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 Thursday, February 9, 2012.

MEMBERS PRESENT: Bert Hancock, Chair
Brian Mahlendorf, Vice Chair
Sebastian Anzaldo
Jacque Donovan
Teri Teutsch, Alternate

MEMBERS NOT PRESENT: Jonathan Nash
Sean Kelley, Alternate

STAFF PRESENT: Mike Carter, Zoning Board of Appeals Administrator
RoseMarie Horvath, Assistant City Attorney
Debbie Hightower, 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.
NEW CASES

1. Case No. 12-007
   Joel Chudy
   SB Villas, LLC
   15748 Laurel Avenue
   Omaha, NE  68116
   REQUEST: Waiver of Section 55-784 – Variance to the setback requirement from a public street in a cluster subdivision from 25’ to 5’
   LOCATION: 14703 Laurel Plaza and 14707 Himebaugh Plaza
   ZONE: R5

RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on Thursday, February 9, 2012, Eric Wolfe, appeared before the board on behalf of the applicant and in support of this request.

Mike Carter, ZBA Administrator, indicated that there are seven lots along 147th Street and five of the lots have homes that have already been constructed. Mr. Carter stated that the setbacks along 147th Street vary between 2.8’ to 6-7’. The code requires a 25’ setback off of a public street in a cluster subdivision. In this situation, the existing homes were permitted in error therefore the applicant is proposing to construct two homes on the existing lots at a 5’ setback. Mr. Carter stated that the department supports the request because it will be consistent with the existing conditions.

Mr. Wolfe added that the subdivision was platted in 1999 and did not take into account that the corner lots were not large enough to accommodate the 25’ setback and a large enough buildable footprint. Mr. Wolfe pointed out that the last permit in the subdivision was issued in 2005 and that this project is an infill project. The existing setback would prevent the construction of a home on the remaining two lots that would be comparable to the existing homes.

No one appeared in opposition.

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

AYES: Anzaldo, Mahlendorf, Donovan, Teutsch, Hancock

MOTION CARRIED: 5-0
REQUEST: Waiver of Section 55-186 – Variance to the rear yard setback from 25’ to 14.8’ and to the interior side yard setback from 5’ to 2.8’ to allow for a 720 sq. ft. addition to an existing detached garage

LOCATION: 4851 South 50th Avenue

ZONE: R4(35)

At the Zoning Board of Appeals meeting held on Thursday, February 9, 2012, Mike Bedel and Ed Bedel, Ed Bedel Construction, appeared before the board in support of this request.

Mike Carter, ZBA Administrator, stated that the applicant is proposing to construct an addition to an existing detached garage. Mr. Carter stated that the code requires that the addition must meet the normal setbacks in the zoning classification. The department does not believe there is a hardship or practical difficulty and that a legal garage can be constructed on the property. There have been no other waivers for a garage of this size granted in the neighborhood therefore the department recommends denial.

Mr. Bedel stated that he has had his vehicle vandalized and the neighborhood has deteriorated over the past several years. He added that he would like to store his boat in the new garage. He stated that he has addresses of other garages in the area that encroach on the rear yard setbacks.

Mr. Hancock stated that the board is concerned about the size of the garage. He stated that the existing garage and the proposed garage would be a substantial amount of square footage. Mr. Hancock questioned if it would be possible to demolish the older garage and build a new garage. Mr. Bedel answered that it would not be large enough for his vehicles but he would be willing to compromise on the size.

No one appeared in opposition.

Ms. Teutsch asked Mr. Bedel what size of garage he would need. Mr. Bedel responded that he would like to be around 950 to 1,000 square feet. He stated that the exterior of the existing garage will be removed and replaced to blend in with the new garage and the house.

Mr. Mahlendorf stated that the garage proposal is too large but there is general support for a 750 square foot garage with the requested setback. Mr. Bedel stated that 750 square feet is not large enough and requested 950 square feet.

