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.
HOLD OVER CASES:

1. Case No. 10-005 - LAYOVER
   (over from 1/21/10)
   The Architectural Offices
   5015 Underwood Avenue  68132
   REQUEST: Waiver of Section 55-734, 55-735 & 55-740(h) – Variance to the required off-street parking for 6 apartment units from 11 stalls to 7 stalls and allow parking in the front yard setback and allow cars to back into the adjacent street
   LOCATION: 1547 S 28 Street
   ZONE: R7

STAFF RECOMMENDATION: Denial

At the Zoning Board of Appeals meeting held on Thursday, February 18, 2010, Mr. Anzaldo moved to LAYOVER the request for 30 days. Mr. Mahlendorf seconded the motion.

AYES: Anzaldo, Mahlendorf, Donovan, Meyer, Hancock

MOTION CARRIED: 5-0
NEW CASES:

2.  Case No. 10-007
   Midtown Properties, LLC
   4880 S 131 Street  68137
   REQUEST:  Waiver of Section 55-206 – Variance to the front yard setback from 25’ to 21.5’ and to the rear yard setback from 25’ to 6’ to erect two 3-unit townhome structures with garages
   LOCATION:  140 N 41 Street
   ZONE:  R5(35)PK, R5 Pending

STAFF RECOMMENDATION:  Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, February 18, 2010, no one appeared in support of the waiver.

Ms. Deanne K. Janicek and Sam Scarpello, 4103 Davenport Street, appeared in opposition to the request. Ms. Janicek stated that her property borders the applicant’s property on the north side. She stated that she had not seen the plans for this project.

Mr. Tom Blair, ZBA Administrator, explained that two separate structures are being proposed along 41st Street. He stated that each structure would have three two-story living units sharing a common wall, which classifies them as townhomes. The applicant is asking for a waiver of the setback for 41st Street so that the buildings would line up with the residential structure immediately south and the structure to the north. In addition, the applicant proposes garage units that would be the depth of a car and the length to match up with the townhomes. Blair stated that the garages are considered structures that have to meet a rear setback of 25 feet which is calculated from the centerline of the alley. He stated that the Department was agreeable with lining up the structures to the north and south along 41st Street and to utilize a 6’ setback in the alley would give adequate maneuverability in and out of the garages from the alley. He stated that the density meets all other requirements for the district. He also provided an endorsement letter from the Joslyn Castle Neighborhood Association.

Ms. Janicek discussed that the alley is an unpaved, one-car passageway making it difficult for cars to maneuver. She assumed that the project would consist of rentals and discussed the current challenges in the neighborhood involving other rental properties. Janicek had concerns about the negative impact to property values relative to the numerous rentals and additional parking this project would bring to the area.

In response to Ms. Janicek, Mr. Blair stated that the garages would be on-site parking (60 feet long and 24 feet deep) which would equate to a two-car garage for each unit. Ms. Janicek felt that the applicant is cramming this project into an area which is too small.

Ms. Donovan prompted some discussion suggesting that the opposition attend the Planning Board public hearing. Donovan felt that Ms. Janicek would be able to state her concerns by following up at a Planning Board meeting. Mr. Blair stated that this applicant needs to apply to the Planning Board to request a zoning change. He stated that a rezoning request is due to a PK Overlay which was put in place with the parking lot and must be removed as part of this proposal.

Mr. Anzaldo moved to LAYOVER the request for waiver. Mr. Mahlendorf seconded the motion.

AYES:  Mahlendorf, Donovan, Meyer, Anzaldo, Hancock

MOTION CARRIED:  5-0
3. Case No. 10-008  
Bryan Guy  
5605 Jones Street  68106

REQUEST: Waiver of Section 55-782 B6 - Variance to the side and rear setback for a residential accessory building from 3’ to 1.1’ to erect a 22’ X 22’ detached garage

LOCATION: 5605 Jones Street  
ZONE: R3

STAFF RECOMMENDATION: Approval subject to building material matching those of existing residents.

At the Zoning Board of Appeals meeting held on Thursday, February 18, 2010, Mr. Brian Guy, 5605 Jones Street, appeared before the board in support of the waiver.

