ZONING BOARD OF APPEALS
PRE-MEETING - THURSDAY, JULY 9, 2020 - 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: Sean Kelley, Brian Mahlendorf, Kristine Moore, Dusty Friedman and Matthew Kortright. 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, June 29, 2020 (Use Waivers) and Thursday, July 2, 2020.

MEMBERS PRESENT: Sean Kelley – Chair
Kristine Moore
Brian Mahlendorf
Dusty Friedman (Alternate)
Matthew Kortright (Alternate)

MEMBERS NOT PRESENT: Jason Lanoha – Vice Chair
Jeremy Aspen

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. Kelley introduced the board members and City staff. He explained the procedures for hearing the cases.
### NEW CASES:

<table>
<thead>
<tr>
<th>Case No.</th>
<th>REQUEST</th>
<th>LOCATION</th>
<th>ZONE</th>
</tr>
</thead>
<tbody>
<tr>
<td>20-085</td>
<td>Waiver of Section 55-830(3) – Variance to allow a 25.67 sq. ft. temporary sign (banner) to be displayed in an R4 district until July 31, 2020.</td>
<td>Southeast of 69th and Blondo Streets</td>
<td>R4(35)</td>
</tr>
</tbody>
</table>

**PLANNING DEPARTMENT RECOMMENDATION:** Denial.

At the Zoning Board of Appeals meeting held on July 9, 2020, Kim Ramsey appeared before the board. Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to install a temporary banner which is not allowed in the R4 district. The Planning Department found no hardship or practical difficulty to support the request, noting that this was a design preference, and recommended denial of the request.

Ms. Ramsey stated that, due to Covid19, the school was not able to enroll as many students as they normally had in the years past (approximately 100 less than less year). The school would normally advertise in the spring and have open houses so that families could tour the building. This could not happen since the school was closed. The reduced number of students could negatively affect their teacher retention and the sustainability of the school. She noted that although this was a financial hardship, it could also affect the neighborhood as well. She mentioned that there was not a lot of signage on the building to identify it as a school and what was there was not at eye level. She believed that the banner would provide some recognition and let the neighborhood know about the open enrollment. The Planning Department encouraged the applicant to seek more permanent signage which Ms. Ramsey stated that it planned to do in the future.

Mr. Mahlendorf noted that the applicant had been negatively affected due to the pandemic and he added that the request would only last until the end of July. He also appreciated that the applicant asked for permission for the sign.

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

**AYES:** Moore, Mahlendorf, Friedman, Kortright, Kelley

**MOTION CARRIED:** 5-0.
2. Case No. 20-086
   Nathan & Amy Evans
   20902 Larimore Avenue
   Omaha, NE 68022
   REQUEST: Waiver of Section 55-786 – Variance to the residential fence regulations to allow a 6' fence in the front yard setback.
   LOCATION: 20902 Larimore Avenue
   ZONE: R4

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on July 9, 2020, Amy Evans appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to install a 6’ tall, privacy fence within the front yard setback along Grand Avenue. This lot was considered to be a double frontage property since Grand Avenue is at the rear of the site. A 6’ tall fence in compliance with the zoning regulations could be installed 25’ from the front property line along Grand Avenue with no issues. Compliant fences 4’ or less in height and at least 50% open allowed for vision clearance, safety considerations for traveling vehicles and pedestrians adjacent to corner lots and were more aesthetically acceptable. As a result, these are the only type of fence allowed to be constructed along a front or street side property line. The Planning Department found no hardship or practical difficulty to support the request, noting that this was a design preference and recommended denial.

Ms. Evans stated that they obtained a permit for the property in March and had the posts installed in May. It was eventually determined that the permit had been issued incorrectly and another permit had been issued. She explained that what was considered to be the front of the property was actually the back of the home. She also noted the due to the curvature of Grand Avenue, there were no sight obstructions in either direction. She also mentioned the cost of repositioning the posts.

Mr. Mahlendorf noted that the applicants had an active permit that was approved in error which created a hardship for the applicant. He added that the layout of that area helped to provide a good amount of visibility.

