MINUTES
ZONING BOARD OF APPEALS
REGULAR MEETING - THURSDAY, OCTOBER 21, 2010
CONFERENCE ROOM - 7th FLOOR, ROOM 702 – 1:00 P.M.
CIVIC CENTER - 1819 FARNAM STREET
OMAHA, NEBRASKA

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

OTHERS PRESENT: Tom Blair, Zoning Board of Appeals Administrator
Rosemarie Horvath, Assistant City Attorney
Michael Carter, City Planner

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.
LAYOVER CASES:

1. Case No. 10-104
   (over from 9/16/10)
   Jerry Reimers
   4880 S 131 Street, Ste 2  68137
   REQUEST: Waiver of Section 55-226 – Variance to the
     front yard setback from 35’ to 27’ and to the
     required site area per unit from 2,000 sq. ft.
     to 1,375 sq. ft. to erect a 12-unit apartment
     building
   LOCATION: 1002 S 33 Street
   ZONE: R6

RECOMMENDATION: The Planning Department recommendation is to approve.

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Jerry Reimers, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that this case was laid over due to no specific plans as it relates to the number of parking stalls that would be provided for this 12-unit apartment building. The house on the corner would be removed to make way for this structure. Parking would be beneath the building. The floor plan provided by the applicant shows that there would be 22 parking spaces inside the building which meets the off-street parking for this number of units, and this mix of one- & two-bedroom units. The applicant has also indicated his willingness to work with Planning Department staff with respect to the design of the building so that the architecture is more similar to what is found throughout the balance of the neighborhood. The Planning Department is in support of this request.

In response to Mr. Anzaldo, Mr. Reimers stated that preliminary meetings were held with neighborhood residents and plans to meet with Leavenworth N.A. to discuss an appropriate elevation for the plan. He added that their time completion for building would align with a March through July timeframe.

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

AYES: Anzaldo, Mahlendorf, Meyer, Donovan, Hancock

MOTION CARRIED: 5-0
2. Case No. 10-106
   (over from 9/16/10)
   Mercedes Moreno
   3936 T Street 68107

REQUEST: Waiver of Section 55-782 B6 - Variance to
the side yard setback from 3’ to 2’ to allow a
20.5’ X 27.5’ 2-story detached garage in
excess of 750 sq. ft. to remain

LOCATION: 3936 T Street
ZONE: R4(35)

RECOMMENDATION: Planning Department recommends denial of the waiver request by the applicant.

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Ms. Mercedes Moreno and Mr. David Fernandez appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that this case was laid over to give the applicant an opportunity to have a survey prepared that shows the exact location of the building in relation to the east lot line. The neighboring property owner felt that the building was closer than 2 feet. He stated that the property was inspected by the Permits & Inspection Division. Mr. Jay Davis, Chief Building Inspector, was available for questions. Blair stated that the property had numerous violations of the building code. Those kinds of things that can be rectified but as constructed in its current condition it would not meet the code so the City would not be in a position to grant a certificate of occupancy. He stated that the Department has not seen to-date a survey to verify that the building is away from the lot line and the distance the building is from the lot line.

Mr. Fernandez submitted a survey which indicated that the northeast edge of the garage corner is on the property line. Hancock stated that the survey shows that the southeast garage corner encroaches onto Lot 8 by .33 feet.

Mr. Blair stated that the applicant and neighboring lot are 50’ wide as platted. Therefore other waivers would be involved if either lot line were to be moved in either direction because the minimum lot width in this district is 50 feet.

Mr. Jay Davis, Chief Building Inspector, stated that a report was prepared based on a full inspection in which there are substantial items listed that do not meet code requirements, yet some can be corrected. He stated that the immediate issue is the location of the structure. In response to Mr. Hancock, Davis stated that the only solution, if the board denies the request, is to require that the building be removed.

Mr. Scott Minino, 3930 T Street, appeared in opposition to this request. He stated that his lot has been encroached on by 4” which causes him concern regarding the resale value of the property. In response to Mr. Hancock, Mr. Minino was not interested in selling part of his lot to the applicant.

Mr. Hancock stated that in this particular situation the applicant would not be able to secure a permit given that the structure is over the property line. He stated that the board is unable to support a structure that has been built on someone else’s property.

Ms. Donovan moved to DENY the request. Mr. Mahlendorf seconded the motion.