Mr. Tom Blair, ZBA Administrator, stated that the applicant proposes to remove a detached garage that is 18’ wide by 20’ in depth and currently located 1.1’ from both the side and rear lot lines, replace it with a larger garage (22’ deep X 22’ wide). In order to have proper vehicular access into the garage, he would like to keep the same setbacks as the garage that is being torn down. Blair explained that the 3’ side and rearyard setback for residential accessory buildings was established in 1987. He stated that this neighborhood has many detached garages which are closer than 3’ to the side and rear yard lot line. Blair stated that the neighborhood and surrounding property owners have gotten used to those setbacks over time. The Planning Department does not have any objection to the waiver as requested.

In response to Mr. Meyer, Mr. Blair stated that the new structure is larger and extends side to side by 4 feet and front to back by 2 feet. He added that the applicant is enlarging the structure 2’ closer to the house and 4’ into the rear yard.

Mr. Brian Guy stated that the expansion is to add a service door which does not exist in the current garage. He stated that he would be unable to access his garage if the power goes out. He noted that the material would match the existing garage, also matching the house.

Mr. Meyer moved to APPROVE the request as submitted, subject to the building materials matching that of the existing residence.

AYES: Donovan, Meyer, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0.
4. Case No. 10-009
   Leo Harrington
   4264 N 143 Street 68164

REQUEST: Waiver of Section 55-406 - Variance to the minimum lot width from 50’ to 30’ to provide for an administrative subdivision

LOCATION: 2819 N 16 Street
ZONE: GC

STAFF RECOMMENDATION: Approval

At the Zoning Board of Appeals meeting held on Thursday, February 18, 2010, Mr. Leo Harrington, 4264 N. 143rd Street, appeared before the board in support of the waiver.

Mr. Tom Blair, ZBA Administrator, stated that the applicant has submitted a site plan prepared by Schemmer & Associates which shows an “as-built” of the existing structures on the east side of 16th Street, south of Locust Street. He stated that the three brick buildings are connected. Blair explained that one of the buildings is approximately 30’ wide with a common fire wall between the two-story brick building to the south and the one-story brick building to the north. He stated that an administrative subdivision would be required in order for that bay to be sold separately. Blair noted the general commercial district typically requires a minimum lot width of 50 feet, whereas this building is 30 feet wide. The applicant is requesting a waiver of that provision. He stated that the outward appearance of the building is not expected to change other than improvements made to it. This request would allow for the transfer title to the 30’ strip of ground.

In response to Mr. Hancock, Mr. Harrington stated that they have closed the used furniture and appliance store that occupied the space for a number of years. He stated that the building would be owner-occupied.

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

AYES: Meyer, Anzaldo, Mahlendorf, Donovan, Hancock

MOTION CARRIED: 5-0
5. Case No. 10-010  
Phil & Leslee Hacker  
431 N 61 Street  68132  

REQUEST: Waiver of Section 55-166 - Variance to the side yard setback from 7’ to 5’3” to erect two-story tandem garage addition  

LOCATION: 431 N 61 Street  
ZONE: R3  

STAFF RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, February 18, 2010, Suzan Rohrig, Architect, 16429 Mason Street, appeared on behalf of the applicants in support of the waiver.

Mr. Tom Blair, ZBA Administrator, referenced the site plan in describing this case. He stated that the addition could be built in total with the exception of a specific area designated on the site plan. Blair noted a provision in the code that allows an addition to be no longer than 50% of the existing non-conforming wall in order to be erected. The applicant does not want to notch the building and is requesting a continuous 5’3” setback. Blair stated that a letter was submitted by the adjacent property owner to the north indicating that they reviewed the plans and have no objection.

Ms. Rohrig stated that the brick on the existing north side of the residence will be removed due to the long elevation and re-used around the foundation of the addition. She added that siding (hardi-plank) will be used in place of the brick on north side of the residence.

