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, April 2, 2012 and Thursday, April 5, 2012.

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

MEMBERS NOT PRESENT:  Brian Mahlendorf, Vice Chair  
                       Teri Teutsch, Alternate

STAFF PRESENT:  Mike Carter, Zoning Board of Appeals Administrator  
                 Rick E. Cunningham, Planning Director  
                 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.
SHOW-CAUSE HEARING

<table>
<thead>
<tr>
<th>Case No.</th>
<th>REQUEST:</th>
<th>LOCATION:</th>
<th>ZONE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>11-120</td>
<td>Waiver of Section 55-146 – Variance to the street side yard setback from 20’ to 11.2’ to allow 14’ x 24’ garage to remain</td>
<td>12232 Farnam Street</td>
<td>R2</td>
</tr>
</tbody>
</table>

At the Zoning Board of Appeals meeting held on Thursday, April 12, 2012, Mr. Hancock stated that the case was originally approved but upon inspection last month, several items were not completed. He stated that the items were taken care of based upon an inspection by the Board.

Mr. Anzaldo moved to DISMISS based upon inspection by the Board. Mr. Nash seconded the motion.

AYES: Anzaldo, Donovan, Nash, Kelley, Hancock

MOTION CARRIED: 5-0
LAYOVERS

2. Case No. 12-018 Superior Lighting
   (Over from 3/8/12)
   2121 S 24th Street
   Omaha, NE  68108
   LOCATION: 200 and 330 South 108th Avenue
   ZONE: GO & GO-FF/FW

REQUEST: Waiver of Section 55-834 – Variance to the
         maximum sign budget from 1008 sq. ft. to
         1400 sq. ft.

RECOMMENDATION: Layover the request to allow the Special Use Permit process to be completed
through City Council and for the additional information from the applicant.

At the Zoning Board of Appeals meeting held on Thursday, April 12, 2012, Rick Anderson, 2120 South
72nd Street, appeared before the board on behalf of the applicant. Mr. Anderson stated that in order to
obtain the necessary waiver for the sign, a waiver of the applicable sign regulations (55-834) is needed
along with an Amendment to the Special Use Permit for the project. The project is the national
headquarters, operation and technology center for TD Ameritrade. Because the project is a large project
in a general office area, a Special Use Permit process was needed and a permit was issued because of
the height waiver. The Major Amendment to the Special Use Permit was approved by the Planning Board
and will be heard at City Council the beginning of May 2012. Mr. Anderson explained that the signs are
presently on top of the building, cranes are located on the construction site and ready to install the signs
within the next couple of weeks. He stated that the sign allowance would include two identical
monument signs and two wall signs. Mr. Anderson pointed out that there is no request for an additional
300 square feet of signage at this time and the request for additional square footage has been
withdrawn.

Mike Carter, ZBA Administrator, explained that the Planning Board approved 1,400 square feet of signage
but the City Council has final approval.

Mr. Hancock pointed out that another waiver would be needed for any additional signage. Mr. Anderson
stated that the building is a single tenant building and he understands that a formal process would be
needed for any additional signage.

Ms. Donovan moved to APPROVE the maximum sign budget from 1008 sq. ft. to 1400 sq. ft. for two wall
signs and two monument signs subject to approval from City Council for the Major Amendment to a
Large Project Special Use Permit to allow signage not in compliance with Chapter 55 Zoning of the
Omaha Municipal Code. Mr. Nash seconded the motion.

AYES: Donovan, Nash, Kelley, Anzaldo, Hancock

MOTION CARRIED: 5-0
3. Case No. 12-020
   Ideal Construction
   (Over from 3/8/12)
   2502 North 84th Street
   Omaha, NE 68134
   REQUEST: Waiver of Section 55-146 – Variance to the street side yard setback from 20’ to 10’ 10” for an addition
   LOCATION: 12132 Farnam Street
   ZONE: R2

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, April 12, 2012, Jeff Kirshenbaum, 12132 Farnam Street, appeared before the board.

Mike Carter, ZBA Administrator, stated that the applicant has submitted a revised plan that shows a setback of 10’8” with additional landscaping. Mr. Carter stated that the department recommends denial because there is no hardship or practical difficulty.