AYES: Mahlendorf, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED: 5-0
3. Case No. 10-109
(over from 9/16/10)
Orange Development
1200 Corporate Drive
Birmingham, AL 35242

REQUEST: Waiver of Sections 55-934 and 55-734 - Variance to the maximum retaining wall height of the Urban Design standards from 5’ to 6.5’ and to the required off-street parking from 53 stalls to 51 stalls to construct a pharmacy

LOCATION: 4840 Dodge Street

ZONE: CC

RECOMMENDATION: The Planning Department is in support of the requested waivers by the applicant.

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Larry Jobeun, 11440 W. Center Road, appeared before the board on behalf of the applicant. He stated that in the original proposal the ACI guidelines were followed and the retaining wall restrictions were met. Jobeun stated that since that time, the City notified them of a parallel parking plan for that area along Dodge Street. He presented a revised plan stating that in order to accommodate the City, the applicant dedicated additional right-of-way wherein the grade within that distance could not be absorbed, and a portion of the retaining wall exceeded the 5’ height restriction. As a result, the number of parking stalls was reduced from 53 to 51 on-site stalls. Jobeun stated that the parking requirements on the CVS site are fifty-three which does not include the 15 off-site parking stalls (9 stalls along Dodge Street and 6 stalls along 49th Street). He stated that two additional off-street stalls are needed to meet the parking requirements. In response to Mr. Mahlendorf, Mr. Jobeun stated that the applicant paid for off-street parking that they are unable to utilize along with the dedication of right-of-way for parallel parking.

Mr. Tom Blair, ZBA Administrator, added that the Department received a communication from Jennie Allgood, a resident of the Dundee area, indicating opposition to both the project and the parallel parking on Dodge Street.

Mr. Anzaldo moved to APPROVE the request in accordance with the revised plans. Ms. Donovan seconded the motion.

AYES: Meyer, Donovan, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0
4. Case No. 10-113  
(over from 9/16/10)  
Volunteer of America, Dakotas  
Attn: Pamela Bollinger, Pres/CEO  
P.O. Box 89306  
Sioux Falls, SD  57109-9306

REQUEST:  
Waiver of Sections 55-246, 55-715, 55-716, 55-734, 55-735, 55-740 F and 55-785 - Variance to the maximum floor area ratio from 1.0 to 1.2 and to the front yard setback from 35’ to 10’ and to the street side yard setback from 19’ to 10’ and to the required street yard landscaping from 50% to 39% and to the buffer yard between R7 and R4 from 30’ to 10’2” and to the required off-street parking from 160 138 stalls to 80 stalls and to allow off-street parking for a multi-family residential use to be within the required front and street side yard setback and to the required parking lot perimeter landscaping from 5’ to 3’ and to the required site area per unit from 1,000 sq. ft. per unit to 509 611 sq. ft. per unit

LOCATION: 39th to 40th Street north of Pacific  
ZONE: GI – R7 Pending

RECOMMENDATION: As of this date, no new plans have been submitted and the Planning Department remains in support of this request.

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. John Bachman, Attorney, 10250 Regency Circle, Mr. Mike Jerabek, Jerabek Architects, 212 W. Superior, Chicago, IL, and Mr. Mitchell Milnor, Consultant, 118 N. Peoria, Chicago, IL, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that three modifications were made regarding the request for waivers. He stated that this request is in the process of going to the City Council for a special use permit. Blair stated that the Department supported these particular waivers, as modified, due to a hardship associated with the proposed use of the property. He explained that the 1987 zoning code did not envision supportive housing for disabled individuals.

Mr. Hancock stated that the board will address the zoning waivers. Mr. Bachman stated that they met with the neighborhood associations on three different occasions. He stated that with consideration of public input, the project was downsized from a five-story to a four-story building with 75 units rather than 100 units. Bachman stated that with the revised square footage, it remains in compliance with R7 zoning as far as density. One front yard setback is adjacent to the trail on the east side of the project. He stated that the intent is to request that the City vacate the right-of-way for 39th Street. Bachman stated that the streetscape will be consistent with the setbacks along Pacific Street going west. He stated that, based upon the vacation of 39th Street, the project is well within the landscaping requirements. Bachman discussed the buffer yard between R7 and R4 on the west end of the property. He noted that due to the topography, the applicant was unable to get the buffer yard to the required 30 feet. It was pointed out that parking would be 10’ to 14’ below the adjacent grade and sidewalk. Bachman stated that it was estimated that only 10-20% of the residents will have vehicles. He felt that 80 spaces are more than adequate to handle the office uses that the VA will have plus parking for the residents.

