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. 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 seven members were present.

Motion by Ms. Kiel to approve the minutes of the December 10, 2012 meeting. Mr. Schaefer seconded the motion.

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

ABSTAIN: Wiedenman

MOTION CARRIED: 6-0-1
CASES:

Case No. 12-038 (from 12/10/12)  
Scott Nuttelman/Denny Behrens  
Menards, Inc.  
5101 Menard Drive  
Eau Claire, WI 54703  
LOCATION: 7337 "L" Street  
REQUEST: Waiver to allow shallow footings under portions of a 37,069 sq. ft. warehouse building.

At the Building Board of Review meeting held on Monday, January 14, 2013, Tom O'Neil, Matthew Hull, and Jesse Cain, representatives from Menards, Inc., appeared before the Board in support of the request.

Mr. O'Neil stated that the applicant is proposing to construct a warehouse with a shallow foundation system, which has been utilized on several Menards warehouses. He noted that the stores on 120th and Dodge, along with others near Omaha, were built using this system. He explained that the system has been used at locations that had soils similar to those found in the Omaha area.

Greg Hauptman, Plans Examiner – Planning Department, stated that the City does not support the request, adding that frost protected footings should be installed. He noted that approximately 500' of the building along the west wall rests on frost protected footings. He also stated that he located microfilm of the original lumber warehouse at the 120th Street location, and found that frost-free footings were installed around the entire building.

Mr. Wiedenman stated that he has not used the ASCE 32 solution in Omaha because of the soil’s susceptibility to frost and because the City does not allow it. In response to Mr. Wiedenman, Mr. Hull stated that the structure is rack-supported. Mr. Hauptman stated that there would still be problems with the center of the structure heaving, regardless of whether there are perimeter footings in place. He added that the City requires that frost protected footing are installed so that the building will not move.

In response to Mr. Wiedenman, Mr. Hull stated that there have been some heaving issues with the type of system being proposed. Mr. Wiedenman stated that he was not convinced that insulation would prevent the ground from freezing underneath an unheated structure.

Ms. Kiel stated that she supported the City’s recommendation for this case, especially since cost, which was mentioned by the applicant at the previous Board meeting, is not usually a consideration when granting a waiver. Mr. Wiedenman added that the City does not recognize ASCE 32 as an alternative to the foundation systems. He suggested alternatives that could be used instead.

Mr. Wiedenman moved to DENY. Mr. Feuerbach seconded the motion.

AYES: Feuerbach, Wiedenman, Santo, Kiel, Schaefer, Ryan
ABSTAIN: Makinster
MOTION CARRIED: 6-0-1
At the Building Board of Review meeting held on Monday, January 14, 2013, Mike Thompson with Alley Poyner Macchietto Architecture appeared before the Board in support of the request.

Mr. Thompson explained that the property has seven windows on the east and west sides that are on the property line. The property owner would like to preserve the windows and install a sprinkler system as part of the project. Also, a perpetual easement on the east side of the property allows for access to the exit. Mr. Thompson noted letters from the two adjacent property owners which stated their support for the proposal.

Greg Hauptman, Plans Examiner – Planning Department, stated that installation of a sprinkler system over the windows would be required by the City. He noted that, although there have been similar cases in the past, this case differs in that the existing building is a one-story building with no adjacent buildings on either side. He stated that the City is in support of the request, but recommends that: 1) the subject property will need be re-evaluated if the east or west parking lots are ever developed in any way; 2) the owner acknowledges that if either parking lot changes, they may be required to block up any existing openings and find an alternative code compliant means of egress; and 3) the owner agrees to provide additional sprinkler coverage directly over the top of all openings on the east and west sides of the building.

Mr. Thompson agreed with the conditions of the request.

Ms. Makinster moved to APPROVE subject to: 1) the subject property will need be re-evaluated if the east or west parking lots are ever developed in any way; 2) the owner acknowledges that if either parking lot changes, they may be required to block up any existing openings and find an alternative code compliant means of egress; and 3) the owner agrees to provide additional sprinkler coverage directly over the top of all openings on the east and west sides of the building. Mr. Wiedenman seconded the motion.

