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 announced that layovers were requested for Case No.’s 11-069, 11-070 and 11-093.
LAYOVERS

1. Case No. 11-057  
(Over from 6/16/11, 7/21/11)  
REQUEST: Waiver of Section 55-825(c) – Variance to the temporary sign regulations to allow a temporary video projection  
Mutual of Omaha  
3301 Dodge Street  
Omaha, NE 68175  
LOCATION: 3301 Dodge Street  
ZONE: CBD-ACI-2(50)

RECOMMENDATION: The Department recommends approval of the request subject to: 1) the final video program approved by the Planning Department; 2) the applicant coordinating with Omaha Police and Public Works Departments to address any issues that arise; 3) no advertising is allowed; 4) no audio amplification is allowed; and 5) the video program running from June 9-July 2, 2012, from 9:30 pm-11 pm in periodic intervals.

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Joe Hanrahan and Ms. Carol Dahl, Mutual of Omaha appeared before the board in support of this request.

Mr. Michael Carter, ZBA Administrator, stated that the applicant proposes to project a video on the side of the building in celebration of the Omaha USA Swim trials. He stated that the timeframe would be from June 9, 2012 to July 2, 2012 during periodic intervals from 9:30 pm until 11:00 pm. Carter stated that the Department supports the request with conditions.

In response to Mr. Hancock, Mr. Hanrahan stated that these will be streaming videos. He stated that the actual images will change more rapidly than the video mock-up. Hanrahan addressed concerns regarding distractions. He stated, according to the zoning laws relative to signage, that these are typically backlit signs and will be projected on the face of the building, not a white screen, so it will be muted somewhat and off the side of the road. Hanrahan stated that he spoke to other municipalities to better understand how they went about regulating that. Hanrahan reiterated the hours of operation, the short intervals of 5 to 7 minutes on every half hour. He stated that the idea is to give everyone a chance to see the images, not wanting any distractions or people milling around. Mr. Hancock stated that the U.S. Swim Team logo is the only logo that can be advertised. He stated that no other product, service or brand ads will be allowed.

Mr. Anzaldo moved to APPROVE, subject to 1) the final video program approved by the Planning Department; 2) the applicant coordinating with Omaha Police and Public Works Departments to address any issues that arise; 3) no advertising is allowed; 4) no audio amplification is allowed; and 5) the video program running from June 9 through July 2, 2012, from 9:30 pm until 11 pm in periodic intervals. Mr. Nash seconded the motion.

AYES: Anzaldo, Nash, Meyer, Donovan, Hancock

MOTION CARRIED: 5-0
2. Case No. 11-069  
(Over from 7/21/11)  
Vicky Stadther  
1650 W 82 Street Ste. 900  
Bloomington, MN  55431  

**LAYOVER**

**REQUEST:** Waiver of Section 55-366, 55-734 & 55-740(f)(4) – Variance to the rear yard setback from 15’ to 6’ to construct a trash enclosure, to the minimum number of required off-street parking stalls for a Restaurant (Drive-in) from 27 to 14 and to the perimeter parking lot landscaping from 5’ to 0’

**LOCATION:** 2410 Cuming Street  
**ZONE:** GI-ACI-1(PL)  
CC-ACI-1(PL) (Pending)

**RECOMMENDATION:** Layover

Ms. Donovan moved to LAYOVER this case until the September 15, 2011 meeting. Mr. Meyer seconded the motion.

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

**MOTION CARRIED:** 5-0
3.  Case No. 11-070  
(Over from 7/21/11)
Slosburg Company
10040 Regency Circle #200
Omaha, NE 68114

**LAYOVER**

**REQUEST:**  Waiver of Section 55-716 & 55-740(f)(4) – Variance to the bufferyard requirements between CC and R2 from 30’ with screening to 0’ without screening and to the perimeter parking lot landscaping from 5’ to 0’ to allow for redevelopment of the site

**LOCATION:**  2501 S 90 Street & 8998 West Center Road
**ZONE:**  CC & CC/FF

**RECOMMENDATION:** The Department recommends approval of the request, subject to: 1) adjusting the depth of the 49 stalls that face the west side of the large building and all the stalls along 90th Street from 18’ to 16’ and adding that 4’ to the landscaping along 90th Street; 2) the applicant applying to rezone the property to MCC-Major Commercial Corridor; 3) the site meeting all applicable MCC regulations, including the buildings and signage complying with all design standards; and 4) the applicant returning to the ZBA once the design/location for the corner building has been finalized.

Ms. Donovan moved to LAYOVER this case until the September 15, 2011 meeting. Mr. Meyer seconded the motion.

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

**MOTION CARRIED:** 5-0
At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Jay Muller appeared before the board in support of this request.

Mr. Muller stated that from the last meeting he thought that this would be a dead issue. He stated that he received a phone call yesterday with instructions to go for something different. Mr. Hancock gave an update of the July 21 meeting stating that the applicant requested a waiver for a 300 sq. ft. pole sign and to waive the off-premises allowance which was voted down. He stated that a second motion was made to approve a pole sign at 200 sq. ft. which lost by a 3 to 2 vote. Hancock stated that it was then laid over.

