Mr. Wiedenman, Acting-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. Wiedenman 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. Wiedenman requested that speakers limit their presentation to 10 minutes.

Mr. Wiedenman 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 for the March 11, 2013 meeting. Mr. Schaefer seconded the motion.

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

MOTION CARRIED: 6-0

Motion by Mr. Schaefer to approve the minutes for the April 8, 2013 meeting. Ms. Kiel seconded the motion.

AYES: Santo, Kiel, Schaefer, Wiedenman

ABSTAIN: Feuerbach, Makinster

MOTION CARRIED: 4-0-2
Case No. 13-006  
LOCATION:  5603 Oak Hills Drive  
Postponed from 2/11/13 & Laid Over from 3/11/13  
REQUEST: Waiver to eliminate the requirement for an egress window from a basement.

Larry Bakker & Steve Nass  
5603 Oak Hills Drive  
Omaha, NE 68137  

This request was withdrawn at the request of the applicant.
Case No. 13-024
Art Push
P.O. Box 4189
Omaha, NE 68104

LOCATION: 1030 South 24th Street
REQUEST: Waiver to allow the use of a residential grade fire suppression hood in lieu of the Type I commercial hood required by Section 507 of the 2006 International Mechanical Code

At the Building Board of Review meeting held on May 13, 2013, Art Push and Bob Palmore appeared before the Board in support of the request.

Mr. Push stated that the proposed hood would be used with a residential stove and that the stove would be used to warm soup or to heat pre-made dishes.

Mr. Palmore explained that the hood is self-contained, noting that it includes a fire extinguishing system similar to a commercial hood.

Greg Hauptman, Plans Examiner, stated that he reviewed the proposal along with Captain Dickerson of the Omaha Fire Department, and that neither objected to the request.

Tom Phipps, Chief Mechanical Inspector, stated that the appliance being proposed by the applicant is the first appliance to meet the requirement for a commercial hood for a residential appliance. He further stated that in the past, similar waivers were granted by the Board that added a fire suppression system to an existing kitchen hood. The hood being proposed is a complete product and the only one of its kind. He mentioned that one major difference is that it does not comply with the 2006 International Mechanical Code which requires that the church have a Type I hood. However, it does comply with the 2009 and 2012 version of the International Mechanical Code. Mr. Phipps suggested the following stipulations: the exhaust system must be ducted to the exterior; the gauging of the sheet metal to be used must be 24 or larger; the seams must be sealed with a fire-protected caulking or other high temperature material; and, if the appliance is connected to gas the gasket must be high temperature similar to a Type 1 hood. He added that for this type of system the exhaust system does not need to be insulated since the suppression system is included.

Mr. Feuerbach moved to APPROVE subject to the exhaust system must be ducted to the exterior; the gauging of the sheet metal to be used must be 24 or larger; the seams must be sealed with a fire-protected caulking or other high temperature material; and, if the appliance is connected to gas the gasket must be high temperature similar to a Type 1 hood and must be enclosed if it runs through an air plenum. Also, the hood must be installed in strict accordance with the manufacturer’s installation requirements. Ms. Makinster seconded the motion.

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

MOTION CARRIED: 6-0
At the Building Board of Review meeting held on May 13, 2013, Jim Rogers appeared before the Board in support of the request.

Mr. Rogers explained that he is constructing a pole structure that will include a small residence inside. He stated that he was seeking clarification for the minimum footing requirements for the structure.

Greg Hauptman, Plans Examiner, stated that any shallow footing provisions have been deleted from the code. Jay Davis, Superintendent – Permits and Inspections, stated that he had met with the applicant regarding the request. He noted that only 1/3 of the building would be used for residential purposes. He suggested to the applicant that he add frost protection to three of the four sides where the proposed residence would be located, since the footings were already in place for the posts. He added that the applicant could apply ASCE 32 to the interior of the building.

Mr. Wiedenman noted that the ASCE 32 provision was deleted from the 2006 International Building Code, due to the fact that it does not work well in this area’s climate. In response to Mr. Wiedenman, Mr. Rogers stated that he would be willing to install full footings to the interior. He further stated that only the living area of the structure is heated.

Mr. Hauptman suggested that a control joint be added in case there are issues with heaving in the shop area of the building. Mr. Wiedenman stated that the applicant’s engineer would need to submit revised drawings reflecting any changes to the plans.

Ms. Kiel moved to accept the plans as shown for the uninhabited portion of the building; the residential portion is required to have frost-protected footing on all four sides as per City Code. Also, revised plans must be submitted and approved by the Permits and Inspections Department for the uninhabited portion of the building. Mr. Feuerbach seconded the motion.

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

MOTION CARRIED: 6-0
At the Building Board of Review meeting held on May 13, 2013, Theresa Fitzgerald, Doug Hauze (Prochaska & Associates) and William Huey (Prochaska & Associates), appeared before the Board in support of the request.

Ms. Fitzgerald began by explaining the purpose of the center. She stated that the facility would mainly serve children with medical, behavioral, and developmental disabilities. The services provided will include nursing, educational support, therapy, service coordination, respite, summer day camp and transportation. The center will hold three licenses: Children’s Day Health Service (CDHS) for the children that require nursing services; a childcare license for the other children; and, a respite license. She explained that although CDHS is their designation for Medicare reimbursement, the facility is not a professional health care provider nor will it provide professional health care services. She added that the services provided will include assessments, monitoring of seizure activity, feeding treatments and trach care. She noted that there will be no physician overseeing the operation. Instead, staff will work with the child’s physician and carrying out their orders to maintain the health and safety of the child. Ms. Fitzgerald explained that the building is not open to the general public, but will be restricted to the families that are being served. She stated that the administrative offices on the mezzanine level will never be accessed by the children being cared for and that all activities related to the care of the children will be done on the main floor which includes the classrooms, library, kitchen and the nurse’s room. She mentioned that the center meets childcare regulations for staff to child ratio, food service and outdoor play requirements; the CDHS regulations will only apply in the area where care is provided, which is the main floor.

