MINUTES
ZONING BOARD OF APPEALS
REGULAR MEETING - THURSDAY, MAY 20, 2010
CONFERENCE ROOM - 7th FLOOR, ROOM 702 - 1:00 P.M.
CIVIC CENTER - 1819 FARNAM STREET
OMAHA, NEBRASKA

PRESENT: Bert Hancock, Chairman
Brian Mahlendorf, Vice Chair
Lloyd Meyer
Jacque Donovan
Sebastian Anzaldo

OTHERS PRESENT: Tom Blair, Board of Appeals Administrator
Rosemarie Horvath, Assistant City Attorney
David Fanslau, Current Planning Manager

Mr. Hancock 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. He stated that case #10-043 is laid over per the applicant's request.
LAYOVER CASES:

1. Case No. 10-005
   (over from 1/21/10, 2/18/10, 3/18/10, 4/15/10)
   The Architectural Offices
   4610 Dodge Street  68132

   REQUEST: Waiver of Section 55-246 – Variance to the
   minimum lot width from 50’ to 40’ to erect a
   new duplex

   LOCATION: 1545 S 28 Street
   ZONE: R7

   STAFF RECOMMENDATION: Denial

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Mr. Bryan Zimmer, Architect, The Architectural Offices, 4610 Dodge Street, appeared on behalf of the applicant in support of the waiver.

Mr. Blair, ZBA Administrator, stated that this case was laid over for appropriate advertising. He stated that according to the current exhibit, the applicant's request changed to accommodate a two-story duplex, one unit above the other. Blair commented that parking is no longer being installed on 28th Street. He stated that the applicant will keep the proposed duplex separate from the corner property. The lot is 40' wide and in order to erect a duplex the code requires a lot width of 50 feet. The Department's concern is that the building is very large for such a narrow lot. A better use for the property is a single family dwelling if it is not combined with the corner property. The Department is opposed to this request.

Mr. Zimmer stated that the unit was made smaller by taking out 4' through the middle of the duplex from east to west, narrowing the dwelling by 18 feet, and positioning the building further east to fit within the setbacks. The parking requirements have been met as well. Zimmer confirmed that the original design of an office was eliminated. The proposed duplex consists of two four-bedroom units.

Mr. Mahlendorf stated some concern in light of the original intent which was for a group home. He added that the board would use caution regarding a request for two four-bedroom units on the property due to providing only three parking stalls.

Mr. Meyer moved to APPROVE the waiver in accordance with the amended plan. Mr. Hancock seconded the motion.

NAYES: Anzaldo, Mahlendorf, Meyer, Donovan, Hancock

MOTION FAILED: 5-0

Discussion surrounded reducing the size of the proposed duplex to three-bedroom units or more parking. Mr. Zimmer stated that the front yard setbacks, relative to width, only allows for three parking stalls. Mr. Hancock stated the board may support an amended plan which shows the square footage, layout, etc. for two three-bedroom units.

Mr. Meyer moved to APPROVE a substitute motion to layover the request to allow the applicant to amend the request accordingly. Ms. Donovan seconded the motion.

AYES: Mahlendorf, Meyer, Donovan, Anzaldo, Hancock

MOTION CARREID: 5-0
2. Case No. 10-029  
(over from 4/15/10)  
Planit Omaha  
10832 Old Mill Road Suite 8  68154  

REQUEST:  Waiver of Section 55-768 – Variance to allow a temporary commercial use not permitted in the R4(35) District for the 2010 College World Series  

LOCATION:  3406 S 14 Street  
ZONE:  R4(35)  

STAFF RECOMMENDATION:  Denial  

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Ms. Lesley Brandt, Planit Omaha, 10832 Old Mill Road, Mr. Jerry Slusky, Attorney, and the property owner, appeared before the board in support of the waiver.  

Mr. Tom Blair, ZBA Administrator, stated that a similar waiver was approved in past years. He noted the stipulations attached with regards to the commercial operations in close proximity to residential properties.  

In response to Mr. Anzaldo, Ms. Brandt stated that alcohol would not be sold. Anzaldo recommended amending this applicant's hours of operation to 12 midnight in the event that games run past 11:00 p.m.  

Mr. Anzaldo moved to APPROVE, subject to: 1) for this applicant only, 2) for the 2010 College World Series only, 3) no bands, 4) no sale of food or alcohol, 5) the applicant must provide a detailed site plan showing tents, vendor tables, temporary fencing, signage and pedestrian access, 6) the hours of operation will be 8:00 a.m. until midnight, 7) no use of golf carts or other motorized vehicles, 8) the applicant must provide trash pick-up daily, security and portable toilets, 9) product delivery between 6:00 a.m. and 10:00 a.m. only and 10) a required setback of 2’ from the property line including stakes, tie downs, overhangs and signage; and 11) signage will be limited to 20 sq. ft. for each 50 feet of linear frontage. Mr. Meyer seconded the motion.  