To date, Muller presented an amended proposal. He stated that the pole sign would be 150 sq. ft. However, Muller requested a waiver for an off-premise sign. He stated that the applicant has an existing off-premise sign which was approved some years ago. Muller presented a sample of the proposed off-premise sign which would be located in the median.

Mr. Anzaldo moved to APPROVE an off-premise sign. Mr. Hancock seconded the motion.

AYES: Anzaldo, Nash, Hancock

NAYES: Donovan, Meyer

MOTION FAILED: 3-2
5. Case No. 11-076  
(Over from 7/21/11)  
Northwest High School  
8204 Crown Point Ave  
Omaha, NE 68134

REQUEST: Waiver of Section 55-829 – Variance to the maximum height for a monument sign from 6’ to 12’, to the maximum sign area from 25 sq. ft. to 6145 sq. ft., to the maximum total permitted sign area from 40 sq. ft. to 232216 sq. ft., and to allow an electronic message sign not otherwise permitted in the DR district

LOCATION: 8204 Crown Point Ave
ZONE: DR

RECOMMENDATION: The Department recommends approval of the request, subject to: 1) Adjusting the depth of the 49 stalls that face the west side of the large building and all the stalls along 90th Street from 18’ to 16’ and adding that 4’ to the landscaping along 90th Street; 2) The applicant applying to rezone the property to MCC-Major Commercial Corridor; 3) The site meeting all applicable MCC regulations, including the buildings and signage complying with all design standards; and 4) The applicant returning to the ZBA once the design/location for the corner building has been finalized.

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Herman Colvin, Ms. Cindy McWhirter, Northwest High School, and Mr. Rob Tomanek, Neon Sign Company, appeared before the board in support of this request.

Mr. Michael Carter, ZBA Administrator, stated that the applicant is proposing to construct an electronic message sign along the north side of Crown Point Avenue, close to the entrances. He stated that there is a sign on the building and another in a grassy area creating a need for waivers of the total budget. Carter stated that the Department is supportive of the request and believes that some things can be done to bring it more into compliance. He listed removal of particular signage, limiting how the electronic message is used, and physically moving a sign farther away from residential property. He recommended that the total signage be one sign on the school building, with removal of the existing sign to the south of the building, and the proposed 12-foot high electronic message sign.

In response to Mr. Hancock, Mr. Colvin stated that the electronic message board will go off every night at 10 pm. He stated that the electronic message sign would provide information to the community regarding school events and activities. Colvin stated when traveling west, trees block the existing sign and when traveling east, the road curves making it difficult to see the sign. Mr. Tomanek stated that the school would like to refurbish the existing sign. In response to Ms. Donovan, Mr. Tomanek stated that the sign on the building is 45 sq. ft. and the other existing sign is 126 sq. ft. In response to Mr. Hancock, Mr. Colvin stated that they would like to display images of the team’s accomplishments, but not on an everyday basis. Mr. Meyer stated that there is no problem with text. He stated that it becomes difficult when the electronic signs become a means of entertainment and project too much light. Ms. Donovan stated that schools have never been given permission to project images. Mr. Meyer felt that the logo under the screen cannot be read from a distance and suggested that it be eliminated. Mr. Hancock stated that he generally does not vote for electronic signs for schools.

Ms. Donovan moved to APPROVE the waiver request, subject to 1) no flashing, video, animation or pictures; 2) utilizing text messages only; 3) operating from 6 am to 10 pm; and 4) eliminate the logo on the bottom of the monument sign so that the entire base is brick.

AYES: Anzaldo, Nash, Meyer, Donovan

NAYES: Hancock

MOTION CARRIED: 4-1
6. Case No. 11-078  
(Over from 7/21/11)  
A. Leo Pelds Engineering Co.  
2323 Dixon Street  
Des Moines, IA  50316  

REQUEST: Waiver of Sections 55-366 and 55-716 – Variance to the rear yard setback from 15’ to 6’5”, to the required bufferyard between CC & R6 from 30’ to 3’ to allow for redevelopment of the site  

LOCATION: 9905 Q Street  
ZONE: CC  

RECOMMENDATION: Deny  

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. A. Leo Pelds, and Mr. Brian De Prez, Casey’s General Store, Ankeny, IA, appeared before the board in support of this request.  

Mr. Hancock stated that this is a layover case which was looked at quite a bit. He stated that the concern was the proximity of the building to the south. Hancock suggested that the drive aisles be reduced by 2’ on each side. Mr. Pelds stated that the aisle depth in front of the store was designated at 20’ which can be reduced to 18’. He stated that the separation between the curb and the center of the first pump island needs to be 60’. Pelds stated that if that dimension is reduced, there could be fender benders. He stated that maneuverability is important in relation to people’s ease of getting in and out.  

