Certification of Publication: Zoning Board of Appeals Administrator certifies publication of this agenda in the Daily Record, the official newspaper of the City of Omaha on Monday, October 1, 2012 and Thursday, October 4, 2012.

MEMBERS PRESENT: Bert Hancock, Chair
Sebastian Anzaldo
Jacque Donovan
Sean Kelley, Alternate

MEMBERS NOT PRESENT: Brian Mahlendorf, Vice Chair
Jonathan Nash, Jr.
Teri Teutsch, Alternate

STAFF PRESENT: Rick E. Cunningham, Planning Director
Mike Carter, Zoning Board of Appeals Administrator
Rosemarie Lee, City Law
Clinette Warren, Recording Secretary

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.
LAYOVERS

1. Case No. 12-077  
   (over from 8/9/12, 9/13/12)  
   Matt Geiger  
   11329 North Post Road  
   Omaha, NE 68112  
   REQUEST: Waiver of Section 55-126 – Variance to the street side yard setback from 25’ to 10.1’ for garage addition  
   LOCATION: 11329 North Post Road  
   ZONE: R1-ED  

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, October 11, 2012, Matt Geiger appeared before the Board.

Mr. Hancock noted that an updated plan had been submitted by the applicant. He stated that if the waiver were granted, the board would require that the carport be removed. In response, Mr. Geiger asked if he could be given the option of making the first of the three lower garages into a living space, allowing him to keep the carport. Mr. Hancock responded that even if the garage were made into a living space, the carport would still need to be removed.

Ms. Donovan moved to APPROVE in accordance with the revised plans and subject to the removal of the carport. Mr. Kelley seconded the motion.

AYES: Anzaldo, Donovan, Kelley, Hancock  
MOTION CARRIED: 4-0
2. Case No. 12-082
(over from 9/13/12)
Navarro Enterprise Construction, Inc.
2914 “R” Street
Omaha, NE 68107

REQUEST: Waiver of Section 55-506 – Variance to the minimum lot area from 10,000 sq. ft. to 9,987 sq. ft. and to the minimum lot width from 100’ to 99.96’ to allow for the approval of an administrative subdivision

LOCATION: 5219 South 29th Street

ZONE: GI

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, October 11, 2012, John Wright, Navarro Enterprise Construction, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to subdivide the property by combining multiple parcels into one lot. He explained that since the new lot does not meet the minimum requirements for a GI district, the applicant would need a waiver to subdivide the lot. Mr. Carter stated that the Planning Department supports the request, since there is no way to add more land to the property.

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

AYES: Anzaldo, Donovan, Kelley, Hancock

MOTION CARRIED: 4-0
NEW CASES

3. Case No. 12-099
   Brian Timmons
   The Garage Company
   8301 "Q" Street
   Omaha, NE  68127

   REQUEST: Waiver of Section 55-166 – Variance to the
            building coverage from 35% to 40% and to
            the impervious coverage from 45% to 52%
            for the construction of a detached garage
            and driveway additions.

   LOCATION: 354 North 43rd Street
   ZONE: R3

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, October 11, 2012, Brian Timmons, The Garage Company, and Dave Denbeze, Homeowner, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a 16’x20’ detached garage and widen the existing driveway, which would exceed the required maximum building and impervious coverage. He explained that there is a hardship because the lot, which is 4,200 sq. ft., is substandard in size for the R3 zoning which requires 7,500 sq. ft. Mr. Carter stated that the Planning Department recommends approval in accordance with the plans submitted.

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

AYES: Anzaldo, Donovan, Kelley, Hancock

MOTION CARRIED: 4-0
4. Case No. 12-100 Clifford Scott 540 South 27th Street Omaha, NE 68105
   REQUEST: Waiver of Section 55-786 – Variance to the residential fence regulation to allow a 6’ tall decorative fence with brick columns within the front and street side yard setbacks.
   LOCATION: 536 South 27th Street
   ZONE: R8-ACI-1(PL)

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, October 11, 2012, Aaron Ferguson, Omaha Housing Authority, appeared before the Board.

Mr. Hancock stated that Clifford Scott and George Achola from the Omaha Housing Authority had met with the Board earlier at the Zoning Board of Appeals pre-meeting on October 11, 2012 to discuss the proposed plan.