Mr. David Lanphier, 1722 St. Mary Ave. #310, appeared on behalf of the Field Club Neighborhood Association and the Thornburg Neighborhood Association in opposition to the request. He felt that the numerous waiver requests are due to the building being too large for the site. Lanphier discussed other concerns and presented a letter regarding the VOA and Department of Veterans Affairs Nebraska collaborative effort with questions as to their experience and sustainability, etc. The board was able to address each of concern. Mr. Bachman confirmed the Volunteers of America are in partnership with the
Department of Veterans Affairs. Lanphier had a concern about the project being converted to low-income housing. He included concerns regarding accessibility as well. Ms. Jill Nenaber, 1343 Turner Blvd, President of Field Club Homeowners Association, appeared in opposition. She was concerned about the numerous variances needed which seemed to indicate that the structure is too large for the site.

Mr. Bob Perrin, developer, 1101 S. 36th Street, had a concern about the density of the building in regards to the number of people.

Mr. Jerabek discussed the parking stating that because of the nature of this particular population, the parking requirement is one space for every four units. He felt that the parking ratio was consistent for this facility.

Mr. Hancock reiterated the neighbors’ concern that this project could become a low-income housing project not inhabited by disable veterans. Mr. Mahlendorf inquired about the office space arrangement in regards to whether the lease was long term and about a time commitment for the office space. Mr. Milnor stated that the intent is to have a 15-year commitment.

Mr. John Kwapnioski, Acting President of the Thornburg Place Neighborhood Association, appeared in opposition. He questioned the developer’s ability to reduce the project so as not to have the necessity for any of the variances. Kwapnioski reiterated the hardship variables that cannot be considered such as profit, convenience, etc. He stated that the neighborhood could support a facility conducive to a size that does not over-populate the community.

In response to Ms. Donovan, Mr. Blair explained required setbacks when there are multiple frontages.

Mr. Meyer stated that the 39th Street right-of-way could be used for parking if space becomes an issue in the future.

Mr. Mahlendorf moved to APPROVE the request as amended, subject to: 1) the applicant applying to vacate 39th Street, north of Pacific Street; and 2) for this applicant only. Mr. Meyer seconded the motion.

AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

MOTION CARRIED: 5-0
5. Case No. 10-115
   (over from 9/16/10)
   Meyer & Associates
   1065 N 115 Street, Suite 200  68154

REQUEST: Waiver of Section 55-186 – Variance to the
        front yard setback from 35’ to 15’ and to the
        maximum impervious coverage from 50% to
        70% and to the required off-street parking
        from 85 stalls to 68 stalls and allow parking
        for a non-residential use in a residential
        district to be located in the front yard
        setback

LOCATION: 5071 Center Street and 1916 S 50 Ave

ZONE: R4(35)

RECOMMENDATION: As of this date, no new plans have been submitted although it is the understanding
of the Planning Department that a meeting has been held with surrounding property owners and the
plans to some extent have been revised.

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Dan Kerns and Mr. Jeff
Loberger appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that the plan was changed by moving the curb cut to 50th
Avenue as far north as possible so that the traffic entering and exiting would have less of an impact on
the neighborhood. The waivers relate to off-street parking due to an increase in the size of the
sanctuary. The waivers of setback are due to the property having three street frontages: 50th Avenue,
51st Street, and Center Street in which 51st Street becomes a front yard setback. The Planning
Department is in support of the waivers. He stated that the applicant constructed, at their expense, 12
parking stalls on 51st Street and is in the process of requesting a lease for that space. Blair stated that
the Department is concerned whether 68 on-site stalls are adequate for a facility of this size.

Mr. Kerns explained the modification from 85 to 80 parking stalls. He stated that they would reduce the
size of the sanctuary (from 350 to 332 occupants) to meet the requirement of 80 stalls (68 on-site and
12 off-site parking stalls). In response to Mr. Anzaldo, Mr. Kerns stated that the applicant met with
neighbors, but not in a joint meeting as was recommended by the board. He felt that neighbors’ main
opposition is the parking lot. Kerns stated that the applicant has made various attempts to address their
concerns.

Those in appeared in opposition were: Ms. Roxanne Feagan, 1928 S. 50th Ave., Mr. Todd Schmidt, 1937
S. 50th Ave.; Mr. Rex Gruber, 1933 S. 50th Ave.; and Mr. Bob Powers, 1919 S. 50th Ave. They were more
accepting of temporary street parking for the church services and activities rather than the exposure of
an open parking lot giving way to noise and light pollution seven days a week. Mr. Meyer reminded that
the plan shows heavy landscaping which provides sight and sound buffers.

