MINUTES
ZONING BOARD OF APPEALS
REGULAR MEETING - THURSDAY, FEBRUARY 17, 2011
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
Rick Cunningham, Planning Director
Rosemarie Horvath, Assistant City Attorney

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. 10-147
   Tony Constantino
   *(Over from 11/18/10, 12/16/10, 1/20/11)*
   6516 Irvington Road
   Omaha, NE 68122

   REQUEST: Waiver of Section 55-740 & 55-716 – Variance to the off-street parking design standards by allowing vehicles to back into adjacent streets, to perimeter and street yard landscaping from 10’ and 8.5’ to 0’ and 5’ to 2.5’ to the handicapped access aisle from 8’ to 5’ by enlarging adding a patio to an existing restaurant

   LOCATION: 6516 Irvington Road
   ZONE: GC

RECOMMENDATION: The revised plan was reviewed by the Traffic Engineering Department. Both the Planning Department and the Public Works Department have no objection to the revised plan provided the applicant leases that portion of Irvington Road and Fremont Street right-of-way used for parking is leased from the City of Omaha.

At the Zoning Board of Appeals meeting held on Thursday, February 17, 2011, Mr. Tony Constantino, and Mr. Paul Kelly, 440 N. 61 Street, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that this case was laid over to determine the exact location of the property line to 1) draw accurate plans, and 2) lease portion of either Irvington Road or Fremont Street right-of-way used by the applicant.

The City recently determined that a lease was not necessary. The revised plan reduces the number of parking stalls to 17, which reduces the size of the patio. Those parking stalls meet the minimum requirements of the ordinance with exception of the other waiver requests. They’ve shown the portions of the property that are landscaped.

Mr. Anzaldo moved to APPROVE the request subject to the plans submitted. Mr. Meyer seconded the motion.

AYES: Anzaldo, Mahlendorf, Meyer, Donovan, Hancock

MOTION CARRIED: 5-0
2. Case No. 10-046
   Emerging Terrain
   (Over from 1/20/11)
   Attn: Anne Trumble
   5912 Maple Street
   Omaha, NE 68104

   REQUEST: Waiver of Section 55-825(C)(4) – Variance to the maximum size for a temporary banner (for up to 4 years) from 120 sq. ft. to 20,800 sq. ft.

   LOCATION: 3417 Vinton Street
   ZONE: GI

RECOMMENDATION: Approve for 4 years with an annual review by the Zoning Board of Appeals.

At the Zoning Board of Appeals meeting held on Thursday, February 17, 2011, Ms. Anne Trumble appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that this request refers to 13 banners on the west side of the grain elevator. Blair stated that the Department recommends approval subject to an ongoing review for proper maintenance of the banners.

Ms. Casey Fisher and Mr. Anthony Polak appeared before the board in opposition. Ms. Fisher’s letter was presented and submitted to the case file.

Ms. Fisher pointed out on an aerial map the proximity of their three lots to the grain elevator, and discussed the problems they face with people trespassing and traffic parking in their yard to view the banners. She also had concerns about the lighting for the banners.

Mr. Blair stated that the initial request was to display the banners on the grain elevators and later move them to different locations throughout the Midwest for viewing. Ms. Trumble stated that the banners were kept at this location because of the positive public response. She stated that the lighting is activated when the natural light dims and set up to turn off at 2:30 a.m. Ms. Donovan inquired about the lights terminating earlier. In response to Mr. Hancock, Ms. Trumble stated that they could put up “No trespassing” signs to deter people from parking on the neighbors’ property and turn the lights off earlier.

Mr. Mahlendorf moved to APPROVE a 4-year waiver with an annual review by the Planning Department, subject to the hours of illumination to stop at 11 p.m. Ms. Donovan seconded the motion.

