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. Ryan explained that Ron Epstein has recently left the Board. He introduced Mr. Epstein’s replacement, Mark Santo, and welcomed him to the Board. Mr. Ryan explained that the departure of Mr. Epstein has left the Board without a Vice-Chairman. He asked the Board for any nominations to hold this position.

Mr. Wiedenman moved to nominate Nick Limpach as Vice-Chairman to the Building Board of Review. Ms. Makinster seconded this motion.

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

ABSTAIN: Limpach

MOTION CARRIED 6-0-1.
Mr. Thibodeau moved to APPROVE the minutes of the August 8, 2011 meeting, as amended. Mr. Wiedenman seconded the motion.

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

ABSTAIN: Kucks

MOTION CARRIED 6-0-1

NEW CASES:

Case No. 11-45  
Alley Poyner Macchietto Architecture  
Attn: Al Macchietto  
1516 Cuming Street  
Omaha, NE  68102

LOCATION: 2020 Avenue J East – Open Door Mission
REQUEST: Waiver to allow doors to swing into a fixture clearance at a lavatory

Case No. 11-46  
Alley Poyner Macchietto Architecture  
Attn: Al Macchietto  
1516 Cuming Street  
Omaha, NE  68102

LOCATION: 18018 Burke Street – Village Pointe Pediatrics
REQUEST: Waiver to allow doors to swing into a fixture clearance at a lavatory

Case No. 11-47  
Alley Poyner Macchietto Architecture  
Attn: Al Macchietto  
1516 Cuming Street  
Omaha, NE  68102

LOCATION: 4910 S. 30 Street Ste. 30 – One World Community Health
REQUEST: Waiver to allow doors to swing into a fixture clearance at a lavatory

Case No. 11-48  
Alley Poyner Macchietto Architecture  
Attn: Al Macchietto  
1516 Cuming Street  
Omaha, NE  68102

LOCATION: 4930 S 30 Street Ste. 1 – One World Community Health
REQUEST: Waiver to allow doors to swing into a fixture clearance at a lavatory

Al Macchietto of Alley Poyner Macchietto Architecture appeared before the Board. Mr. Ryan commented that Mr. Macchietto has requested that this case and case numbers 11-46, 11-47 and 11-48 be deliberated at the same time. Mr. Macchietto confirmed this statement, noting that the four cases are similar in nature.

Mr. Macchietto thanked the Board for hearing these cases today. He explained that his company appeared before the Board today in order to seek approval to allow restroom doors to swing into the clear floor space in a single-occupancy toilet facility. Mr. Macchietto stated that, by definition, a single-occupancy toilet facility is a toilet room with fixtures appropriate for the use of one person. This type of facility is not meant to be used as a public toilet room.

Mr. Macchietto stated that Alley Poyner Macchietto Architecture designs many buildings each year which utilize single-occupancy toilet facilities. Over time, the company has come to see that the language requiring that doors to these restrooms cannot swing into the clear floor area presents space, safety and functionality issues. Mr. Macchietto stated that Chapter 11 of the International Building Code (IBC) refers
the reader to view ICC/ANSI A117.1. This document gives information on how to design restrooms to be handicapped-accessible.

Mr. Macchietto stated that when the original accessibility codes were written, doors could not encroach into the clear floor space of a plumbing fixture. In later years, ANSI made an exception to this rule for single-occupancy toilet facilities, due to the fact that the person using this facility would be able to lock the door and prevent anyone from opening the door and hitting them.

Mr. Macchietto stated that the general solution to the problem of door encroaching on clear floor space is to either 1) make the door swing outwards or 2) to make the room larger in order to ensure that there was enough clearance. Typically, Alley Poyner Macchietto Architecture has chosen the former of these two solutions. Mr. Macchietto described the property in question. This waiver relates to single-occupancy restrooms in the Open Door Mission. He stated that his company currently plans to make the doors for the restrooms swing outward into a hallway.

Mr. Macchietto stated that although this would make the restrooms code-compliant, his company feels that this is not the best solution for these tenants. He cited Chapter 11 of the IBC, which states that private restrooms in offices can have doors which swing into the clear floor space. Mr. Macchietto concluded that the City seems to interpret this part of the Code as being the ONLY instance in which a door may be allowed to swing into the clear floor space of an accessible restroom, when they should instead defer to the language in ICC/ANSI A117.1.