Mr. Hancock stated that the board does not typically support and approve a detached 950 square foot garage. He suggested a layover to give the board a chance to review another design.

Mr. Carter pointed out that the applicant could legally build a separate detached structure that is less than 750 square feet.

Mr. Anzaldo moved to LAYOVER to allow the applicant time to submit additional information. Ms. Donovan seconded the motion.

AYES: Mahlendorf, Donovan, Teutsch, Anzaldo, Hancock

MOTION CARRIED: 5-0
3.  Case No. 12-009
Douglas Nielsen
304 South 92nd Street
Omaha, NE  68114

LOCATION:  304 South 92nd Street
ZONE:  R1

REQUEST:  Waiver of Section 55-126 – Variance to the street side yard setback from 25’ to 18’, to the rear yard setback from 35’ to 26’ and to the maximum impervious coverage from 30% to 37% to construct home additions

RECOMMENDATION:  Denial.

At the Zoning Board of Appeals meeting held on Thursday, February 9, 2012, Steve Weber, Avant Architects, appeared before the board on behalf of the applicant and in support of this request.

Mike Carter, ZBA Administrator, indicated that the applicant is proposing to construct various substantial additions to the property. Mr. Carter stated that there are existing waivers that have been granted in the past. In 1990, there was a waiver and an encroachment into the setback and another waiver was granted in 1993. The department does not believe there is a hardship or practical difficulty, as proposed, therefore the department does not support any further setbacks or encroachments and recommends denial.

Mr. Hancock stated that the general attitude of the board is that there appears to be too much on the lot. There are previous setback waivers because of the shape of the house. There can be a legal addition on the front of the house but the garage on the Farnam Street side is the biggest concern.

Mr. Weber stated the proposed addition to the rear of the home would be in line with a previous waiver therefore there would be no further encroachment. He indicated that the majority of the additions would be in the front yard but the applicant could do without the garage addition. Mr. Weber confirmed that there would be no loss of trees.

No one appeared in opposition.

Mr. Hancock stated that he could not support the garage addition but would be in favor of the other waivers.

Ms. Donovan moved to APPROVE the rear yard setback from 35’ to 26’ and to the maximum impervious coverage from 30% to 37% to construct the proposed addition as specified in the plan excluding the garage addition. Ms. Teutsch seconded the motion.

AYES:  Donovan, Teutsch, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED:  5-0
4. Case No. 12-010
Redeemer Church
16820 L Circle
Omaha, NE 68137
REQUEST: Waiver of Section 55-503 – Variance to the use regulations in the GI District to allow
Religious assembly
LOCATION: 13833 Industrial Road
ZONE: GI

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, February 9, 2012, Michael Kennedy, 11235 Davenport Street, attorney, appeared before the board on behalf of the applicant and in support of this request.

Mr. Hancock indicated that the board is generally in favor of the waiver which has been allowed in other industrial areas. He added that there are concerns with regard to parking, hours of operation and if there be a day care operation during the week.

Mr. Kennedy explained that there are over 250 available parking spaces. He stated that the church would occupy 7,600 square feet used for religious services and congregation space for approximately 300-350 people. He added that there are no present plans for a day care use. Mr. Kennedy explained that there would be small group meetings for church staff during normal business hours and the actual service times may be during one evening and on Sundays.

Ray Trimble, Property Banc, stated that the parking ratio is very high and to date there has been no complaints with regard to parking.

Ms. Donovan questioned the growth plans for the church. Mr. Kennedy stated that the church plans to keep the congregation small and another service could be added on Sunday, if needed. He also stated that the church would eventually build a freestanding building if growth continues.

Ms. Donovan questioned if it would be an issue if no additional space or expansion were allowed over the 7,600 square feet. Mr. Trimble pointed out that the center section of the building is isolated because of the lack of access circulation and service doors. He concluded that a church is a better candidate for the space than any other non-industrial use especially with regard to the parking issue. Ms. Donovan replied that the parking issue is not as important as the change of use and the amount of square footage that will be occupied.

