
<td>19-057</td>
<td>Jim Rush</td>
<td>5066 Harrison Street, Omaha, NE 68157</td>
<td>Waiver of Section 55-126 - Variance to the front yard setback from 50’ to 35’ to allow for construction of a new, detached garage.</td>
<td>5066 Harrison Street</td>
<td>R1 (Pending R4)</td>
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PLANNING DEPARTMENT RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on June 13, 2019, the applicant did not appear before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new detached garage on his property but was unable to meet the front yard setback requirement of 50’ due to the R1 zoning designation. The applicant had submitted an application to rezone the property to R4 which would reduce the front yard setback to 25’. The Planning Department found the request to be reasonable and recommended approval.

Mr. Aspen noted that application to rezone the property had already been submitted, which is what he would require if the applicant was present.

Mr. Aspen moved to APPROVE. Mr. Kelley seconded the motion.

AYES: Kelley, Mahlendorf, Moore, Aspen, Lanoha

MOTION CARRIED: 5-0.
3. Case No. 19-058
Norita Matt
8703 Hamilton Street
Omaha, NE 68114

REQUEST: Waiver of Section 55-146 - Variance to the minimum front yard setback from 40’ to 16’ to allow for the replacement of an existing deck.

LOCATION: 8703 Hamilton Street
ZONE: R2

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on June 13, 2019, Norita Matt appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to replace an existing 24’ x 6’ deck on the north side of the home along Hamilton Street which would not meet the required 40’ front yard setback. The Planning Department found no hardship or practical difficulty to support this request as it was a design preference and a smaller deck could be built. The Planning Department recommended denial of the request.

Ms. Matt explained that the deck was deteriorating and that the new deck would be no bigger than the current one.

Ms. Moore noted that the home itself is not at the 40’ setback.

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

AYES: Mahlendorf, Moore, Aspen, Kelley, Lanoha

MOTION CARRIED: 5-0.
4. Case No. 19-059
   Consolidated Concrete, LLC
   9555 South 147th Street
   Omaha, NE 68138

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

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

PLANNING DEPARTMENT RECOMMENDATION: Approval, in accordance with the plans submitted, subject to the site being used for projects relating to that location only.

At the Zoning Board of Appeals meeting held on June 13, 2019, Bob Dailey (McGrath North – 1601 Dodge Street, Suite 3700) and Don Phillips appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was requesting a waiver to extend the maximum duration allowed to erect and operate a temporary concrete batch plant. The facility would serve the development of streets, infrastructure and related improvements for the South and West Farm developments. The Planning Department recommended approval subject to the site being used for projects relating to South and West Farm only.

Mr. Dailey recalled that the applicant had gone through the same process approximately one year ago and the time had expired for that waiver. The applicant had applied for and received a Temporary Use Permit.

Mr. Mahlendorf believed that there were some benefits to the waivers which included safety and alleviating the wear and tear of city streets.

In response to Mr. Lanoha, Mr. Phillips stated that he was not aware of any complaints during the past year and he confirmed that all of the concrete produced has been for the South and West Farm project only.

Mr. Mahlendorf moved to APPROVE in accordance with the plans submitted, subject to the site being used for projects relating to that location only. Ms. Moore seconded the motion.

AYES: Moore, Aspen, Kelley, Mahlendorf, Lanoha

MOTION CARRIED: 5-0.
5. Case No. 19-060
   Michael Wickham
   12333 Bennington Road
   Bennington, NE 68142

   REQUEST: Waiver of Section 55-740(e) - Variance to the hard-surface driveway requirements to allow a gravel driveway to a new home and garage.

   LOCATION: 11303 North 126th Street
   ZONE: AG

   PLANNING DEPARTMENT RECOMMENDATION: Approval, in accordance with the plans submitted, subject to the applicant paving the approach and the first 50’ of the driveway should North 126th Street ever become improved.