Mr. Pelds stated that the building to the south would be 100’ south from the proposed Casey’s. He stated that they are prepared to install the necessary screening. Pelds presented drawings of various perspectives depicting evergreens along the south side (Exhibit B). In response to Ms. Donovan, Mr. Pelds stated that there is 40’ between the curb to the north and the first pump. Mr. Pelds stated that the stall was 18’ to 20’. He presented photos of the proposed store stating that it would be a nice addition to the area and felt it would generate 4 to 5 times more in taxes.  

In response to Mr. Meyer, Mr. Carter stated that the site should be in compliance with MCC (Major Commercial Corridor) Urban Design regulations. He stated that improvements were made to the site plan in terms of bringing the plan more into compliance with the MCC regulation. Carter stated that the applicant added the green area next to the parking stalls. Carter stated that the Department recommends that they make application to rezone the site to MCC and add compliance with MCC.  

Mr. Hancock was concerned about the applicant requesting waivers for three sides of the proposed project. He felt it was signaling some over-building. In response to Mr. Hancock, Mr. Pelds stated that the dimension between the back of the curb and the back of the building is more than 21’. He stated that there are currently 4 to 6 pumps on the property. Mr. Hancock felt that a variance from 15’ to 6.5’ is too tight in the back. Mr. Carter suggested that the applicant work with the Department to find extra feet. Mr. Meyer stated that the rear yard setback be no less than 10’.  

Mr. Anzaldo moved to LAYOVER the waiver request until the September 15, 2011 meeting. Ms. Donovan seconded the motion.  

AYES: Nash, Meyer, Donovan, Anzaldo, Hancock  

MOTION CARRIED: 5-0
SHOW-CAUSE HEARING

7. Case No. 08-078
   Maurice C. Parker
   300 S 16 Street #1202
   Omaha, NE 68102

REQUEST: Waiver of Section 55-203 – Variance to the use regulations of R5(35) to allow a 30’ X 24’ garage as the primary use in a residential district

LOCATION: 1123 Bancroft Street
ZONE: R5(35)

RECOMMENDATION: Approve an extension for 1 year (August 18, 2012).

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Maurice Parker appeared before the board in support of this request.

Mr. Hancock stated that this garage was granted a waiver three years ago. He stated that under the previous waiver a show-cause hearing is required at this time.

Mr. Parker stated that the plan is to break ground on a home for his parents in Spring 2012. He stated that his parents live in Iowa and want to move to Omaha once his mother completes college this Fall. Parker stated that if it does not get done in 2012, he will request more time.

Mr. Anzaldo moved to APPROVE an extension for 2 years (August 18, 2013.) Mr. Nash seconded the motion.

AYES: Meyer, Donovan, Anzaldo, Nash, Hancock

MOTION CARRIED: 5-0
NEW CASES:

8. Case No. 11-081
   Kenneth Hahn
   1343 S 75 Street
   Omaha, NE  68124
   REQUEST: Waiver of Section 55-186 – Variance to the maximum impervious coverage in a R4 district from 50% to 60% to allow a church expansion
   LOCATION: 15002 Blondo Street
   ZONE: R4

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Kenneth Hahn, Kenneth Hahn Architects, and Mr. Ross Scholz, Trustee, Covenant Presbyterian Church, appeared before the board in support of this request.

Mr. Michael Carter, ZBA Administrator, stated that the applicant was before the Planning Board for an amendment to a permit for expansion, subject to the applicant requesting a waiver of the impervious coverage on the property, which is standard for churches and schools in residential zoning. He stated that the Department supports the request.

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

AYES: Donovan, Anzaldo, Nash, Meyer, Hancock

MOTION CARRIED: 5-0
9. Case No. 11-082
Edward & Beverly Smith
7739 Nina Street
Omaha, NE 68114

REQUEST: Waiver of Section 55-183 – Variance to the permitted use regulations of the R4 district to allow duplex residential

LOCATION: 7739 Nina Street
ZONE: R4(35)

RECOMMENDATION: Approve

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Walt Peffer and Mr. Don Boldizsar, PJ Morgan, 7801 Wakeley Plaza, appeared before the board in support of this request.

Mr. Michael Carter, ZBA Administrator, stated that this case involves an existing duplex on property zoned R4. He stated that the owner is in ill health and wants to sell the property. However, there are some issues with banks and financing wherein the code states that the duplex cannot be built if it is destroyed. He stated that the applicant is requesting a variance to the use regulations to allow the property to be rebuilt if damaged more than fifty percent. Carter stated that the Department supports the request.

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

AYES: Anzaldo, Nash, Meyer, Donovan, Hancock

MOTION CARRIED: 5-0
10. Case No. 11-083  
   Omaha Neon  
   c/o Troy  
   1120 N 18 Street  
   Omaha, NE  68102  

   REQUEST: Waiver of Section 55-836 – Variance to the  
             maximum height for a wall sign in a CC  
             district from 35’ to 60’  

   LOCATION: 7270 Cedar Street  

   ZONE: CC  

RECOMMENDATION: Approve

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Dennis Plachy, Omaha Neon Sign Co., appeared before the board in support of this request.