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

AYES: Mahlendorf, Friedman, Kortright, Moore, Kelley

MOTION CARRIED: 5-0.
3. Case No. 20-087
   Nicholas Meuller
   13126 North 42nd Street
   Omaha, NE 68112

   REQUEST: Waiver of Sections 55-126 & 55-740(e) –
   Variance to the interior side yard setback
   from 25’ to 14’ and to the hard-surface
   driveway requirement to allow for the
   construction of a new outbuilding.

   LOCATION: 13126 North 42nd Street
   ZONE: R1-ED

   PLANNING DEPARTMENT RECOMMENDATION: DENIAL of 55-126 (Variance to the interior side yard
   setback from 25’ to 14’) and APPROVAL of 55-740(e) (Variance to the hard surface driveway
   requirement, subject to the applicant paving the first 50’ of an approach from 42’ Street and providing a
   crushed rock or gravel driveway to the door of the outbuilding).

   At the Zoning Board of Appeals meeting held on July 9, 2020, Nicholas Mueller appeared before the
   board.

   Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a
   new outbuilding in the rear yard and had stated that a retaining wall prohibits him from placing the
   structure at the required distance from the north lot line. The submitted site plan did not indicate the
   presence of a retaining wall, nor had the applicant provided any other information showing the existence
   of a retaining wall. The outbuilding featured a door larger than 5’ in width and by code, a hard-surface
   driveway must be provided from 42nd Street to the door of the building. Since this property is located in an
   ED district, the Department supported waiving the hard-surface requirement in lieu of the applicant paving
   the first 50’ of an approach from 42’ Street and then providing a gravel or crushed rock driveway to the
   building door. The Planning Department’s recommendation is listed above.

   Mr. Mueller provided photos of the retaining wall for the board to review. He explained that he wanted to
   construct a pole barn for storage. He stated that there was an existing retaining wall which was built for
   the purpose of creating a space for a pole barn. He indicated that his two closest neighbors supported the
   request. He stated that he was willing to put down crushed rock on the 80’ of driveway between the street
   and the proposed pole barn.

   The applicant was not sure about when the retaining wall was built. Mr. Kelley stated that he could
   support the request based on the photos provided by the applicant.

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

   AYES: Friedman, Kortright, Moore, Mahlendorf, Kelley

   MOTION CARRIED: 5-0.
4. Case No. 20-088
McGregor Interests
c/o Paul Kelly, AIA
11750 Stonegate Circle
Omaha, NE 68134

REQUEST: Waiver of Section 55-503 – Variance to the permitted use regulations of the GI district to allow Religious assembly, a use not otherwise permitted.

LOCATION: 14641 Industrial Road
ZONE: GI

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on July 9, 2020, Paul Kelley (440 North 61st Street), Geoff McGregor (11750 Stonegate Circle) and Travis Heppner (12489 Woodcrest Drive) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that in 1993 the zoning ordinance was amended to remove the Religious Assembly use from all industrial zoning districts to discourage that particular use from using those areas. The amount of industrial space within the city is very limited and by allowing uses that aren't permitted it further reduces the space available for true industrial uses that are unable to locate in a commercial zoning district. The Planning Department found no hardship or practical difficulty to approve the requested waiver and believed that the limited amount of industrial space should be preserved for industrial uses only. The Planning Department recommended denial of the request.

Mr. Paul Kelley stated that this was not an average industrial area since this was a main thru-street for the city. He indicated that the parking requirements could be met with some re-striping of the lot. He added that the church would be active mainly on Sundays and Wednesday evenings which should not interfere with Monday through Friday traffic. Finally, he mentioned that there were two other churches already located in that area.

Mr. McGregor showed the other two properties along Industrial Road that were used for religious assembly. He noted that there was also retail and restaurant uses along the corridor.

In response to Mr. Kelley, Mr. Todd stated that the religious use was not uncommon and that churches had been in this area for several years. Mr. Mahlendorf believed that the proposed use was a good fit for the site.

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

AYES: Kortright, Moore, Mahlendorf, Friedman, Kelley

MOTION CARRIED: 5-0.
5. Case No. 20-089
Margarito Marquez
2418 South 18th Street
Omaha, NE 68108

REQUEST: Waiver of Sections 55-244 & 55-734 – Variance to the front yard setback from 25' to 15' and to the interior side yard from 5' to 3' and to the minimum number of off-street parking requirements from 2 to 1, to allow for the construction of a single-family home.