AYES:  Meyer, Donovan, Anzaldo, Mahlendorf, Hancock  

MOTION CARRIED:  5-0
NEW CASES:

3. Case No. 10-035  
Debbie Nelson  
702 S 178 Street  68118  
REQUEST: Waiver of Section 55-740 – Variance to the hard-surfacing requirements for a residential driveway to provide gravel access  
LOCATION: 20950 State Street  
ZONE: AG  

STAFF RECOMMENDATION: Approval, subject to the applicant agreeing to pave the approach plus 50 feet once State Street is improved.

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Ms. Debbie Nelson, property owner, appeared before the board in support of this request.

In response to Mr. Hancock, Chair, Ms. Nelson agreed to pave the approach plus 50' once State Street is improved. In response to Ms. Nelson, Mr. Blair, ZBA Administrator, informed her that State Street is in the city's zoning jurisdiction, however resurfacing would be done by Douglas County.

Mr. Mahlendorf moved to APPROVE the waiver, subject to the applicant agreeing to pave the approach plus 50 feet once State Street is improved. Ms. Donovan seconded the motion.

AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

MOTION CARRIED: 5-0
4. Case No. 10-036
Fil Catania
4412 S 42 Street

REQUEST: Waiver of Section 55-366 - Variance to the front yard setback from 25’ to 0’ to erect a 30’ X 25’ canopy

LOCATION: 4412 S 42 Street
ZONE: CC

STAFF RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Mr. Anthony Catania, 4412 S. 42nd Street, appeared on behalf of the applicant in support of this request.

Mr. Tom Blair, ZBA Administrator, introduced the case. Mr. Hancock informed the applicant that the board inspected the site. Mr. Anzaldo commended Mr. Catania on the improvements made to the property.

Ms. Donovan moved to APPROVE the request in accordance with the plans submitted. Mr. Meyer seconded the motion.

AYES: Anzaldo, Mahlendorf, Meyer, Donovan, Hancock

MOTION CARRIED: 5-0
5. Case No. 10-037  
Straightline Design, Inc.  
3925 S 147 Street, Ste 119  68144  

REQUEST: Waiver of Section 55-126 & 55-715 -  
Variance to the front yard setback from 50’ to 14.3’ and to the side yard setbacks from 25’ to 12’ and to the street yard landscaping from 75% to 55.1% to erect sunroom addition and replace existing decks  

LOCATION: 21925 Quail Ridge Circle  
ZONE: R1  

STAFF RECOMMENDATION: Approval in accordance with the plans submitted.  

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Mr. Mick McGuire, Straightline Design, Inc., appeared on behalf of the applicant in support of this request.  

Mr. Blair, ZBA Administrator, stated that this case is similar to other properties involved in the annexation of Elkhorn and the zoning changes that occurred. Many of the decks and deck-type walkways are used to get to different portions of the property due to the severe grade change from Quail Ridge Circle down to the Elkhorn River Valley. This same problem exists for other property owners on Quail Ridge Circle. In response to Mr. Meyer, Mr. McGuire stated that there have been no objections from neighbors regarding the request.  

Mr. Mahlendorf moved to APPROVE the request in accordance with the plans submitted. Ms. Donovan seconded the motion.  

AYES: Mahlendorf, Meyer, Donovan, Anzaldo, Hancock  

MOTION CARRIED: 5-0
6. Case No. 10-038
V. J. Designs Inc.
14470 Sherwood Avenue  68116

REQUEST: Waiver of Section 55-186 - Variance to the rear yard setback from 25’ to 20’ to construct new deck

LOCATION: 15803 Lake Street

ZONE: R4

STAFF RECOMMENDATION: Denial

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Ms. V. J. Correll, V. J. Designs, and Ms. Diane Neumann, 15803 Lake Street, appeared before the board in support of this request.

Mr. Blair, ZBA Administrator, stated that there is a deck on the property currently which meets the required setbacks. He stated that the deck is to be removed. The new design is at an angle to the rear property line which extends to within 20’ of the rear property line. The Department’s concern is that the property owner’s outdoor activity would be closer to the adjacent property on the south side. Blair stated that there is no hardship associated with the ordinance in that the 25’ setback has been routinely observed throughout this subdivision.

Mr. Hancock stated that it is unusual to grant waivers of this kind in a new subdivision. Mr. Hancock inquired if the applicant would consider building the deck on the north side. Ms. Correll stated that the applicant has a very narrow backyard compared to the adjacent properties. She commented that the south-facing exposure is very hot. Correll explained that the proposed deck would be angled to the right with a pergola added in order to get some screening on the space right off the kitchen doors. Correll added that this option to do a two-level deck is the same elevation as it is now. There is a step-down on the left side. She stated that the neighbors on either side have no objections.

Mr. Meyer moved to APPROVE the request. Ms. Donovan seconded the motion.

AYES: Meyer, Donovan, Anzaldo, Mahlendorf, Hancock.

MOTION CARRIED: 5-0
7. Case No. 10-039
   James L. Lemon
   6318 N 49 Street  68104

REQUEST:       Waiver of Section 55-108 - Variance to the
               side yard setback from 25’ to 20’ to
               reconstruct a 30’ X 50’ storage shed

LOCATION:      6318 N 49 Street
ZONE:          DR

STAFF RECOMMENDATION: Approval

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Mr. James L. Lemon, appeared
before the board in support of this request.