No one appeared in opposition.

Mr. Anzaldo moved to APPROVE subject to: 1) no more than 7,600 square feet; 2) for a period of five years; 3) for this applicant only; and 4) for religious assembly only. Ms. Donovan seconded the motion.

In response to Ms. Teutsch, Lee Cordell, Pastor, stated that the space would be used mainly for worship and would have portable seating. Mr. Cordell explained that the existing signage would be used for the church.

AYES: Teutsch, Anzaldo, Mahlendorf, Donovan, Hancock

MOTION CARRIED: 5-0
5. Case No. 12-011
Bella Terra
13625 California Street, Suite 110
Omaha, NE 68154

REQUEST: Waiver of Section 55-786, 55-823(g) and 55-830 – Variance to the residential fence regulations to allow a 6’ 8” tall privacy fence in the front/street side yard setback; to the maximum height from 5’ to 6’ 8” and front yard setback from 12’ to 1’ for neighborhood ID signs

LOCATION: 1205 Sterling Ridge Drive; 1404 South 129th Street; and 12802-12818 Woolworth Avenue

ZONE: R4 & R6

RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, February 9, 2012, Doug Halvorson, Olsson Associates, 2111 South 67th Street, appeared before the board on behalf of the applicant and in support of this request.

Mr. Hancock stated that the Planning Department has previously granted several sign waivers to entrances in west Omaha neighborhoods.

Mr. Halvorson stated that the property is a high-end, planned community and not a gated community but with a sense of enclosure to the property. He stated that Woolworth Avenue is the main front door for the homes and the back yards face Sterling Ridge Drive, which is a narrow street with a very wide right-of-way. The sign will appear to be a long distance from the curb and the area will be heavily landscaped.

No one appeared in opposition.

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

AYES: Anzaldo, Mahlendorf, Donovan, Teutsch, Hancock

MOTION CARRIED: 5-0
REQUEST: Waiver of Section 55-786 – Variance to allow a 6’ high privacy fence in the street side yard setback

LOCATION: 2601 North 60th Street

ZONE: R4(35)

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, February 9, 2012, Matt Liston, appeared before the board in support of this request.

Mike Carter, ZBA Administrator, stated that an existing fence was damaged by a car accident and the applicant has since reconstructed the fence in the same general location which is located in the right-of-way. The applicant was cited and required to move the fence back. The department does not support a 6’ high privacy fence in the street side yard setback and recommends denial.

In response to Mr. Hancock, Mr. Liston stated that he did not realize he needed a permit to replace the fence and did not know the fence was located in the right-of-way. He stated that he moved the fence back and replaced a section at a time. Mr. Liston added that his street is busy and the fence blocks out the loud offensive music from the cars that drive by. He stated that he would be willing to cut the fence down to 4’ high.

In response to Ms. Donovan, Mr. Liston stated the fence is located 10’ from the property line and is encroaching. Ms. Donovan stated the fence needs to be a smooth surface therefore the supporting posts need to be located on the inside of the fence. She also indicated that the fence is a safety issue and should be moved.

Mr. Anzaldo suggested to the applicant that a survey be done. He also suggested that the planning department look at the neighborhood where there seems to be several fences being built or just built without benefit of a permit.

No one appeared in opposition.

Mr. Mahlendorf moved to APPROVE subject to: 1) Allowing a 6’ high fence in the street yard setback and moved back to the property line, and 2) Install support posts on the interior side of the fence. Ms. Donovan seconded the motion.

Mr. Anzaldo asked that the motion be amended to include a survey.

Mr. Hancock stated that he could not support a 6’ high fence.

Mr. Mahlendorf commented that he does not want to set a precedent in the neighborhood but there is a precedent set in the neighborhood with many illegal fences.

