PRE-MEETING:

The board members in attendance were: Jason Lanoha, Sean Kelley, Jeremy Aspen and Matthew Kortright. Planning Department staff in attendance were: Cliff Todd (Zoning Board of Appeals Administrator) and Clinette Ingram (Recording Secretary). Stephen Sykes was in attendance for Case 19-097. The board reviewed the cases.

ZONING BOARD OF APPEALS
PUBLIC MEETING - THURSDAY, SEPTEMBER 12, 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, September 2, 2019 (Use Waivers) and Thursday, September 5, 2019.

MEMBERS PRESENT: Jason Lanoha – Chair
Jeremy Aspen – Vice Chair
Sean Kelley
Matthew Kortright (Alternate)

MEMBERS NOT PRESENT: Brian Mahlendorf
Kristine Moore
Dustin Friedman (Alternate)

STAFF PRESENT: Mike Carter, Current Planning Manager
Cliff Todd, Zoning Board of Appeals Administrator
Jake Placzek, City Planner
Jennifer Taylor, City Attorney
Clinette Ingram, Recording Secretary

The meeting was called to order at 1:00 p.m. Mr. Lanoha introduced the board members, City staff and explained the procedures for hearing the cases. Mr. Lanoha advised all of the applicants that there were only four board member available so they had the option of laying over their case so that it could be heard before a full board of five members.
NEW CASES:

1. Case No. 19-090
   Westside Community Schools
   Foundation
   1101 South 90th Street
   Omaha, NE 68124
   REQUEST: Waiver of Sections 55-830(1)(2) - Variance to the maximum signage budget for a civic use in a residential district from 32 sq. ft. to 95 sq. ft. and to allow a monument sign with electronic messaging not otherwise permitted in an R2 District.
   LOCATION: 8601 Arbor Street
   ZONE: R2

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on September 12, 2019, Michael Coyle, Laura Iliff and Russ Olson (909 South 76th Street) appeared before the board on behalf of the applicant.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to install an electronic messaging display on the school property that was not allowed in a R2 district. He noted that waivers to allow electronic message signage were usually only supported for high schools, but not for middle schools, elementary schools or churches. He explained that high schools typically have large numbers of visitors and events that occur and they commonly have multiple street frontages and access points that require additional sign budgets. The Planning Department recommended denial of the request. He noted, however, that the applicant received approval at the September 4, 2019 Planning Board meeting to amend their Use Permit which eventually led to the need to obtain a waiver from the Zoning Board of Appeals.

Mr. Coyle stated that the sign would be placed in front of the entrance to the school where students are dropped off. He stated that the sign would provide direction with no advertisements. He mentioned that the sign was donated to the school by one of its benefactors.

Mr. Olson believed that the sign would help to communicate with parents as they were dropping off their children. He mentioned that there were usually two to three events that occurred during most weeks from other elementary school that used the facility. He mentioned that directly to the west of the school was a sizable elevation drop which resulted in the school sitting approximately 15’ higher than the properties to the west. He stated that the sign should not be visible to those neighbors along 86th, Arbor or Center Streets.

Mr. Lanoha inquired as to whether the applicant was aware of Section 55-854 of the code that provided guidelines on the performance standards of the sign. Mr. Olson stated that they were aware and they were willing to operate the sign according to those guidelines.

Mr. Kelley stated that he supported the request because of the location of the sign, which he did not believe would affect the adjoining property owners, and because of the civic use of the property.

Mr. Kelley moved to APPROVE in accordance with the plans submitted, subject to the applicant meeting the performance standards in Section 55-584 of the Omaha Municipal Code. Mr. Lanoha seconded the motion.

AYES: Aspen, Kelley, Kortright, Lanoha

MOTION CARRIED: 4-0.
2. Case No. 19-091  
Habitat for Humanity, c/o Ed Thiele  
1701 North 24th Street  
Omaha NE 68110  

REQUEST: Waiver of Section 55-206 - Variance to the minimum lot width from 50’ to 40’ to allow for the construction of 6 new single-family homes.  