Mr. Blair, ZBA Administrator, stated that this structure was built years ago under a different ordinance.
He stated that the structure received damages due to snow loads. Mr. Lemon stated that the building
will be reconstructed using three laminated 2 X 6 trusses which are stronger. Blair stated that the
uniqueness about the site is that it is so much larger than surrounding residential properties. He added
that the building is necessary to house the equipment to maintain a property of that size. Blair stated
that there is no objection from neighbors regarding this request.

Mr. Meyer moved to APPROVE the request. Ms. Donovan seconded the motion.

AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

MOTION CARRIED: 5-0
8. Case No. 10-040  
Sebastian A. Anzaldo  
910 S 37 Street  68105

REQUEST: Waiver of Section 55-206 - Variance to the front yard setback from 35’ to 25’ to erect single-family residence

LOCATION: 2314 Drexel Street

ZONE: R5(35)

STAFF RECOMMENDATION: Approval

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Mr. Sebastian A. Anzaldo appeared before the board in support of this request.

Mr. Anzaldo stated that this request is due to the various variances in the area and the 25’ setback would provide a better appearance. He stated that there is also a heavy grade change from the south to the north which will allow for a basement. Anzaldo stated that a second floor will be included to the rear of the house. Mr. Hancock noted that the Planning Department recommended approval because the neighboring houses have front yard setbacks that are considerably less than 35 feet.

Mr. Meyer moved to APPROVE the request. Ms. Donovan seconded the motion.

AYES: Mahlendorf, Meyer, Donovan, Hancock

MOTION CARRIED: 4-0
9. Case No. 10-041
Dean Miller
204 Tower Ridge Court
Council Bluffs, IA 51503

REQUEST: Waiver of Section 55-768 - Variance to allow a temporary commercial use not permitted in the R4(35) District during the 2010 College World Series

LOCATION: 3406, 3408, 3468, and 3482 S 13 Street
ZONE: R4(35)

STAFF RECOMMENDATION: Approval

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Mr. Dean Miller, appeared before the board in support of the waiver.

Mr. Bert Hancock, Chair, informed the applicant of the stipulations from previous years with extended hours to midnight due to late games this year.

Mr. Tom Lovgren, 3421 S. 14th Street, appeared in opposition.

Mr. Lovgren was concerned that parked cars have been known to block the passageway for wheelchairs when traveling on the west side of 13th Street. He stated that wheelchair patrons are forced to divert into the street in order to travel in some areas.

Mr. Hancock stated that requirements for all tables, stakes, etc. are to be 2’ from the property line equating to 9’ from the curb. Mr. Blair stated that problems occur when crowds build up due to the popularity at certain locations. Blair added that Public Works ensures that all applicants are 2’ back by marking the property lines. Hancock inserted that the applicant be cognizant of cars at the subject locations that would hinder the movement of wheelchair patrons.

In response to Mr. Anzaldo, Mr. Miller stated that alcohol would not be sold.

Mr. Anzaldo moved to APPROVE the waiver, subject to: 1) for this applicant only, 2) for the 2010 College World Series only, 3) no bands, 4) no sale of food or alcohol, 5) the applicant must provide a detailed site plan showing tents, vendor tables, temporary fencing, signage and pedestrian access, 6) the hours of operation will be 8:00 a.m. until midnight, 7) no use of golf carts or other motorized vehicles, 8) the applicant must provide trash pick-up daily, security and portable toilets, 9) product delivery between 6:00 a.m. and 10:00 a.m. only and 10) a required setback of 2’ from the property line including stakes, tie downs, overhangs and signage; and 11) signage will be limited to 20 sq. ft. for each 50 feet of linear frontage. Ms. Donovan seconded the motion.

AYES: Meyer, Donovan, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0
10. Case No. 10-042
   Rich Tokheim
   4255 N 143 Street  68164

REQUEST: Waiver of Section 55-768 – Variance to allow a temporary commercial use not permitted in the R4(35) District during the 2010 College World Series

LOCATION: 3476 S 13 Street
ZONE: R4(35)

STAFF RECOMMENDATION: Approval

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Mr. Rich Tokheim, and Mr. Tony Aliano, 3476 S. 13 Street, appeared before the board in support of the waiver.

Mr. Tom Blair, ZBA Administrator, stated that the applicant provided a detailed plan showing the location of the tent as it relates to the property line and the curb line which meets the criteria previously established.

In response to Mr. Hancock, Mr. Tokheim stated that they will be mindful of cars not being in the right-of-way to block pedestrians from passing.

In response to Mr. Anzaldo, Mr. Tokheim stated that alcohol will not be sold. Anzaldo also recommended an extension of the hours of operation to midnight due games that will run past 11:00 p.m.