AYES: Teutsch, Anzaldo, Mahlendorf

NAYES: Donovan, Hancock

MOTION FAILS: 3-2. Motion requires four affirmative votes.

Ms. Donovan moved to APPROVE subject to: 1) Obtain a survey; 2) 5’ high solid fence on the property line; and 3) Install support posts on the interior side of the fence. Mr. Hancock seconded the motion.
AYES: Mahlendorf, Donovan, Teutsch, Anzaldo, Hancock

MOTION CARRIED: 5-0
REQUEST:
Waiver of Section 55-506, 55-734, 55-740(h)(3) – Variance to the maximum impervious coverage from 90% to 98%; to the required off-street parking stalls from 9 to 3; and to the off-street parking regulations that require vehicles to enter the street in a forward position

LOCATION: 1631 South 13th Street
ZONE: GI-ACI-1(50)

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, February 9, 2012, Mike Weiland, 3019 South 30th Street, and Jack Green, Architect, 1612 South 99th Street, appeared before the board in support of this request.

Mike Carter, ZBA Administrator, indicated that the applicant is proposing to construct a roof over the existing northern building and courtyard between the two buildings on the property at the corner. Mr. Carter stated that as a result of the request, waivers are required for impervious coverage and parking. He stated that it appears that the project is being overdeveloped and can be developed in compliance therefore the department recommends denial.

Mr. Hancock stated that the board drove by the property and is concerned when a project goes to 100% impervious coverage but it appears that the business has been operating and occupied for some time. He questioned where the roofline would tie in. Mr. Green presented a photo of the proposed roofline and explained that the roof material would be a 20-gauge standing seam, which will be a pre-engineered steel structure.

Ms. Donovan asked Mr. Green if he had a complete set of drawings. Mr. Green answered that he did not have a complete set of drawings.

Ms. Donovan suggested that the case be laid over. Mr. Green stated that he was only prepared to address the zoning issues.

Mr. Hancock stated that the board is in favor of the project but the street is the area that needs to be improved. The board is concerned and wants to be assured that what is installed is architecturally consistent with other historical buildings in the area. Mr. Hancock suggested that the case be laid over and asked that a sample of the proposed material be submitted.

Mr. Anzaldo stated that the plan with the new façade is not acceptable.

Mr. Anzaldo moved to LAYOVER for 30 days to allow the applicant time to prepare a new plan. Ms. Donovan seconded the motion.

In response to Ms. Teutsch, Mr. Weiland answered that he has five employees.

Mr. Anzaldo stated that he believes the project was not prepared and he would like to see another proposal that Mr. Weiland could be proud of. Mr. Hancock stated that he would like to see a sample of the proposed material and how the windows look from the side. He stated that the board had no idea of what appears to be an expansion of the project and is not prepared to deal with the zoning issues.

Mr. Green stated that he has spent the last four months working with the Planning Department and there have been extensive compromises to the project. He stated that he was under the impression that the
Mr. Carter stated that the applicant and Mr. Green has worked with the Urban Design division and the plan is acceptable and meets the ACI requirements.

Dave Fanslau, Current Planning Manager, confirmed that the department, along with Jed Moulton and Trina Westman from the Urban Design division, met with and worked with Mr. Green to meet the ACI standards for the project, which include the building materials and the look of the building.

Mr. Hancock questioned how the project got to this point. Mr. Fanslau stated that the department does not support the waivers due to the fact that some of the concrete improvements on the east side were done without benefit of permit. He also indicated that the parking concerns are safety issues and the planning department does not like to set a precedent with cars backing out onto the street.

Ms. Teutsch indicated that she does not have enough information.

In response to Mr. Hancock, Mr. Fanslau stated that if the façade of the building meets the code there is no approval process. Mr. Green stated that the building permit was held up until the design of the proposed building was approved and in compliance with the ACI overlay.