Mr. Macchietto stated that in preparing for today's meeting, he contacted a person with the IBC and ICC Committee, and asked them for an interpretation of this section of their code in reference to single-occupancy toilet facilities. He presented this statement for the case file, and explained that, in essence, he was told by this person that allowing doors which swing into the clear floor space for private office restrooms does not mean that doors cannot be allowed to swing inwards in other settings, unless there is specific language which prohibits it in the Code.

Mr. Ryan asked Mr. Macchietto for clarification on the point that a person in a wheelchair using these proposed restrooms would have adequate space to enter the restroom, turn their chair around, and close the door. Mr. Macchietto confirmed this statement, noting that with the exception of the door swinging inwards, these restrooms are of a standard size for handicapped restrooms and would provide ample room in which to move and turn around.

Mr. Ryan asked Greg Hauptman for the City's opinion in this matter. Mr. Hauptman replied that the City's position is simple; Chapter 11 of the International Building Code does not allow doors to swing into the clear floor space for handicapped-accessible restrooms. Mr. Hauptman confirmed that the ANSI document referenced by Mr. Macchietto does allow doors to swing inwards; however, the City has chosen to defer to the language in Chapter 11, which does not allow doors to encroach into clear floor space. Mr. Hauptman added that a new code book will soon be released which should address this issue. He concluded by stating that the City does not believe that a waiver is warranted or necessary.

Mr. Macchietto stated that in making restroom doors swing outward, he sees a lot of disadvantages to the person using it. First, from an accessibility standpoint, it is easier for a person in a wheelchair to enter and exit a room if the door swings inwards. Mr. Ryan asked Mr. Macchietto if this were the hardship that he wished to base his request for a waiver. Mr. Macchietto stated that his ultimate reason for requesting today's waiver is a matter of code interpretation; he believes that the IBC supports his company's request.

Mr. Thibodeau stated that in his understanding, the Code does not contain language which specifically prohibits doors from swinging inwards in all settings; rather, it allows it in private offices. That is not the same as saying that this is the only location that may have an inward-swinging door. Mr. Kucks disagreed
with Mr. Thibodeau, stating that specifying that private office restrooms may have doors which swing into the clear floor space in the IBC implies that this is the only location that this will be allowed.

Mr. Macchietto reiterated the opinion that he received from IBC, which states that the language dealing with private office restrooms was only meant to reiterate that doors were allowed to swing in and not meant to exclude other locations. Mr. Hauptman disagreed with Mr. Macchietto’s interpretation of this section of the Code.

Mr. Limpach asked if, not counting the disagreement on the interpretation of the code, whether the City would be opposed to a waiver. Mr. Hauptman stated that none of the previous codes included an exception to allow this type of situation, although they could have chosen to include it. Mr. Hauptman stated that there has been no hardship demonstrated by Mr. Macchietto, adding that there is enough room to make the door swing outwards and make these restrooms code-compliant. Mr. Macchietto protested that his company is not trying to save money or cut corners in some way; rather they are trying to do what is best for their client and what is smart for the function and design of the building.

Ms. Makinster stated that she agrees with Mr. Limpach in that it is safer and more practical to have a door swing into a room rather than into a hallway.

Motion by Ms. Makinster to grant the waiver. Second by Mr. Wiedenman.

Mr. Macchietto inquired as to whether this motion was for all four cases up for discussion today (11-45, 11-46, 11-47 and 11-48) or solely for case number 11-45. Ms. Makinster replied that her motion was in regards to case number 11-45 only. Mr. Limpach stated that he plans to abstain from voting on some of these four cases due to a conflict of interest. After some discussion regarding whether or not to include the other three cases in this motion, it was decided to vote on each case separately.

Ms. Makinster withdrew her motion at this time so that the Board could deliberate on case number 11-46. The Board will vote on this case later in the meeting. Mr. Wiedenman withdrew his second, and the Board moved on to case number 11-46.

Following the approval of case 11-46, the Board returned case number 11-45. Ms. Makinster made a motion to approve the waiver. Second by Mr. Wiedenman.

AYES: Makinster, Thibodeau, Wiedenman, Santo, Ryan

NAYS: Kucks

ABSTAIN: Limpach

MOTION CARRIED 5-1-1
Case No. 11-46
Alley Poyner Macchietto Architecture
Attn:  Al Macchietto
1516 Cuming Street
Omaha, NE  68102

LOCATION:  18018 Burke Street – Village Pointe Pediatrics
REQUEST:  Waiver to allow doors to swing into a fixture clearance at a lavatory

*For additional information regarding this case, please refer to case number 11-45*

Al Macchietto of Alley Poyner Macchietto Architecture appeared before the Board. Mr. Macchietto explained that this business is a one-story medical clinic. He stated that the restrooms in this facility sport double sinks; one high, one low. Currently, the door will swing inward and encroach on the clear floor space in front of the lower sink. Mr. Macchietto requested that Alley Poyner Macchietto Architecture be allowed to proceed as submitted, despite this clearance issue.