Mr. Meyer moved to APPROVE the request in accordance with the plans submitted which reduced the size
of the sanctuary and moved the curb cut on 50th Avenue as far north as possible. Also, the landscaping
shall include mature evergreen trees. Ms. Donovan seconded the motion.

AYES: Mahlendorf, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED: 5-0
**NEW CASES:**

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<td>10-119</td>
<td>Waiver of Section 55-206 - Variance to the minimum lot size from 5,000 sq. ft. to 4,556 sq. ft. and 3,648 sq. ft. to the minimum lot width from 50’ to 33.31’ and 30.79’ and to the interior side yard setback from 5’ to 3’ to allow the subdivision of the property into 2 lots</td>
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<td>1515 &amp; 1517 William Street</td>
<td>R5</td>
<td>Approval</td>
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At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Robert J. Remack, Counsel, 12925 W. Dodge Road, and Mr. Anthony Plaza appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that these are two existing structures located on the south side of William Street. The applicant proposes that they be subdivided so that each residence can be sold rather than used for rental properties. The Department supports the owner-occupied nature of the homes which will benefit the neighborhood.

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

AYES: Mahlendorf, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED: 5-0
7. Case No. 10-120  
Straightline Design  
Attn: Mick McGuire  
3925 S 147 Street, #119  68144  
REQUEST: Waiver of Section 55-146 - Variance to the front yard setback from 40’ to 35’ to allow construction of a 8’ X 10’4” covered front porch with modified roofline  
LOCATION: 9342 Krug Avenue  
ZONE: R2  
RECOMMENDATION: Denial

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Mick McGuire, Straightline Design, and Mr. Daniel Drabenstot, 9342 Krug Ave., appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that the applicant proposes a new covered front porch and modified roofline to the front of this existing residence. All of the homes in the subdivision have a 40’ setback. This improvement would extend to within 35’ of the front lot line. The Department considers this as a design preference on the part of the applicant and is not in support of the request.

Mr. McGuire stated that 13 neighbors signed a petition in support of the plan. He stated that the applicant wants to improve the front porch of this structure and protect it from the type of weather that we had last winter. He stated that the applicant is currently 41’ back from the front. McGuire stated that two columns would be added to the front that will support the covering. Mr. Mahlendorf pointed out that there is a 1’ difference between the waiver request and what the petition states. Mr. Hancock supported the request with the condition that the applicant does not request any additional front yard setback variances at a later date.

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

AYES: Donovan, Anzaldo, Mahlendorf, Hancock  
NAY: Meyer  
MOTION CARRIED: 4-1
8. Case No. 10-121
   Holy Name Housing
   Attn: Joe Vaughan
   3014 N 45 Street  68104

   REQUEST: Waiver of Section 55-207(g) - Variance to the front yard setback from 35' to 25' to allow the construction of 3 single family homes
   LOCATION: 3413, 3415, and 3416 Parker Street
   ZONE: R5(35)

   RECOMMENDATION: Approve, subject to the applicant making application to rezone the property to R4.

   At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Patrick Albright, Holy Name Housing, appeared before the board in support of this request.

   In response to Mr. Hancock, Mr. Albright stated that application will be made to rezone the properties to R4.

   Ms. Donovan moved to APPROVE the request, subject to the applicant making application to rezone the properties to R4. Mr. Anzaldo seconded the motion.

   AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

   MOTION CARRIED: 5-0
9. Case No. 10-122
GESU Housing, Inc.
Attn: Bro. Mike Wilmot
5008 ½ B Dodge Street  68132

REQUEST: Waiver of Section 55-207(g) – Variance to the front yard setback from 35' to 25' to construct a single family home

LOCATION: 4308 Burdette Street
ZONE: R5 (35)

RECOMMENDATION: Approve, subject to the applicant making application to rezone the property to R4.

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Bro. Mike Wilmot S.J., 4308 Grant Street, and Mr. Mike Hall, 13525 C Street, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that the Department is in support of this request. He stated that it matches a waiver that was granted immediately next door for the same applicant with the same setback.

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

AYES: Anzaldo, Mahlendorf, Meyer, Donovan, Hancock

MOTION CARRIED: 5-0
10. Case No. 10-123
   Certified Transmission
   Attn: Peter Fink
   1801 S 54 Street 68106

   REQUEST: Waiver of Section 55-323 - Variance to the use regulations of the general office district to allow vehicle storage on the 1st floor of a 3-story office building

   LOCATION: 5404 Cedar Street
   ZONE: GO

   RECOMMENDATION: Denial

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Peter Fink and Mr. Jerry Jugged (sp?), 1322 N. 162 Street, appeared before the board in support of this request.