Rick Cunningham, Planning Director, explained that he has contacted Mr. Moulton and suggested that the board put the case on hold until Mr. Moulton could respond.

(The board moved on to the next two cases).

Mr. Hancock stated that the board does not have the ability to dictate architectural aesthetics but from time to time the board makes decisions that allow setback waivers or use waivers knowing that the aesthetics are appealing and/or consistent with the neighborhood.

Jed Moulton, Urban Design Manager, explained that the department worked closely with Mr. Green and his client. Mr. Moulton stated that the plan was approved as being compliant with ACI. He stated that the client has taken good care of the existing façade but the building is an industrial use. Mr. Moulton stated that his department has reviewed and approved the material that will be used which will be a better quality, concealed fastener and metal panel system.

No one appeared in opposition.

Mr. Anzaldo withdrew his previous motion to layover.

In response to Ms. Teutsch, Mr. Weiland stated that he operates a repair business that re-machines damaged parts. He stated that he has no customers and the employees park across the street on the street.

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

AYES: Donovan, Teutsch, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0
8. Case No. 12-014
Habitat for Humanity
2204 Ames Avenue
Omaha, NE 68110
REQUEST: Waiver of Section 55-206 – Variance to the rear yard setback from 25’ to 23’ to allow construction of new homes
LOCATION: 3656-3708 Erskine Street and 2402-2404 John A. Creighton Boulevard
ZONE: R5(35)

RECOMMENDATION: Approval subject to the replat including a 35’ no-build easement along the boulevard.

At the Zoning Board of Appeals meeting held on Thursday, February 9, 2012, Jason Thiellen, E & A Consulting Group, appeared before the board on behalf of the applicant and in support of this request. Mr. Thiellen offered to answer any questions.

Mike Carter, ZBA Administrator, stated that the applicant needs a rear yard setback waiver to allow construction of eight homes on the property. Mr. Carter stated that the department recommends approval subject to the replat including a 35’ no-build easement along the boulevard.

Ms. Donovan moved to APPROVE subject to the replat including a 35’ no-build easement along the boulevard. Ms. Teutsch seconded the motion.

AYES: Teutsch, Anzaldo, Mahlendorf, Donovan, Hancock

MOTION CARRIED: 5-0
9. Case No. 12-015
Hope Center for Kids Inc.
2209 North 20th Street
Omaha, NE 68110

REQUEST: Waiver of Section 55-830 – Variance to the allowed sign budget from 32 sq. ft. to 132 sq. ft. and to the maximum size of a wall sign from 32 sq. ft. to 37 sq. ft. to erect 1 additional wall sign

LOCATION: 2200 North 20th Street
ZONE: R4

RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, February 9, 2012, Barton Arnold, Neon Products, appeared before the board on behalf of the applicant and in support of this request.

Mike Carter, ZBA Administrator, stated that the applicant is requesting a waiver to allow an additional wall sign that is part of the redevelopment and renovation for the unemployment and learning academy. The new sign will project onto 20th Street. Mr. Carter stated that even though the zoning is residential, which makes it difficult to comply with the signage requirements, the department recommends approval.

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

AYES: Anzaldo, Mahlendorf, Donovan, Teutsch, Hancock

MOTION CARRIED: 5-0
APPROVAL OF MINUTES

Ms. Donovan moved to APPROVE the January 19, 2012 meeting minutes. Mr. Hancock seconded the motion.

AYES: Anzaldo, Mahlendorf, Donovan, Hancock

ABSTAIN: Teutsch

MOTION CARRIED: 4-0-1

ADJOURNMENT

Mr. Mahlendorf moved to ADJOURN the meeting at 2:40 pm. Ms. Donovan seconded the motion.

AYES: Donovan, Teutsch, Mahlendorf, Anzaldo, Hancock

MOTION CARRIED: 5-0

______________________________
Approved (date)

______________________________
Bert Hancock, Chair

______________________________
Debbie Hightower, Secretary