LOCATION: 2203 W Street
ZONE: R7

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

At the Zoning Board of Appeals meeting held on July 9, 2020, Margarito Marquez appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new, single-family home but due to the lot size, was unable to meet a number of minimum zoning requirements. A practical difficulty existed because the lot was only 26' wide which made it difficult to meet the base R7 setbacks. The applicant had submitted a plan which would fit in well with the existing neighborhood. The home would provide a single-car garage and one space in the driveway. The Planning Department found the plan to be acceptable and recommended approval in accordance with the plans submitted.

Mr. Marquez stated that the lot was only 26' wide with a setback of 7' which left him with room for a 12' wide home.

Erma Hernandez, 2205 W Street, appeared in opposition to the request. She was concerned about water runoff from the applicant’s home onto her property since it would sit higher than her home. She was also concerned about the impact to her property value since the proposed home would be built so close to hers. Mr. Marquez responded that driveway would be constructed in such a way that it sloped towards the street. In addition, there would be a downspout at the back of the home that would drain towards the alley.

Mr. Kelley noted the practical difficulty that existed due to the small size of the lot; he stated that he would support the request. Ms. Moore encouraged the applicant to communicate with the adjacent neighbor about his plans. Mr. Korthright added that there were code regulations that prevented property owners from draining water onto the property of other neighbors. Mr. Marquez agreed to meet with the neighbor and discuss his plans for the site.

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

AYES: Moore, Mahlendorf, Friedman, Korthright, Kelley

MOTION CARRIED: 5-0.
6. **Case No. 20-090**  
Joe and Steve Partnership, LLC  
c/o John Ackerman  
5040 I Street  
Omaha, NE 68117  

**REQUEST:** Waiver of Sections 55-734, 55-740(b)(1) & 55-740(f) – Variance to the minimum number of required off-street parking stalls from 12 to 11, to the minimum drive aisle width from 24’ to 23’, to the required percentage of interior parking lot landscaping from 5% to 0% and to the minimum required perimeter landscaping depth from 10’ to 5’ to allow for the construction of a new automotive repair business.

**LOCATION:** 4620 South 47th Street  
**ZONE:** GC

**PLANNING DEPARTMENT RECOMMENDATION:** Denial.

At the Zoning Board of Appeals meeting held on July 9, 2020, John Ackerman and Joe Kosiski appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to open a new Auto Repair Service business on this currently undeveloped property. Throughout the development process, the applicant had been in communication with the Planning Department and submitted a site plan review. A number of issues were discovered during the process and the applicant was able to modify their plan and comply with most of the requirement with the exceptions of the requested waivers. The Planning Department found no hardships or practical difficulties to support the waiver requests since they were design preferences. He stated that the applicant had the ability to design a plan that would not need waivers. Mr. Todd further explained that this section of L Street is designated as a MCC-Major Commercial Corridor Overlay District and if a zoning waiver was approved, it had been common practice that a condition of approval would require that the MCC Overlay District was added to the site and the project must comply with the MCC regulations in accordance with Article 22 of the Omaha Municipal Code. Based on the submitted plans, the applicant needed to ensure that the materials used for the building met the MCC requirements and that the dumpster was moved elsewhere on the property and was enclosed in a MCC design compliant enclosure. The Planning Department recommended denial of the waiver requests.

Mr. Ackerman stated that the proposed building had been reduced from its original size to accommodate various requirements for the site. He explained that there were originally the correct number of parking stalls but they were reduced to make room for green space. He indicated that other automotive businesses in the area did not have the required, minimum number of parking stalls for the number of bays they had. He explained that if the drive aisle was at the required 24’ then 1’ of green space would be lost along L Street. With regards to the minimum required landscaping, he explained that they were attempting to maintain a buffer with the residential properties to the north and east which resulted in a reduction of the landscaping depth along L Street. He noted that many of the automotive business had no green space at all on their site.

Mr. Kosiski stated that he had met with the property owners to the north and northeast and showed them the plans for the site. The neighbors had indicated that they did not want a fast-food restaurant on the site.

In response to Ms. Moore, Mr. Kosiski stated that the building would be made of metal, with brick overlay on the L Street side if necessary to comply with the MCC overlay.