Mr. Kirshenbaum stated that he has reduced the width of the garage and increased the landscape buffer and added bushes, shrubs and trees. He stated that the garage will be fully attached and the materials will match the existing materials of the residence.

Mr. Anzaldo moved to APPROVE based on the amended plans submitted. Ms. Donovan seconded the motion.

AYES: Nash, Kelley, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0
NEW CASES

4. Case No. 12-026
   James and Carmen Clark
   2506 Royal Wood Drive
   Omaha, NE  68144
   REQUEST: Waiver of Section 55-786 – Variance to the residential fence regulations to allow a 6’ tall privacy fence in the street side yard setback
   LOCATION: 2506 Royal Wood Drive
   ZONE: R4(35)-R4(35)FW

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, April 12, 2012, James Clark, 2506 Royal Wood Drive, appeared before the board.

Mike Carter, ZBA Administrator, stated that the applicant is proposing to replace an existing fence that is in disrepair at the same location. Mr. Carter stated that the department recommends denial because there is no hardship or practical difficulty and the fence can legally be constructed on the site.

In response to Ms. Donovan, Mr. Carter indicated that a legal fence would need to be 15 feet from the property line.

Mr. Clark pointed out that his home is the only home on the block and would not infringe on anyone’s property rights. He mentioned that he was recently robbed and would like the fence for a sense of safety. Mr. Clark confirmed that the fence would be the same type and in the same location.

In response to Ms. Donovan, Mr. Clark answered that he has a plat plan and the fence is located on the lot line approximately 4-5 feet from the corner of the home.

Mr. Hancock indicated that he would be in support of the fence if it were placed parallel to the home.

In response to Mr. Kelley, Mr. Clark stated that there is a sidewalk along the side of the garage that leads to a gate used to enter the backyard.

Ms. Donovan moved to APPROVE subject to the fence being no closer to the street than 4’ from the north side of the garage. Mr. Hancock seconded the motion.

AYES: Kelley, Anzaldo, Donovan, Nash, Hancock

MOTION CARRIED: 5-0
5. Case No. 12-027
Paul Fechner
PJ Morgan Real Estate
7801 Wakely Plaza
Omaha, NE 68114

REQUEST: Waiver of Section 55-308 & 55-740(f)(4) – Variance to the maximum impervious coverage from 65% to 72% and to the minimum perimeter parking lot landscaping from 5’ to 4.74’ for a parking lot expansion

LOCATION: 8321, 8325, 8329, 8337 and 8343 Cass Street & 8318, 8322, 8326, 8330 and 8338 Chicago Street (SE corner of 84th and Cass Streets)

ZONE: LO & LO-PK

RECOMMENDATION: Denial of the waiver of the perimeter parking lot landscaping from 5’ to 4.74’. Approval of the waiver of impervious coverage from 65% to 72%, in accordance with the plan submitted.

At the Zoning Board of Appeals meeting held on Thursday, April 12, 2012, Dan Dolezal, Ehrhart Griffin & Associates, appeared before the board. Mr. Dolezal stated that his client has purchased additional property for more parking that is needed at the Douglas County Building. He stated that he is in agreement with the recommendation from the city and will amend the request to only include the impervious coverage waiver and exclude the landscaping waiver request.

Mr. Anzaldo moved to APPROVE of the maximum impervious coverage from 65% to 72%. The applicant withdrew the waiver for the perimeter parking lot landscaping. Ms. Donovan seconded the motion.

AYES: Anzaldo, Donovan, Nash, Kelley, Hancock

MOTION CARRIED: 5-0
6. Case No. 12-028
   Bradley and Lisa Bohnert
   4424 Walnut Street
   Omaha, NE  68105
   REQUEST: Waiver of Section 55-186 – Variance to the interior side yard setback from 5’ to 1’ to allow a garage addition
   LOCATION: 4424 Walnut Street
   ZONE: R4(35)

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, April 12, 2012, Bradley and Lisa Bohnert appeared before the board.

Mike Carter, ZBA Administrator, stated that the applicant is requesting a waiver to allow for a garage addition because the existing garage is not large enough to allow room for parking of a normal family sized vehicle. Mr. Carter stated that the department recommends denial because there is no hardship or practical difficulty and the garage can be developed in compliance with the zoning regulations.