   At the Zoning Board of Appeals meeting held on June 13, 2019, Michael Wickham appeared before the board.

   Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new home with a gravel driveway on the site. A practical difficulty existed due to the agricultural nature of the surrounding area and the existing unimproved public street adjacent to the site. The existing public street is unimproved and is a dead-end street further to the south. The Planning Department supported the request subject to the applicant paving the approach and the first 50’ of the driveway at such time that North 126th Street is improved.

   Mr. Aspen moved to APPROVE in accordance with the plans submitted, subject to the applicant paving the approach and the first 50’ of the driveway at such time that North 126th Street is improved. Mr. Kelley seconded the motion.

   AYES: Aspen, Kelley, Mahlendorf, Moore, Lanoha

   MOTION CARRIED: 5-0.
6. **Case No. 19-061**  
Tim Baxter  
3706 Cook Plaza  
Omaha, NE 68122  

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

**LOCATION:** 3706 Cook Plaza  
**ZONE:** DR-ED

**PLANNING DEPARTMENT RECOMMENDATION:** Approval, in accordance with the plans submitted, subject to compliance with the following conditions: 1) The applicant verifying with the Planning Department that applying for and receiving approval of a Special Use Permit for development in the North Hills may be required as a result of the construction of the new accessory building and its related soil displacement; and 2) Paving the approach and the first 50’ of the driveway at such time that Cook Plaza is improved.

At the Zoning Board of Appeals meeting held on June 13, 2019, Tim Baxter appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new 40’ x 60’ accessory building on the property and, due to its location, wanted a crushed rock driveway instead of concrete. A practical difficulty existed due to the location of the property in an Environmental Overlay district that discouraged increased storm water runoff and unnecessary grading. The Planning Department recommended approval, in accordance with the plans submitted, subject to compliance with the following conditions: 1) The applicant verifying with the Planning Department that applying for and receiving approval of a Special Use Permit for development in the North Hills may be required as a result of the construction of the new accessory building and its related soil or tree displacement; and 2) Paving the approach and the first 50’ of the driveway at such time that Cook Plaza is improved.

Mr. Baxter stated that the existing access to the property is gravel. He added that the property sits below I-680 and that occasionally water drains across the property from the interstate.

Mr. Aspen moved to APPROVE in accordance with the plans submitted, subject to: 1) The applicant verifying with the Planning Department that applying for and receiving approval of a Special Use Permit for development in the North Hills may be required as a result of the construction of the new accessory building and its related soil or tree displacement and 2) Paving the approach and the first 50’ of the driveway at such time that Cook Plaza is improved. Mr. Kelley seconded the motion.

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

**MOTION CARRIED:** 5-0.
7. Case No. 19-062
Mandy Boyle
2004 South 88th Street
Omaha, NE 68124

REQUEST: Waiver of Section 55-146 - Variance to the minimum front yard setback from 40’ to 33.7’ to allow for the construction of a covered porch.

LOCATION: 2004 South 88th Street
ZONE: R2

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on June 13, 2019, Mike Boyle appeared before the board on behalf of the applicant.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to add a covered porch to the home but was unable to meet the required 40’ front yard setback. The Planning Department found no hardship or practical difficulty to support the request since it was a design preference. He noted that a smaller porch or patio could be constructed and added that no other homes on the block encroached as far into the setback as what was being requested. The Planning Department recommended denial of the request.

In response to Ms. Moore, Mr. Boyle stated that the new porch will sit in the same location as the existing porch. Mr. Mahlendorf noted that the home was already non-conforming since it was at approximately 38’.