LOCATION: 3908, 3910, 3923, 3925, 3927 and 4112 North 17th Street  

ZONE: R5  

PLANNING DEPARTMENT RECOMMENDATION: Approval, in accordance with the plans submitted subject to the applicant replatting these properties into singular lots.  

At the Zoning Board of Appeals meeting held on September 12, 2019, Ed Thiele appeared before the board.  

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

Mr. Thiele indicated that the process to replat the lots had already begun.  

Mr. Aspen moved to APPROVE in accordance with the plans submitted subject to the applicant replatting the properties into singular lots. Mr. Kelley seconded the motion.  

AYES: Kelley, Kortright, Aspen, Lanoha  

MOTION CARRIED: 4-0.
At the Zoning Board of Appeals meeting held on September 12, 2019, Brian Troia appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to build a second addition to his home to match the non-conforming portion of the existing structure. Mr. Todd explained that in 2016 the applicant submitted plans for a building permit in order to remodel and to add an addition to the existing home. The plans submitted showed a design which provided an 18’ street side yard setback from Shamrock Road even though the required distance was 20’. The plans were redlined by a plans examiner and issued requiring a 20’ setback. No waiver was requested or granted for a reduction in this distance. The applicant had returned and submitted a plan which showed that the 2016 addition was built at 18’ and he was proposing to construct “Phase II” of the remodel in line with the non-conforming wall at 18’. He added that it appeared that the home had been expanded further to the north. He also added that if the applicant’s plans were incorrect and the actual distance from the property line was in fact 20’, there was no need for a waiver. However, if the applicant constructed the original remodel at 18’, the 2016 home addition would be illegal and the current plans would have incorrect dimensions. The Planning Department found no hardship or practical difficulty to support this request since it was the result of a design preference. He added that regardless of where the previous addition was constructed, this is new construction and the district setbacks must be met. The Planning Department recommended denial of the request.

Mr. Troia stated that when the plans were redlined back in 2016 he was not advised that he would need to obtain a waiver. He believed that since the build-line was being maintained there should not be any issues. He indicated that he had spoken with all of his neighbors and they were all in support of the improvements.

In response to Mr. Aspen, Mr. Troia stated that there had been an inspection of the property back in 2016 and they were given permission to continue with the project. Mr. Todd stated that he did not think that a survey of the property had been done although he did have a 2015 engineering certificate from Carroll & Associates for a location report that listed the setback in the sideyard as approximately 18’. Mr. Aspen mentioned that perhaps it would be better for the applicant to obtain a survey before the board voted on the waiver request. Mr. Troia responded that Carroll & Associates conducted a survey before the construction of the first addition. Mr. Todd noted that the survey stated that the dimensions were approximate and not for land survey use. Mr. Kelley stated that it would be difficult to make a decision on the waiver when technically the location of the first non-conforming structure needed to be confirmed. Mr. Todd agreed, adding that it might be beneficial for the applicant to have an actual survey done with accurate instead of approximate measurements.

In response to Mr. Lanoha, Mr. Troia stated that he was not attempting to be misleading when he built the addition back in 2016 and he would have sought a waiver at that time. He explained that even though the plans had been redlined at that time, there was a permit on the top of it and he assumed that it was permissible for him to continue with the project.

Mr. Carter suggested that the case be laid over to give the applicant time to obtain a survey and come back before the board with an accurate plan. He added that if the previous addition was in the setback, it could be included with the request.

Mr. Kelley stated that he did not believe the request to be unreasonable, however, he felt that it was important for the board to know the exact measurements of what was being approved.
Mr. Aspen moved to LAYOVER. Mr. Kortright seconded the motion.