Mr. Ferguson stated that the ornamental fence being proposed would replace the existing chain link fence. It would be installed mainly for the purpose of pedestrian traffic control, and also for aesthetic reasons. He explained that every month the property has a large number of emergency calls. Mr. Ferguson stated that, after discussing the issue with the Omaha Police Department, the Omaha Housing Authority decided that they would limit access to the building to two areas: the parking lot and the main entrance.

Mr. Anzaldo moved to APPROVE. Mr. Kelley seconded the motion.

AYES: Anzaldo, Donovan, Kelley, Hancock

MOTION CARRIED: 4-0
5. Case No. 12-101
Buck’s, Inc.
John Perlebach
4973 Dodge Street
Omaha, NE 68132
REQUEST: Waiver of Section 55-716 – Variance to the required buffer yard between CC and DR from 30’ to 15’ for the construction of a convenience store with gas.
LOCATION: 7660 Dodge Street and 7720 Dodge Street
ZONE: CC-ACI-2(65)

RECOMMENDATION: Approval, subject to Planning Department approval of the plaza spaces and rear building elevation.

At the Zoning Board of Appeals meeting held on Thursday, October 11, 2012, Matthew Manning, Buck’s, Inc., appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that Buck’s, Inc. is proposing to redevelop the site by building a convenience store and gas station. The applicant is requesting a waiver to allow an encroachment into the required buffer yard on the west side of the property that runs along Little Papillion Creek. Mr. Carter stated that the applicant is proposing a 15’ buffer yard although the code requires a 30’ buffer yard. He added that as part of the redevelopment, Buck’s is proposing to provide a connection to the pedestrian trail that runs along the creek. He stated that the Planning Department recommends approval subject to Department approval of the plaza spaces and the rear building elevation.

Mr. Manning agreed with Mr. Carter’s recommendation. He added that Buck’s would continue to work with the City to settle any easement issues pertaining to maintenance of the creek area.

Mr. Hancock stated the Board’s concern with granting a waiver without knowing exactly what is planned for the location. He wanted to know how close the applicant was to a finalizing their plans, especially in regards to the proposed patio area.

Jed Moulton, Urban Design Manager – City of Omaha, stated that he had not had the opportunity to speak with the applicant about the patio. He explained that he had concerns with the high screen walls and lack of internal landscaping that were depicted on the plans. He further explained that from an Urban Design standpoint the plaza should provide seating and shade. Mr. Moulton also noted that two plazas were shown on the plan, when only one would be required on the south side of the property. He recommended that: the screen wall be lowered to 18” and widened to provide seating; the planter size be increased; and, that a shade tree planted adjacent to it. He stated that the rear elevation does meet city requirements.

Mr. Hancock stated that the Board did have an opportunity to speak to Chad Weaver, Assistant Planning Director – City of Omaha, about the elevation issues; and that they had also looked plans submitted by the applicant dated September 17, 2012 (Exhibit B).

Ms. Donovan suggested that the applicant follow City standards regarding signage for the property. Mr. Manning responded that Buck’s, Inc. would ensure that the signage complies with City requirements and that it is also aesthetically pleasing to persons sitting in the plaza area.

Ms. Donvan moved to APPROVE in accordance with the September 17, 2012 elevation plan and the plaza plan (Exhibit B). Mr. Kelley seconded the motion.

John Perlebach, Buck’s, Inc., inquired as to whether it would be permissible to provide umbrellas for shading in the seating area instead of a shade tree. Mr. Moulton responded that umbrellas would be acceptable.
Ms. Donovan AMENDED her motion to include that approval would be subject to what is agreed upon by the City of Omaha and Buck's, Inc. Mr. Kelley agreed with the modification to the motion.

AYES: Anzaldo, Donovan, Kelley, Hancock

MOTION CARRIED: 4-0
6. Case No. 12-102
   Leroy K. Henderson
   3428 North 207th Street
   Omaha, NE 68022

REQUEST: Waiver of Section 55-206 – Variance to the
street side yard setback from 15’ to 6’ and
to the rear yard setback from 25’ to 10’ for
a garage addition.