Mr. Ryan asked if a person in a wheelchair would have enough space to enter the restroom, turn around and close and lock the door. Mr. Macchietto replied that with the exception of the swing into the clear floor space, all of the restrooms in cases 11-45 through 11-48 offer a 5’ turnaround and a minimum of 30”x48” clear floor space in which to maneuver a wheelchair.

After reviewing the submitted information, Ms. Makinster made a motion to approve the waiver. Second by Mr. Wiedenman.

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

NAYS: Kucks

MOTION CARRIED 6-1

Case No. 11-47
Alley Poyner Macchietto Architecture
Attn:  Al Macchietto
1516 Cuming Street
Omaha, NE  68102

LOCATION:  4910 S. 30 Street Ste. 30 – One World Community Health
REQUEST:  Waiver to allow doors to swing into a fixture clearance at a lavatory

Case No. 11-48
Alley Poyner Macchietto Architecture
Attn:  Al Macchietto
1516 Cuming Street
Omaha, NE  68102

LOCATION:  4930 S 30 Street Ste. 1 – One World Community Health
REQUEST:  Waiver to allow doors to swing into a fixture clearance at a lavatory

*For additional information regarding this case, please refer to case number 11-45*

Al Macchietto of Alley Poyner Macchietto Architecture appeared before the Board. He asked that cases 11-47 and 11-48 be heard at the same time, as they involved the same client. Mr. Macchietto stated that these clients are also medical clinics. Restrooms in these facilities will offer a 5’ turnaround and a minimum of 30”x48” clear floor space in which to maneuver a wheelchair.
Ms. Makinster made a motion to approve the requested waiver for case numbers 11-47 and 11-48. Seconded by Mr. Wiedenman.

AYES: Makinster, Thibodeau, Wiedenman, Santo, Ryan

NAYS: Kucks

ABSTAIN: Limpach

MOTION CARRIED 5-1-1

Case No. 11-49
Carlson West Povondra Architects
Attn: Robert Soukup, AIA
5060 Dodge Street, Ste. 2001
Omaha, NE  68132

LOCATION: 2828 S 82 Avenue – Talk of the Town
REQUEST: Waiver to allow existing non-compliant ramp slopes and floor levels to remain

Bob Soukup of Carlson West Povondra Architects appeared before the Board with representatives for the owner, Dean Hokanson and Sam Garden. Mr. Soukup explained that the building in question used to house the Cinema Center movie theater. This project deals specifically with Theater 1 in this building.

Mr. Soukup stated that after the deadline for application, he was able to obtain the original construction documents for Cinema Center which better illustrates the varying slopes and ramps at this site than the drawing which was submitted with their application to the Board.

Mr. Soukup stated that his client is planning to convert this space from a movie theater to a dinner theater. He added that there may also be wedding receptions held at this site, and possibly music bands performing at this venue. He stated that the hardship that his client is presented with in changing the ramp slopes and floor levels is that this is a very large space. There are egress requirements that need to be maintained and existing construction in place that would make leveling the floor very difficult.

Mr. Ryan inquired as to the egress requirements that Mr. Soukup mentioned, and asked where these doors terminated to. Mr. Soukup replied that one door terminates to the outside of the building. A second door opens onto an interior corridor. Mr. Soukup stated that in later phases of this project, more separation will be created between theater one and the other parts of the building. At this time, this part of the building is inaccessible to the lower portions of their level platforms. The far east end of this space is handicapped accessible.

Greg Hauptman stated that the applicant appears to have a legitimate hardship. He described the various ways in which the applicant would be required to reconstruct this space in order to bring the space up to code. He concluded by stating that the Planning Department has no objection to this request, providing that the applicant designate accessible seating on the upper levels.

Mr. Kucks made a motion to grant the waiver, with the stipulation that designated accessible seating must be provided on the upper two levels. Second by Mr. Limpach.

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

MOTION CARRIED 7-0
Case No. 11-50
The Architectural Offices
Attn: William J. Stott, AIA
4610 Dodge Street
Omaha, NE 68132

LOCATION: 2010 Leavenworth Avenue – Studio Kaneko
REQUEST: Waiver to allow openings in a firewall directly on a property line

Bill Stott of The Architectural Offices appeared with Jun Kaneko of Studio Kaneko and Robert Peters. Mr. Stott gave a brief history of the three buildings at this site, which originally housed the city’s buses. He stated that Mr. Kaneko has recently purchased the two eastern buildings and wishes to reinstall a previously existing overhead door between his two buildings. This currently is not allowed as per code since the door would be on a property line.