AYES: Kortright, Aspen, Kelley, Lanoha

MOTION CARRIED: 4-0.
4. Case No. 19-093
   Rose Blumkin Performing Arts
   c/o Design 8 Studios
   2001 Farnam Street
   Omaha, NE 68102
   REQUEST: Waiver of Section 55-839(b) - Variance to the total permitted sign area from 469 sq. ft. to 1,204 sq. ft. to allow for the replacement of 4 wall signs.
   LOCATION: 2001 Farnam Street
   ZONE: CBD-ACI-1(PL)

   PLANNING DEPARTMENT RECOMMENDATION: Denial.

   At the Zoning Board of Appeals meeting held on September 12, 2019, Jennifer Koom (Design 8 Studios – 5801 North 90th Street) appeared before the board.

   Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was requesting a waiver to the sign regulations to allow four wall signs on the east side of the building to advertise the various events at the Rose Theater. The applicant indicated that the area on the building that the signs were proposed were historically used for that purpose. The Planning Department believed that signage on the site should comply with zoning regulations and recommended denial of the request.

   Ms. Koom noted that the banners will highlight the shows and would not promote membership sales. In response to Mr. Lanoha, Ms. Koom stated that the applicant was aware of the sign restrictions.

   Mr. Aspen moved to APPROVE in accordance with the plans submitted for this applicant only for a period of 2 years. Mr. Kelley seconded the motion.

   AYES: Aspen, Kelley, Kortright, Lanoha

   MOTION CARRIED: 4-0.
5. Case No. 19-094
   Mike Dyer
   2611 South 117th Street
   Omaha, NE 68114
   REQUEST: Waiver of Section 55-834(2) - Variance to the front yard setback from 12’ to 1’6” to allow for the replacement of an existing monument sign.
   LOCATION: 2611 South 117th Street
   ZONE: GO

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on September 12, 2019, Justin Brown (Best Buy Signs – 17410 Storage Road) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to replace an older monument sign which was allowed at its current location as the result of a waiver that was granted in 1996. The sign was in disrepair and the property owner wanted to remove the existing sign and replace it with a new one. The Planning Department found no hardship or practical difficulty to support the request since it was a design preference and the sign could be relocated or a different type of design could be installed that would be in compliance with the municipal code. The Planning Department recommended denial.

Mr. Brown explained that the sign would be replaced with one of similar size and with something more modern.

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

AYES: Kelly, Kortright, Aspen, Lanoha

MOTION CARRIED: 4-0.
6. Case No. 19-095  
Tom Hightower  
c/o Mick McGuire  
Straightline Designs  
3925 South 147th Street, #119  
Omaha, NE 68144  

REQUEST: Waiver of Section 55-108 - Variance to the hard surface driveway requirement and to the interior side yard setback from 25' to 20.3' to allow for construction of a new garage addition.

LOCATION: 11640 Calhoun Road  
ZONE: DR-ED

PLANNING DEPARTMENT RECOMMENDATION: Approval of the waiver to the hard surface driveway requirement; and denial of the waiver to the minimum side yard setback from 25' to 20.3'.

At the Zoning Board of Appeals meeting held on September 12, 2019, Mick McGuire and Tom Hightower appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new sunroom and garage addition to his home and was unable to meet the interior side yard setback of 25'. In addition, a portion of the driveway would be constructed of gravel. With regards to the hard surface driveway requirement, a hardship existed since this property is located in an ED-Environmental Resources District which seeks to minimize any unnecessary grading or hard surface paving. However, the Planning Department found no hardship or practical difficulty to support the setback waiver as the proposed addition was for new construction and a design which fits the lot can be designed as opposed to making the lot fit the design. He noted that the property was zoned DR which is a residential zoning district and that no commercial uses were allowed within the district. Also storage of commercial vehicles was strictly forbidden by the City of Omaha Municipal Code. The Planning Department recommended approval of the waiver to the hard surface driveway requirement; and denial of the waiver to the minimum side yard setback from 25' to 20.3'.

Mr. McGuire stated that, if necessary, a hard surface driveway could be installed all the way to the addition. He indicated that the property owner had spoken with all of the neighbors and they all signed a letter stating that they supported the project. He explained that the existing two-car garage would be renovated into a master bedroom suite in the future.