Ms. Donovan moved to APPROVE the waiver, subject to: 1) for this applicant only, 2) for the 2010 College World Series only, 3) no bands, 4) no sale of food or alcohol, 5) the applicant must provide a detailed site plan showing tents, vendor tables, temporary fencing, signage and pedestrian access, 6) the hours of operation will be 8:00 a.m. until midnight, 7) no use of golf carts or other motorized vehicles, 8) the applicant must provide trash pick-up daily, security and portable toilets, 9) product delivery between 6:00 a.m. and 10:00 a.m. only and 10) a required setback of 2’ from the property line including stakes, tie downs, overhangs and signage; and 11) signage will be limited to 20 sq. ft. for each 50 feet of linear frontage. Mr. Meyer seconded the motion.

AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

MOTION CARRIED: 5-0
11. Case No. 10-043
   TRP Properties, LLC
   12910 F Plaza  68137

   **LAYOVER**

   **REQUEST:**
   Appeal of the determination by the City of Omaha that an existing use exceeds the maximum permitted sound levels of the General Industrial District as provided by Sections 55-803 & 55-804 -and-
   Appeal of the determination by the City of Omaha that the existing use is considered “Scrap & Salvage” and consequently requires a Special Use Permit to be approved by the City Council

   **LOCATION:** 12910 F Plaza
   **ZONE:** GI

   **STAFF RECOMMENDATION:**

   At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, the applicant requested a layover.

   Mr. Mahlendorf moved to LAYOVER this request. Mr. Meyer seconded the motion.

   **AYES:** Anzaldo, Mahlendorf, Meyer, Donovan, Hancock

   **MOTION CARRIED:** 5-0
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12. Case No. 10-044
Autism Center of Nebraska
4007 Harrison Street  68147

REQUEST: Waiver of Section 55-163 - Variance to the use regulations of the R3 District to allow for the training of 23 autistic clients (trade school) not permitted in the R3 District

LOCATION: 9012 Q Street
ZONE: R3

STAFF RECOMMENDATION: Approval in accordance with the operating statement provided with this application and for this applicant only.

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Mr. Walt Peffer, PJ Morgan Real Estate, 7801 Wakeley Plaza, appeared on behalf of the applicant in support of this request.

Mr. Tom Blair, ZBA Administrator, introduced the case. He stated that this request is to waive, not change, the zoning regulations for a particular use. The use, which is technically considered a trade school, is not allowed in a residential district. The Department did not feel it appropriate to rezone this residential property to a more intensive classification for fear that if the use ever left then that zoning would still be in place. The Department recommends approval provided there are appropriate safeguards such as hours of operation, numbers of people and/or clients so as to provide some degree of assurance to surrounding property owners and provided that this use would not become so intensive that it would be noticeable beyond property lines.

Mr. Peffer provided a list of the Board of Directors to the board members for credibility. He stated that the church has extra space in the form of classrooms which the Autism Center of Nebraska would utilize in teaching crafts and other skills to approximately 23 clients. Peffer presented examples of the type of crafts the clients would make which is not of an industrial nature. The church would only house the trade learning and the administrative offices.

Ms. Rochelle Bolte, 5123 S. 90th Street, appeared as a concerned neighbor seeking information about the request. She inquired about the students' functional level relative to interacting with neighborhood school-age children; the instructor to client ratio relative to increases in the number of clients; Autism Center of Nebraska’s track record; the zoning effects to her property; and traffic. Mr. Peffer stated the clients would be bussed to the facility or transported by their parents; Autism Center of Nebraska contracts directly with the state and meets all the criteria; the center has a new executive director and chief executive officer hired by a reputable board of directors; Mr. Peffer stated that staff will start at 8 a.m. and clients will show up at various times throughout the morning which will not impact school-bound children. Ms. Bolte suggested an open house if this request is approved.

In response to Mr. Mahlendorf, Mr. Blair stated that the applicant has submitted a memorandum that details the hours of operation, staff counts, what portion of the building will be used for church, what portion of the building will be used by Autism of Nebraska, what portion will be used for offices, etc.

Mr. Mahlendorf moved to APPROVE the waiver in accordance with the operating statement, amendment to train a maximum of 60 clients, and for this applicant only. Ms. Donovan seconded the motion.

AYES: Mahlendorf, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED: 5-0
13. Case No. 10-045
   Jeremy Carrell
   5020 S 110 Street  68137

   REQUEST: Waiver of Section 55-406 – Variance to the
             rear yard setback from 15’ to 8.75’ and to
             the impervious coverage from 90% to 100%
             and to the bufferyard between GC & R4
             from 12’ to 2’

   LOCATION: 4425 N 16 Street
   ZONE: GC

   STAFF RECOMMENDATION: Denial

   At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, no one appeared.

   Ms. Donovan moved to LAYOVER the request. Mr. Meyer seconded the motion.

   AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

   MOTION CARRIED: 5-0
14. Case No. 10-046
Emerging Terrain
5912 Maple Street  68104

REQUEST: Waiver of Section 55-825(C)(4) – Variance to the maximum size for a temporary banner (3 to 4 months) from 120 sq. ft. to 25,600 sq. ft.

LOCATION: 3417 Vinton Street
ZONE: GI

STAFF RECOMMENDATION: Approval for no more than 3 to 4 months and make adequate provisions for parking.