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

AYES: Moore, Aspen, Kelley, Mahlendorf, Lanoha

MOTION CARRIED: 5-0.
8. Case No. 19-063  
Damon Wohlers  
509 South 251st Street  
Waterloo, NE 68069  
REQUEST: Waiver of Section 55-715 - Variance to the street yard landscaping percentage from 70% to 63% to allow for a garage addition.  
LOCATION: 509 South 251st Street  
ZONE: R2  

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on June 13, 2019, Damon Wohlers appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to add a new garage addition to the front of the home that would result in the 70% street yard landscaping requirement not being met. The applicant had discussed the proposal with his homeowners association as well as his neighbor to the south who would be most affected and both were supportive of his plans. The Planning Department found no hardship or practical difficulty to support this request as it was a design preference and recommended denial.

Mr. Wohlers stated that the garage was designed to be as small as it could be and still have a car in front of it. The board noted that most of the homes in the neighborhood had issues with meeting the street yard landscaping requirements.

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

AYES: Mahlendorf, Moore, Aspen, Kelley, Lanoha  
MOTION CARRIED: 5-0.
9. Case No. 19-064
Thomas Janecek
4706 South 90th Street
Omaha, NE 68127

REQUEST: Waiver of Section 55-126 & 55-740(e) - Variance to the street side yard setback from 25’ to 6’ and to the hard-surface driveway requirement to allow for construction of a new, detached garage.

LOCATION: 4706 South 90th Street
ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on June 13, 2019, Thomas Janecek appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to construct a new 30’ x 30’ detached garage in the rear yard of his home, but because of drainage issues and the general topography of the site, he preferred to place the garage approximately 6’ from the north property line behind his existing home. In addition, due to the potential of water pooling or excessive runoff from north to south which caused basement water issues, the applicant wanted to use a pervious material for his driveway as opposed to hard surface concrete. The Planning Department found no hardship or practical difficulty to support this request as this was a design preference and a garage and driveway could be constructed in compliance with the zoning ordinance. The Planning Department recommended denial of the waiver request.

Mr. Janecek submitted a letter of support from the neighbor to the west (4821 South 91st Avenue Circle - Exhibit B). He explained that the area where the 25’ setback would not be met would be on the north end of the site closer to “L” Street which is 135’ away. He stated that one of the plans showed the garage 6’ from the fence and another showed it 16’ from the fence. He indicated that the plan that showed the garage 16’ from the fence would line up with the existing home.

Mr. Kelley stated that he could support the request because of the large amount of right-of-way to the north; however, he believed that the plan that showed the setback at 16’ was more appealing with a paved (asphalt/concrete) driveway. Mr. Aspen agreed. Ms. Moore stated that she could not support the applicant using crushed asphalt for the driveway.

Mr. Kelley moved to APPROVE the request as amended: Waiver to the street side yard setback from 25’ to 16’ to allow for the construction of a new, detached garage. Please note: The hard-surface driveway requirement must be met. Mr. Lanoha seconded the motion.

AYES: Moore, Aspen, Kelley, Mahlendorf, Lanoha

MOTION CARRIED: 5-0.
10.  Case No. 19-065
    H & S Partnership, LLC
    13575 Lyman Drive
    Omaha, NE 68134

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

    LOCATION: 2816 State Street
    ZONE: GI

PLANNING DEPARTMENT RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on June 13, 2019, Ryan Dorcey (13575 Lyman Drive, Omaha, NE) appeared before the board on behalf of the applicant.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the property was in the process of being sold. The sale of the property was contingent on the lender receiving notification that single-family residential is a legally permitted use on the property that is zoned GI (General Industrial). The Planning Department supported the request. He noted that the future land use for this property should be General Industrial; however, this use waiver would not impact the future land use designation.

Mr. Dorcey believed that the site had been a non-conforming use since its construction in 1965. He added that the surrounding residential properties were also non-conforming uses so the home would fit the context of the neighborhood.

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

AYES: Aspen, Kelley, Mahlendorf, Moore, Lanoha

MOTION CARRIED: 5-0.
11. Case No. 19-066
   Mike Beaudin
   14315 N Street
   Omaha, NE 68137

   REQUEST: Waiver of Section 55-186 - Variance to the front yard setback from 25’ to 20’ to allow for construction of a new home addition.