In response to Mr. Mahlendorf, Mr. Ackerman stated that an enclosure would be built for the dumpster. Mr. Todd added that the dumpster needed to be relocated further to the west of the site.
Mr. Mahlendorf moved to APPROVE in accordance with the plans submitted, subject to the dumpster being placed in a code-compliant location with an enclosure built around it. Mr. Friedman seconded the motion.

AYES: Mahlendorf, Friedman, Kortright, Moore

NAYES: Kelley

MOTION CARRIED: 4-1.
ZONING BOARD OF APPEALS  
Minutes – July 9, 2020  
Page 9

7. Case No. 20-091  
Brandy Lewis  
6702 South 31st Street  
Omaha, NE 68107  

REQUEST: Waiver of Section 55-186 & 55-187(e) – Variance to the front yard setback from 35’ to 26’ and to the street side yard setback from 15’ to 8.5’ to allow for the construction of a new deck.

LOCATION: 6702 South 31st Street  
ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on July 9, 2020, Brandy Lewis appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new deck/porch on the north and east side of the home. The footprint of the new structure would roughly cover the existing sidewalk that wraps from the front to the side of the home along Drexel Street. The deck as proposed would require a 26’ front yard setback (35’ required) and an 8.5’ street side yard setback (15’ required). The Planning Department found no hardship or practical difficulty to support the request, noting that this was a design preference and recommended denial.

Ms. Lewis explained that there was an existing concrete porch that wrapped around to another concrete porch that was built in 1978. She stated that the proposed deck would extend and extra foot to accommodate the footings. She submitted signatures from her neighbors who expressed support for the new deck (Exhibit B). In response to Mr. Mahlendorf she explained that there would be a railing around the deck and a set of stairs on the west side of the property.

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

AYES: Friedman, Kortright, Moore, Mahlendorf, Kelley

MOTION CARRIED: 5-0.
At the Zoning Board of Appeals meeting held on July 9, 2020, Brandon Pokorski appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new, 832 sq. ft., detached garage 10’ from the rear property line. Since the garage exceeds 750 sq. ft., the applicant was required to meet the 25’ rear yard setback. Since this was new construction, a garage 750 sq. ft. or smaller could be built in the proposed location without the need for a variance. In addition, a garage could be built that would meet the 25’ rear yard and 17.5’ street side yard setbacks. The Planning Department found no hardship or practical difficulty to support the request, noting that this was a design preference and recommended denial.

Mr. Pokorski wanted a 32’ x 26’ - 3-car garage that he could use to store his boat and other items.

Maggie Comstock Marky (3722 South 114th Street) appeared in opposition to the request. She stated that there were some issues with the location of the actual property line. She stated that it appeared that her driveway was on the applicant’s property. If that is the case, hers would be the only home in that area with no side yard. She added that there were already concerns about encroachment onto her property with large rocks alongside her driveway. She was also concerned about the height and large size of the garage which she felt did not fit the context of the neighborhood. She stated that she has spoken with some of the neighbors who also had concerns about the garage. Finally, she was concerned about the garage being used for living space.

In response. Mr. Pokorski stated that garage would be nowhere near Ms. Marky’s property.

In response to Mr. Mahlendorf, Mr. Pokorski stated that the garage would be 32’ wide and 26’ deep. He intended for the garage to be 2 stories with storage on the upper level; the garage would be under 36’. Mr. Todd stated that it was not known what the applicant planned to do with the second story. He explained that if the second level was finished space then the requirements for the garage could be different.

Mr. Mahlendorf stated that he was hesitant to make a decision about the garage without seeing more information about the request, including elevations. Mr. Todd suggested that the applicant submit his plans to Permits & Inspections for review so that it could be determined if any additional waivers were needed.

Mr. Kelley suggested a 30-day layover to give the applicant time to submit a site plan to Permits & Inspections. He could also submit a better site plan with elevations to the board. Ms. Moore agreed.

Mr. Mahlendorf moved to LAYOVER until the August 13, 2020 meeting of the board. Mr. Kelley seconded the motion.

AYES: Kortright, Moore, Mahlendorf, Friedman, Kelley

MOTION CARRIED: 5-0.
9. Case No. 20-093
   Jane Whelan
   3514 Lincoln Boulevard
   Omaha, NE 68131

   REQUEST: Waiver of Section 55-186 – Variance to the rear yard setback from 25’ to 0’ to allow for an existing deck and stairs to remain.