AYES: Mahlendorf, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED: 5-0
3. Case No. 11-004
   Omaha Neon Sign Co.
   (Over from 1/20/11)
   1120 N 18 Street
   Omaha, NE  68102

   REQUEST: Waiver of Section 55-843 – Variance to the
   allowed height of a pole sign from 35’ to 60’
   LOCATION: 14540 Grover Street
   ZONE: GI

   **LAYOVER**

   RECOMMENDATION: Denial

   At the Zoning Board of Appeals meeting held on Thursday, February 17, 2011, Mr. Tom Blair, ZBA Administrator, presented this case and recommended a layover.

   Mr. Meyer moved to LAYOVER the request until the March 17, 2011 meeting. Ms. Donovan seconded the motion.

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

   **MOTION CARRIED:** 5-0
4. Case No. 11-007  
Sullivan Homes  
*(Over from 1/20/11)*  
333 S 93 Street  
Omaha, NE 68114  

REQUEST: Waiver of Section 55-126 – Variance to the rear yard setback from 35' to 30' 16' to allow construction of an 18' X 10' addition with a covered deck  

LOCATION: 610 Loveland Drive  
ZONE: R1

RECOMMENDATION: The waiver is justified due to the irregular rear yard. Due to the grade change in the rear yard, the proposed improvements will not have a detrimental effect on adjacent properties.

At the Zoning Board of Appeals meeting held on Thursday, February 17, 2011, no one appeared in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that the applicant telephoned and requested a layover.

Mr. Meyer moved to LAYOVER the waiver request until the March 17, 2011 meeting. Mr. Mahlendorf seconded the motion.

AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

MOTION CARRIED: 5-0
S. Case No. 11-008
NS Worldwide
(Over from 1/20/11)
Attn: Jack Song
11025 M Street
Omaha, NE 68127

REQUEST: Waiver of Section 55-843 – Variance to the maximum size for a pole sign from 150 sq. ft. to 220 sq. ft. and to the maximum height from 35’ to 67’50’

LOCATION: 11025 M Street
ZONE: GI

RECOMMENDATION: The Planning Department is opposed to the requested waivers.

At the Zoning Board of Appeals meeting held on Thursday, February 17, 2011, Mr. Jack Song and Mr. Troy Panagiotis, Omaha Neon Sign Company, 1120 N. 18th Street, appeared before the board in support of this request.

Mr. Panagiotis stated that the request was reduced in height to 50’ and the applicant will reduce the size to the legal square footage of 150’. Hancock stated that the 1987 law was clear and explicit about reducing the height of signs and attempts to bring them into compliance by a certain date. He stated that the property has existed a long time without being brought into compliance. Hancock stated that upon the applicant’s recent purchase of the business, the applicant discovered a need for assistance in advertising resulting from a below grade site. He stated that though the revised request is technically non-compliant with the City’s sign code, it is getting closer to compliance. Hancock added that the board would be more likely to approve an existing sign rather than a new sign.

Mr. Anzaldo moved to APPROVE the waiver request, subject to a maximum size of 150 sq. ft and 50’ in height. Mr. Meyer seconded the motion.

AYES: Anzaldo, Mahlendorf, Meyer, Hancock

NAYES: Donovan

MOTION CARRIED: 4-1
NEW CASES:

6. Case No. 11-009
   Paul Aaron
   1425 Skyline Drive
   Elkhorn, NE 68022

   REQUEST: Waiver of Section 55-163 – Variance to the permitted use regulations of the R3 district to allow an accessory building (garage) to be the primary use

   LOCATION: 1425 Skyline Drive
   ZONE: R3

RECOMMENDATION: Approve.

At the Zoning Board of Appeals meeting held on Thursday, February 17, 2011, Mr. Paul Aaron, and Mr. Jerry Slusky, Slusky Law, 8712 W. Dodge Road, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that the applicant has a large property with a home and a detached garage. The applicant has begun the process of subdividing the property and creating two lots; one with the existing home on it and the second to the south with a detached garage on it. He stated that at some point the applicant may build a new home on the new lot that was created. In the meantime, the primary use of that property, after the lot is created, is a storage building which is not a residential use. Garages are permitted in residential districts as an accessory use. Prior to the creation of the lot line it is an accessory building to the house that is there but once you put a lot line between the two, you have two uses instead of one. The garage would be legal if the long-term intent is to add a second home on that property because it would ultimately be accessory to that new home constructed. But in the interim, it’s not. The Planning Department does not have any objection provided it is the intent that the second lot be used for another residence.