Mr. Hightower confirmed that he had talked with all of the neighbors and had them sign off on the project. He indicated that the neighbor where the corner of his property encroached on had no issue with the addition and was mostly concerned that everything would be left in its natural state. He stated that he wanted to replace the rock road with concrete as soon as he could.

Mr. McGuire submitted some correspondence with Timothy Kerkhove (Planning Department) about the site's location in the overlay district (Exhibit B). He also mentioned that a survey was done of the property.

Mr. Lanoha noted that the garage addition could not be built in the front due to the 50' front yard setback, there were also tree and elevation issue to the south and east that prevented the addition from being built in those areas.

In response to Mr. Kortright, Mr. Hightower stated that he understood that the garage was for non-commercial use. He stated that he would use the garage to store his RV, three cars and as space for his woodworking hobby.

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

AYES: Kortright, Aspen, Kelley, Lanoha

MOTION CARRIED: 5-0.
7. Case No. 19-096
Michael Hoover, c/o Paul Kelly, AIA
440 North 61st Street
Omaha, NE 68132

REQUEST: Waiver of Sections 55-716(e), 55-717(b)(1), 55-740(f)(4)(5), 55-740(h)(a) & 55-865(a) - Variance to the minimum buffer yard requirement between an R2 and R7-PK district from 6'6" to 0'; to the screening requirement from 6' to 0'; to the perimeter landscaping requirement from 10' to 0'; to the parking lot interior landscaping requirement from 5% to 0%; to the parking entrance and exit requirements to allow access to the R7 parking area via the R2 property; and to the permitted use regulations of the R7 district to allow an existing non-conforming use to remain.

LOCATION: 7340 & 7348 Blondo Street
ZONE: R2 & R7-PK

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on September 12, 2019, Paul Kelly appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant had recently purchased the single-family home adjacent to his current dental office property and wanted to re-configure the two driveways into one. He explained that the proposed consolidation of driveways was intended to improve vehicular ingress/egress from Blondo Street and would also improve the storm water drainage from north to south towards Blondo Street since a portion of the 7340 lot will be used for storm water detention. The Planning Department found no hardship or practical difficulty to support the request since the waivers were the result of design preferences. He noted that if the board were inclined to approve the waivers, the applicant would be required to rezone the properties to include the MCC-Major Commercial Corridor Overlay District and the single-family home would be required to be used as such; no commercial use would be allowed. The Planning Department recommended denial of the waiver requests.

Mr. Kelly explained that the main issue is that one property is zoned R7 and the other is zoned R2. He indicated that the goal was to improve pedestrian access into the building and get them out of the way of vehicular traffic. He further explained that if the driveways were consolidated then two-car traffic could go around the building on the west side and access would be improved to the parking lot. He added that the water from the parking lots of the apartment complex to the north drains across his properties and down the driveway. He stated that if the driveway could be installed as presented then a paved surface swale could be created that would eliminate the flooding hazard to the basement.

Mr. Kelley supported the waiver request because of the two hardships mentioned by the applicant: 1) vehicular traffic and 2) the water issue.

There was some discussion about the MCC overlay. Mr. Kelly stated that if both properties had to be rezoned to include the overlay he believed that it was in the owner’s best interest to also rezone the other property so that both would be R7.

Mr. Carter stated that rezoning of the other property to R7 was not before the board at that time and would need to be addressed at a later date.

Mr. Aspen moved to APPROVE in accordance with the plans submitted subject to the applicant submitted an applicant to rezone the property to include the MCC-Major Commercial Corridor Overlay District and the single-family home will be required to be used as such. No commercial use is allowed. Mr. Kelley seconded the motion.