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Ms. Anne Trumble, Director, Emerging Terrain, and Mr. Richard Brock, property owner, 308 S. 51st Street, appeared before the board in support of this request.

Mr. Blair stated that the Department endorses this request because of its temporary nature and the fact that it will be moving to other locations throughout the state in the future. He asked about an event that would have many people at this location. Blair stated concerns in light of the grand opening as to where people would park and how they would be shuttled into the event.

Ms. Trumble explained that their mission is public education about land use particularly as it pertains to the Midwest. The grain elevator is the topic for display. She stated that a call for submissions was put out for artists and designers to look at the Midwest landscape and design images that speak to both its history and its current position. Trumble stated that the response was of a wide range of cultural images in which none were of any specific product or event. She stated that the banners are sponsored by corporations and individuals via advertising in the newspapers rather than onsite. Mr. Mahlendorf restated the guidelines which were temporary in nature, no product advertised nor company trademark.

In response to Mr. Anzaldo, Ms. Trumble stated that a grand opening event will be held on October 3, with a potential maximum of 400 people. She stated that they will bus people to the site and provide parking elsewhere. It was noted that the site location does not have hard-surface parking to accommodate the number of vehicles anticipated for this event. Trumble stated that installation of the banners will be in September and stay up until the end of the year.

Mr. Meyer moved to APPROVE the temporary artwork exhibit for a maximum of 4 months after installation with provision for adequate parking incase of any events, and that there be no commercial or advertising. Ms. Donovan seconded the motion.

AYES: Meyer, Donovan, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0
15. Case No. 10-047  
Hearthstone Homes, Inc.  
810 N 96 Street, 3rd Floor  68114  

REQUEST: Waiver of Section 55-186 - Variance to the side yard setback from 5’ to 4.6’ for existing single family residence  

LOCATION: 19517 T Street  

ZONE: R4  

STAFF RECOMMENDATION: Approval  

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Mr. John Fullenkamp, 11440 West Center Road, appeared on behalf of the applicant in support of this request.  

Mr. Fullenkamp stated this request is for a waiver for a 40’ wide house which was built on a 50’ lot. He explained that when an as-built survey was done it was determined that the house did not conform to the side yard setbacks by a matter of inches.  

Mr. Anzaldo moved to APPROVE the request for waiver. Ms. Donovan seconded the motion.  

AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock  

MOTION CARRIED: 5-0
16. Case No. 10-048
Malibu Sunrooms
13633 S 217 Street  68028

REQUEST: Waiver of Section 55-186 - Variance to the
rear yard setback from 25’ to 24’ to erect a
12’ X 15’ sunroom and deck addition

LOCATION:  5618 S 115 Circle
ZONE:  R4

STAFF RECOMMENDATION:  Denial

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Mr. Tom Patton, Malibu
Sunrooms, and Gail and Bob Roh, property owners, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated the existing deck which is 9’ X 14’ based on the plans submitted
by the applicant extends into the rear yard setback. There is no record of any permit. The proposed
sunroom and deck could be reduced in size to meet the proper setbacks and the Department is opposed
as well.

Mr. Patton stated that the deck is actually 14’ X 24’ and he is proposing to build a 14’ X 15’ sunroom onto
the existing deck. The outside portion of the deck that will not have an addition and will be brought up
to code with new footings and headers. Mr. Hancock noted an anonymous letter of opposition that
mentions the deck and a shed which blocks the view. In response to Mr. Hancock, Mrs. Roh was not
willing to remove the shed to build the sunroom. Hancock stated that the question becomes if there is a
hardship sufficient enough to justify the sunroom. Patton stated that the portion of the deck where
the sunroom is proposed will have new footings and headers. He added that the outside portion of the deck
is in good shape and will not be replaced.

Mr. Meyer moved to APPROVE the request subject to an amended setback of 24’ to erect a 12’ X 15’
sunroom and appropriate deck. Mr. Anzaldo seconded the motion.

AYES:  Anzaldo, Mahlendorf, Meyer, Donovan, Hancock

MOTION CARRIED:  5-0
17. Case No. 10-049  
Millard Public Schools  
13906 F Street  68137

REQUEST:  Waiver of Section 55-715 – Variance to the minimum depth of street yard landscaping from 15’ to 12’ due to parking lot replacement

LOCATION:  3320 S 127 Street  
ZONE:  R4

STAFF RECOMMENDATION:  Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Mr. Don Sock and Mr. Luke Weatherly, Olsson & Associates, 2111 S. 67th Street, appeared on behalf of the applicant in support of this request.

Mr. Tom Blair, ZBA Administrator, explained that after the waiver was granted in December 2009 for this same parking lot, it was discovered that a very small corner of the parking lot extends into the street yard of 127th Street. He stated that the Department is in support of this waiver as well.

Ms. Donovan moved to APPROVE the waiver in accordance with the plans submitted. Mr. Meyer seconded the motion.

AYES:  Mahlendorf, Meyer, Donovan, Anzaldo, Hancock.