Mr. Peter Fink stated that they propose to purchase the property which is across the street from the Certified Transmission headquarters and turn it into a showroom for cars on the main level with corporate offices on the other levels. The changes to the building would involve adding two 10’ garage doors that are currently windows on the north side in the rear. The showroom floor would also have a conference room to accommodate corporate customers. He stated that the purpose is to depict the history of the company and tours would be available upon request.

Mr. Anzaldo moved to APPROVE the request, subject to this applicant only. Mr. Meyer seconded the motion.

AYES: Mahlendorf, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED: 5-0
11. Case No. 10-124  
Lisa Hardisty/Andrew Taiber
4408 Hickory Street 68105

REQUEST: Waiver of Section 55-782(b)(6)(a) - Variance to the rear yard and interior side yard setbacks from 3’ to 1’ to allow construction of a detached garage

LOCATION: 4408 Hickory Street
ZONE: R4(35)

RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Ms. Lisa Hardisty appeared before the board in support of this request.

Mr. Hancock noted that the request is common for this neighborhood and the applicant has stated that similar material would be used.

Ms. Donovan moved to APPROVE the request, subject to: 1) applicant using similar materials as the existing structure and matching the existing pitch of the roof on the garage; and 2) removal of the existing shed. Mr. Meyer seconded the motion.

AYES: Meyer, Donovan, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0
12. Case No. 10-125  
     Michael H. Sorensen  
     21301 Hickory Street  
     Elkhorn, NE  68022  

REQUEST: Waiver of Section 55-366 - Variance to the front yard setback from 25' to 17.5' to allow construction of an 875 sq. ft. office space addition.

LOCATION: 13206 Cottner Street  
ZONE: CC

RECOMMENDATION: Approval, subject to building materials matching those of the existing structure.

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Michael Sorensen appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that the building as constructed obtained a permit with a 17.5' setback from 132nd Street. He stated that it was later discovered that this lot has multiple frontages abutting 132nd Street, 132nd Avenue, and Cottner Street. Blair stated that the required setback should have been 25 feet. The applicant is requesting 17.5' setback to match the permit.

In response to Mr. Mahlendorf, Mr. Blair stated that the existing building is covered by the same section of the ordinance, has the same setback as the new addition, and could be included in the request.

Mr. Meyer moved to APPROVE the request and retroactive approval of the existing building, subject to the building material matching the existing structure. Ms. Donovan seconded the motion.

AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

MOTION CARRIED: 5-0
13. Case No. 10-126  
Alegent Health  
12809 W Dodge Rd  68154

REQUEST: Waiver of Section 55-833 - Variance to maximum sign area for a monument sign from 25 sq. ft. to 32 sq. ft. and allow electronic information not otherwise permitted in the LO district

LOCATION: 10101 Maple Street

ZONE: LO

RECOMMENDATION: Approve, subject to reducing the sign height to 12’ and making application to amend the approved conditional use permit for this property.

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Michael Haijsman, Alegent Health, 12809 W. Dodge Rd; Mr. Gordon Maum, Alegent Health, 19929 Burt St.; and Mr. Bill Coonce, Poblocki Sign, 11105 Mockingbird Dr., appeared before the board in support of this request.

Mr. Haijsman stated that signage on the building is not visible due to the foliage on the property. He proposed a 50 sq. ft. sign that is more readily available for use to advertise only during certain times of the year, such as flu shots, sports physicals, vaccines, etc. Haijsman stated that the electronic portion is approximately 1’ high to be used for text only.

Mr. Tom Blair, ZBA Administrator, explained that Maple Street is in the Master Plan as a major thoroughfare that will be an area of civic importance (ACI) district. He stated that monument signs will be encouraged rather than pole signs and this request fits into the criteria. A general overall height of 12’ will be the limit for monument signs in this district. He noted that major streets throughout the City are slowly becoming ACI Districts that carry the same criteria. Blair recommended that if the sign could be lowered to 12’ then it would conform to the regulations that are coming in the future.

Mr. Blair stated that currently there is a conditional use permit for the uses on this property. He added that since the signage is going to change, the site plan and the sign plan will be different as well. Blair pointed out that an amendment to that conditional use permit would be necessary over and above the recommendation of this board.

Mr. Mahlendorf moved to APPROVE the request, subject to reducing the sign height to 12 feet, and making application to amend the conditional use permit. Ms. Donovan seconded the motion.