Mr. Stott stated that Mr. Kaneko purchased these buildings for the design and fabrication of very large-scale ceramic art pieces. The proposed overhead door is needed in order to transport Mr. Kaneko’s pieces from the building. Mr. Stott stated that one of Mr. Kaneko’s buildings has a basement; however, the main floor of this building was designed to carry the loads of city buses and has a floor with a seven inch thick concrete slab and additional substructure that renders it to be an unusually thick flooring system at twenty one inches thick.

Mr. Stott stated that his client would like permission to reinstall the previously existing over head door between his two buildings, and also to request a waiver of Section 705.1.1, which restricts openings within a property line. Mr. Stott proposed to install a two-hour fire rated overhead door between the two buildings, which is more than would normally be required if the opening were not on a property line.

Mr. Stott stated that in speaking with Mr. Hauptman earlier in this project, it was proposed that the owner install a vestibule four feet inside the existing building so that the overhead door would no longer be considered to be on a property line. However, upon further examination, this proved to be problematic because it would require Mr. Kaneko to cut through the extraordinarily thick floor in order to separate the floor structures of the two buildings for fire protection. Mr. Stott stated that the International Building Code lists any floor system in excess of five inches thick as carrying four hours of fire protection. At seven inches thick, the flooring system in this building exceeds four hours of fire protection.

The Board discussed the various alternative options for this applicant, including removal of the entire wall currently separating the two spaces and moving the property line. Mr. Stott stated that in speaking with the City regarding this project, some concern was raised over the possibility of what would happen if these buildings reverted to single ownership at some point in the future. Mr. Stott added that to separate the floor system as suggested would compromise the structural integrity of a floor system that exceeds all fire protection requirements in its existing state.

Mr. Stott stated that all of the buildings in this complex are protected by an automatic fire sprinkler system, including both sides of the separating wall where the opening would be located. Additionally, Mr. Stott pointed out a similar situation in the code which lists an exception for residential units which offer first level parking garages. This section states that vertical continuity of walls is not required as long as the floor’s fire separation measures three hours. Studio Kaneko’s floor system carries a separation of at least four hours, exceeding that code language by at least one hour.

Mr. Kucks stated his concern that if this door were allowed to be reinstalled, it would result in an opening on a property line with no fire protection. Mr. Stott protested that this wall has quite a bit of fire protection, in the form of fire sprinklers. He also stated that there are many buildings in the older parts of our city which have similar openings in them.
Mr. Wiedenman asked Mr. Hauptman how the City typically handles properties such as those in the Old Market, which would have similar openings between buildings. Mr. Hauptman replied that in many cases these properties are converted into one property and the property line is eliminated. Mr. Wiedenman postulated that if those buildings were sold to separate owners at a later date, the new owners would most likely fill in these openings. Mr. Hauptman agreed. Mr. Peters added that they might also retain the openings in order to continue to provide access.

Mr. Peters stated that only one of the three buildings in this group of three has a basement. The outer two buildings are single story structures. He stated that his client understands the issue about the prohibition of openings on property lines; however, to achieve the type of fire separation that Mr. Hauptman and the City are requiring would represent a considerable hardship to his client.

Mr. Hauptman inquired as to whether Mr. Kaneko is renting this space, or if he is the owner. Mr. Peters stated that he owns two of the three buildings on the property. He also has an access easement to allow him access on the west side of one of these buildings. The third building not owned by Mr. Kaneko is currently a parking garage mainly utilized by the tenants of the Drake Court Apartments.

Mr. Stott stated that any future change of occupancy would trigger a review of the space by the City. In effect, he stated, you couldn’t change the use without the proposed overhead door being required to be filled back in by the new tenant as per City code.

Mr. Ryan asked Mr. Stott to specifically state his request for the Board one more time. Mr. Stott stated that his specific request is for the Board to grant a waiver of Section 705.1.1, which would allow his client to place an opening on the property line between the two buildings, with the condition that this door be protected in such a way that exceeds the requirement for fire protection at the opening. Mr. Hauptman asked if the applicant would be willing to install additional sprinkler heads on both sides of the door. Mr. Stott stated that this solution would be acceptable.