LOCATION: 3428 North 207th Street
ZONE: R5

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, October 11, 2012, Leroy K. Henderson, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that applicant was requesting a waiver of the street side yard setback and the rear side yard setback in order to build a 400 sq. ft. addition to the existing garage. The addition would match the 6’ setback for the existing garage along the Flavin Street property line. He added that the proposed addition would also encroach along the rear yard setback to within 10’ of the property line. Mr. Carter stated the Planning Department feels that there is no hardship or practical difficulty and recommended denial.

Mr. Henderson explained that he would like to build the addition because of the small size of the existing garage. He added that his neighbor has agreed to allow him to build the addition along the southwest corner.

Mr. Hancock explained to Mr. Henderson that the Board was not supportive of his request and suggested that he consider a layover, allowing his case to be heard before a full Board.

Ms. Donovan stated that the Mr. Henderson also had the option of building a free-standing garage.

Mr. Anzaldo moved to LAYOVER. Ms. Donovan seconded the motion.

AYES: Anzaldo, Donovan, Kelley, Hancock

MOTION CARRIED: 4-0

At Mr. Hancock’s request, Mr. Henderson submitted letters from his neighbors (Exhibit 2) stating that they had no objections to the proposed addition.
7. Case No. 12-103  
Brenda Dooley  
First National Bank  
1620 Dodge Street  
Omaha, NE 68197

REQUEST:  
Waiver of Section 55-740 – Variance to the perimeter parking lot landscaping from 5′ to 0′ and allow vehicles to overhang into a required landscaped area to construct a parking lot.

LOCATION:  
614 North 15th Street & 615 North 16th Street

ZONE:  
DS-ACI-1(PL)

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, October 11, 2012, Alison Ingunza, HDR Architecture, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a parking lot on the property, which would encroach into the perimeter landscaping along the alley from 5′ to 0′. He explained that parked vehicles along the landscaped area would overhang since the stalls are only 16′ deep. Mr. Carter also stated that applicant is requesting a waiver because the code restricts the overhang from vehicles into a required landscaped area. He further stated that the Planning Department supports the waiver in accordance with the plans submitted. He added that vehicles would overhang into a bio-swale area, and that other improvements would be proposed as part of the ACI (Areas of Civic Importance) regulations.

Since ingress/egress would be at the same point, Ms. Donovan asked if it would be possible to reduce the need for a variance by having the parking stalls put in at an angle. Ms. Ingunza responded that her client would probably not want to have angled parking on the lot. Also in response to Ms. Donovan, Ms. Ingunza explained that First National will be relocating approximately 1,000 staff members to their downtown office and need to increase their parking. She further explained that currently parking is in a city-owned lot under a viaduct, in an area that is being proposed as the location of a new transit center.

Ms. Donovan stated that she would like to see a study done on the possibility of angled parking.

Ms. Donovan moved to LAYOVER until the November 8, 2012 meeting to allow the applicant time to explore the possibility of 45-degree angle parking. Mr. Hancock seconded the motion.

In response to Mr. Anzaldo, Ms. Ingunza stated that parking would be for First National employees and would also be used by attendees of the College World Series and Creighton games.

AYES: Anzaldo, Donovan, Kelley, Hancock

MOTION CARRIED: 4-0

Ms. Ingunza inquired as to whether it made a difference if the stalls were labeled as compact stalls; thus, eliminating the issue of overhang into the required landscaping. Mr. Anzaldo stated that it would be difficult to monitor that type of situation. Mr. Carter added that the code also restricts how many stalls can be labeled as compact stalls. He also clarified that the overhang issue refers only to vehicles parked near the interior landscaping, and not for parking along the alley. He added that if there was compact parking along the alley, it would need to be marked as such.
8. Case No. 12-104
    Chad Bauerly
    1546 South 79th Street
    Omaha, NE 68124
    REQUEST: Waiver of Section 55-782(b)(2) – Variance to the required setback from the rear property line for a patio from 15’ to 3’.
    LOCATION: 1546 South 79th Street
    ZONE: R2

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, October 11, 2012, Troy Meyerson, 409 South 17th Street, appeared before the Board.

Mr. Hanock stated that the Board had reviewed the details of the case at the pre-meeting held the morning of October 11, 2012. He noted that the applicant had submitted a revised set of plans. Mr. Meyerson stated the proposed boundaries for the pool are less than what the existing area is.