Mr. Slusky stated that the house was built pre-annexation which became non-compliant when Omaha annexed it. Mr. Aaron stated that the property has always been two separate lots.

Mr. Robert Wellingdorf, 1145 Skyline Drive, appeared in opposition to the request.

Mr. Wellingdorf had concerns about the applicant putting a business on the lot. Mr. Aaron stated that he intends to sell the lot or build a home on the lot and sell it. Mr. Blair referred to Exhibit 2 which shows where the applicant is proposing to put the new lot line.

Mr. Anzaldo moved to APPROVE the waiver request in accordance with Exhibit 2 which shows the proposed lot line. Ms. Donovan seconded the motion.

AYES: Mahlendorf, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED
7. Case No. 11-010
   Mark Adler
   Ralston Public Schools
   8545 Park Drive
   Ralston, NE 68127

   REQUEST: Waiver of Section 55-740(f)(4) – Variance to
            the minimum perimeter parking lot
            landscaping requirement from 10' to 5'
   LOCATION: 6224 H Street
   ZONE: R4(35)-FF

RECOMMENDATION: Approve in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, February 17, 2011, Mr. Mark Adler, and Mr. Scott Loos, Lamp, Rynearson & Associates, Inc., 14710 W. Dodge Road, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that the school district intends to reconstruct the parking lots on both sides and to the rear but the drive aisle that is along the east side comes very close to the lot line. The intent is to reconstruct it and move it as far as possible from the lot line, but due to location of the existing improvements, the applicant will not be able to achieve a 10' setback.

Mr. Hancock stated that it is obvious that the applicant has limited space available and what is being done is best based upon the geographic situation.

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

AYES: Meyer, Donovan, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0
8. Case No. 11-011  
Douglas County School District  
3215 Cuming Street  
Omaha, NE 68131  

REQUEST: Waiver of Section 55-715 & 55-740 -  
Variance to the minimum depth of street yard landscaping from 15' to 0', to the perimeter parking lot landscaping from 10' to 0' and to allow a parking lot without curbs, protective bumpers, wheel stops or other devices to protect landscaping  

LOCATION: 5610 S 42 Street  
ZONE: HI (R4-Pending)  

RECOMMENDATION: Layover for redesign to improve perimeter landscaping and sidewalk location.

At the Zoning Board of Appeals meeting held on Thursday, February 17, 2011, Mr. Jeremy Madsen, Omaha Public Schools, 4041 N 72rd Street, Ms. Rebecca Harding and Mr. Cary Thomsen, RDG Planning Design, 900 Farnam Street, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that the issues regarding this case involve landscaping adjacent to 42nd Street and the type of curb or wheel stops that should be used on the interior parking lot. Upon inspection, the board discovered there are two areas for parking along 42nd Street. He stated that the property is in the process of being rezoned to residential and that parking is not allowed in the front yard (42nd Street) of a residential district for a non-residential use. The Planning Department recommended that this case be laid over in order to redesign and improve perimeter landscaping.

Ms. Harding explained the project's layout, safety aspects, and access points. She stated that the project entails adding another lane to 42nd Street to allow safe entry and exit onto the site (elementary school and proposed middle school). Harding stated that upon working with OPPD, the power lines will be moved to the east side of the street. She discussed the bus drop-offs, parent drop-offs, and access to a central kitchen which is being added. Harding stated that they are providing turn lanes and islands to slow the traffic and provide better access into the site. In response to Ms. Donovan, Mr. Madsen explained the configuration of the Early Childhood Center.

Mr. Hancock talked about the green aspect of the parking lot which causes him some concern from a safety standpoint. Mr. Meyer felt that it's more of a maintenance issue. Mr. Mahlendorf stated that more of the new engineering practices will be implemented.

