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

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

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.

Roll call was taken and six members were present.

Mr. Thibodeau moved to approve the minutes of the October 3, 2011 meeting as amended. Mr. Wiedenman seconded the motion.

AYES: Thibodeau, Wiedenman, Santo, Kucks, Ryan

ABSTAIN: Makinster

MOTION CARRIED 5-0.
**NEW CASES:**

<table>
<thead>
<tr>
<th>Case No. 11-53</th>
<th>LOCATION: 3310 H Street</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joseph Hahn</td>
<td>REQUEST: Waiver to eliminate a required fire rated exterior wall on the north end of the building</td>
</tr>
<tr>
<td>Team-J Enterprises</td>
<td></td>
</tr>
<tr>
<td>3310 H Street</td>
<td></td>
</tr>
<tr>
<td>Omaha, NE 68107</td>
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</tbody>
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Joseph Hahn of Team-J Enterprises appeared before the Board. Mr. Hahn explained to the Board the exact locations of railroad spurs in relation to the existing building and addition. He commented that the spurs were more than 10 feet away from the building.

Mr. Ryan noted from the building analysis report that, upon the condition of the railroad property ever being sold, or ownership changes in any way, they will take the necessary measures to rate the wall to protect the openings. Mr. Ryan noted that Permits & Inspections did not object under the circumstances since the property belonged to the railroad. Thomas Phipps, Chief Mechanical Inspector, confirmed there was no objection under the circumstances.

Mr. Hahn stated they were working with the railroad to purchase the property on the west end of the building as well as a strip of land near the dock. Mr. Ryan noted from the case file that the Permits Department had no objections to this issue and opened up questions to the Board.

Mr. Kucks noted that the Board has heard cases in the past regarding similar waivers, and this waiver is consistent with the City of Omaha’s previous motions to approve.

Mr. Kucks made a motion to approve the waiver as submitted subject to the condition that if the railroad property is ever sold, or ownership changes in any way, necessary measures must be taken to rate the wall and protect the openings. Seconded by Ms. Makinster.

Mr. Wiedenman stated that the applicant is currently trying to purchase this property from the railroad. He asked for clarification as to whether this sale would trigger the requirement for a fire-rated wall at this property. Greg Hauptman, City Planner, advised the Board that if Mr. Hahn bought the property (replatted), and the property line went away, then he would not need to install a fire-rated wall. The requirement to bring this property up to code would only take effect if a new owner purchased the property. Mr. Wiedenman noted that if Mr. Hahn did not replatt the property, the property would technically still require the firewall. Mr. Hauptman stated the property could be flagged for ownership changes in the Planning Department.

Motion by Mr. Kuchs to grant the waiver to eliminate a required fire rated exterior wall on the north end of the building. Seconded by Ms. Makinster.

AYES: Thibodeau, Wiedenman, Makinster, Santo, Kuchs, Ryan

Motion approved 6-0

<table>
<thead>
<tr>
<th>Case No. 11-56</th>
<th>LOCATION: 10020 Scott Circle</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ken Kaelin</td>
<td>REQUEST: Waiver to allow the building to remain unheated</td>
</tr>
<tr>
<td>Hobby Town USA</td>
<td></td>
</tr>
<tr>
<td>10020 Scott Circle</td>
<td></td>
</tr>
<tr>
<td>Omaha, NE 68122</td>
<td></td>
</tr>
</tbody>
</table>

Ken Kaelin of Hobby Town USA appeared before the Board with his engineer, Don Tresemer. Mr. Kaelin requested that the Board allow him to leave a portion of his building unheated.
Mr. Ryan referred to the case file, noting that the Planning Department had no objection to this request, provided that no changes in use or ownership occur and all items are up to code.

Mr. Kaelin explained that this structure is a shell over a dirt track, where customers race toy cars in 10 minute heats. Mr. Kaelin provided the Board with plans of this space (exhibit #2) and explained he installed electric heaters in the restrooms in order to prevent the pipes from freezing. The rest of this building is unheated at this time.

Thomas Phipps, Chief Mechanical Inspector, stated he reviewed the opinion of the Building Board regarding the waiver. Mr. Phipps noted that part of the waiver permitted the omission of the fire protection, but did not omit the heating of the facility. Mr. Phipps stated he completed the plan review and the field inspection and was under the impression that the building was going to be a heated structure. Following this inspection, Mr. Phipps allowed a 90-day temporary Certificate of Occupancy for this structure.

Mr. Ryan asked Mr. Phipps if his division was opposed to a waiver. Mr. Phipps stated that his division had no objection to a waiver at this time. Mr. Kucks asked Mr. Phipps how he felt about the heating of the restrooms. Mr. Phipps stated that he believed heat would protect the plumbing. Mr. Phipps stated when he met with Mr. Kaelin at the time of Certificate of Occupancy they were in the process of installing the heaters in the restrooms. Mr. Kaelin stated that the restroom heaters are flush-mounted in the wall.

A concern was raised in regards to the restroom heaters becoming a fire hazard. Mr. Kaelin explained that the restroom s were constructed with metal studs and fire-rated drywall. He added that the building is mostly constructed of steel, concrete and dirt.

Greg Hauptman, Plans Examiner, clarified that heating the building would not necessarily require the installation of a fire sprinkler system. Mr. Hauptman stated the sprinklers are dependent on whether or not there are spectators in the building. Whether the building is heated or not has nothing to do with whether the sprinklers are required. Mr. Kaelin stated the spectators actually sit outside the garage doors and watch the races.