Ms. Donovan moved to APPROVE in accordance with the revised plans (Exhibit B). Mr. Anzaldo seconded the motion.

AYES: Anzaldo, Donovan, Kelley, Hancock

MOTION CARRIED: 4-0
9. Case No. 12-105
Bret Linden
3147 South 105th Avenue
Omaha, NE 68124

REQUEST: Waiver of Section 55-108 – Variance to the side yard setback from 25’ to 13.5’ for a garage addition.

LOCATION: 2526 South 105th Avenue
ZONE: DR

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, October 11, 2012, Bret Linden, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a garage addition on the south side of the existing home. This would cause an encroachment on the south property line. He stated that the Planning Department supports the waiver, since there is a practical difficulty due to a 1987 ordinance change that created a more restrictive side yard setback. He added that most of the neighborhood was already developed in 1987, and that the proposed setback is consistent with other properties in the neighborhood.

Mr. Linden explained that the entire home is being remodeled, and that an addition is also being added to the rear of the property. He stated that the garage will be connected to the house and will match the existing home.

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

AYES: Anzaldo, Donovan, Kelley, Hancock

MOTION CARRIED: 4-0
10. Case No. 12-106  
Kimley-Horn & Associates, Inc.  
William Matzek  
2500 University Ave West, 238 N  
St. Paul, MN 55114  
LOCATION: 4965 “L” Street  
ZONE: CC  
REQUEST:  Waiver of Section 55-836 – Variance to the total permitted sign area from 225 sq. ft. to 277 sq. ft. and to the front yard setback for a 150 sq. ft. pole sign from 35’ to 12’ 18’.

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, October 11, 2012, Larry Jobeun, 11440 West Center Road, and Trish Rothe, Kimley-Horn & Associates, appeared before the Board.

Mr. Jobeun stated that the applicant was proposing to reduce the front yard setback from 35’ to 12’. The existing sign is setback 14’. He noted that Wal-Mart and Firestone agreed to a compromise of the proposed sign. He also stated that Jed Moulton, Urban Design Manager – City of Omaha, provided assistance with the choice of sign. The applicant agreed to a setback from 35’ to 18’, as reflected in the exhibit submitted by Mr. Jobeun (Exhibit B). He also stated that landscaping would be installed at the base of the sign.

In response to Mr. Hancock, Mr. Jobeun explained that issue with the relocation of the sign occurred during rezoning and platting for the Wal-Mart neighborhood market. He stated that the applicant had gone before the Planning Board and City Council to show that the sign was being relocated due to the Wal-Mart development. Wal-Mart and Firestone worked together to decide on modifications for the access point. Mr. Jobeun also explained that one of the conditions of the original purchase agreement between Wal-Mart and Firestone was that Wal-Mart would attempt to make accommodations for the Firestone sign.

Mr. Anzaldo moved to APPROVE at 18’ setback in accordance with the plans submitted (Exhibit B). Ms. Donvan seconded the motion.

AYES: Anzaldo, Donovan, Kelley, Hancock

MOTION CARRIED: 4-0
REQUEST: Waiver of Section 55-782(b)(6) – Variance to the side yard setback from 3’ to 2’ for a 15’x35’ detached garage.

LOCATION: 5015 Burt Street

ZONE: R4(35)

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, October 11, 2012, Jeff Beyerman, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to replace an existing detached garage with a larger 15’x32’ garage. The proposed garage would match the existing garage’s east boundary, which is 2’ from the side property line. The Planning Department felt that there was no hardship or practical difficulty since the proposed garage could be built to meet the 3’ setback, and recommended denial.

Mr. Beyerman stated that he was trying to maintain as much green space as possible on the property. He showed a photo of a neighbor’s property that received a variance of 18’, and stated that other neighbors have received variances for around 2’6”. He added that they are proposing to build a tandem garage to preserve as much of the land as possible.

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

In response to Mr. Kelley, Mr. Carter confirmed that one of the neighbors did receive a waiver in 2010.

Mr. Beyerman stated that his neighbors are in support of the proposed garage. He also stated that the garage would match the existing home.

AYES: Anzaldo, Donovan, Kelley, Hancock

MOTION CARRIED: 4-0
12. Case No. 12-108
Richard and Carol Wake
671 North 58th Street
Omaha, NE 68132

REQUEST: Waiver of Section 55-166 – Variance to the rear yard setback from 25’ to 20’6” and to the side yard setback from 7’ to 5’ for a screen patio and pergola addition.