Mr. Blair recommended that the applicant continue looking at the two parking areas next to 42nd Street to see if anything more can be done with respect to landscaping.

Mr. Anzaldo moved to LAYOVER this waiver request for redesign to improve the perimeter landscaping. Mr. Meyer seconded the motion.

AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

MOTION CARRIED: 5-0
9. Case No. 11-012
   Pastor Shannon
   Greater St. Paul Ministries
   5116 Terrace Drive
   Omaha, NE 68134

   REQUEST: Waiver of Section 55-830 – Variance to the
   maximum permitted sign budget from 32 sq. ft. to 44 sq. ft. by adding an additional
   wall sign

   LOCATION: 5116 Terrace Drive

   ZONE: R3

RECOMMENDATION: Approve

At the Zoning Board of Appeals meeting held on Thursday, February 17, 2011, Pastor Joseph Shannon,
and Mr. Pedro Vargas, 5116 Torrance Drive, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, referred to a drawing of the signage that is already on the property.
He pointed out the existing wall sign and a freestanding monument sign. Blair explained that this
additional 9 sq. ft. of lettering to identify the development center puts them over the sign budget by 12
sq. ft. He stated that the Planning Department supports this request because similar waivers for similar
signs for churches in residential districts have been approved previously. Blair stated that the two wall
signs would be on opposite sides of the building and that the monument sign is tastefully displayed.

Mr. Meyer moved to APPROVE the waiver request in accordance with the exhibit. Ms. Donovan seconded
the motion.

AYES: Anzaldo, Mahlendorf, Meyer, Donovan, Hancock

MOTION CARRIED: 5-0
10. Case No. 11-013
    Nick Triantafillou
    12607 S 70th Street
    Papillion, NE 68133

    REQUEST: Waiver of Section 55-715 & 55-740F –
    Variance to the street yard and parking lot
    perimeter landscaping from 10’ to 0’ to
    install 5 additional parking stalls

    LOCATION: 3362 S 13 Street
    ZONE: GC

    RECOMMENDATION: Denial

At the Zoning Board of Appeals meeting held on Thursday, February 17, 2011, Mr. Nick Triantafillou, and
Mr. Brinker Harding, 6464 Center Street, appeared before the board in support of this request.

Mr. Tom Blair, ZBA Administrator, stated that there aren’t any dimensions for the proposed 5 stalls. From
the site plan, it looks like there may be more than adequate room for 5 stalls.

Mr. Harding referred to two aerials. He stated that the plans are to make the parking diagonal so that
there will be some landscaping to accommodate and maximize as much as possible based upon the
required size of the stalls. Mr. Tom Lovgren, 3421 S. 14th Street appeared in support of this request.

Mr. Blair stated that the zoning code has certain criteria for 60 degree angled parking as to the exact size
of the stalls and the exact size of the drive aisles that serve those stalls. He added that the applicant’s
survey can be used to assure that the off-street parking design standard is being met.

Mr. Hancock noted a possibility of approval 1) if the applicant can show that it’s within the 10’ to 0’ and
still within the lot line, and 2) if the applicant can meet the City’s parking requirements.

Mr. Mahlendorf moved to APPROVE the waiver request subject to meeting the off-street parking design
standards. Ms. Donovan seconded the motion.

AYES: Mahlendorf, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED: 5-0
APPROVAL OF MINUTES:

Mr. Meyer moved to APPROVE the January 20, 2011 meeting minutes as amended. Ms. Donovan seconded the motion.

AYES: Meyer, Donovan, Mahlendorf, Hancock

ABSTAINED: Anzaldo

MOTION CARRIED: 4-0-1.

ADJOURNMENT:

Mr. Mahlendorf moved to ADJOURN the meeting at 2:20 p.m. Mr. Meyer seconded the motion.

AYES: Donovan, Anzaldo, Mahlendorf, Meyer, Hancock

MOTION CARRIED: 5-0