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

AYES: Anzaldo, Mahlendorf, Donovan, Meyer, Hancock

MOTION CARRIED: 5-0
6. Case No. 10-011
Clague & Kris Hodgson
101 S 54 Street  68132

REQUEST: Waiver of Section 55-166 – Variance to the minimum lot width from 60’ to 50’ and to the minimum lot area from 7500 sq. ft. to 7100 sq. ft. to provide for an administrative subdivision

LOCATION: 101 S 54 Street
ZONE: R3-ACI-2

STAFF RECOMMENDATION: Approval

At the Zoning Board of Appeals meeting held on Thursday, February 18, 2010, Clague & Kris Hodgson, appeared before the board in support of the waiver.

Mr. Tom Blair, ZBA Administrator, stated that the applicant has prepared an “as-built” survey showing the existing properties for sale at the corner of 54th & Dodge Street. He explained that there is room to the south for a lot that is 50’ wide however the R3 zoning classification requires 60’ wide lots. Blair stated that the applicant is requesting a waiver of that provision. The minimum lot size in R3 is 7500 sq. ft. and this lot is 7100 sq. ft. He stated that anything built there is required to have a 7’ side yard on both sides and a R3 front yard and R3 rear yard. Blair talked to property owners subsequent to sending the notice. He informed them of the Department’s favorable recommendation due to the fact that all the lots on both sides of 54th south of Dodge are 50 feet wide. Most of the questions that came from the neighborhood were relative to the type of house that would be built and the architecture in the neighborhood.

Mr. Hancock inquired of those in opposition and invited their testimony regarding the request for waiver.

Greg & Kathy Bartel, 105 S. 54th Street and Leilani Coe (Reuter), 110 S. 54th Street appeared in opposition to the request for waiver.

Mr. Blair explained that the Board’s policy is to notify property owners within 100’ in all directions of the site of the waiver. Blair reiterated that the biggest reason for the Department’s support is that the lot size does not differ from the lots to the south on 54th Street. In response to Ms. Donovan, Mr. Blair stated that sideyard setbacks are 7 feet. He explained that this neighborhood was built under an old code that is no longer in effect. It is therefore believed that the current homes were built correctly and adhere to the codes and ordinances that were in place at the time. The classification for this neighborhood remained R3 as the City felt it was appropriate for the area. The City rezoned entirely in 1987 and today many of the lots are close but do not (exactly) meet the requirements.

The Board confirmed for the Hodgsons’ that anyone acquiring this lot would have to follow the same zoning regulations, setback rules, and covenants that are currently in place. If not, an individual would need to be heard by this board regarding changes or request for waiver(s). In response to Mr. Anzaldo, Mr. Hodgson stated that they made a decision to downsize by attempting to sell the lot, improved property, or both. Discussion surrounded the neighbor’s concern for potential buyers and whether a newly built structure would be compatible with the neighborhood. Mr. Anzaldo stated that the Board could not enforce the structural style of a building other than it conforming to the requirements stated in the building code and zoning code. Upon hearing more testimony, Anzaldo commented that the neighborhood needs to have some protection as far as the design of a newly built home.

Mr. Lloyd Meyer felt this would also be an opportunity for the residents to create a neighborhood association, especially since a new home has not been built in that area for a long time. He concluded by stating that dictating aesthetics on private property becomes a slippery slope.

Mr. Hancock stated that the Board would first deal with the applicant wanting to create a 50’ wide lot and sell it. Mr. Bartels shared concerns about dealing with the architectural integrity of the neighborhood. He also felt that the parking density which would adversely impact the neighborhood as well. Bartels stated that building another house on 54th Street would not be safe.
Ms. Donovan had concerns about any seller who would question the marketability of a property if the buyer is expected to absorb the expense of drawing up plans for building in conjunction with a purchase agreement. She objected such a condition in the request for waiver.

Mr. Mahlendorf reminded the Board that the 50’ lot matched the neighborhood. He stated that oftentimes the price of a lot and the looks of a neighborhood determine whether or not an individual would want to build. Mahlendorf shared the likelihood of individuals wanting to live in that area will have expectations of a high lot price as well.

Mr. Mahlendorf moved to APPROVE the waiver as requested. Mr. Anzaldo seconded the motion.