Mr. Michael Carter, ZBA Administrator, stated that the applicant wants to replace the existing sign on the property with a similar sign at the same height. Carter stated that the Department is in support of this request.

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

AYES: Nash, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED: 5-0
11. Case No. 11-084
Omaha Neon
c/o Dennis
1120 N 18 Street
Omaha, NE 68102

REQUEST: Waiver of Section 55-836 – Variance to the maximum height for a wall sign in a CC district from 35’ to 59’

LOCATION: 655 N 108 Avenue

ZONE: CC

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Dennis Plachy, Omaha Neon Sign Co., appeared before the board in support of this request.

Mr. Hancock stated that the applicant is substituting one sign with another due to a name change.

Mr. Meyer moved to APPROVE the waiver request in accordance with the plans submitted. Mr. Nash seconded the motion.

AYES: Meyer, Donovan, Anzaldo, Nash, Hancock

MOTION CARRIED: 5-0
12. Case No. 11-085
    Brau Builders, Inc.
    20515 Nicholas Circle #6
    Omaha, NE  68022
    REQUEST: Waiver of Section 55-784(c) – Variance to the perimeter yard regulations for a cluster subdivision from 20’ to 16’ to construct a new covered deck
    LOCATION: 21046 Arbor Court
    ZONE: R4

RECOMMENDATION: Deny

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Steve Alloway, property owner, and Mr. Bob Brau, Brau Builders, appeared before the board in support of this request.

Mr. Michael Carter, ZBA Administrator, stated that the applicant is proposing to build a deck on the back of the property that encroaches up to 16’ from the property line. He stated that in a cluster subdivision, the code requires a 20’ setback from all boundaries of the property in terms of the subdivision. The Department feels that a structure in compliance can be built.

In response to Mr. Anzaldo, Mr. Brau stated that the lot is 110’ deep on one side, whereas most residential lots are 125’ deep. He stated that the lot backs up to what was a golf course owned by the City. He stated that the homeowners bought the golf course and the State will not allow any development on the golf course grounds. In response to Mr. Hancock, Mr. Alloway stated that he sent a letter to the architectural committee of the homeowner's association board. He stated that there is a precedent for this. In response to Ms. Donovan, Mr. Alloway stated that the covered deck is 14’ X 17’ and 4’ of it is recessed into the house. Mr. Hancock stated that lots are narrower in proximity to the neighbors. He noted that the irregular shaped lot line is 16’ only at its closest point.

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

AYES: Donovan, Anzaldo, Nash, Meyer, Hancock

MOTION CARRIED: 5-0
At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Bruce & Mrs. Pat Williams appeared before the board in support of this request.

Mr. Michael Carter, ZBA Administrator, stated that the applicant is requesting to put a 6-foot high chain link fence in the front yard of the property which is prohibited by the zoning ordinance. He stated that the Department feels that a legal fence can be erected instead.

Mr. Williams stated that the property is in a high-risk area. He stated that this is low-income housing in which they are concerned about the safety of the tenants. Williams stated that they have already had some confrontations. He stated that tenants have voiced that they are uncomfortable with some of the things that go on. Williams felt it their duty to help the tenants feel safe. In response to Ms. Donovan, Ms. Williams stated that there is no fence at this time. She stated that there are fences at nearby apartment complexes. Mr. Williams stated that they plan to install an electronic, sliding fence. He stated that emergency vehicles would be provided with a code for access. Mr. Hancock noted that they will essentially build onto an existing fence.

Mr. Nash moved to APPROVE the waiver request in accordance with the plans submitted. Mr. Meyer seconded the motion.

AYES: Anzaldo, Nash, Meyer, Donovan, Hancock

MOTION CARRIED: 5-0
14. Case No. 11-087  
   Eloy Flores  
   2829 Monroe Street  
   Omaha, NE  68107  

REQUEST: Waiver of Section 55-186 & 55-742(b)(3) – Variance to the interior side yard setback from 5’ to 2’ and to allow parking in the required front yard setback  

LOCATION: 2033 Elm Street  
ZONE: R4  

RECOMMENDATION: Deny  

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Eloy Flores and Mr. Lazare Campos appeared before the board in support of this request.

Mr. Michael Carter, ZBA Administrator, stated that the applicant is proposing to construct a two-story addition onto the front of the house. He stated that since the applicant would need to match up the existing side wall of the house at 2’, they will also need a waiver to construct the addition at the 2’ setback. Carter stated that the Department feels that a legal addition can be built without waivers.

Mr. Hancock stated that this situation is unique because the house sits so far back from the curb. He stated that the house already has a 2’ side yard setback. Therefore, the side of the addition will be no closer to the neighbor than the existing house. Mr. Meyer confirmed with the applicant that the front of the addition will be in line with the houses next to it.