AYES: Anzaldo, Mahlendorf, Meyer, Donovan, Hancock

MOTION CARRIED: 5-0
14. Case No. 10-127  
City of Omaha  
Attn: Larry Tatum  
1523 S 24 Street  68108  
REQUEST: Waiver of Section 55-716 – Variance to the required bufferyard between CC and DR from 15’ to 10’ to allow the replacement of the parking lot  
LOCATION: 5111 N 90 Street  
ZONE: CC  
RECOMMENDATION: Approval in accordance with the plans.

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Steve Gustafson, City of Omaha, and Mr. Brian Pecka, landscape architect/design consultant, 4502 S. 42nd Street, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that the Abraham Library was constructed when there were no bufferyard requirements in the ordinance. He stated that in order to replace the parking and landscaping in its present location, they are now having to comply with the new requirements of the ordinance which went into effect in 1987. Blair stated that there is residential zoning on the west side of 90th Street which would dictate a need for a bufferyard, which would mean a loss of an entire row of parking at the library location. He stated that proposed is an improvement of the existing landscaping and replacement of the existing parking lot in the same location as it was when the building was first built. Blair stated that the property sits slightly below the residential property on the west side of 90th Street. He added that there is less of a reason to buffer the property from that residential property.

In response to Mr. Hancock, Mr. Cunningham stated that the project will be funded with public facility bonds.

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

AYES: Mahlendorf, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED: 5-0
15. Case No. 10-128  
City of Omaha  
Attn: Chris Wayne  
1819 Farnam Street  68183  

REQUEST: Waiver of Section 55-206 - Variance to the minimum lot area from 5,000 sq. ft. to 4,680 sq. ft. and the rear yard setback from 25' to 23' to allow subdivision of the property into 2 lots for single family residential construction

LOCATION: 1818, 1820, 1822 and 1824 Corby Street  
ZONE: R7(R5 pending)

RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Chris Wayne, City of Omaha, Real Estate Specialist, appeared before the board in support of this request.

Mr. Mahlendorf noted that the lots are only 78’ deep causing a hardship.

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

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

MOTION CARRIED: 5-0
16. Case No. 10-129
City of Omaha
Attn: Chris Wayne
1819 Farnam Street 68183

REQUEST: Waiver of Section 55-206 - Variance to the minimum total width requirements from 50’ to 45’ to allow the subdivision of the property into 2 lots

LOCATION: 2109, 2111, and 2113 Ohio Street

ZONE: R7(R5 pending)

RECOMMENDATION: Approval

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Chris Wayne, City of Omaha, Real Estate Specialist, appeared before the board in support of this request.

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

AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

MOTION CARRIED: 5-0
17. Case No. 10-130
City of Omaha
Attn: Chris Wayne
1819 Farnam Street  68183

REQUEST:  Waiver of Section 55-206 – Variance to the minimum lot width from 50’ to 45’ to allow the subdivision of the property into 2 lots

LOCATION:  2011 and 2013 Ohio Street
ZONE:  R7 (R5 pending)

RECOMMENDATION:  Approval

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Chris Wayne, City of Omaha, Real Estate Specialist, appeared before the board in support of this request.

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

AYES:  Anzaldo, Mahlendorf, Meyer, Donovan, Hancock

MOTION CARRIED:  5-0
18. Case No. 10-131
Jeff Lampe
4472 Shady Lane Circle  68105
REQUEST:  Waiver of Section 55-839(2) - Variance to allow a 36 sq. ft., 17’ high pole sign not allowed in the CBD
LOCATION:  555 N 13 Street
ZONE:  CBD

RECOMMENDATION:  Denial

At the Zoning Board of Appeals meeting held Thursday, October 21, 2010, Mr. Jeff Lampe, and Mr. Peter Violi, 501 N. 13th Street, and Mr. Ron Dobosz, Metro Sign Consulting, 6229 S. 90th Street, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that this property is known as the Old Mattress Factory on the north side of Cass Street. The entrance to the parking lot on the east side will have an archway to identify this area as the “baseball village.” He stated that pole signs are not permitted in the central business district. The major concern is that if pole signs of any design are constructed in this district it could lead to more waivers of that part of the code. Monument signs are permitted in the CBD and could be constructed at the entrance to the “baseball village” without needing a waiver from the board. It was also stated that the height of the monument sign is limited to 12 feet.

Mr. Lampe stated that the building has been historically designated. He stated that the property is a part of the new 13th Street development. Lampe is proposing a “baseball village” theme to create an event atmosphere and a monument sign. Other ideas and suggestions for the design were presented. Mr. Lampe inquired about the use of columns and if there were any height limitations. Mr. Blair wanted to reference the code before responding.

