Mr. Ryan, Chairman, called the meeting to order at 1:00 P.M., introduced the board members, as well as the staff, and explained the procedures for hearing the cases. Roll call was taken with five members present.

Mr. Ryan informed those present that a copy of The Open Meetings Law is available in the board room for anyone to review. He noted that only those items on today’s agenda could be discussed at today’s public hearing.

Mr. Ryan explained that this Board does not have the authority to waive any requirements of the Americans with Disabilities Act, Federal Fair Housing Act, or NFPA Life Safety Code. This Board does have the authority to hear appeals of the International Fire Code, Nebraska Accessibility Guidelines, and the Nebraska Fair Housing Act. Life Safety Regulations are administered by the State Fire Marshal.

Mr. Ryan requested that speakers limit their presentation to 10 minutes.

Mr. Thibodeau moved to APPROVE the minutes of the February 8, 2010 meeting as written. Mr. Kucks seconded.

AYES: Thibodeau, Wiedenman, Kucks, Ryan

ABSTAIN: Meyerson

MOTION CARRIED: 4-0-1
Mr. Daniel Willrich, Hy-Vee, Inc., 5820 Westown Parkway, West Des Moines, Iowa, presented this request.

Mr. Willrich stated that the existing store located at 10808 Fort Street has 65,000 sq. ft. They plan to add 5,000 sq. ft. by adding a wine and spirits section (with no sales floor) to the front of the store. He stated that the front area is the only section where construction will occur. Willrich stated that the mezzanine level, which is at the back of the store, has five (5) 4-foot square windows and a door along the wall that are not 3-hour rated. He stated that construction within the store would not affect the mezzanine area in the back, left portion of the store. Willrich requested a waiver on the portion of the code that would require making the windows 3-hour rated. He stated that the door along the wall would be made 3-hour rated. Willrich presented a site plan showing that the new addition would be constructed along the front, right side of the store with a small amount of work to the pharmacy area. Willrich also pointed out that there is a retaining wall along the back of the store between the building line and the site line. The store is approximately 30’ above the site which sits behind the store. He had stated earlier that the existing HyVee store sits exactly 40’ from the property line. Willrich stated that if the code references distance on a horizontal plane, there could be some argument that the site is more distance, vertically. He stated that the existing wall is 10-inch block and can be 3-hour rated, but the issue under today’s code, are that the five windows in the corner of the mezzanine area are not in compliance.

Mr. Greg Hauptman, Plans Examiner, explained that the 3-hour rating comes into play because the existing north wall is 40’ from the property line. He stated the code allows for use of unlimited areas with conditions requiring that the entire length of the wall plus all openings are 3-hour rated. The applicant felt this was the hardship. Hauptman stated that the building was originally built under the 1994 UBC and, at that time, allowable areas were figured in a different manner than the IBC. Willrich stated that an option that would entail fireproofing the entire building. However, HyVee typically keeps their stores open during construction and that would seem excessive.

Mr. Hauptman recommended that the applicant provide a 3-hour separation between the existing store and the new liquor store by adding a 3-hour rated shudder over the opening with a 3-hour rated door and frame assembly on the walk-thru area of the common wall then rate that section of wall where the addition connects at three hours. This approach would characterize a completely separate building. Hauptman stated that there is an egress door at the front of the addition as well as one that comes through the common wall into the existing store which would satisfy the requirement for two means of egress. He stated that the 3-hour separation is sufficient for a horizontal exit out of the building. In response to Mr. Kucks, Mr. Hauptman stated that the distance between the exits meet the requirements for diagonal separation. Hauptman stated that the applicant needs to comply with everything regarding the firewall in the book to include how extensions work in this particular case. They discussed meeting other requirements. Willrich discussed the layout of the store drive-thru for the pharmacy, grocery pick-up, and windows meeting the 3-hour rating in that area. He stated that the roof at the front of the store would tie-in at the same height as the existing façade and the parapet would measure at 30” high.

Mr. Kucks moved to APPROVE the waiver contingent upon the fire wall between the new addition and the existing building meet all the requirements for a 3-hour fire-rated wall in compliance with 2006 IBC Section 705. Mr. Wiedenman seconded the motion.
AYES: Wiedenman, Meyerson, Kucks, Thibodeau, Ryan

MOTION CARRIED: 5-0
Mr. John C. Chatelain, Chatelain & Maynard, 12111 Anne Street, and Mr. Michael James, Architect, Michael James & Associates, 15417 Grant Street, appeared on behalf of the applicant.