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

AYES: Nash, Meyer, Donovan, Anzaldo, Hancock  

MOTION CARRIED: 5-0
15. Case No. 11-088
Malibu Sunrooms
Attn: Tom Patton
13633 S 217
Gretna, NE  68028

REQUEST: Waiver of Section 55-187(e) – Variance to the front yard setback from 35’ to 31’ to construct a sunroom addition

LOCATION: 2133 S 46 Street

ZONE: R4(35)

RECOMMENDATION: Deny

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Tom Patton, Malibu Sunrooms, and Mr. Jim Nailon, property owner, appeared before the board in support of this request.

Mr. Patton stated that the house was originally built in 1885 and totally remodeled in 2000. He is proposing to build a sunroom on the side of the house, not going any further than the front of the existing house. In 1987 the setback was changed to 35’ which presently goes to the sidewalk. The addition will not project any further into the front yard than the existing house. He stated that the addition will be inline with the bay window on the side of the existing house. Patton stated that the addition is within the perimeter at 6.5’ out and 14.5’ wide. Mr. Hancock stated that the house is non-conforming as it sits. He felt that this a hardship created by the code.

Ms. Donovan moved to APPROVE the waiver request, subject to the sunroom addition not extending past the existing front and side walls of the house. Mr. Meyer seconded the motion.

AYES: Meyer, Donovan, Anzaldo, Nash, Hancock

MOTION CARRIED: 5-0
At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Steve Cramer, Cramer Kreski Designs, 9300 Underwood Ave., appeared before the board in support of this request.

Mr. Michael Carter, ZBA Administrator, stated that the applicant is proposing to reconstruct and widen the existing front stoop and also construct a cantilevered addition to the front of the existing house. He stated that the applicant needs a waiver to encroach. He stated that the Department feels that a legal addition can be made as it stands.

Mr. Cramer stated that the house was built in 1961 which is before the current zoning. He stated that the existing front of the house and stoop are 34’ away from the front property line. Cramer proposed taking the existing 4’ wide front step and making it 6’ wide. He stated that the existing stoop has settled and does not meet code. Cramer stated that the stoop will not go out any further than what it is now. He stated that the cantilever addition would not protrude beyond the front of the house. Cramer stated that the cantilever addition is 2’ and the eave is 2’8”. Mr. Hancock noted the improvements taking place in this neighborhood. He stated that it was good to see some investment in this area. Hancock stated that the City’s recommendation of denial is doing their job to enforce the law. He felt that the applicant makes a valid point since the addition will line up with the existing house.

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

AYES: Donovan, Anzaldo, Nash, Meyer, Hancock

MOTION CARRIED: 5-0
17. Case No. 11-090
   J P Carpentry
   Attn: Jeff Pavel
   8610 S 21 Street
   Omaha, NE 68147

   REQUEST: Waiver of Section 55-126 – Variance to the
             front yard setback from 50’ to 34’ to
             construct a 20’ X 20’ detached garage

   LOCATION: 185 S 216 Circle
   ZONE: R1

   RECOMMENDATION: Deny

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Jeff Pavel, representing
the home owner, appeared before the board in support of this request.

Mr. Pavel stated that the applicant is proposing to construct a detached garage. He stated that they will
keep it inline with the existing house which is 34’ back. Pavel stated that this older addition is on a circle.
He stated that the other houses are not at a 50’ setback. Mr. Pavel stated that there are trees between
the applicant and the neighbor, whereas the garage cannot be seen. He pointed out a retaining wall
which tiers downward, so that the garage can go back as far as 4’, at the most, without having structural
issues. Mr. Meyer noted the size of the lot and that this was previously a part of Elkhorn.

Mr. Meyer moved to APPROVE the waiver request in accordance with the plans submitted. Mr. Nash
seconded the motion.

AYES: Anzaldo, Nash, Meyer, Donovan, Hancock

MOTION CARRIED: 5-0
18. Case No. 11-091
Kevin Walker
9458 Maple Street
Omaha, NE 68134
REQUEST: Waiver of Section 55-782(b)(6) – Variance to the front yard setback from 60’ to 15’ to construct a 20’ X 20’ detached garage
LOCATION: 9458 Maple Street
ZONE: R3

RECOMMENDATION: Deny

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Paul Runyon, Tuff Shed, appeared before the board in support of this request. He stated that Mr. Walker could not be here today.

Mr. Michael Carter, ZBA Administrator, stated that the applicant is proposing to construct a 20’ X 20’ detached garage on the 94th Avenue side of the property. He stated that it is a corner lot and they want to utilize the existing driveway. Carter stated that the Department believes there are other locations on the property that would comply with the code. He stated that the garage, to a large extent, would sit in front of another house. The board was presented photos of the property along with the site plan. Mr. Hancock noted an existing under-car garage. An attached garage was recommended. Hancock’s concern was going farther in front of the neighbor’s house which faces the east. He stated that the proposed garage would be 3’ from the neighbor’s yard. He recommended a layover to Mr. Runyon to design an attached garage. Runyon presented some additional images showing the neighbor to the north. He stated that the proposed garage would be a small two-car garage. Mr. Meyer stated concern about blocking off the neighbors. Runyon stated that an attached garage would present issues with the location of the windows and the sewer line, etc. Hancock agreed but felt there was no support for this plan. Ms. Donovan suggested that the property owner attend the next meeting to share his view of a plan. Hancock stated that they would need a waiver of the side yard setback for an attached garage and the neighbor would not be impacted as much.