AYES: Aspen, Kelley, Kortright, Lanoha

MOTION CARRIED: 5-0.
8. Case No. 19-097
Kirk Koehler
1701 Washington Street
Bellevue, NE 68005

REQUEST: Waiver of Section 55-246 - Variance to the minimum lot size in an R7 district from 3,000 sq. ft. to 1,260 sq. ft.; to the minimum site area per unit from 3,000 sq. ft. to 1,260 sq. ft.; to the minimum front yard setback from 35’ to 0’; to the minimum street side yard setback from 15’ to 5’; to the minimum interior side yard setback from 7’ to 5’; to the minimum rear yard setback from 25’ to 5’; to the maximum building coverage from 60% to 63% and to the maximum impervious coverage allowed from 70% to 73% to allow for the construction of new Single-Family (Attached) housing.

LOCATION: 2518 Mason Street
ZONE: R7

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on September 12, 2019, Steven Held (Uptown Properties – 3502 Leavenworth Street) and Kirk Koehler appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct two single-family, attached homes and was unable to meet a number of the R7 site development regulations. The Planning Department found no hardship or practical difficulties to support the waiver request since they were the result of design preferences. He explained that the Planning Department could possibly support waivers to build a single-family home but not to build two residences on a small property. The department recommended denial of the waiver request.

Mr. Held stated that, due to the dimensions of the lot, it would be considered unbuildable even for a single-family home. He stated for the record that the waiver to the minimum front yard setback should read 35’ to 5’ and not to 0’. He explained that that the applicant was proposing to build homes for himself and his brother. The waivers would allow the applicant to sell the lots in the future as individual homes. He stated that on August 29th a meeting was held with various neighbors within 300’. He indicated that most of the neighbors’ concerns pertained to parking. In that regards, he stated that both homes would have a two-car garage in order to alleviate on-street parking.

Carlos Martinez (2503 Mason Street) appeared in opposition to the request. Mr. Martinez stated that there was no parking on the street. He believed that one single-family home was more appropriate.

Mr. Lanoha inquired as to why the applicant was attempting to split the lot into two separate home as opposed to constructing a duplex on the one lot. Mr. Carter stated that the applicant initially considered having a duplex built on the lot; however, the Planning Department did not believe that it would work. The applicant then considered the single-family attached which he explained was basically a duplex where each unit was on its own lot but could be sold separately. The Planning Department believed that two separate units on the property was too much which is why the recommendation was denial.

Mr. Held believed that the single-family attached was a better option even if the lot was split into two. He indicated that there were several multi-family attached homes in the neighborhood. Mr. Lanoha stated that he did not want to set the precedent of taking small lots and making them even smaller. Mr. Aspen stated that he was supportive of creating more density in this neighborhood and other parts of the city. Mr. Kelley stated that he could not support this type of project in this neighborhood at that time.

Mr. Kortright noted that the comparables in the neighborhood that had multi-family attached were two to three times the size of this lot.
Mr. Held asked if the city would be more supportive of the project if there was a duplex on the lot. Mr. Todd advised the board that the regulations would change for single-family attached versus a duplex which would mean that a number of waivers would still be required.

Mr. Lanoha agreed with Mr. Held that there should be more density in the city; however, he did not agree with the process used to accomplish it in this case because he believed that it would create other issues in the future.

Mr. Koehler stated that he was attempting to improve the area. He mentioned that he intended to provide four spaces for parking.

Mr. Carter noted that Mr. Held had gone through the Planned Unit Redevelopment (PUR) process to develop lots similar to this one. This project, however, did not benefit from that process which is why Mr. Held decided to go through the Zoning Board of Appeals in an attempt to obtain waivers. He stated that the board could consider a single-family attached home in this instance. There was some discussion about the PUR process.

Mr. Aspen moved to LAYOVER until the October 10, 2019 meeting. Mr. Kelley seconded the motion.

AYES: Kelley, Kortright, Aspen, Lanoha

MOTION CARRIED: 4-0.
9. Case No. 19-098
   Tyler Marsh
c/o Sara Lorenz,
   T Hurt Construction
   4978 F Street
   Omaha, NE 68177

   REQUEST: Waiver of Section 55-87 - Variance to the
   maximum building coverage from 5% to 6%
   to allow for the construction of a home
   addition.