MOTION CARRIED:  5-0
18. Case No. 10-050
   Cella Quinn
   10908 Forrest Drive  68124

REQUEST: Waiver of Section 55-767(C) - Variance to allow a home occupation with two non-resident employees by amending a previously approved site plan

LOCATION: 10908 Forrest Drive
ZONE: R1

STAFF RECOMMENDATION: Denial

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Cella Quinn, property owner, and Mr. Martin Janousek, Architect, Leo A. Daly, 8600 Indian Hills Drive, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that the waiver granted in October 2005 was for this applicant only providing for off-street parking for no more than two unrelated employees and it was in accordance with a particular site plan. That site plan showed where parking was as of October 20, 2005. The applicant has been remodeling the property in order to comply with that waiver and home occupation subject to those provisions. But because those provisions said, “in accordance with the plans submitted,” those plans are being modified. The suggestion is that the two existing curb cuts to Forrest Drive remain exactly in the same place as they have always been but rather than a connection between the two, the east most curb cut would lead to the residential garages only and the west most curb cut would lead to new parking. The basic request is to move the parking stalls that are near Forrest Drive facing south to the west side of the property facing west.

There was some discussion regarding letters of concern received by the Department. Mr. Blair stated that in regards to the Home Occupation Provisions, the code attempts to maintain the residential character of a neighborhood so as not to have an adverse effect on surrounding property owners. He commented that this system controls matters as best as it can so that neighborhoods do not begin to look non-residential.

Mr. Hancock noted overall concern due to the steps being made by the board to stop situations where there are employees working in homes. He noted support for this applicant and listed some of the improvements which make for a better solution.

Mr. Anzaldo moved to APPROVE a change in parking from facing south to facing west with expanded landscaping so that this home occupation has a residential appearance in the neighborhood. Mr. Mahlendorf seconded the motion.

AYES: Donovan, Anzaldo, Mahlendorf, Hancock

ABSTAINED: Meyer

MOTION CARRIED: 4-0-1
19. Case No. 10-051
Rick Berkshire
1010 S 120 Street  68154
REQUEST: Waiver of Section 55-834 – Variance to the front setback for a 9’5” high monument sign from 12’ to 0’
LOCATION: 1301 S 75 Street
ZONE: GO

STAFF RECOMMENDATION: Denial

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, the applicant appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that the applicant submitted a detailed plan requesting an exterior lit monument sign be placed near the entrance. There is no way to remove existing parking without going under the minimum requirements of the ordinance. The Department is not in support of this request because there are other options for placement of the monument sign that would meet the required setback. In response to Mr. Hancock, Mr. Berkshire stated that there would be an address on the building. He added that there would be two additional tenants and the monument sign would accommodate the three business names. Ms. Donovan discussed putting the monument sign on the island. Meyer added that the sign could fit in the island where there would be no cars in front of it, the landscaping could be adjusted accordingly, and the typography elevated. In response to Ms. Donovan, it was stated that the sign is 8’8” wide and would be 21’ from the curb.

Mr. Anzaldo moved to APPROVE the waiver subject to no additional signage on the building or property. Mr. Hancock seconded the motion.

AYES: Anzaldo, Mahlendorf, Donovan, Hancock

NAY: Meyer

MOTION CARRIED: 4-1
20. Case No. 10-052  
H & S Partnership, LLP  
701 Olson Drive  
Papillion, NE  68046  

REQUEST:  Waiver of Section 55-715 – Variance to the minimum street yard landscaping from 60% to 7% to add two (2) off-street parking stalls  

LOCATION:  1216 S 10 Street  
ZONE:  R4  

STAFF RECOMMENDATION: Approval, subject to one parking stall rather than two.

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Mr. Jared Hollinger, General Partner, H & S Partnership, LLP, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated this is a 28-foot wide lot with multiple residents (3) and no off-street parking available. There are other factors that limit parking at this location as well. The Department is opposed to the original plan submitted. Although, if the applicant could not obtain an easement to get to the rear of the property, one curb cut and one parking stall would be appropriate.

Mr. Blair stated that there is a plan to redo 10th Street and create angled parking which is being reviewed at this time.

Mr. Hollinger stated that this single family dwelling was purchased and extensive improvements were made. He stated that any prospective buyer or tenant would want a place to park a vehicle and impacts the property's value due to the parking issues.

Mr. Arnold Breslow, President, District 108 Inc., 1240 S. 10th Street, appeared in opposition to the request. He mentioned letters of concern from neighborhood associations that were filed with the Planning Department. Breslow talked about District 108's formation years ago to organize the South 10th Street redevelopment plan to implement diagonal parking and encourage pedestrian traffic. The plan has been supported by the City Council.

Mr. Sylvester Orsi, 1301 S. 10th Street, appeared in opposition to the curb cuts. He discussed that the NCE plan has regulators which involves the landscaping, green parking, and other improvements. Orsi, who has rental property also, offered to work with the applicant in finding an off-street location to acquire for parking rather than get ahead of the NCE process.