Ms. Donovan moved to LAYOVER the case until the September 15, 2011 meeting to allow the applicant to look at other options. Mr. Nash seconded the motion.

AYES: Nash, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED: 5-0
19.  Case No. 11-092  
Gary Prochaska  
2305 S 88 Street  
Omaha, NE  68124  

REQUEST: Waiver of Section 55-146 – Variance to the street side yard setback from 20’ to 17’ to construct a 22’ X 44’ tandem attached garage  
LOCATION: 2305 S 88 Street  
ZONE: R2  

RECOMMENDED: Deny  

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. & Mrs. Prochaska appeared before the board in support of this request.

Mr. Michael Carter, ZBA Administrator, stated that there is an existing attached garage that the applicant proposes to re-orient so that it accesses off of 88th Street, turning it into a 4-car tandem garage. He stated that it is possible for the applicant to build a legal structure on the property.

Mr. Prochaska stated that the sewer blocks the tandem garage from going north. He stated that two of their vehicles have been vandalized a number of times. Prochaska proposed that the tandem garage would exit from the front of the house without going any wider. He stated that the Public Works Department was acceptable as long as they curb and grass the north side. In response to Ms. Donovan, Mr. Prochaska stated that the existing side yard setback is 17’ which is non-conforming.

Ms. Donovan moved to APPROVE, subject to using building material similar to the existing house, and comply with Public Works to: 1) remove drive and concrete on the north side and replace with grass; and 2) replace curb on Dupont Street.

AYES: Meyer, Donovan, Anzaldo, Nash, Hancock  

MOTION CARRIED: 5-0
20. Case No. 11-093  
Perry & Eloise Poyner  
1517 N 51 Street  
Omaha, NE  68104  

REQUEST: Waiver of Section 55-146 – Variance to the front yard setback from 40’ to 32’ to construct a new covered porch  
LOCATION: 408 S 89 Street  
ZONE: R2  

LAYOVER  

RECOMMENDATION: Deny  

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Anzaldo moved to LAYOVER this case until the September 15, 2011 meeting. Mr. Meyer seconded the motion.  

AYES: Donovan, Anzaldo, Nash, Meyer, Hancock  

MOTION CARRIED: 5-0
21. Case No. 11-094  
Siena Francis House  
1702 Nicholas Street  
Omaha, NE 68102  

REQUEST: Waiver of Section 55-734 – Variance to the required off-street parking from 48 stalls to 0 stalls for 48 multi-family efficiency units  
LOCATION: 1131, 1135, 1139 & 1141 N 18 Street  
ZONE: DS

RECOMMENDATION: Approval, subject to the applicant agreeing to provide additional parking if a future need is determined.

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Ken Bunger, Attorney, and Mr. Mike Thompson, Alley Poyner Macchietto, appeared before the board in support of this request.

Mr. Bunger stated that Siena Francis House is in conjunction with Catholic Charities is developing a campus for homeless individuals. He stated that this partnership is with the City of Omaha. Bunger stated that the first part of this project will be two buildings (24 units each) which will be efficiency apartments available to homeless individuals. He stated that the Siena Francis House has mattresses on the floor for sleeping 300+ individuals. Bunger stated that an average of 425 individuals stay overnight. A large part of the population could be in this permanent supportive housing. In response to Mr. Anzaldo, Mr. Bunger stated that there is no opposition. He stated that this is the City’s redevelopment plan which was passed 3 years ago. In response to Ms. Donovan, Mr. Bunger stated that they currently have an underutilized parking lot for staff. He stated that there is on-street parking that will be built. Currently, there is parallel parking. Bunger stated that there is room to add substantial parking which will take care of visitors, staff, etc.

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

AYES: Anzaldo, Nash, Meyer, Donovan, Hancock

MOTION CARRIED: 5-0
22. Case No. 11-095
   Brian & Carey Hamilton
   139 Elmwood Road
   Omaha, NE 68132

REQUEST: Waiver of Section 55-126 – Variance to the interior side yard setback from 25' to 5'6” to allow the 2nd floor of an existing garage to be finished for an exercise room and bathroom

LOCATION: 139 Elmwood Road
ZONE: R1

RECOMMENDATION: Deny

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Ms. Suzan Rohrig, 16429 Mason Street, appeared before the board in support of this request.