   LOCATION: 3404 South 222nd Street
   ZONE: AG

   PLANNING DEPARTMENT RECOMMENDATION: Denial.

   At the Zoning Board of Appeals meeting held on September 12, 2019, Tyler Marsh and Andy Hearn (T Hurt Construction) appeared before the board.

   Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing an addition to
   the home and would exceed the maximum building coverage of 5% by 1%. There was no hardship or
   practical difficulty to support the request and the waiver was the result of a design preference. Since this
   was new construction, a plan could be designed that would allow the applicant to construct a new addition
   in compliance with the regulations of the AG district. The Planning Department recommended denial of the
   waiver request.

   Mr. Marsh explained that his goal was to move the kitchen, bedroom, laundry room and bath to the main
   floor so that he and his wife can live in the home for the long term.

   Mr. Hearn added that at least half of the existing structure was being demolished in an attempt to stay
   within the regulations. He indicated that he had spoken with his neighbors and he noted that the addition
   would not be out of character with the neighborhood.

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

   AYES: Kortright, Aspen, Kelley, Lanoha

   MOTION CARRIED: 4-0.
10. Case No. 19-099
Sons of Italy, c/o Kyle Lowery,
Omaha Neon Sign Company
1120 North 18th Street
Omaha, NE 68102
REQUEST: Waiver of Section 55-832(2) - Variance to the total allowed sign budget from 40 sq. ft. to 70 sq. ft. to allow for the replacement of an existing wall sign.
LOCATION: 1238 South 10th Street
ZONE: R7-NCE-C

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on September 12, 2019, Joe Mangiamelli (4829 William Street) appeared before the board on behalf of the applicant.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to reuse the Sons of Italy wall sign that was on the building prior to being taken down for the reconstruction of the facility due to a fire. The sign measures 70 square feet whereas the maximum budget allowed in an R7 district is 40 square feet. The Planning Department found no hardship or practical difficulties to support the waiver request since it was the result of a design preference. A new wall sign could be installed which would conform to the regulations as described in the Omaha Municipal Code. The Planning Department recommended denial of the waiver request.

Mr. Mangiamelli explained that the fire occurred in 2017. He noted that the east wall of the building was approximately 200' west of 10th Street and the 70 square foot sign would help people to find the building.

Mr. Kelley noted that the fire was a practical difficulty.

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

AYES: Aspen, Kelley, Kortright, Lanoha

MOTION CARRIED: 4-0.
11. Case No. 19-100
   Kids Can Community Center,
   c/o Kellen Heideman
   Olsson and Associates
   2111 South 61st Street, #200
   Omaha, NE 68106
   LOCATION: 4768 Q Street
   ZONE: R4

   REQUEST: Waiver of Section 55-764(d)(2) - Variance to the capacity limitations for a Daycare services (general) use in an R7 district from 12 to 246 individuals.

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

   At the Zoning Board of Appeals meeting held on September 12, 2019, Kellen Heideman, Robert Patterson (Kids Can Community Center) and Paul Cox (CBRE) appeared before the board.

   Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new building and accessory parking for the Kids Can Childhood Education Center and requested a waiver to the number of individuals allowed for a daycare in this zoning district. The district allows no more than 12 and the applicant requested up to 246 individuals. A hardship existed due to the R4 residential zoning district that did not take into consideration large civic uses such as large daycare facilities, schools and churches. The Planning Department recommended approval in accordance with the plans submitted.

   Mr. Heideman stated that the applicant was in agreement with the recommendation of Planning Department.

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

   AYES: Kelley, Kortright, Aspen, Lanoha

   MOTION CARRIED: 4-0.
12. Case No. 19-101
Caleb McDaniel
c/o Justin Roberts
222 South 15th Street
Central Park Place, Suite 601N
Omaha, NE 68102

REQUEST: Waiver of Sections 55-146 & 55-715 - Variance to the minimum front yard setback from 40' to 34' 6 1/2"; to the street side yard setback from 20' to 7" and to the minimum depth of street yard landscaping from 25' to 19' to allow for a garage and driveway addition.