   LOCATION: 1009 & 1011 North 34th Street
   ZONE: R4(35)-“LL

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on July 9, 2020, Lawrence and Jane Whelan appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicants had replaced an existing deck and stairs on the rear of the home with a deck and stairs that sit approximately 2.5’ from the neighboring home. A smaller, less obtrusive set of steps should be constructed to provide access from the home as well as a small buffer to the adjacent property to the east. The Planning Department found no hardship or practical difficulty to support the request, noting that this was a design preference and recommended denial. Mr. Todd indicated that no permits had been taken out for the deck. He also stated that he received several phone calls and an email in opposition. He also believed that there was an issue with the way the deck was constructed which needed to be addressed.

Mr. Whelan stated that the previous landing and stairs were deteriorated and unsafe. He stated that the deck was constructed so that a grill could be put on it instead of the front porch. He indicated that what was constructed was slightly larger than the previous landing and stairs that made it more uniform with the building and it allowed the occupants to enjoy the home. He believed that the 8’ space between this home and the adjacent property was unusable, wasted space. He also believed that the new deck increased the value of both this property and the neighboring property.

Chris Combs, 1013 North 34th Street, appeared in opposition to the request. He believed that the deck would detract from the value of his home and that it would attract criminal activity since you could access the roof from the railing. He was concerned with the noise, the fire hazard caused by a grill and any lighting for that area that could come through his bedroom window. He also stated that the deck was not characteristic of this historic neighborhood.

Mary Minturn, 3416 Hawthorne Avenue, appeared in opposition to the request. She mentioned that privacy was an issue and the fire hazard that would be caused by the grill.

Mr. Whelan stated that he was unaware that a permit was needed to replace the previous stairs and landing. He believed it would prevent individuals from congregating at the front of the home by relocating them to the back. He indicated that the project had been approved by the historic society.

Mr. Kelley stated that he could not support a deck built at 0’ setback. Mr. Mahlendorf added that he could not recall ever approving a deck that was built on the property line. He noted that the deck was built basically up to the neighbor’s window. He stated that, at a minimum, at least 2’ would need to be removed from the deck. Since that would eliminate the supporting edge of the deck, he concluded that the entire deck would need to be removed. He stated that he would not support the waiver. Ms. Moore agreed.

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

AYES: Moore, Mahlendorf, Friedman, Kortright, Kelley

MOTION CARRIED: 5-0.
10. Case No. 20-094
    Steven & Roberta Fulton
    7008 North 154th Street
    Bennington, NE 68007

    REQUEST: Waiver of Section 55-786 – Variance to the residential fence regulations to allow a 6’
    fence in the front yard setback.

    LOCATION: 7008 North 154th Street
    ZONE: R5

PLANNING DEPARTMENT RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on July 9, 2020, Megan Gombold, 7010 North 154th Street,
appeared before the board on behalf of the applicants.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to install a 6’
tall, privacy fence along their rear lot line along 154th Street. When this property was originally platted,
there was no street on the west boundary of the property so this type of fence would have been allowed.
However, once 154th Street was dedicated as part of a recent project, it created a hardship of a double
frontage which did not previously exist. The double frontage was not something that the homeowner
could have foretold when they purchased this property, therefore the Planning Department supported the
request and recommended approval.

Ms. Gombold stated that the 6’ tall, privacy fence would enhance the safety and security of the property.
It would also match the six other properties on that street that all have 6’ tall, privacy fences along the
rear property line.

Mr. Mahlendorf clarified that the fence the applicant was referring to was not actually a privacy fence.

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

AYES: Mahlendorf, Friedman, Kortright, Moore, Kelley

MOTION CARRIED: 5-0.
11. Case No. 20-095
Megan Gombold
7010 North 154th Street
Bennington, NE 68007

REQUEST: Waiver of Section 55-786 – Variance to the residential fence regulations to allow a 6’ fence in the front yard setback.

LOCATION: 7010 North 154th Street
ZONE: R5

PLANNING DEPARTMENT RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on July 9, 2020, Megan Gombold, 7010 North 154th Street, appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to install a 6’ tall, privacy fence along the rear lot line along 154th Street. When this property was originally platted, there was no street on the west boundary of the property so this type of fence would have been allowed. However, once 154th Street was dedicated as part of a recent project, it created a hardship of double frontage which did not previously exist. The double frontage was not something that the homeowner could have foretold when the property was purchased, therefore the Planning Department supported the request and recommended approval.