Mr. Michael Carter, ZBA Administrator, stated that the existing garage is two-story and was granted a waiver in 1978 to be constructed. He stated that as part of that process, it was mentioned in the minutes that the property on the second floor of the garage would be storage space. Carter stated that at some point over time the second floor was finished. He stated that a bathroom was put in and the space was used for a kids play area. Carter stated that the applicant is proposing to refurbish the second floor and put in a larger bathroom. He stated that the applicant proposes to use it for exercise space. Carter stated that the Department believes that the waiver should be denied in light of the original waiver that was approved. He stated that the garage should not be used for living space.

Ms. Rohrig stated that the homeowner went neighbor to neighbor, showed them the plans, and received signed approvals regarding the proposed plan. The plans were submitted as Exhibit B. She stated that when they bought the property, it was finished with decorative-like pictures and paneling. Rohrig presented a photo of the interior garage. She stated that they want to create a space for exercising. Rohrig stated that they modernized what was already there. She stated that they are creating a dormer for more light. Rohrig stated that the dormer will allow the applicant to enjoy the backyard. She explained the site plan. Rohrig pointed out that the garage is detached yet connected by a brick wall. She stated that there is gate to access the garage. Rohrig stated that currently the garage is 5’6” from the side property line. She stated that in 1978, they needed a 90’ front yard setback. Rohrig stated that the codes have changed since then. She stated that it meets all setbacks if it is considered to be a detached garage.

Mr. Carter stated that the size of the garage requires that it comply with the normal setback. He stated that the garage is over 750 sq. ft. and must meet the normal R1 setbacks. Mr. Anzaldo was concerned about a kitchen being built on the second floor. Ms. Rohrig stated that the bathroom was expanded and there will be a large room for exercise. Anzaldo stated that the plans reference a dishwasher. Rohrig stated that there is an under-counter refrigerator. Ms. Donovan suggested that the rough end for the dishwasher be taken out, otherwise, it seems as if the applicant wants to use it as an apartment. Mr. Meyer stated that the applicant could make application to have it as an apartment.

Ms. Donovan moved to APPROVE the waiver request with the condition that no apartment be made at the location. Mr. Nash seconded the motion.

AYES: Nash, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED: 5-0
23.  Case No. 11-096  
Joy Soby  
6167 Country Road 40  
Fort Calhoun, NE 68023  

REQUEST:  Waiver of Section 55-206 – Variance to the front yard setback from 35’ to 13’ to construct a new covered porch and stairs  

LOCATION:  3610 Franklin Street  
ZONE:  R5(35)  

RECOMMENDATION:  Deny

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Randy Meyer, Meyer Associates Architects and Mr. Jim Campbell, Operation Phoenix,

Mr. Michael Carter, ZBA Administrator, stated that the property is currently under redevelopment/rehab. He stated that the applicant is proposing to construct a new porch on the front of the property and in doing so a waiver is needed to allow encroachment into the front yard setback. Carter stated that the Department recommends denial and believes that legal access can be provided to the property.

Mr. Randy Meyer stated that about a year ago, Soby Ranches, a ministry that helps many groups of people, took over the property and started their own version of trying to rehab the property. He stated that Mr. Campbell, who has been in the construction business for a long time, later joined them. Randy Meyer stated that Operation Phoenix is a program that trains chronically unemployed people in building trades to make them employable with life skills. He explained that a year ago when Soby Ranches started the rehab, they had torn off an existing porch. Randy Meyer stated that the foundation is still there. He stated that the existing porch, based on the foundation, is approximately 7’6”. Randy Meyer stated that they’re coming out at 6’ which is 1’4” less encroachment on the front yard than what exists. He stated that, structurally, there is nothing wrong with this house other than it needs some help. Randy Meyer submitted photos from last year of the porch being torn off. He provided a rendering of what they were proposing for the house. Randy Meyer stated that they want the property to be a viable, little bungalow in the neighborhood. He stated that they plan to completely take out the interior, add onto the back of the house which is not an encroachment, make the stairs legal, and put in a new kitchen. Mr. Hancock inquired about the setbacks of the neighbors. Randy Meyer stated that there are only two other houses on that block which sit on each corner in which the side yard setbacks are less. He stated that there are a lot of houses that encroach because it is an old area. Hancock stated that the front yard setback being requested is farther away from the house than before. Randy Meyer confirmed that.

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

AYES: Meyer, Donovan, Anzaldo, Nash, Hancock

MOTION CARRIED: 5-0
24. Case No. 11-097
   Best Lawns Inc.
   2205 N 88 Street
   Omaha, NE  68134

   REQUEST: Waiver of Section 55-786 – Variance to the residential fence regulations to allow a 6’ tall, wrought iron fence in the street side yard setback
   LOCATION: 17107 Valley Drive
   ZONE: R4

   RECOMMENDATION: Deny

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Chris Poling, Best Lawns, appeared before the board in support of this request.