   LOCATION: 14315 N Street
   ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on June 13, 2019, Mike Beaudin appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new addition to the rear of his home and could not meet the front yard setbacks for the two front yards. Because this home backs to 144th Street it is considered to have double-frontage, or two front yards. Since the proposed home addition was a design preference and there was no hardship or practical difficulty to support the request, the Planning Department recommended denial. He mentioned that the department had received two letters of support from neighbors.

Mike Lacey (4961 South 143rd Street) appeared in support of the request. He felt that the addition would enhance the neighborhood.

Mr. Mahlendorf believed that the double-frontage caused some challenges. He noted that the only impact would be to the existing sound wall.

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

AYES: Kelley, Mahlendorf, Moore, Aspen, Lanoha

MOTION CARRIED: 5-0.
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12. Case No. 19-067  
Greg Mazzuca  
435 South 154th Street  
Omaha, NE 68154  

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

LOCATION: 435 South 154th Street  
ZONE: R3

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on June 13, 2019, Greg and Abby Mazzuca appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant had recently installed 16' of 6' privacy fence in his front yard. It was installed approximately 26' from the front property line to provide some isolation from the adjacent property which had ongoing issues with trash and yard waste that had been left in the driveway for extended periods of time. Although the Planning Department understood the situation, he noted that the fence was a design preference and that a fence taller than 4'/50% closed was not allowed in the front yard. The Planning Department recommended denial. There was one letter of support for the fence.

Mr. Mazzuca explained that the fence served as a visual diversion to the conditions that he had to live next to for the past seven years. He added that it was also a safety structure that kept waste and trash from 441 South 154th Street away from his children. He did not believe that the fence made it difficult to see when backing out of a driveway or driving down the street since it was located 28' from the sidewalk. He indicated that a shorter fence would not work in this situation. Ms. Mazzuca supported her husband's statements. She repeated that the structure was not meant to be a fence or an enclosure but a safety structure.

Charles Jones (441 South 154th Street) appeared in opposition to the request. He also lived at the home referred to by the applicant. He stated that he and the owner of the home were dealing with medical issues and that there were times when waste had piled up on the property. He stated that the fence was a safety hazard because it was difficult to see when he backed out of the driveway. He mentioned that there were a lot of people that rode bikes and walked their dogs on 154th Street. Mr. Jones stated that he understood why the applicant was frustrated and he indicated that the property had been cleaned and that trash would not be an issue again.

Mr. Lanoha did not believe that a fence located in the front yard setback was the solution to the problem. He stated that the issues with the neighbor could be handled by Code Enforcement. He added that other solutions could be considered like bushes or trees. Mr. Mahlendorf agreed that a portion of the fence did affect the neighbors' ability to safely back out of his driveway. He stated that the board could not consider allowing the fence to remain. Mr. Lanoha also mentioned the precedent that would be set if the waiver was granted.

Ms. Moore stated that the applicant was before the board because fence material was used. She added that if there was a hedge in place of the fence, the applicant would not need a waiver. Mr. Kelley stated that he could not support the waiver, noting the reasons mentioned by other board members. There was some discussion about the role of Code Enforcement in this matter.

Mr. Aspen moved to DENY. Mr. Kelley seconded the motion.

AYES: Mahlendorf, Moore, Aspen, Kelley, Lanoha

MOTION CARRIED: 5-0.
13. Case No. 19-068  
Gilbert Caughlin  
6350 Charles Street  
Omaha, NE 68132

REQUEST: Waiver of Section 55-186 - Variance to the street side yard setback from 15’ to 0’ to allow for construction of a new garage.

LOCATION: 6350 Charles Street
ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on June 13, 2019, Gilbert Caughlin appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to construct a new garage on a concrete slab that was located along the property line adjacent to 65th Street. Because the rear yard is elevated, the applicant felt that it would be impractical to try and install a garage within the setbacks and that the existing slab would be a better option. The applicant also believed that gaining access to the rear yard through the alley that runs along the rear of the property would be too difficult and not practical. The Planning Department found no hardship or practical difficulty to support the request as it was a design preference. The Planning Department recommended denial. He noted that a neighbor called in support of the request.