Mr. Ryan inquired as to whether the City still objected to this waiver at this time. Mr. Hauptman stated that although the City did object to the waiver at first due to the fact that he believed that Mr. Kaneko owned all three buildings. Mr. Kucks inquired whether the City would support a waiver for Mr. Kaneko, provided that additional deluge sprinklers were installed at the opening. Mr. Hauptman stated that this would be an acceptable solution, but requested that the Board stipulate that if is the occupancy or ownership changes in the future that this opening’s continued existence must be reviewed by the City.

Motion by Mr. Kucks to grant the requested waiver, contingent upon adding additional deluge sprinkling on both sides of the opening. Also, a review is required if the occupancy or ownership changes in the future. At a suggestion from Mr. Thibodeau, Mr. Kucks amended his motion to add that the opening must carry a two hour fire protection rating. Second by Mr. Wiedenman.

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

ABSTAIN: Limpach

MOTION CARRIED 6-0-1
Case No. 11-42
Amos Davis
2630 Scott Avenue
Lincoln, NE 68506

LOCATION: 3516 Howard Street – Garage Entire Structure
REQUEST: Appeal International Property Maintenance Code
Notice of Violation dated July 25, 2011

Mike Johnson, Housing Inspector, stated that Mr. Davis had contacted him to discuss the violations on his property. During this discussion, Mr. Davis agreed to the items listed in Mr. Johnson's notice of violation, and had agreed to make the necessary repairs. Mr. Johnson stated that he had informed Mr. Davis that he did not need to appear at today's meeting.

Mr. Thibodeau asked if the applicant need more time to complete repairs to the property. Mr. Johnson stated that the applicant has already begun repairs to the property, and he is confident that the remaining violations will be corrected shortly. Mr. Ryan inquired as to whether Mr. Johnson would like the Board to hold this case over for to their next meeting while the applicant completes repairs. Mr. Johnson replied that this action would not be necessary, and suggested that the Board deny the appeal.

Motion to deny appeal by Mr. Wiedenman. Second by Mr. Thibodeau.

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

ABSTAIN: Makinster

MOTION CARRIED 6-0-1

Case No. 11-43
St. Barnabas Church
c/o Father Robert Scheiblhofer
2313 S. 114 Street
Omaha, NE 68144

LOCATION: 129 N. 40 Street – Dwelling, Parish House Exterior
REQUEST: Appeal International Property Maintenance Code
Notice of Violation dated July 27, 2011

Kevin Denker, Chief Housing Inspector, stated that he and Mr. Carroll recently met with the representatives from St. Barnabas Church regarding the house adjoining their facility. No one is currently living in the house, and it appears that there is currently an issue of ownership involving the archdiocese and this parish. A hearing regarding the ownership of the parish house has been scheduled for early in 2012. The attorney for the church, John Chatelain, has requested that the Board lay this case over for six months while they are waiting for this trial to take place. In the meantime, St. Barnabas Church will see to the maintenance of the property. Mr. Denker stated that the City had no objection to the requested layover.

Motion by Mr. Kucks to grant a layover of six months for this case. Second by Ms Makinster.

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

MOTION CARRIED 7-0
Mr. Ryan made an announcement that the Board had received a request to lay case number 11-44 over to the October 3, 2011 meeting of the Building Board of Review and would not be reviewed at today’s meeting.

**LAYOVER**

Case No. 11-10
Lindenwood Nursing Home
(Over from 2/14/11)
c/o Brent M. Kuhn
1005 S 107 Avenue, #100
Omaha, NE  68114

Kevin Denker, Chief Housing Inspector, stated that this case involves a boiler that exploded approximately six months ago at a nursing home.

Tom Phipps, Chief Mechanical Inspector, stated that he inspected the site today. The new boiler has been installed at this time. Mr. Phipps stated that this facility employs an old system, and would probably not wish to fire this new boiler until the weather becomes cooler. He added that he noticed a couple of small issues that the contractor will correct.

Yvonne Barna, Housing Inspector stated that she has spoken with the applicant’s attorney, and they are requesting that the Board lay this case over for sixty days in order to allow the applicant enough time to wait for cooler weather and to test the new boiler.

Motion by Mr. Kucks to grant an extension of 60 days to this applicant. This item will be heard at the November 12, 2011 meeting of the Board. Second by Mr. Wiedenman.

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

MOTION CARRIED 7-0
ADJOURNMENT:

Mr. Wiedenman moved to ADJOURN the meeting at 2:20 pm. Mr. Limpach seconded the motion.

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

MOTION CARRIED: 7-0

Debbie Hightower, Secretary                                      Jack Ryan, Chairman