Mr. Roger Carroll, Housing Inspector, stated that this case initially referenced the commons area and an active leak in one of the units at the property. He addressed the Case Analysis in detail due to the owner having listed “ambiguous” and/or “vague” on specific violations. Carroll added that the repairs need to be made by contractors who hold a license and are bonded with the City of Omaha in their respective code. Carroll stated that under recommendation by the City Code Official an interior inspection was requested which included all the units in the building. He reiterated that there was particular concern regarding the single apartment unit above the active leak in the basement. Carroll stated that the City would recommend the time extension if the owner secures the required permits and the final inspections. He presented photos to the Board of the building exterior and various violations inside the building.

Mr. Chatelain stated that the owner does not want to be presumptuous in repairing items and later find out that the “fix” was not what was intended by code enforcement. He stated that it was necessary to appeal until the ambiguities in specific violations could be addressed.

Mr. Carroll stated that the City is asking for an inspection of a unit which is above an active leak in the basement. Mr. Denker stated that according to the Nebraska Tenant Act, the owner is obligated to give a 24-hour notice to tenants when it becomes necessary to gain entry of a unit. Thus, the owner is not restricted from working with code enforcement to access specific units when necessary.

Mr. Chatelain’s stated that the owner’s objection to certain violations included concerns regarding Sec. 703.1 relative to the ceilings, walls, and floors not having the required one-hour fire rating. Chatelain wanted clarity whether the whole building or only the portion inspected by the code enforcement officer needed to comply with current building codes considering the age of the building. He introduced Mr. Michael James who examined the portion of the building which had been inspected by the code enforcement officer. He stated that the owner inquired if they were expected to replace the entire ceiling or repair the portion of the ceiling where the leakage and exposed floor joists were found. Mr. Kucks stated that the leak should be repaired along with damages caused by the leak in order to bring the area back into conformance.

Mr. Denker stated that the housing inspector would meet with the owner to discuss the violations. He stated that there are circumstances in which Code Enforcement does not advise with remedies due to economic situations and the owners’ desired level of correctness.

Mr. Ryan recommended that the housing inspector clarify the violations with the owner for better understanding. He stated that the items requiring a licensed and bonded plumber and/or technician fulfills the expectation of the code inspection official that the work was performed according to code.

In discussing the exterior work, Chatelain indicated that the owner has considered permanent siding on the gables rather than paint. Mr. Chatelain requested an extension throughout the construction season of October/November 2010. Mr. Thibodeau surmised that the interior items are related to the basement and common areas in which the majority of the work would involve plumbing, electrical and drywall. He felt that the interior work would not take as much time as the exterior work. Mr. Kucks stated that the Board expected progress as the weather breaks and continual progression in order to consider the extension.
Mr. Thibodeau moved to APPROVE a 3-month extension of the March 23, 2010 deadline to June 23, 2010 for interior, subject to meeting with the City Inspector to clear up any ambiguities and a 6-month extension to September 23, 2010 for exterior, subject to ongoing work-in-progress. Mr. Wiedenman seconded the motion.

AYES: Meyerson, Kucks, Thibodeau, Wiedenman, Ryan

MOTION CARRIED: 5-0
Case No. 10-10
Sean D. Cuddigan
10855 W. Dodge Rd., Ste. 100
Omaha, NE  68154

LOCATION:  132 N. 31st Street, Apt. 46, Apartment Bldg.
REQUEST:   (Unit 12) Entire Structure
Appeal International Property Maintenance Code Notice of Violation dated January 26, 2010

Mr. Sean Cuddigan, Attorney, Brodkey, Cuddigan, Peeles, and Belmont LLP, 10855 W. Dodge Road, appeared on behalf of the owner, Mr. James Severa, P.O. Box 31009, Omaha, NE.

Mr. Cuddigan stated that the owner has requested a 90-day extension in order to make all the necessary repairs. Mr. Denker stated that the violations are not severe and the work is presently underway.

Mr. Kucks moved to APPROVE a 90-day extension of the March 27, 2010 deadline to June 30, 2010. Mr. Wiedenman seconded the motion.

AYES:  Kucks, Thibodeau, Wiedenman, Meyerson, Ryan

MOTION CARRIED:  5-0

ADJOURNMENT

It was the consensus of the board to adjourn the meeting at 1:44 pm.

Claudia Moore, Secretary                    Jack Ryan, Chairman