Mr. Ryan, Chairman, called the meeting to order at 1:02 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.

Motion by Mr. Feuerbach to approve the minutes of the March 12, 2012 meeting as amended. Ms. Makinster seconded the motion.

AYES:  Feuerbach, Makinster, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED:  6-0
At the Building Board of Review meeting held on Monday, April 9, 2012, Paul Kimmons appeared before the Board in support of the request.

Mr. Kimmons stated that his client, who purchased the empty school building, wanted to improve the building as permitted in the Code by installing an incline platform wheelchair lift. He further stated that his client determined that it was not feasible to provide the required accessibility with a passenger elevator either inside or outside of the building. Installing an elevator to the interior of the building would require removal of reinforced load-bearing concrete beams and slabs which are essential parts of the structural frame. Mr. Kimmons explained that an exterior elevator would be prohibited due to setback and grade slope site constraints that are referred to in the Nebraska Accessibility Guidelines, the International Building Code and the Life Safety Code. Referring to the International Building Code and Nebraska Accessibility Guidelines, Mr. Kimmons stated that wheelchair lifts shall be permitted as a component of an accessible route. He continued by stating that wheelchair lifts in an existing building are allowed according to the Accessible Buildings section in the Nebraska Accessibility Guidelines. Mr. Kimmons also stated that the International Building Code does attempt to limit platform wheelchair lifts as a part of an accessible means of egress by limiting their use to 10 conditions. He explained that of those 10 conditions; only the first seven are restricted to new construction, with condition 10 allowing a platform wheelchair lift for alteration work in an existing building with an accessible route where existing exterior site constraints make the use of an elevator impossible. Mr. Kimmons stated that the existing stairs where the inclined platform would be installed is 70 ½" wide, while the landings are 58 ½" wide. He explained that the third floor has the most occupants which would require a minimum egress stair width of 37 ½". The inclined platform lift support rail projects a maximum of 5 7/8" into the stair leaving 52.6" which, he noted, is greater than the 37 ½" required for egress. The inclined platform would be parked around the corner from the stair so as not to limit the excess exit capacity of the existing stairs.

Mr. Kimmons cited reasons why the platform wheelchair lift would be safer than an elevator during a fire: in the middle of fire and smoke, waiting for the elevator creates panic; pushing the elevator to the floor below may open the door to a blast of fire; being inside an elevator shaft would be similar to being in a chimney with toxic levels of smoke and heat; the moving elevator could act like a piston, pushing smoke and gases into other floors; in panic an entire class may try to enter the elevator causing the doors to remain open and preventing the elevator from operating; and finally, a power failure caused by a burned out cable could trap individuals between floors. He stated that when the code states that an inclined lift platform can be used in a residence, it does not state that a residence is the only place where it can be used.

Mr. Kimmons requested a layover to allow the Board time review the codes pertinent to his case. He submitted a copy of his presentation (Exhibit 2) which included copies of the floor plans and applicable code sections.

In response to Mr. Ryan’s question as to whether he was asking for a variance, Mr. Kimmons responded that he was not asking for a variance, only for permission to use what is allowed by the code. Mr. Ryan questioned Mr. Kimmons’ reason for requesting a waiver if what he is doing meets the code. Mr. Kimmons responded that his request was rejected by Permits and Inspections who informed him that he would need to meet with the Building Board of Review.

Referring to the floor plan (Exhibit 2), Ms. Kiel asked Mr. Hauptman if he agreed that there were ample areas of refuge. Mr. Hauptman replied that he had not seen the plans. He also noted that there was no denial to Mr. Kimmons’ request which, he explained, was presented to him with just the application and no construction or permit plans.
Mr. Ryan suggested the option of laying over the case to give Mr. Hauptman and the members of the Board the opportunity to review the plans.

Mr. Hauptman stated there needed to be clarification between a platform lift and an inclined platform lift. He explained that between the American with Disabilities Act and the International Building Code there are 14 conditions where a platform lift, not an inclined platform lift, is allowed. He further explained that the only mention of an incline lift in the International Building Code pertains to R-2 and R-3 occupancies. There is no mention of them in a commercial or assembly business. He stated that the incline lift that Mr. Kimmons is requesting does not comply with any of the 14 conditions in the American with Disabilities Act or the International Building Code. Mr. Hauptman further stated that the main concern with adding that type of lift is that it would reduce the required egress width from the building. He added that the Fire Department feels that the lift does not comply with the Life Safety Code, since no projections of more than 3 ½” are allowed from handrail height down to the floor level in a stairway.

In response to Mr. Ryan’s question as to whether he had met with the Fire Department, Mr. Kimmons stated that he had not. Mr. Ryan suggested that, in the event of a layover, Mr. Kimmons meet with both the Fire Department and Plans Review to get their opinion on his request.