Ms. Gombold stated that the 6’ tall, privacy fence would enhance the safety and security of the property. It would also match the six other properties on that street that all have 6’ tall, privacy fences along the rear property line.

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

AYES: Friedman, Kortright, Moore, Mahlendorf, Kelley

MOTION CARRIED: 5-0.
12. Case No. 20-096
   Heirloom Enterprises, LLC
   c/o Jeff Seaman
   23602 Hampton Road
   Omaha, NE 68022

   REQUEST: Waiver of Section 55-246 – Variance to the rear yard setback from 25’ to 18’ to allow for the replacement of an existing set of stairs.

   LOCATION: 2816 North 19th Avenue
   ZONE: R7

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

At the Zoning Board of Appeals meeting held on July 9, 2020, Jeff Seaman appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to remove a deteriorated covered deck and stairs and replace them with an enclosed staircase that would provide access to the attic from inside the home. The proposed new design would not exceed the footprint of the existing structure and it would fit the character of the neighborhood. The Planning Department found that a hardship existed due to the lot size, age and original design of the home. The Planning Department supported the waiver request and recommended approval in accordance with the plans submitted.

Mr. Seaman stated that the design is similar to the properties to the north and south of this home.

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

AYES: Kortright, Moore, Mahlendorf, Friedman, Kelley

MOTION CARRIED: 5-0.
13.  Case No. 20-097
Robert Foster
c/o Mark Sanford
1306 North 162nd Street
Omaha, NE 68118

REQUEST: Waiver of Section 55-126 – Variance to the
rear yard setback from 35’ to 30’ and to the
side yard setback from 25’ to 13’ to allow
for a new garage addition.

LOCATION: 610 Loveland Drive
ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on July 9, 2020, Mark Sanford appeared before the board on behalf of the property owners.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to add a third-car, garage stall and the submitted design did not meet the required side or rear yard setbacks. The applicant had indicated that their existing garage was not large enough to provide space for two cars. The Planning Department found no hardship or practical difficulty to support the request, noting that this was a design preference, and recommended denial. He added that all new construction must meet the requirements of the R1 district regulators.

Mr. Sanford stated that several of the homes in this area appeared to encroach in the side yard setback. He explained that the home was built in 1951 on a lot that was irregularly shaped. He stated that the owners had spoken with all of their neighbors and none were opposed to the waiver request. He stated that there was already an existing driveway that would lead up to the garage addition.

In response to Mr. Kelley, Mr. Sanford stated that the site slopes upward from the front of the home to the back.

Mr. Mahlendorf stated that he supported the waiver for the rear yard; however, he believed that the garage addition was too wide. Mr. Kortright agreed. Mr. Sanford agreed to reduce the size of the garage.

Mr. Kortright moved to APPROVE the request as revised (side yard setback from 25’ to 13’) subject to the applicant using materials that match the existing home. Mr. Kelley seconded the motion.

AYES: Moore, Mahlendorf, Friedman, Kortright, Kelley

MOTION CARRIED: 5-0.
<table>
<thead>
<tr>
<th>Case No.</th>
<th>REQUEST:</th>
<th>LOCATION:</th>
<th>ZONE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>20-098</td>
<td>Waiver of Section 55-526 – Variance to the front yard setback from 50’ to 34’ and 43.62’ to allow for the expansion of an existing storage facility.</td>
<td>501 Pacific Street</td>
<td>HI</td>
</tr>
</tbody>
</table>

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on July 9, 2020, Kyle Haase and Goeff McGregor appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to expand the existing storage facility and the design did not meet the required front yard setback. This site is the location of an existing storage facility that would be demolished and rebuilt as a new convenience storage facility. The property sits at the intersection of 6th and Pacific Streets and is situated between various railroad properties, creating an irregular shape and location for the site. The Planning Department found no hardship or practical difficulty to support the request, noting that this was a design preference and recommended denial. He added that all new construction must meet the requirements of the district.