Mr. Caughlin stated that the existing concrete slab had been in place for approximately 25 years. He explained that the location where the garage could legally be placed is where water runs. He felt that this would eventually destroy the structure. He explained that it would be difficult to re-route the water due to topographical issues in the back yard. He was concerned that if he built the garage adjacent to the retaining wall, it could collapse in the future and destroy the garage.

Mr. Lanoha stated that he could not support going from 15’ to 0’. The applicant declined a layover so that he could have time to look into other options.

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

AYES: Moore, Kelley, Mahlendorf, Lanoha

NAYES: Aspen

MOTION CARRIED: 4-1.
14.  Case No. 19-069  
Timothy Higgins  
3325 Pine Street  
Omaha, NE 68105  
REQUEST:  Waiver of Section 55-166 - Variance to the interior side yard setback from 7' to 5' to allow for the construction of a new home.  
LOCATION:  3325 Pine Street  
ZONE:  R3

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on June 13, 2019, Timothy Higgins and Bob Perrin (Architect) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new home on the vacant lot and the current design did not meet the required 7' side yard setback on the east side of the home. He noted that only an 11' portion of the 51' home encroached into the side yard. Since this was new construction, a code compliant home could be designed so that it would fit within the allowed buildable area. The Planning Department found no hardship or practical difficulty to support this request as this was a design preference. The Planning Department recommended denial.

Mr. Higgins stated that all of the surrounding neighbors were very supportive of their plans for the home. He noted that the lot is small (54'6") and there were no alleys so the proposed front facing garage took up most of the width. An 11' portion on the side of the home would project out into the side yard, 3' above grade. He indicated that the design of the proposed home fit the character of the neighborhood. He also pointed out that many of the homes in the neighborhood had smaller side yard setbacks than what he was proposing.

There was some discussion about whether a waiver for the front yard setback was also needed and whether a layover was necessary. Mr. Todd stated that there was a provision in the code that allowed for and adjustment of the required setbacks. Mike Carter, Planning Department, stated that there was a section of the code that allowed a home to be placed closer than the required setback if the existing buildings on both sides of the proposed home were closer. Mr. Carter further discussed that option. The owner decided to have the board vote on the waiver for the side yard setback and to come back if they wanted to request a waiver for the front yard setback.

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

AYES: Aspen, Kelley, Mahlendorf, Moore, Lanoha

MOTION CARRIED: 5-0.
15. Case No. 19-070
   Brett Guy
   6506 South 136th Street
   Omaha, NE 68137

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

   LOCATION: 6506 South 136th Street
   ZONE: R4(35)

   PLANNING DEPARTMENT RECOMMENDATION: Denial.

   At the Zoning Board of Appeals meeting held on June 13, 2019, Brett Guy appeared before the board.

   Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a 6' tall, privacy fence along Madison Street that would replace an existing 4' chain link fence. The applicant indicated that they own a potentially dangerous dog and the existing 4' fence is too short. He stated that a 6' privacy fence in compliance with the zoning regulations could be installed 15' from the property line along Madison Street and 35' from the front property line with no issues. He explained that only fences that are 4' or less in height and at least 50% open are allowed to be constructed along a front or street side property line since they allow for vision clearance and are safer for traveling vehicles and pedestrians adjacent to corner lots. The waiver was the result of a design preference and there was no hardship or practical difficulty to support the request. The Planning Department recommended denial.

   Mr. Aspen stated that he could not support the request. Referring to the examples that Mr. Guy included with his submittal of properties that had been granted waivers, Ms. Moore explained that the three waivers had been approved with conditions. She added that the waivers were granted on a case-by-case basis. She did not think that in any of the examples, a 6' privacy fence was allowed. She suggested that the fence be moved back further from the setback. Mr. Guy responded that if the fence was moved back, he would lose ¼ of the back yard.