Mr. Thibodeau asked the Board if a waiver was needed or if this issue qualified as an interior space where primary purpose is not associated with human comfort. Mr. Wiedenman stated the heating of the bathrooms is a functional system to keep the water from freezing, not a comfort thing. After some discussion, the Board members agreed that it would be in the best interest of the applicant to receive a waiver in order to avoid complications at the time of final inspection.

Motion by Mr. Thibodeau to grant the waiver to allow this space to remain unheated as submitted for this owner and this occupancy only. Seconded by Mr. Kucks.

AYES: Thibodeau, Wiedenman, Makinster, Santo, Kucks, Ryan

Motion approved 6-0
Case No. 11-54
Mark L. Brasee
Fraser Stryker PC LLO
409 South 17th Street
Omaha, NE  68102

LOCATION:  5006 South 134th Street – Commercial Buildings Exterior

Case No. 11-55
Mark L. Brasee
Fraser Stryker PC LLO
409 South 17th Street
Omaha, NE  68102

LOCATION:  5005 South 135th Street – Commercial Buildings Exterior

The Board decided to hear case 11-54 and 11-55 together.

Todd Shearer, Housing Inspector, and Kevin Denker, Chief Housing Inspector, appeared before the Board. Mr. Shearer requested that the Board lay this appeal over until next month’s meeting in order to give the applicant an opportunity to meet with housing inspectors. Mr. Denker stated a meeting is currently scheduled between Mr. Brasee and Code Enforcement inspectors.

Mr. Denker noted the violation was in regard to the old Millard Lumber property. He explained that there are still quite a few outbuildings remaining on the property. Code Enforcement received a complaint a few months back. The complaint was investigated. One building was found open, and there appeared to be signs that kids had been getting inside. A large skateboard ramp and grinding ramp had been constructed inside the structure. Millard Lumber has subsequently secured the property. During the scheduled meeting, inspectors will meet with officials of Millard Lumber regarding their continued use/maintenance of the existing buildings.

Motion by Mr. Wiedenman to lay this case over until the December meeting. Seconded by Mr. Thibodeau.

AYES:  Thibodeau, Wiedenman, Makinster, Santo, Kucks, Ryan

Motion approved 6-0

Case No. 11-57
John Portera
U.S.S. Hazard Inc.
607 Dearborn Circle
Papillion, NE  68046

Deborah Cunningham
12020 Shamrock Plaza #300
Omaha, NE  68154

Rob Whorley, P.E.
Performance Engineering
4940 North 118th Street #200
Omaha, NE  68164

LOCATION:  2499 Freedom Park Road

Mr. Ryan advised the Board that the attorney representing this case, Deborah Cunningham, has requested that this case be laid over until the December 12, 2011 meeting.
Motion by Mr. Thibodeau to lay this case over until the December 12, 2011 meeting. Seconded by Ms. Makinster.

AYES: Thibodeau, Wiedenman, Makinster, Santo, Kucks, Ryan

Motion approved 6-0

Case No. 11-44  LOCATION: 412 Valley Street – Dwelling Interior  
(Over from 9/12/11 and 10/3/11)  REQUEST: Appeal International Property Maintenance Code  
John Malone  Notice of Violation dated August 10, 2011  
Leviticus Rental Properties  
11806 Washington Circle  
Omaha, NE 68108

Kenton Duncan, Housing Inspector, appeared before the board. Mr. Duncan stated that this violation is a continuance from the last hearing (Please see minutes from 10/03/11 for more information). Mr. Duncan explained that the basement I-beam was not installed per code and was installed without any permits or plans being submitted to the City. Mr. Duncan advised the Board that there has not been any change, no phone calls to Code Enforcement and no plans/permits submitted since the October 3, 2011 meeting of the Board.

Mr. Ryan asked Mr. Duncan if there have been any meetings between Code Enforcement and the applicant regarding this violation. Mr. Duncan replied that no such meeting has taken place. Kevin Denker, Chief Housing Inspector, advised the Board that his division had no additional information or photographs to submit at this time.

Mr. Ryan asked Mr. Denker if he felt this violation should be held over again. Mr. Denker and Mr. Duncan stated they have not received any communications from Mr. Malone. Mr. Denker stated his opinion that the Board should lay this case over to their December meeting.

Mr. Thelen, City Law Department, appeared before the Board and advised them that the decision to lay this case over was within the Board’s discretion. If the applicant does not appear when scheduled, it is the Board’s decision as to whether to lay the case over or to take action on it. He added that the Board could vote to deny this request if desired. Mr. Wiedenman stated that the Board’s precedent has been if someone can’t show or doesn’t show up, then the case is laid over.

Mr. Thibodeau noted that Mr. Malone’s application claims that the notice from Code Enforcement is invalid and incorrect, but Mr. Malone didn’t really say what it was he was referring to.

Mr. Santo asked Mr. Duncan if this violation posed any kind of safety threat to the people who occupy the residence; to which Mr. Denker advised the Board that nobody was occupying the building. Ms. Makinster asked Mr. Duncan if the building were occupied, would it be safe. Mr. Duncan stated that there were a few items pertaining to this residence that have been identified as “unsafe/unfit”; however, the structure is currently livable.

Motion made by Mr. Wiedenman to lay this case over until the December 12, 2011, meeting. Seconded by Mr. Thibodeau.


Motion approved 6-0
ADJOURNMENT:

Motion to adjourn by Mr. Wiedenman. Second by Ms. Makinster.

AYES: Thibodeau, Wiedenman, Makinster, Santo, Kucks, Ryan

MOTION CARRIED: 6-0. Meeting adjourned at 1:34pm.