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

MOTION CARRIED: 7-0
At the Building Board of Review meeting held on Monday, January 14, 2013, Nathan Gieselman and Albert Macchietto, both with Alley Poyner Macchietto Architecture, appeared before the Board in support of the request.

Mr. Macchietto stated that his firm has requested this type of waiver on several different occasions and have been granted the request in each case.

In response to Ms. Kiel, Mr. Macchietto stated that the door could swing outward instead of inward, but that it would not be the best solution. He added that this project consists of new construction inside of an existing building.

Ms. Makinster stated that it would be better to have the doors to swing inward so that it would not open into a corridor. Mr. Macchietto explained that if 30”x48” of clear floor space inside of a single occupancy toilet room could be provided outside of the door swing, and the door can be closed and locked, the overlapping issue would not matter.

Mr. Macchietto clarified that the waiver for a unisex or family restroom is not part of the request before the Building Board of Review.

Ms. Kiel moved to APPROVE the waiver as requested. Ms. Makinster seconded the motion.

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

ABSTAIN: Feuerbach

MOTION CARRIED: 6-0-1
At the Building Board of Review meeting held on Monday, January 14, 2013, Joseph Smejkal appeared before the Board in support of the request.

Mr. Smejkal explained that, as a result of an agreement between Omaha Public Schools and the City Parks Department, he has constructed various projects for OPS primarily in city parks. The facilities can also be used for groups outside of OPS. He further explained that the facility in Columbus Park was a single story concession facility with no restrooms. A second story and restrooms are being proposed, so that this facility will be similar to those in other parks. The Planning Department requested that a ramp or elevator be added to the second floor. Mr. Smejkal explained that the addition of an elevator would greatly increase both the cost of the project and the size of the building. He added that the addition of a ramp would not be practical since it would have to be over 100’ long. For these reasons, he is requesting that stairs be allowed.

Mr. Ryan noted that the Planning Department did not object to the request as long as the applicant understood that the Board could not provide waivers that related to Federal requirements. Greg Hauptman, Plans Examiner – Planning Department, stated that the waiver would be for the local level only; the Federal Government does require access to the facility. He added that if a complaint was made, the applicant could be required to comply with federal standards.

Mr. Feuerbach moved to APPROVE subject to the applicant complying with any and all Federal requirements in the event that a complaint is received or an inspection is done on the building. Ms. Kiel seconded the motion.

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

MOTION CARRIED: 7-0
At the Building Board of Review meeting held on Monday, January 14, 2013, Jay Davis, City of Omaha - Assistant Planning Director and Superintendent, appeared before the Board in support of the request.

Mr. Davis explained that the 2010 ADA requirements came into effect as of March 2012. The 2006 International Building Code (IBC) used by the City of Omaha does not entirely address the new standards, which includes the ANSI A1171.1 requirements. The City would like to amend Section 1109.2 of the 2012 IBC so that allowances can be made in a 30”x48” space for an encroachment of a door swing into a required fixture clearance in a single user restroom. This would allow the City to grant this type of waiver until the 2012 standards are adopted.

Mr. Feuerbach moved to APPROVE the waiver as requested. Mr. Wiedenman seconded the motion.

In response to Mr. Schaefer, Mr. Davis explained that this exception would apply to cases that come under review of the Planning Department until the 2012 code is adopted. This would only apply to cases where the applicant is requesting a waiver to allow the encroachment of a door swing. Mr. Hauptman added that, although requests of this type are rare, the City has in the past obtained waivers for Omaha and the 3-mile jurisdiction.

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

MOTION CARRIED: 7-0
Case No. 12-039
(from 12/10/12)
Michael Gryskiewicz
6417 South 118th Plaza
Omaha, NE 68137

LOCATION: 119 North 38th Street – Apt. No. 3, Apartment Interior

This request was withdrawn at the request of the applicant. Roger Carroll, Housing Inspector, stated that he had met with the applicant at the property. Mr. Gryskiewicz intends to be done with all repairs by the end of January 2013.
At the Building Board of Review meeting held on Monday, January 14, 2013, Matthew and Kathy Fadell appeared before the Board in support of the request.