Ms. Nancy Calinger, 1215 S. 10th Street, appeared in opposition to the request. She stated that there are 10 available parking places on the street that are within a few feet of the applicant's property. Calinger stated that everyone else has off-street parking or garages available. Calinger felt that curb cuts would set a precedent for this neighborhood and adversely impact the anticipated improvements.

Ms. Anita Sheneberger, 1220 S. 10th Street, had some concerns. She previously offered a plan for a single-story garage. Sheneberger wanted assurance that if the request were approved it would not cause underlying damage to her cobblestone driveway next to the applicant's property.

Mr. Anzaldo moved to DENY the request. Mr. Meyer seconded the motion.

AYES:  Mahlendorf, Meyer, Donovan, Anzaldo, Hancock  

MOTION CARRIED:  5-0
21. Case No. 10-053
   R & A Builders
   Box 540731 68154

REQUEST: Waiver of Section 55-126 – Variance to the front yard setback from 50’ to 40’ and to the side yard setback from 25’ to 10’ to erect single-family dwelling

LOCATION: 1223 Ranch View Lane
ZONE: R1

STAFF RECOMMENDATION: Approval

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Mr. Chad Allington, R & A Builders, appeared before the board in support of this request.

Mr. Hancock stated that a practical difficulty exists due to the change in zoning from Elkhorn to Omaha. He stated that the Department recommends approval.

Mr. Mahlendorf moved to APPROVE the request for waiver. Mr. Meyer seconded the motion.

AYES: Meyer, Donovan, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0

Mr. Tom Blair, ZBA Administrator, stated that it was discovered after the application was submitted that in addition to the waivers that are on the agenda today that due to the circular drive in front that the applicant would exceed the impervious surface coverage on the site and the street yard landscaping. He requested that the board layover for proper advertising a waiver request that refers to impervious surface coverage and street yard landscaping.

Mr. Meyer moved to LAYOVER the request to change the pervious paver to concrete and the applicant time to determine the impervious coverage and street yard landscaping regulations. Ms. Donovan seconded the motion.

AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

MOTION CARRIED: 5-0
22. Case No. 10-054
   Michael & Joyce Nylin
   19006 Grover Street 68130
   REQUEST: Waiver of Section 55-186 - Variance to the rear yard setback from 25’ to 16’ to erect 20’ X 25’ addition to existing residence
   LOCATION: 19006 Grover Street
   ZONE: R4

   STAFF RECOMMENDATION: Denial

   At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, the applicants appeared before the board in support of this request.

   Mr. Tom Blair, ZBA Administrator, stated that this is a new subdivision and no waivers having been granted to-date.

   Mr. Nylin stated that since building the residence, they have moved in an elderly parent. This plan would allow for the extra floor space at the ground level in addition to more living space for the size of their large family.

   Mr. Hancock stated his appreciation for the applicant’s drawings and that the board would like to inspect the property before making a decision.

   Mr. Mahlendorf moved to LAYOVER the request to allow time for the board to inspect the property and have the applicant reduce the size of the addition. Mr. Anzaldo seconded the motion.

   AYES: Anzaldo, Mahlendorf, Meyer, Donovan, Hancock

   MOTION CARRIED: 5-0
23. Case No. 10-055  
   Michael Preston  
   2028 S 85 Avenue  68124  

REQUEST:  Waiver of Section 55-146 – Variance to the  
side yard setback from 10’ to 9’ to erect 11’  
X 38’ addition to existing residence  

LOCATION:  2028 S 85 Avenue  
ZONE:  R2  

STAFF RECOMMENDATION:  Denial  

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, the applicant appeared before the board in support of this request.  

Mr. Tom Blair, ZBA Administrator, stated that the addition will to add a third-car garage with storage behind.  

Mr. Preston submitted a site plan. He stated that the material will match the residence and the neighbors are in support of this proposal.  

Mr. Anzaldo moved to APPROVE the request. Mr. Meyer seconded the motion.  

AYES:  Mahlendorf, Meyer, Donovan, Anzaldo, Hancock  

MOTION CARRIED:  5-0
24. Case No. 10-056
   Denny Haman
   4809 Meyer Street  68152

   REQUEST: Waiver of Section 55-108 – Variance to the front yard setback from 50’ to 41’ to erect a 9’ X 16’ porch
   LOCATION: 14242 N 47 Street
   ZONE: DR-ED

   STAFF RECOMMENDATION: Denial

   At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, the applicant appeared before the board in support of this request.

   Mr. Tom Blair, ZBA Administrator, stated that the applicant when he first began preparing a site plan for this property thought because he abutted both Meyer Street and 47th Streets that it was considered a corner lot and there would be no need for a setback variance of the front yard and a street side yard from 47th Street. Because of the degree of straightness of the east property line, the front yard setback runs from the very southern southeast corner and includes Meyer Street. Blair stated that the required setback adjacent to 47th Street is 50 feet. He stated that the front porch would extend 9’ into that 50’ setback.

   Mr. Meyer commented that the shape of the 3-sided lot creates a hardship.

   Mr. Meyer moved to APPROVE the request for waiver. Ms. Donovan seconded the motion.