In response to Mr. Meyer, Mr. Cunningham, Planning Director, defined two zones: 1) The “clean zone” are those properties immediately adjacent to the stadium and under the control of the City and MECA, including the right-of-way of the surrounding streets, and 2) the other zone is in an area where we will make all efforts to inform the CWS and NCAA of what is proposed for one-quarter mile. The regulations and policies that the Planning Department and a task force are formulating is based upon approximately 1,000’ diameter area in which certain policies would be enforced. He stated that a rough draft is being examined by the Law Department prior to completion. Cunningham stated that the area would be monitored for illegal, temporary signage structures, inflatables, etc.

Mr. Blair stated that the applicant is trying to create a certain “feel” with signage that is contrary to the ordinance. That same “feel” can be created with some other type of structure that is not a sign, yet is legal. He noted that there are a number of things that the applicant could do without a waiver.

Ms. Donovan moved to LAYOVER the request for 60 days. Mr. Anzaldo seconded the motion.

AYES:  Mahlendorf, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED:  5-0
19. Case No. 10-132
Ralston School District #54
c/o Jerald Riibe, RPS Superintendent
8545 Park Drive
Ralston, NE 68127

REQUEST: Waiver of Section 55-830(2) – Variance to the total permitted sign area in the R3 district from 32 sq. ft. to 71 sq. ft.

LOCATION: 5100 S 93 Street
ZONE: R3

RECOMMENDATION: Denial

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Jerald Riibe, 6628 S. 85th Street, and Mr. Mark Adler, RPS Assistant Superintendent, 6204 S. 100th Street, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated the two wall signs are proposed identifying the schools as being part of the Ralston Public Schools. He stated that due to the residential zoning of the property, the amount of signage is restricted to 32 sq. ft. total. However, the proposed signs total 71 sq. ft.

In response to Mr. Meyer, Mr. Riibe stated that open enrollment creates a need for people to know which district to make application for in order to attend. He added that in the summer months when individuals are not readily available at the school, the signage identifies the district. Riibe felt that this would also be a service to the community without loss of the residents' property value. In response to Mr. Anzaldo, Mr. Riibe stated that the building fund designated by the school board is funding this project.

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

AYES: Anzaldo, Mahlendorf, Hancock

NAYS: Meyer, Donovan

MOTION FAILED: 3-2

Mr. Anzaldo suggested a substitute motion to allow the applicant time to consider the use of one sign or a reduction to 30 sq. ft. to be shared on two signs.

Mr. Anzaldo moved to LAYOVER the request for 30 days to allow the applicant the opportunity to consider one sign or reduce the sq. footage to allow two signs within a 32 sq. ft. budget. Mr. Meyer seconded the motion.

AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

MOTION CARRIED: 5-0
20. Case No. 10-133
Ralston School District #54
c/o Jerald Riibe, RPS Superintendent
8545 Park Drive
Ralston, NE  68127

REQUEST:  Waiver of Section 55-830(2) – Variance to the total permitted sign area from 32 sq. ft. to 56 sq. ft. to allow a pole sign not otherwise permitted in the R3 district

LOCATION:  10310 Mockingbird Drive
ZONE:  R3

RECOMMENDATION:  Approval of the Broomfield Elementary School sign only, subject to the removal of the existing pole sign on the Mockingbird Drive side of the property.  This would meet the current ordinance.

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Jerald Riibe, 6628 S. 85th Street, and Mr. Mark Adler, RPS Assistant Superintendent, 6204 S. 100th Street, appeared before the board in support of this request.

Mr. Anzaldo moved to LAYOVER this request for 30 days to allow the applicant time to find alternatives to the request.  Ms. Donovan seconded the motion.

AYES:  Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

MOTION CARRIED:  5-0
21. Case No. 10-134
Lonnie Korus
5129 S 90 Street  68127

REQUEST: Waiver of Section 55-786(e) – Variance to the residential fence regulations to allow a 7’ high privacy fence in the street side yard setback

LOCATION: 5129 S 90 Street
ZONE: R4(35)

RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Lon Korus appeared before the board in support of this request.

Mr. Meyer stated that due to the difficulty and the hardship of the topography of the applicant’s property, and noting the recommendation of approval by the Department, he moved to APPROVE the request. Ms. Donovan seconded the motion.

AYES: Mahlendorf, Meyer, Donovan, Anzaldo, Hancock

MOTION CARREID: 5-0
22. Case No. 10-135
Omaha Neon Sign Company
1120 N 18 Street  68102

REQUEST: Waiver of Section 55-830 - Variance to the front yard setback from 12’ to 3’ for a monument sign and allow electronic information not otherwise permitted in the R4(35) district

LOCATION: 1501 S 48 Street

ZONE: R4(35)

RECOMMENDATION: Denial of the requested setback waiver and approval of the request for electronic message.