LOCATION: 671 North 58th Street
ZONE: R3

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, October 11, 2012, no one appeared before the Board.

Mr. Anzaldo moved to LAYOVER until the November 8, 2012 meeting. Mr. Kelley seconded the motion.

AYES: Anzaldo, Donovan, Kelley, Hancock

MOTION CARRIED: 4-0
13. Case No. 12-109  
City of Omaha Planning Department  
1819 Farnam Street  
Suite 1111  
Omaha, NE 68183  

REQUEST: Waiver of Section 55-206 – Variance to the front yard setback from 25’ to 20’ to construct 2 single-family homes.  

LOCATION: 1818 Corby Street and 1822 Corby Street  

ZONE: R5

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, October 11, 2012, Chris Wayne, Real Estate Specialist – City of Omaha, appeared before the Board.

Mr. Wayne explained that the lots in the area are very short, making it difficult to build homes that meet both the front and rear yard setbacks.

Mr. Donovan inquired as to whether RFP's (Request for Proposal) would be sent for the development of the lots. Mr. Wayne responded that the properties were being acquired by Community Development Block Grants. He explained that certain requirements would need to be met, including income limitations on future homeowners. Because of these restrictions, the City is required by Federal law to work with non-profit developers on these types of projects. Mr. Wayne further explained that in these cases, the City has acquired the vacant lots and have had them rezoned and re-platted. He stated that, although the City is open to working with for-profit developers, they were not considered for this particular project. He explained that the difficulty in working with for-profit organizations lies in their unwillingness to take on the financial risk involved in working in particular areas of the city.

Mr. Hancock asked if all of the non-profit organizations in the city were given the opportunity to develop these sites. Mr. Wayne responded that the City works with all of the non-profit organization; however, each of them has specific guidelines as to what types of projects they will do.

Mr. Kelley requested information on how the Community Development Block Grant Program fund works. Mr. Wayne explained that the City of Omaha purchases property in areas that have been designated as redevelopment areas by the City Council and the Planning Board. He stated that these parcels are: mostly in areas where there has been no development; land that has usually been vacant; land that usually needs to be assembled and re-platted, and that will most likely have title problems. Because of these factors, there is usually some difficulty in developing the land, and it is usually very costly to do so.

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

AYES: Anzaldo, Donovan, Kelley, Hancock  

MOTION CARRIED: 4-0
### 14. Case No. 12-110

City of Omaha Planning Department  
1819 Farnam Street  
Suite 1111  
Omaha, NE 68183

**REQUEST:** Waiver of Section 55-246 – Variance to the front yard setback from 35’ to 20’; to the rear yard setback from 25’ to 23.6’ (1804 & 1812 Corby Street) and to the street side yard setback (1804 & 1823 Corby Street) from 15’ to 11’ for the construction of 12 single-family homes.

**LOCATION:** 1617, 1620, 1621, 1624, 1625, 1803, 1804, 1807, 1811, 1812, 1815, and 1823 Corby Street

**ZONE:** R7

**RECOMMENDATION:** Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, October 11, 2012, Chris Wayne, Real Estate Specialist – City of Omaha, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, noted that the request should read “to the rear yard setback from 25’ to 23.6’”.

Mr. Anzaldo moved to APPROVE. Mr. Kelley seconded the motion.

In response to Mr. Hancock, Mr. Wayne explained the process used by the City to determine which organizations will participate in the Community Development Block Grant program, and how persons interested in the development process could qualify to do so.

**AYES:** Anzaldo, Donovan, Kelley, Hancock

**MOTION CARRIED:** 4-0
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**APPROVAL OF MINUTES**

Mr. Anzaldo moved to APPROVE the September 13, 2012 meeting minutes. Mr. Kelley seconded the motion.

AYES: Anzaldo, Kelley, Hancock

ABSTAIN: Donovan

MOTION CARRIED: 3-0-1

**ADJOURNMENT**

It was the consensus of the Board to ADJOURN the meeting at 2:17 p.m.

____________________________________________
Approved (date)

____________________________________________
Bert Hancock, Chair

____________________________________________
Clinette Warren, Secretary