LOCATION: 2526 Brookside Avenue
ZONE: R2

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on September 12, 2019, Justin Roberts and Caleb McDaniel appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to construct an addition to his driveway and garage and was unable to meet the required setbacks of the R2 district. The Planning Department found no hardship or practical difficulty to support the request as it was the result of a design preference and the home was already non-conforming along 108th Street. The Planning Department recommended denial of the waiver request.

Mr. Roberts stated that Mr. McDaniel wanted to expand the existing garage to the west towards 108th Street and south towards Brookside Avenue. He explained that Mr. McDaniel is a general contractor and was given a large pickup truck that he would like to park in his driveway and he wanted to be able to store equipment in his garage. He also wanted the option of loading and unloading his small children inside of his garage. He believed that there was a practical difficulty for those reasons. He indicated that Mr. McDaniel spoke with his surrounding neighbors about the addition and he referred to the notarized Verified Statements as proof of those discussions.

Mr. McDaniel mentioned that there was a practical difficulty because of the way the home is situated on the land. Mr. Lanoha agreed.

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

AYES: Kortright, Aspen, Kelley, Lanoha

MOTION CARRIED: 4-0.
13. Case No. 19-102 George Christopher Stecker 3122 Woolworth Avenue Omaha, NE 68105

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: 3122 Woolworth Avenue
ZONING DEPARTMENT RECOMMENDATION: R7

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on September 12, 2019, George Stecker appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to construct a 6’ tall, privacy fence on his property line along south 32nd Avenue in a style that was consistent with the design of the existing architecture in the neighborhood. The Planning Department found no hardship or practical difficulty to support the request as it was the result of a design preference. In addition, since this was new construction a new, code-compliant fence could be constructed without the need for waivers. The Planning Department recommended denial of the waiver request.

Mr. Stecker stated that he wanted to enclose part of the rear and side yard. He noted that this was a narrow, 50’ wide corner lot so the majority of the usable outdoor space was in the street side yard. He explained that there was occasionally heavy vehicle and pedestrian traffic along 32nd Street that included the Ford birth site across the street which he indicated was a popular place for large groups. He believed that there would be minimal impact to the neighbors since there were no homes along 32nd Street. He also noted that there was some multi-family homes to the rear of the property that were separated by at least two driveways and there was Hanscom Park on Woolworth Avenue. Mr. Stecker also mentioned that there was precedent in the area since there were about 9 fences in the area that had been built into the street side yard setback.

Mr. Lanoha noted that for the fence to be in compliance it would need to be 15’ from the setback. In response to Mr. Lanoha, Mr. Stecker explained that if the fence were built at 15’ it would be at the back of the home. He stated that part of the home is at 18’ and the porch was at 10’.

Mr. Aspen moved to APPROVE a white, 6’ privacy fence within the street side yard setback. Mr. Kelley seconded the motion.

AYES: Aspen, Kelley, Kortright, Lanoha

MOTION CARRIED: 4-0.
14. Case No. 19-103
Holy Name Housing
c/o Joe Vaughan
4324 Fort Street
Omaha, NE 68111

REQUEST: Waiver of Sections 55-206 & 55-742(b) -
Variance to the front yard setback from 35' to 25' and to allow off-street parking for a
single-family use within the required front yard to allow for construction of 3 new
single-family homes.

LOCATION: 3602, 3604 and 3605 Erskine Street
ZONE: R5(35)

PLANNING DEPARTMENT RECOMMENDATION: Approval, subject to the plans submitted and the
applicant submitting an application to rezone these properties to R5.