Ms. Kiel agreed with Mr. Hauptman and commented on the safety issue of the lift when in operation. She explained that the width and slow speed of the lift could prevent people from exiting the building. She further explained that if the stairs were wide enough so that people could exit the building while the lift was in operation, there would probably be no concern.

Mr. Kimmons stated that when the code mentions lifts, it does not specify between an incline lift and a vertical lift. He added that, per the code, the vertical lift cannot be enclosed; therefore, it could not be installed outside where it will be out in the open and going up three floors. Mr. Ryan responded that the Board does hear appeals and make suggestions but does not do any designing. He added that both the City and the Fire Department do not approve of Mr. Kimmons request and suggested that he might have to meet with those parties for assistance in considering other alternatives. Ms. Kiel agreed that Mr. Kimmons should look into other options before the next meeting; and assured him that the Board would revisit what is allowed in the code.

Motion by Ms. Makinster to lay this case over until the May 14, 2012 meeting. Seconded by Mr. Fuerbach.

AYES: Feuerbach, Makinster, Santo, Kiel, Schaefer, Ryan
MOTION CARRIED: 6-0

Case No. 12-011
Michael J. Hall
14225 Dayton Circle, Suite 9
Omaha, NE 68137

LOCATION: 13434 “A” Street
REQUEST: Waiver to the requirement for rated corridors in a non-sprinklered building.

At the Building Board of Review meeting held on Monday, April 9, 2012, Michael J. Hall, General Contractor, appeared before the Board in support of the request.

Mr. Ryan noted that Permits and Inspections and the Omaha Fire Department do not object to Mr. Hall’s request.

Mr. Hall stated that the building is a 25-year old Type V-B, Group B occupancy classification building. He explained that there will be no change of use or change of occupancy. His client would like to enlarge the conference room and move the reception area from the end of the building to the center of the building. As a result of the changes, some walls will need to be built in the corridor area. Mr. Hall’s stated that his
request is to not rate those walls that will be built in the corridor area. He added that the other walls in the building are not rated or sprinklered.

Referring to Greg Hauptman’s, Plans Examiner, case analysis; Mr. Kiel agreed that all walls in the storage spaces should be rated 1-hour with a 45-minute rated door in case of fire. If ceilings were added, they would also have to be rated 1-hour.

Mr. Santo asked for clarification as to the number of doors shown in the original plans. Mr. Hall responded that there were five doors.

In response to Mr. Feuerbach, Mr. Hall confirmed that the walls, ceilings and doors in the storage rooms would be rated.

Motion by Mr. Schaefer to grant the waiver for the rated corridors requirement subject to the storage rooms being 1-hour fire rated including doors, walls and ceilings. Seconded by Mr. Santo.

AYES: Feuerbach, Makinster, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 6-0

Case No. 12-005  LOCATION: 1148 South 29th Street
(Over from 3/12/12) REQUEST: Appeal International Property Maintenance Code
Martha M. Didamo
8014 Cedar Island Road
Bellevue, NE 68147

Notice to Vacate dated January 17, 2012

At the Building Board of Review meeting held on Monday, April 9, 2012, Martha Didamo and Sabrina Jimenez, appeared before the Board in support of the request.

Yvonne Barna, Code Inspector, stated that she had visited the home on April 9, 2012 and noted that about 90% of the clutter had been cleared from the property. The property owners had submitted to her the plan of action for completing repairs. Ms. Barna stated that she was willing to remove the vacate order as long as the work progresses.

After some discussion it was agreed that the case would be withdrawn at the Code Inspector’s request.

Case No. 12-006  LOCATION: 706 South 35th Avenue
John C. Chatelain REQUEST: Appeal International Property Maintenance Code
14707 California Street
Suite 1
Omaha, NE 68154

Notice of Violation dated January 24, 2012

At the Building Board of Review meeting held on Monday, April 9, 2012, John Chatelain, Attorney, Matt Madeiros and Josh Scott, appeared before the Board in support of the request.