   In response to Mr. Mahlendorf, Mr. Guy stated that he would accept a 4' privacy fence as an option. He explained that his dog reacts to other dogs based on sight and a 50% open fence would provide too much visibility. He also indicated that his dog could jump a 4' fence.

   Mr. Aspen moved to DENY. Mr. Kelley seconded the motion.

   AYES: Kelley, Mahlendorf, Moore, Aspen, Lanoha

   MOTION CARRIED: 5-0.
16. Case No. 19-071  
Elkhorn Ridge Golf Partnership  
c/o Andrew Koster  
10836 Old Mill Drive  
Omaha, NE 68164

REQUEST: Waiver of Section 55-105, 55-108 & 55-938(e) - Variance to the permitted use regulations to allow Indoor Entertainment, a use not otherwise permitted in a DR district, to the minimum front yard setback from 50' to 34', to the minimum interior side yard setbacks from 25' to 10' and 16', to the minimum rear yard setback from 35' to 10', to the minimum lot width from 100' to 93.4' and to the maximum impervious coverage allowed from 25% to 68% to allow for the redevelopment of a former golf course.

LOCATION: 20033 Elkhorn Ridge Drive
ZONE: DR

The applicant requested that this case be laid over until the July 11th 2019 meeting.

Mr. Mahlendorf moved to LAYOVER until the July 11, 2019 meeting. Ms. Moore seconded the motion.

AYES: Kellay, Mahlendorf, Moore, Aspen, Lanoha

MOTION CARRIED: 5-0.
17. Case No. 19-072
Jon Alexander
1150 River Road Drive
Waterloo, NE 68069
REQUEST: Waiver of Section 55-740(e) - Variance to the hard-surfacing requirement for a temporary parking lot for events held 4/1/19 through 12/20/19 and from 4/1/20 through 12/20/20.
LOCATION: 1150 River Road Drive
ZONE: AG-FW

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on June 13, 2019, Brett Guy appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was requesting a waiver to the hard-surfacing requirement for a temporary parking lot for all events to be held April 1, 2019 through December 20, 2019 and from April 1, 2020 through December 20, 2020. The applicant had indicated that paved parking would not be practical for temporary events on the site. The zoning ordinance provides no exceptions to the hard-surfacing requirement for temporary uses. The Planning Department will not issue temporary use permits without adequate hard-surfaced parking. Mr. Todd noted that the previous waiver requests that were granted for this applicant were very specific to the events and the specific dates that they would be taking place. This request did not indicate the number, type of events or the dates relating to these events. He added that a Temporary Use Permit must be approved for each event. The Planning Department recommended denial of the request.

Mr. Alexander verified the dates for 2019 as June 21 – 23, October 10 – 12 and December 4 – 6. One of the dates for 2020 is April 24 – 26.

Mr. Mahlendorf noted the history of the operator and the usage of the land.

Mr. Mahlendorf moved to APPROVE as amended: Variance to the hard-surfacing requirement for a temporary parking lot for events held June 21 – 23, October 10 – 12 and December 4 – 6 of 2019 and April 24 – 26, 2020. The applicant must submit to the Planning Department the remaining dates for 2020 by April 30, 2020. Mr. Lanoha seconded the motion.

AYES: Mahlendorf, Moore, Aspen, Lanoha

ABSTAIN: Kelley

MOTION CARRIED: 4-0-1.
APPROVAL OF MINUTES:

Mr. Aspen moved to APPROVE the minutes for the May 9, 2019 meeting. Mr. Lanoha seconded the motion.

AYES: Aspen, Mahlendorf, Lanoha

ABSTAIN: Kelley, Moore

MOTION CARRIED: 3-0-2.

ADJOURNMENT

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