Mr. Haase briefly explained the plans and layout of the site. He stated that there was railroad property to the north and industrial uses to the south, east and west. He stated that, as proposed, Building A would be 65’ from the center line of 6th Street and Building B would be 134’ from that line which he believed far exceeded the true intent of the code.

Mr. McGregor noted that the new development would exceed the setback of the existing structures (23’).

Mr. Kortright and Mr. Mahlendorf believed that the applicant had done the best that they could with the site.

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

AYES: Mahlendorf, Friedman, Kortright, Moore, Kelley

MOTION CARRIED: 5-0.
Case No. 20-099
Barb DiGiovanni
c/o Adam Dusatko
2217 South 156th Circle
Omaha, NE 68130

REQUEST: Waiver of Section 55-786 – Variance to the residential fence regulations to allow a 6’, greater than 50% open fence in the street side yard setback.

LOCATION: 3352 South 212th Avenue
ZONE: R4

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on July 9, 2020, Adam Dusatko and Barb DiGiovanni appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a 6’ tall, greater than 50% open, wrought-iron fence on their property line along Joseph Street. Joseph Street is a stub street that will be extended when future development occurs to the west of the site. The City of Omaha’s Future Land Use map designates this land as future single-family residential housing. There is another stub to the south of this property that will become 214th Street sometime in the future. A 6’ privacy fence in compliance with the zoning regulations could be installed 15’ from the property line along Joseph Street and 25’ from the front property line with no issues. Compliant fences that are 4’ or less in height and at least 50% open allow for vision clearance and safety considerations for traveling vehicles and pedestrians adjacent to corner lots and are more aesthetically acceptable. As a result, these are the only type of fences allowed to be constructed along a front or street side property line. The Planning Department found no hardship or practical difficulty to support the request, noting that this was a design preference and recommended denial.

Mr. Dusatko stated the proposed fence would be approximately 100’ from the street. The proposed fence would be open for safety reasons.

Ms. DiGiovanni explained that she preferred the security of a 6’ fence and she added that she had 3 dogs that she wanted to keep secure behind the fence.

In response to Mr. Mahlendorf, Mr. Dusatko stated that there was 6’, chain-link fence with barbed wire along the backlot.

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

AYES: Friedman, Kortright, Moore, Mahlendorf, Kelley

MOTION CARRIED: 5-0.
16. Case No. 20-100  
   Edgar Mendieta, Sr.  
c/o Dale Clymens  
2702 Douglas Street  
Omaha, NE 68131  

REQUEST:  Waiver of Section 55-716 – Variance to the minimum bufferyard requirement between an HI and R7 district from 60’ to 30’ to allow for construction of two new industrial buildings that will be used for a concrete contractor.  

LOCATION:  5401 South 28th Street  
ZONE:  HI  

PLANNING DEPARTMENT RECOMMENDATION: Denial.  

At the Zoning Board of Appeals meeting held on July 9, 2020, Dale Clymens and Edgar Mendieta, Sr. appeared before the board.  

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to develop this vacant site by constructing two new buildings as well as a parking lot for a concrete business. Post construction storm water measures would need to be done on the site which would require a detention pond area to be located on the east side of the site. This would impact the amount of space available for the bufferyard on the west. The applicant felt that they needed relief from the bufferyard depth requirement of 60’ and instead proposed providing 30’ along with the required screening along 28th Street. The Planning Department found no hardship or practical difficulty to support the request, noting that this was a design preference. He stated that were a number of ways to design storm water detention areas and the applicant could construct one that would allow the property to provide the full bufferyard necessary to protect the residential properties to the west. The code also requires a 6’ tall screen along the inside of the bufferyard to screen the proposed use from the property to the west. The Planning Department recommended denial of the waiver request.  

Mr. Clymens stated that the parcels to the north and south were undeveloped and both had access off of 27th Street if needed. This site only had access off of 28th Street. He also mentioned the significant slope of the site from the west to the northeast that made it difficult to build at the required 60’.  

In response to Ms. Moore, Mr. Clymens stated that the lot sloped approximately 17’ from the west to the northeast. There was some discussion about the topography of the site.  

Mr. Kortright supported the privacy fence being installed along the west side of the lot and he noted the hardship that resulted from the topography of the lot.  