Mike Johnson, Housing Inspector, stated that he met with Mr. Chatelain and his clients at the property to go over the Notice of Violation. Mr. Johnson stated that Mr. Chatelain sent him a settlement agreement (Exhibit 2) that he did not agree with, and so did not sign and return. Referring to the settlement agreement, Mr. Johnson stated that it would be up to Permits and Inspections to decode whether they would require permits for some of the work that needs to be done on the property. In regards to the interior inspection, Mr. Johnson stated that he requested one and was told by Mr. Chatelain that he would have to get a search warrant. Mr. Johnson explained that electrical and mechanical were listed in the notice because the air conditioning units had been stolen from the back of the property, which resulted in some exposed wiring. In regards to the retaining wall to the north of the property, Mr. Johnson explained that when a retaining wall is listed in the notice, it is a boundary/property line issue which usually results in violation letters being sent
to both property owners on either side of the wall. If the retaining wall is not fixed because no one wants to claim ownership of it, then both properties would be criminally cited and would have to work out the matter in court. Mr. Johnson stated that the owners agreed to bring the stairs on the front porch and the stairs and landing on the south side up to code. He added that he did not know if Permits and Inspections would require a permit for work on the front porch columns. The owner has agreed to repair the driveway, most of the litter has been picked up and the exposed wiring has been taken care of, the weeds had all been cut, the front porch ceiling will be secured, the lattice on the front porch will be repaired and the entry storm door will be repaired or replaced. Mr. Johnson further stated that the peeling paint on the foundation has been mostly taken care of and the siding will be repaired. Mr. Johnson explained that the violation notice that is mailed to the property owner states that no work is to be performed before 7 a.m. and after 5 p.m. to ensure that the property is vacant overnight. In regards to the interior inspection, Mr. Johnson explained that he can look inside the building and see that plaster has fallen off of the ceiling and walls, and that it appeared as if a pipe had frozen over the winter. He would like to take a look inside to see if he can determine what happened and to make sure that it was repaired properly.

In response to Mr. Ryan’s question as to whether he was seeing progress with the property; Mr. Johnson responded that he had met with the owners and that progress has been made, adding that the remaining problems are not major ones.

Mr. Chatelain suggested that he and Mr. Johnson go through the settlement agreement (Exhibit 2) to decide what was agreed upon so they can then focus on what they do not agree on. Mr. Chatelain noted that there is an issue with the retaining wall and that the owners agreed to change the stair risers so that they are uniform. Mr. Johnson added that the owners would need to obtain a General Repair Permit and possibly would need to submit a set of plans to Permits and Inspections for the repair of the stairs. Mr. Johnson and Mr. Chatelain both agreed that on the south side of the building the owners would change the stair risers so that they are uniform and would reinforce the landing with joist hangers and additional bolts, if necessary.

In response to Ms. Keil’s question about the safety of the front porch columns, Mr. Chatelain responded that the owners agreed to replace the rotted elements at the base of the columns. In response to Mr. Feuerbach’s question as to whether the columns were structural columns, Mr. Johnson responded that they were.

Mr. Chatelain stated that Mr. Johnson did not sign the settlement agreement that he sent to him. Mr. Johnson responded that he did not sign the agreement because he does not know what permits will be required from Permits and Inspections.

Mr. Chatelain stated that the owners agreed to remove the trip hazard in the sidewalk and to resurface the driveway as scheduling permits. In response to Mr. Johnson’s request for a time limit for the resurfacing of the driveway, Mr. Chatelain responded that he would like 180 days to complete the work on the sidewalk and driveway. Mr. Chatelain and Mr. Johnson both agreed that the litter issue with the property had been addressed. In regards to the exposed wiring on the back of the house, Mr. Chatelain claimed that Mr. Johnson told the property owners it was acceptable if they were going to install central air units to the property. Mr. Johnson agreed.

Mr. Chatelain stated that he and the property owners did not agree with the stipulation that they could not work on the property before 7 a.m. and after 5 p.m. Kevin Denker, Chief Housing Inspector, explained that the code does not permit construction work before 7 a.m. Mr. Denker, Mr. Madeiros and Mr. Scott agreed that 9 p.m. would be the latest that they would work on the property.

Mr. Chatelain and Mr. Johnson further agreed that the property would be maintained, which includes the removal of weeds. They also agreed that the front porch ceiling would be secured and that the front porch lattice would be attached. In regards to the entry door and storm door on the south side of the property, Mr. Johnson stated if the entry door is deteriorated it would need to be replaced. He added that if there is central air at the property, no screen door would be required. However, if there was no central air then a screen door is required.
Mr. Schaefer requested clarification about whether the lattice on the front porch had been attached satisfactorily or not. Mr. Johnson stated that the lattice work had been completed. Mr. Chatelain and Mr. Johnson agreed that the peeling paint on the foundation had been fixed.

Mr. Chatelain did not agree with the City’s request for an interior inspection. He also did not agree that the siding was deteriorated and had been improperly installed. Mr. Chatelain explained that there was a J-channel piece missing on the small window on the north side of the property that the owners would have installed. Mr. Johnson responded that it was more than just a missing J-channel. He added that the J-channel is there, but that the trim around the window would need to be repaired to where it meets the siding. Mr. Chatelain suggested limiting the siding issue to the repair that needed to be done to the small north window.