At the Zoning Board of Appeals meeting held on September 12, 2019, Joe Vaughan appeared before the
board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to erect three
new, single-family homes and in order to match the front setback of neighboring properties, waivers of the
front yard setback from 35' to 25' and to allow parking in the front yard setback were being requested. A
practical difficulty existed due to the size of the lots and the R5(35) zoning. The Planning Department
recommended approval subject to the plans submitted and the applicant submitting an application to
rezone these properties to R5.

Mr. Aspen moved to APPROVE in accordance with the plans submitted subject to the applicant submitted
applications to rezone the properties to R5. Mr. Kortright seconded the motion.

AYES: Kelley, Kortright, Aspen, Lanoha

MOTION CARRIED: 4-0.
15. Case No. 19-104
Dave and Sally Snyder
1904 North 172nd Circle
Omaha, NE 68118

REQUEST: Waiver of Section 55-786(e) - Variance to the residential fence regulations to allow a 6' tall, 50% open fence within the street side yard setback.

LOCATION: 1904 North 172nd Circle
ZONE: R4

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on September 12, 2019, Sally Snyder appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicants wanted to install an in-ground pool in their back yard with a 6’ tall, 50% open fence on their property line along Parker Street to enclose it. The Planning Department found no hardship or practical difficulty to support the request as it was the result of a design preference. He explained that because it was new construction, a new code-compliance fence could be constructed without the need for waivers. The Planning Department recommended denial.

Ms. Snyder stated that they wanted to replace the existing 4’ fence with a 6’ tall, see-through, black steel privacy fence. She submitted a letter of approval from the Briar Hills HOA (Exhibit B) for the proposed fence, pool, deck, fire pit and retaining wall. Also included was a letter a support from the neighbor at 17125 Parker Street. She also presented a picture of a neighboring property that was given a similar waiver in 2015.

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

AYES: Kortright, Aspen, Kelley, Lanoha

MOTION CARRIED: 4-0.
16. Case No. 19-105  
Chris Daffer  
2567 Fowler Avenue  
Omaha, Ne 68111  
REQUEST: Waiver of Section 55-206 - Variance to the maximum impervious coverage in an R5(35) district from 55% to 63% to allow for construction of a driveway expansion and storage container.  
LOCATION: 2567 Fowler Avenue  
ZONE: R5(35)  

PLANNING DEPARTMENT RECOMMENDATION: Denial.  

At the Zoning Board of Appeals meeting held on September 12, 2019, Chris Daffer appeared before the board.  

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant wanted to expand his existing driveway to provide additional off-street parking and space to install a storage container. This would result in him exceeding the allowable impervious coverage permitted in an R5(35) District. The Planning Department found no hardship or practical difficulty to support the request as it was the result of a design preference and, therefore, recommended denial of the waiver request.  

Mr. Daffer stated that he wanted to be able to store his mother’s boat in the storage container so that she had access to it whenever she wanted.  

In response to Mr. Kelley, Mr. Daffer stated that the only other option was for the boat to be stored in a facility where it could only be accessed during certain hours.  

Mr. Todd stated that Permits and Inspections would treat the storage container as a structure and, for it to be allowed, it would need to meet certain building codes. Mr. Lanoha believed that it would be more cost-effective for the boat to be stored off-site. He also stated that he did not support the request and that he did not want to set a precedent of allowing storage containers to be stored in front yards. He suggested a layover so that the case could be heard before a board of five members instead of four.  

Mr. Kortright suggested as an option that the applicant could add on to the garage. Mr. Todd advised that this could lead to the need for additional waivers.  

Mr. Daffer agreed that a layover would give him time to look into other options.  

Mr. Aspen moved to LAYOVER until the October 10, 2019 meeting of the board. Mr. Kelley seconded the motion.  

AYES: Aspen, Kelley, Kortright, Lanoha  

MOTION CARRIED: 5-0.
APPROVAL OF MINUTES:

The board decided to vote on the August 8, 2019 meeting minutes at the October 10th meeting when more board members were present.

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 3:07 p.m.

____________________________________________
Approved (date)

____________________________________________
Jason Lanoha, Chair

____________________________________________
Clinette Ingram, Secretary