AYES: Mahlendorf, Donovan, Meyer, Anzaldo, Hancock

MOTION CARRIED: 5-0
7. Case No. 10-012  
Silo Extreme Outdoor Adv., LLC  
308 S 51 Street  68132

REQUEST: Waiver of Section 55-716 – Variance to the required bufferyard between GI & R5 from 50’ to 30’ to allow outdoor/indoor sports and recreation (climbing)

LOCATION: 3417 Vinton Street
ZONE: GI

STAFF RECOMMENDATION: Approval in accordance with the plans submitted. (an area 220’ X 30’)

At the Zoning Board of Appeals meeting held on Thursday, February 18, 2010, Richard M. Brock, 308 S. 51st Street and Chris Willet, Olsson Associates, 2111 S. 61st Street, Ste. 200, appeared before the board in support of the waiver.

Mr. Hancock stated that the Board had concerns with the type of sign that would be displayed. He confirmed that there are laws established which prohibit the applicant from displaying a billboard on I-80 due to the proximity of other billboards within 700 feet.

Mr. Blair stated that they have worked through a special use permit process with the Planning Department. Willet stated that a condition of the Planning Board was to come to an agreement with the Planning Department on signage. An agreement was reached with Public Works and the Planning Department. The Planning Department's recommendation was to use a CC type of zoning in which the rendering is based upon.

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

AYES: Donovan, Meyer, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0
8. Case No. 10-013
   Dan & Sheryl Godsey
   4408 Capitol Avenue  68131

   REQUEST: Waiver of Section 55-734 - Variance of the required off-street parking for a 68-child daycare facility from 17 stalls to 12 stalls

   LOCATION: 3910 Harney Street
   ZONE: GC

   STAFF RECOMMENDATION: Approval for this applicant only.

   At the Zoning Board of Appeals meeting held on Thursday, February 18, 2010, Mr. Bob Torson, Architect, 6542 S. 118th Street, and Dan and Sheryl Godsey, 10349 S. 162nd Street appeared before the board in support of the waiver.

   Mr. Hancock stated that the board was comfortable with the plan submitted. The applicant is currently in operation at another location and plans on using buses and vans to transport some of the children to the Harney Street location. The demand for parking is lower than other daycare facilities.

   Mr. Mahlendorf confirmed that the applicant has a written lease agreement with another property owner that will allow 5 to 6 of the applicant’s employees to park off-site on the leasor’s property (Katelman Company). The applicant has agreed to submit a copy of the lease to the Planning Department file.

   Ms. Donovan moved to APPROVE the request for this applicant only. Mr. Meyer seconded the motion.

   Mr. Hancock explained that if the business or building were sold, the new owner would need to apply for a similar waiver, due to this applicant’s operating characteristics.

   AYES: Donovan, Meyer, Anzaldo, Mahlendorf, Hancock

   MOTION CARRIED: 5-0
APPROVAL OF MEETING MINUTES

Mr. Meyer moved to APPROVE the January 21, 2010 meeting minutes as written. Ms. Donovan seconded the motion.

AYES: Anzaldo, Donovan, Meyer, Hancock

ABSTAIN: Mahlendorf

MOTION CARRIED: 4-0-1

NEW BUSINESS

Mr. Mahlendorf moved to APPROVE setting up a "show-cause" hearing for the March 18, 2010 ZBA meeting on Case #09-058, Eddith Buis, 1018 S. 36th Street regarding the Board's action of May 21, 2009: “Approval... subject to the removal of two existing Indian sculptures within 90 days along 36th Street and no other variances will be granted for this property.” Mr. Anzaldo seconded the motion.

AYES: Donovan, Meyer, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0

ADJOURNMENT

Ms. Donovan moved to ADJOURN the Zoning Board of Appeals meeting at 2:12 pm. Mr. Anzaldo seconded the motion.

AYES: Mahlendorf, Donovan, Meyer, Anzaldo, Hancock

MOTION CARRIED: 5-0

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Approved (date)

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Bert Hancock, Chairman

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Claudia Moore, Secretary