Regarding the retaining wall to the north of the property, Mr. Chatelain stated that a measurement was done and that it appeared that the wall does not belong to his clients. Mr. Chatelain added that his clients have talked to the owner who informed them that he wants nothing done to the wall. In response to Mr. Schaefer’s question as to whether he possessed a surveyor’s report that could be used to determine the owner of the retaining wall; Mr. Chatelain responded that it is the City’s responsibility to prove who the owner of the wall is. Mr. Denker responded that, if necessary, the City would go out to measure the wall, and if the wall was found to be the responsibility of the neighboring property owner then that neighbor would get another notice on the wall. After some discussion, an agreement was made to remove the retaining wall from the list of repairs that need to be completed.

Thomas Jizba, Engineer, stated that he visited the property on February 2, 2012 to conduct an independent review of the property. He submitted the results of his findings in a report (Exhibit 4) which he distributed to the Board. Mr. Jizba noted the following: the vinyl siding was acceptable and in need of only minor repair; the electrical power circuits at the back of the building were de-energized and the hanging wires were found to be cable television lines; the east and center retaining wall sections along the north property line have 3 to 5 years remaining; the west section of the retaining wall needs repair and/or replacement by the owner who he noted was undetermined; an approximate 9’ x 24’ section of the driveway pavement and a section of curbing along the south property line should be replaced; an approximate 5’ to 8’ section of curbing should be replaced at the west end of the driveway; per the IRC code the southwest porch does not need a guard or handrail because it is less than 30” high, although he recommended an additional stair stringer at the center of the steps and a concrete pad be installed at the base; the front porch soffit trim and lattice panels need minor repair and debris needs to be removed from underneath; the front porch wood columns are sound, but additional caulk sealing and paint were recommended. In regards to the wood columns on the front porch, Mr. Jizba added that the wood columns were found to be sound and solid. He added that the columns probably have the capacity to hold 20,000 to 30,000 pounds each. Where there are cracks in the columns, Mr. Jizba recommended they be caulked, sealed and painted. Mr. Jizba stated that he agreed with the City that the front porch stair stringers need to be replaced to establish uniform riser tolerance. He also agreed that the ½” to ¾” offset in the joint of the sidewalk south of the front porch should be mud jacked or replaced to eliminate the trip hazard.

In response to Mr. Chatelain’s question as to whether there was any likelihood that the columns supporting the porch and the porch floor were in danger of partial or complete collapse; Mr. Jizba responded that based on his observations and the tests that he performed, it was his opinion that the existing porch columns and porch floor were structurally sound, stable and safe for occupancy. Mr. Jizba added that there was no need to replace or reinforce the deck floor or columns; although he recommended having them caulked and painted. He further added that he did not think there was any danger of the stairs on the front porch collapsing either partially or completely. Based on Mr. Jizba’s statements, Mr. Chatelain recommended that the repair of the porch floor and columns be removed from the list of violations.

Mr. Denker stated that he would agree with the repairs that were listed in Mr. Jizba’s report (Exhibit 4). Ms. Kiel agreed that the Board would also be satisfied with the property owners making the repairs that were listed in Mr. Jizba’s report (Exhibit 4).
Mr. Schaefer expressed concern with Mr. Jizba’s comment regarding the electrical power circuits being de-energized. Mr. Jizba responded that he reported on what he observed. Mr. Chatelain stated that it had been agreed that if the owners were going to install outside air conditioners, then the wires could remain until they were re-energized. Mr. Schaefer’s response was that an electrical permit would be needed to verify that all electrical work was done properly. He added that it was not acceptable for the wires to hang there with wire nuts, even if they were de-energized. Also, the electrical systems would need to be inspected regardless of when the air conditioning units were going to be installed.

Mr. Scott confirmed that repair of the retaining wall would not be required until a surveyor came out to decide who the owner is. He also confirmed with Mr. Denker that an interior inspection would not be required to have the property released if all other exterior repairs were made.

Mr. Denker agreed to an extension of 90 – 120 days for the completion of repairs listed in the original notice not including the retaining wall and handrails on the porch.

Motion by Ms. Kiel to grant an extension for 120 days to allow the applicant time to complete the items listed in the Atlas Engineering Consultant report (Exhibit 4), excluding the retaining wall and handrail on the porch. Seconded by Mr. Santo.

AYES: Feuerbach, Makinster, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 6-0

ADJOURNMENT:

Motion to adjourn made by Ms. Makinster. Seconded by Ms. Kiel.

AYES: Feuerbach, Makinster, Santo, Kiel, Schaefer, Ryan

MOTION CARRIED: 6-0

Meeting adjourned at 2:48 p.m.