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

AYES: Kortright, Moore, Mahlendorf, Friedman, Kelley  

MOTION CARRIED: 5-0.
17.  Case No. 20-101
Victor Baez
3309 South 90th Avenue
Omaha, NE 68124

REQUEST:  Waiver of Section 55-166 – Variance to the rear yard setback from 25’ to 5’, to the interior side yard setback from 7’ to 5’, and to the maximum impervious coverage allowed from 45% to 59% to allow for a new detached garage and driveway addition.

LOCATION:  3309 South 90th Avenue
ZONE:  R3

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on July 9, 2020, Victor Baez appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new, detached garage and driveway addition at his home with the purpose of providing space to house his mother-in-law. The new, 2-story garage would be located in the northeast corner of the rear yard, 5’ off the rear yard and 5’ off the interior side yard. Due to the finished space in the garage, the two-level structure was not eligible for setback relief as it exceeds 750 square feet. To reach the garage the applicant planned to add a large amount of concrete to the property, which would raise the impervious percentage to approximately 59%, whereas the maximum allowed in a R3 district is 45%. The Planning Department found no hardship or practical difficulty to support the requests, as they are design preferences. He added that the board needed to weight the requests against the impact they might have on the surrounding properties. The Planning Department recommended denial of the waiver requests.

Mr. Baez explained that his mother-in-law was restricted to a 10-mile driving radius due to her health and the proposed addition would allow her to remain close to family. He stated that the proposed option was better for his family.

In response to Mr. Mahlendorf, Mr. Baez explained that he had provided letters of support from the three neighbors directly to the north, south and east of his property.

There was a discussion about the amount of impervious coverage being requested. It was determined that the county and city have different requirements.

Mr. Kelley suggested that the applicant and the use be mentioned in any motion that was presented.

Mr. Mahlendorf moved to APPROVE in accordance with the plans submitted for this applicant only and subject to the space not being rented to a third, unrelated party. Mr. Kelley seconded the motion.

AYES: Moore, Mahlendorf, Friedman, Kortright, Kelley

MOTION CARRIED: 5-0.
At the Zoning Board of Appeals meeting held on July 9, 2020, Katherine Linder appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicants had started a project at the home which has included installation and expansion of a new driveway as well as the reconfiguration of the existing front porch. The applicants had noted that due to the dated design of the home, the front porch and steps made it very difficult to move large household items in and out of the home. The redesign of the porch provided the property with a 14' front yard setback. The new driveway expansion caused the home to not meet the minimum street yard landscaping requirement of 60%, with only 42% being provided. The driveway was installed without the required permit. The permit had subsequently been applied for but had not been issued for the paving. The Planning Department found no hardship or practical difficulty to support the request, noting that they were design preferences. Any new construction must meet the requirements of City of Omaha Municipal Code. The Planning Department recommended denial of the waiver request.

Ms. Linder talked about the deteriorated condition of the previous porch, railings, retaining wall and stairs. She indicated that the contractor that was hired for the driveway had stated that a permit was not necessary. She stated that they wanted a larger porch that extended 14' over the driveway so that it could also double as a carport. They also wanted stairs that were built into the retaining wall that would provide access the driveway.

Mr. Kelly stated that he did not object to the driveway improvements; however, he thought the proposed porch was more of a front yard deck. Ms. Moore agreed, adding that she could not support the construction of such a large porch in the setback.

Mr. Kortright stated that he could not support extending the porch over the driveway. The board was supportive of a porch that was slightly larger than the previous 8’ porch. After some discussion, the board and the applicant settled on a design (see Exhibit B).

Mr. Mahlendorf moved to APPROVE in accordance with Exhibit B (front yard setback from 35’ to 10’ and the street yard landscaping from 60% to 42%) to allow the applicant to extend the front porch. Mr. Kelley seconded the motion.

AYES: Mahlendorf, Friedman, Kortright, Moore, Kelley

MOTION CARRIED: 5-0.
ZONING BOARD OF APPEALS
Minutes – July 9, 2020
Page 21

APPROVAL OF MINUTES:
The June 11, 2020 were not ready for approval. They were moved to the August 13th meeting agenda.

ADJOURNMENT
It was the consensus of the Board to ADJOURN the meeting at 3:19 p.m.

________________________________________
Approved (date)

________________________________________
Sean Kelley, Chair

________________________________________
Clinette Ingram, Secretary