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Dennis Plachy, Omaha Neon Sign Company and Ms. Holly McCoy, 1501 S. 48th Street, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that in 1986 a waiver was granted to the setback from 48th Street for a sign which ended up being reduced in size. Then the sign was built and ultimately removed. The applicant is currently proposing a sign which would have an electronic message. The sign would be located at the southern edge of the property closer to Pine Street. Blair presented the applicant's drawings to the board.

The board had concerns about the applicant's rendering of a sign with an animated video rather than signage providing information in text form only.

Mr. Mahlendorf suggested a 6’ setback waiver.

Mr. Mahlendorf moved to APPROVE the request, subject to: 1) variance to the front yard setback from 12 feet to 6 feet; 2) the sign having no flashing, no animation; and 3) the hours of operation from 6 a.m. to 10 p.m. Ms. Donovan seconded the motion.

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

MOTION FAILED: 3-2

Mr. Meyer stated that the current precedent is for text only. Mr. Hancock stated that he is not supportive of high schools having electronic signage, and felt it too glaring for a residential area.

Mr. Mahlendorf moved to APPROVE, subject to: 1) a variance to the front yard setback from 12 feet to 6 feet; 2) the sign will have no flashing, video, or pictures; 3) utilizing text message only; and 4) operating only from 6 a.m. to 10 p.m.

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

MOTION CARRIED: 4-1
23. Case No. 10-136
Community Bible Church
Attn: Mel Friesen
9001 Q Street  68127

REQUEST: Waiver of Section 55-166, 55-735(b) and 55-740(f)(4) - Variance to the maximum impervious coverage from 45% to 69.7% to allow off-street parking for a religious assembly use to be within the required front & street side yard setback and to the required parking lot perimeter landscaping from 10’ to 5.13’, 4’ and 3’

LOCATION:  9001 Q Street
ZONE:  R3

RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. John Krager, HGM Associates, Inc., 5022 S. 114th Street and Mr. Mel Friesen, Community Bible Church, Board Chairman, 5016 S. 80th Street, appeared before the board in support of this request.

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

AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

MOTION CARRIED:  5-0
24. Case No. 10-137
Cesar Fragoso
4314 Center Street  68105

REQUEST: Waiver of Section 55-187 - Variance to the front yard setback from 35’ to 27.5’ to erect an enclosed covered front porch

LOCATION: 4314 Center Street
ZONE: R4(35)

RECOMMENDATION: Denial

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. & Mrs. Fragoso appeared before the board to support this request.

In response to Mr. Anzaldo, Mr. Fragoso stated that he proposes a covering only by adding a roof with columns.

Ms. Donovan moved to APPROVE, subject to: 1) variance of front yard setback from 35 feet to 27.5 feet; 2) covered only; and 3) the cover extending the entire width (15 feet) of the front porch. Mr. Meyer seconded the motion.

AYES: Mahlendorf, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED: 5-0
25. Case No. 10-138  
Circo Enterprises  
4611 S 96 Street  68127

REQUEST:  Waiver of Section 55-835 – Variance to allow a 25’ high, 16 sq. ft. pole sign not permitted in the Limited Commercial District

LOCATION:  6651 Sorensen Parkway
ZONE:  LC

RECOMMENDATION:  Denial

At the Zoning Board of Appeals meeting held on Thursday, October 21, 2010, Mr. Jim Turner, Vital Signs Unlimited, 6969 S 107th St, La Vista, NE, appeared before the board on behalf of the applicant in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that the applicant is requesting a waiver for an industrial sign at this location. The sign will be moved from the northeast corner of 96th & L Street. He stated that the sign would be modified to identify existing retail space. Blair stated that the sign is the proper height and area for the site.

Mr. Turner provided a rendering to the board.

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

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

MOTION CARRIED:  4-1
APPROVAL OF MINUTES:

Ms. Donovan moved to APPROVE the September 16, 2010 meeting minutes as written. Mr. Meyer seconded the motion.

AYES: Mahlendorf, Meyer, Donovan, Anzaldo

ABSTAIN: Hancock

MOTION CARRIED: 4-0-1

ADJOURNMENT:

Mr. Mahlendorf moved to ADJOURN the meeting at 4:20 p.m. Ms. Donovan seconded the motion.

AYES: Meyer, Donovan, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0