Ms. Fitzgerald explained why the case was before the Building Board of Review. She stated that Mr. Hauptman advised that an elevator was required and that Jay Davis, Superintendent – Permits and Inspections, would send an email stating that the plans were approved; however, the Planning Department decided to reverse its decision. Mr. Hauze stated that he believed the main issue was compliance or non-compliance with International Building Code (IBC) chapter 11, section 1104.4 which details accessibility guidelines for multilevel buildings and facilities, and exceptions to those guidelines. He maintained that the applicant meets exception 1 of the section since the mezzanine, or second level, will not contain offices of health care providers. Mr. Hauze submitted a response from the International Code Council regarding their interpretation of the case (Exhibit B).

Mr. Davis stated that originally he was only aware of physical therapy activity; however, he did not know about the various nursing services that would be provided, which gave him the impression that the facility could possible appear to be the office of a health care provider. He referred to the 2010 version of the Americans with Disabilities Act standards which states that if a health care provider is in a facility, then the entire facility is the office of a health care provider. He presented the case to the Great Plains ADA and was told there was no way to separate the health care provider from other departments in the facility. Mr. Davis stated that he did not want to City to approve a project that will not meet the approval of the Department of Justice.

Mr. Hauze responded that the 2010 ADA standards include an allowed elevator exemption. Mr. Huey added that an elevator is not required for access to the second floor since all of those offices are administrative, while the physical therapists and nurses areas are all located on the main level.

Greg Hauptman, Plans Examiner, stated that he has always felt that the elevator, which is already included in the building plans, should provide access to the second level. He noted that the International Building Code states that an elevator should be included in any facility that provided health care services.
In response to Ms. Makinster, Mr. Hauze defined what Group M, Group B, and Group I designations are. He explained that the first floor of the facility would have an I-4 designation, which is reserved for day care centers. There was some discussion as to the location of the mezzanine in relation to the elevator. Ms. Kiel suggested that the elevator be relocated to an area that would make it accessible to the second level mezzanine area, especially since no construction work had been started.

With regards to the cost of relocating the elevator, Mr. Wiedenman stated the Board does not consider cost a hardship when deciding the outcome of a case. He considered other instances where health care is incidental to the purpose to a facility. Mr. Davis mentioned that the facility would not have 24-hour occupancy, or it would actually qualify as an I-2 occupancy.

Mr. Feuerbach stated that he would be abstaining from the vote on the case since he knows Ms. Fitzgerald and has discussed the building project with her.

Mr. Davis spoke about the project with respects to employment law. He stated that it could appear as if the applicant is deciding not to employ a disabled person who may need access to the second level. In response, Ms. Fitzgerald stated that there will be five offices and two work spaces on the first level that would accommodate any staff member with a disability.

Mr. Hauptman stated that when he met with the applicant, the drawings were incomplete and the project, from his understanding, was for a daycare. He added that he was not aware of the full scope of the project until he viewed the plans.

In response to Ms. Kiel, Mr. Davis stated that he would contact the International Code Council and the Great Plains ADA to get their thoughts of the situation.

Mr. Schaefer commented on the fact that the bathroom on the second floor would be wheelchair assessable and stated that thought has to be given as to how someone in a wheelchair would be able reach that area.

In response to Ms. Makinster, Mr. Hauptman stated that typical daycares are usually constructed at grade level and do not require elevators. Mr. Davis stated that if there were no medical services in the building, an elevator would not be required.

Ms. Fitzgerald agreed to provide Mr. Davis with documentation that explains a description of the services to be provided at the facility. That information, along with a copy of the plans, would be included in his request for information from the International Code Council and the Great Plains ADA.

Ms. Makinster moved to APPROVE subject to approval from the International Code Council and the Great Plains ADA regarding whether or not an elevator is required for the facility. Ms. Kiel seconded the motion.

Mr. Davis clarified that he would request from both entities a definition of the facility’s classification along with an answer as to whether the elevator will be required to have access the second level.

Mr. Hauptman suggested that the Board deny the request unless approval was granted from both the International Code Council and the Great Plains ADA.

Ms. Makinster AMENDED her motion. The request was DENIED unless approval is granted from both the International Code Council and the Great Plains ADA regarding whether or not an elevator is required for the facility. Ms. Kiel seconded the amended motion.

AYES: Makinster, Santo, Kiel, Schaefer, Wiedenman

ABSTAIN: Feuerbach
At the Building Board of Review meeting held on May 13, 2013, John Chatelain and Josh Scott appeared before the Board in support of the request.

Kurt Holmstrom, Housing Inspector, stated that he and the applicant had reached an agreement. He requested that the case be laid over for 60 days to give the owner time to comply. He added that he had already received a schedule from the property owner.

Mr. Chatelain agreed with the layover and stated that if the work was done before the 60 days the request would be withdrawn.

Ms. Kiel moved to LAYOVER for 60 days until the July 8, 2013 meeting of the Board. Mr. Feuerbach seconded the motion.

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

MOTION CARRIED: 6-0


**ADJOURNMENT:**

It was the consensus of the Board to adjourn the meeting at 2:15 p.m.