Mike Johnson, Housing Inspector, stated that he has been dealing with this property since 2004. He sent another Notice of Violation to the property owners on November 20, 2012. The notice applies to the exterior of the property only. Mr. Johnson submitted photos of the front porch (Exhibit #2), the back porch (Exhibit #3), the grading slope on toward the structure on the west side (Exhibit #4), and the driveway (Exhibit #5). He also submitted photos of an underground drainage on the east side that was installed without the benefit of a permit (Exhibit #6). The water from the drain flows towards the foundation of an adjacent property. Mr. Johnson requested that the City deny the appeal and not extend any more time for repairs. If an extension was granted, he suggested that it be no more than 60 days to allow some repairs.

In response to Mr. Schaefer, Mr. Johnson submitted the Notice of Violation dated November 20, 2012 which included the list of violations (Exhibit #7).

Mr. Fadell stated that in September 2004, he received a Notice of Violation from Mr. Johnson for exterior violations, which included a rotted floor, deteriorating soffits, cracked glass, overgrown vegetation, and several other issues. He stated that there was no mention of improper drainage. Mr. Fadell explained that in order to make the property assessable for a tenant who was in a wheelchair, he and his wife, with assistance from the League of Human Dignity, installed a new front porch. Mr. Fadell submitted a plan which showed the modifications that were made to the front porch (Exhibit #8). He also submitted before and after pictures of the front porch (Exhibit #9). Mr. Fadell did not agree with Mr. Johnson’s assessment regarding the condition of the porch. He stated that when Mr. Johnson visited the home as a result of a tenant complaint in May 2006, the home was deemed inhabitable. Mr. Fadell submitted photos of other homes in his neighborhood that he felt were in worse condition than his property (Exhibit #10). He stated that the roof, gutters, and soffits have all been replaced on the property in the last few years.

In response to Mr. Ryan, Mr. Fadell stated that he understood the City’s issue with the exterior of the property. Mr. Ryan explained that if Mr. Fadell was willing to resolve the issues with the property, the Board could then decide whether or not they would grant him additional time for repairs. Mr. Fadell responded that he did not feel that any repairs needed to be made to the porch or drain. Ms. Fadell further responded that the cracks in the driveway are a result of normal wear and tear and, therefore, does not need to be replaced. Mr. Faddell did agree that there was some tuck pointing that needed to be done and that the garage door would need to be replaced when the property is sold.

Kevin Denker, Chief Housing Inspector, stated that this address has had an open case in the Code Enforcement Division since 2004. He explained that although a permit had been taken out for the porch and that it had been repaired, the new porch was installed over old, rotten wood. He also explained the problems with the drainage work.

There were several accusations made by the Fadell’s regarding Mr. Johnson. Mr. Ryan explained that the Board does not decide personnel problems and that those types of issues should be taken to the City Personnel Department. Mr. Ryan stated that if an agreement could not be reached, the Board could vote to deny the appeal. This would give the applicant the option of appealing to the District Court. He also stated that the Board could suggest that the inspectors and property owners meet at the property to decide which issues need to be addressed. Mr. Fadell responded that he preferred to meet with an inspector so that an agreement could be reached on what work needed to be done. Mr. Denker agreed that this could be done.
Mr. Fadell stated that he would contact the League of Human Dignity to discuss the work that had been performed on the front porch.

Mr. Wiedenman moved to grant an extension of 90 days. Ms. Kiel seconded the motion.

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

MOTION CARRIED: 7-0

Mr. Denker suggested to Mr. Fadell that he contact a structural engineer and have that person look at the front porch. Mr. Johnson added that any contractor should provide proof that they are licensed with the City of Omaha, and not just registered with the State.
ADJOURNMENT:

Motion to adjourn made by Ms. Makinster. Seconded by Mr. Wiedenman.

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

MOTION CARRIED: 7-0

Meeting adjourned at 2:49 p.m.