Mr. Michael Carter, ZBA Administrator, stated that the applicant is proposing to construct a 6’ high wrought-iron fence alongside what turns into Ontario Street. He stated that the code requires that it be set back off the property line to comply with the R4 regulations. The applicant is proposing to go up to the property line with the fence. The Department feels that a legal fence can be constructed on the property.

Mr. Meyer stated that this is in the Legacy and there is a precedent for this in Linden Estates. He moved to APPROVE the waiver request. Ms. Donovan seconded the motion.

In response to Mr. Hancock, Mr. Poling stated that there are other fences like this in the neighborhood. He presented a photo of a similar fence on the boundary line of Legacy which is 6’ off the sidewalk. Poling stated that when the homeowner did the landscaping, there was no traffic because of a dead-end road. He stated that now it’s a major thoroughfare. Poling stated that the applicant has four small children which is why he is proposing to have the fence there. He stated that the fence is a black, wrought-iron fence. Poling stated that they are removing a wall and the fence will be quite a bit away from the sidewalk.

AYES: Donovan, Anzaldo, Nash, Meyer, Hancock

MOTION CARRIED: 5-0
25. Case No. 11-098
   Jeff Patchin
   12305 William Street
   Omaha, NE 68144
   REQUEST: Waiver of Section 55-146 – Variance to the interior side yard setback from 10’ to 3’6” to allow construction of a 22’ X 32’ garage addition
   LOCATION: 12305 William Street
   ZONE: R2

RECOMMENDATION: Denial

At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Jeff Patchin appeared before the board in support of this request.

Mr. Michael Carter, ZBA Administrator, stated that the applicant has an existing house with an attached garage proposing to construct a 32’ X 22 addition to the back side of the garage. He stated that the existing garage is at 3’6”. Carter stated that the addition will be at the same setback. He stated that the Department believes a legal garage can be constructed.

Mr. Patchin presented the plans. In response to Ms. Donovan, Mr. Patchin stated that the neighbor has no problem with it. He stated that addition will consist of a garage and workshop. Patchin stated that the two garages would remain separated by an overhead door. Mr. Meyer was concerned that the applicant is 3’6” off the property line. He stated that the applicant is creating a 56’ long wall to the neighbor. Mr. Patchin stated that when they originally bought the property, they planned to build in the far southeast corner and later found that they could not build there. He stated that a detached garage was built in the middle of the backyard, leaving a 60’ driveway to use the garage. Patchin stated that with the elevation in the backyard, it would be noticeably taller with a little more than one-third of it underground. He stated that the addition would be one-story. In response to Ms. Donovan, Mr. Patchin stated that the addition would give them a four-car garage. In response to Mr. Anzaldo, Mr. Patchin stated that other neighbors have given the green light as well. Ms. Donovan suggested that the applicant construct a 20’ X 22’ addition which would be 8’ to 10’ past the house and provide enough room for two more cars. Mr. Patchin stated that he planned for small workshop. Mr. Hancock suggested to layover this case. He stated that the applicant does not have a survey. Hancock stated that the correct dimensions should be known. Patchin stated that he has architectural plans which were submitted to Permits and Inspections.

Ms. Donovan moved to LAYOVER the request until the September 15, 2011 meeting. Mr. Meyer seconded the motion.

AYES: Anzaldo, Nash, Meyer, Donovan, Hancock

MOTION CARRIED: 5-0
At the Zoning Board of Appeals meeting held on Thursday, August 18, 2011, Mr. Kevin Grode appeared before the board in support of this request.

Mr. Michael Carter, ZBA Administrator, stated that the applicant has an existing deck on the front side of the building. He stated that the applicant is proposing to reconstruct that deck and change it slightly by making it shorter but deeper and closer to the street. Carter stated that the Department feels that a legal access can be provided to the property without a new deck.

Mr. Grode showed the board a photo of the existing deck. He stated that the deck goes out approximately 9’. Grode stated that the code allows 6’. He stated that a new sidewalk would have to be reconstructed to meet the code. Grode stated that the sidewalk goes across the entire front of the house. He explained that the deck would only be shorter and deeper which would prevent them from changing the sidewalk.

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

AYES: Nash, Meyer, Donovan, Anzaldo, Hancock

MOTION CARRIED: 5-0
APPROVAL OF MINUTES

Ms. Donovan moved to APPROVE the July 21, 2011 meeting minutes. Mr. Meyer seconded the motion.

AYES: Meyer, Donovan, Anzaldo, Nash, Hancock

MOTION CARRIED: 5-0

DISCUSSION:

Ms. RoseMarie Horvath stated the City is still going forward with Field Club and submitting briefs to the Court of Appeals. She explained that Veterans of America are still wanting to develop the site.

ADJOURNMENT

Mr. Anzaldo moved to ADJOURN the meeting at 2:57 pm. Ms. Donovan seconded the motion.

AYES: Donovan, Anzaldo, Nash, Meyer, Hancock

MOTION CARRIED: 5-0

____________________________________________
Approved (date)

____________________________________________
Bert Hancock, Chair

____________________________________________
Claudia Moore, Secretary