   AYES: Meyer, Donovan, Anzaldo, Mahlendorf, Hancock

   MOTION CARRIED: 5-0
25. Case No. 10-057
   Maurice & Lori Ludwick
   20155 Farnam Street 68022
   REQUEST: Waiver of Section 55-786 - Variance to the residential fence regulations to allow a 6' high solid vinyl fence to remain in the street side yard setback
   LOCATION: 20155 Farnam Street
   ZONE: R4

   STAFF RECOMMENDATION: Denial

   At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, the applicants appeared before the board in support of this request.

   Mr. Tom Blair, ZBA Administrator, stated that in this particular instance there is an easement preventing another house in the future or driveway coming onto 201st Street. He stated that the “walled effect” is still there and the Department suggested if the fence remains in place, some type of landscaping be placed on the street side of the fence.

   Mr. Mahlendorf moved to APPROVE the waiver request subject to landscaping the area between the sidewalk and fence in a manner that matches the rest of the property. Ms. Donovan seconded the motion.

   AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

   MOTION CARRIED: 5-0
26. Case No. 10-058
   Terry Rush
   1120 N 18 Street  68102

   REQUEST: Waiver of Section 55-830 – Variance to the maximum sign budget from 32 sq. ft. to 122 sq. ft. and to the maximum size for a wall sign from 32 sq. ft. to 42.5 sq. ft. & 47.7 sq. ft. and to the maximum height for a wall sign from 16’ to 24’

   LOCATION: 7400 Western Avenue
   ZONE: R3

   STAFF RECOMMENDATION: Approval

   At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, the applicant appeared before the board in support of this request.

   Mr. Rush stated that the two signs visible to the public right-of-way will not be illuminated.

   Ms. Donovan moved to APPROVE the request based on the plans submitted. Mr. Hancock seconded the motion.

   AYES: Anzaldo, Mahlendorf, Meyer, Donovan, Hancock

   MOTION CARRIED: 5-0
27. Case No. 10-059  
Curt Hofer Construction, Inc.  
2332 Bob Boozer Drive  68130

REQUEST:  Waiver of Section 55-87 - Variance to the front yard setback from 50’ to 37’ 9” and to the minimum lot area from 20 acres to .84 acres and to the lot width from 300’ to 208’ and to the building coverage from 5% to 13% and to the impervious coverage from 10% to 21% to erect single family dwelling and garage

LOCATION:  17324 F Street  
ZONE:  AG

STAFF RECOMMENDATION:  Approval

At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Mr. Steve Huber, Curt Hofer Construction, Inc., and Mr. Doug Kellner, Thompson, Dreessen & Dorner, 10836 Old Mill Road, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that this is a parcel of land that has never been subdivided or properly zoned. He stated that there was a house on the property that was removed and these waivers would allow a new home to be built on this lot compatible with surrounding homes to the east, west, and north. Blair explained that once the property is rezoned and replatted the waivers would become moot. He stated that the applicant has submitted a site plan which meets the setbacks and has adequately addressed drainage. Blair stated that no one objects the waivers. He stated that the applicant has agreed to make the necessary applications to rezone the property as construction proceeds.

Ms. Donovan moved to APPROVE the request for waiver based on the plans submitted. Mr. Meyer seconded the motion.

AYES:  Mahlendorf, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED:  5-0
28. Case No. 10-060  
   Mike Jansen Custom Cedar Decks  
   Attn: Mike Jansen  
   6223 S 170 Street  68144  

   REQUEST: Waiver of Section 55-186 - Variance to the  
             rear yard setback from 25’ to 20.3’ to erect  
             a 12’ X 22’ covered deck  

   LOCATION: 13711 Grover Street  
   ZONE: R4(35)  

   STAFF RECOMMENDATION: Denial  

   At the Zoning Board of Appeals meeting held on Thursday, May 20, 2010, Mr. Mike Jansen and Mr. Mike  
   Evert, home owner, appeared before the board in support of this request.  

   Mr. Tom Blair, ZBA Administrator, stated that this residential lot that is 106’ deep. Technically, it backs  
   up to general office zoning. Blair stated that the lot is heavily treed along the rear property line. He  
   stated that the proposed deck would extend to within 20.3’ of the rear property line rather than of 25  
   feet. Blair stated that no one objects.  

   Mr. Mahlendorf commented that the lot depth is shallow and creates a hardship.  

   Mr. Mahlendorf moved to APPROVE the waiver request. Mr. Anzaldo seconded the motion.  

   AYES: Meyer, Donovan, Anzaldo, Mahlendorf, Hancock  

   MOTION CARRIED: 5-0
APPROVAL OF MINUTES

Mr. Meyer moved to APPROVE the meeting minutes of April 15, 2010. Mr. Hancock seconded the motion.

AYES: Anzaldo, Mahlendorf, Meyer, Donovan, Hancock

MOTION CARRIED: 5-0

ADJOURNMENT

Ms. Donovan moved to ADJOURN the meeting at 3:50 p.m. Mr. Mahlendorf seconded the motion.

AYES: Mahlendorf, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED: 5-0

Approved (date)

Bert Hancock, Chairman

Claudia Moore, Secretary