Mr. Bohnert stated that the existing garage is narrow and the proposed garage would be wider. He stated that his family is growing and he would like to obtain a larger vehicle. Mr. Bohnert pointed out that if a garage were built in the back yard it would take away from the green space and play area for his children. He stated that the driveway would be increased an additional three feet. Mr. Bohnert explained that the brick on the existing garage would be removed and reused as much as possible to match the existing home.

Mr. Kelley moved to APPROVE according to the plans submitted subject to the materials matching the existing residence. Ms. Donovan seconded the motion.

AYES: Donovan, Nash, Kelley, Anzaldo, Hancock

MOTION CARRIED: 5-0
7. Case No. 12-029
Neon Products Co., Inc.
4713 F Street
Omaha, NE  68117

REQUEST: Waiver of Section 55-825(c) – Variance to the maximum area for a temporary sign from 32 sq. ft. to 108 sq. ft. for a banner during the College World Series

LOCATION: 1624 Mike Fahey Street
ZONE: DS-ACI-1(PL)

RECOMMENDATION: Approval, in accordance with the plan submitted for the two weeks of the 2012 College World Series.

At the Zoning Board of Appeals meeting held on Thursday, April 12, 2012, Barton Arnold, Neon Products and Lemus Peterson, Creighton University, appeared before the board.

Mike Carter, ZBA Administrator, stated that the applicant is proposing to install a banner to advertise the College World Series on the side of the building at 1624 Mike Fahey Street. Mr. Carter stated that the City does support waivers or temporary signs for special events within the City and therefore the department recommends approval.

In response to Mr. Hancock, Mr. Arnold stated that the request is the same as the previous year which allowed the banner to be up one week before, during and one week after the College World Series.

Mr. Anzaldo moved to APPROVE a temporary banner from 32 sq. ft. to 108 sq. ft. for one week before, two weeks during and one week after the College World Series. Ms. Donovan seconded the motion.

AYES: Nash, Kelley, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0
8. Case No. 12-030
    Neon Products Co., Inc.
    4713 F Street
    Omaha, NE  68117

    REQUEST: Waiver of Section 55-825(c) – Variance to
    the maximum area for a temporary sign
    from 32 sq. ft. to 735 sq. ft. for a banner
    during the College World Series

    LOCATION:  815 North 19th Street
    ZONE:     DS-ACI-1(PL)

    RECOMMENDATION:  Denial.

    At the Zoning Board of Appeals meeting held on Thursday, April 12, 2012, Barton Arnold, Neon Products
    and Lemus Peterson, Creighton University, appeared before the board.

    In response to Mr. Hancock, Mr. Arnold stated that the banner would include a digital photo of St. John’s
    Church located on the Creighton University campus.

    Ms. Donovan moved to APPROVE a temporary banner from 32 sq. ft. to 735 sq. ft. for one week before,
    two weeks during and one week after the College World Series. Mr. Hancock seconded the motion.

    AYES:    Kelley, Anzaldo, Donovan, Nash, Hancock

    MOTION CARRIED:  5-0
9. Case No. 12-031
Michael Maroney
Omaha Economic Development Corporation
2221 North 24th Street
Omaha, NE 68110

REQUEST: Waiver of Section 55-246 & 55-735 – Variance to the front yard setback from 35’ to 9.1’ and 9.2’ and to allow off-street parking in the front yard setback for a multiple family residential use to allow the construction of an independent senior living facility

LOCATION: 2415, 2421, 2427, 2431 and 2435 Patrick Avenue; 2007, 2009 and 2011 North 25th Street; and 2416, 2418, 2422, 2426, 2428, 2430 and 2432 Blondo Street (NE corner of 25th and Blondo Streets)

ZONE: R7

RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, April 12, 2012, Brian Lodes, Thompson, Dreessen & Dorner, 10806 Old Mill Road, appeared before the board.

Mike Carter, ZBA Administrator, stated that the request is for construction of a proposed senior living facility. Mr. Carter stated that the property has been subdivided, all lots have been put together into one lot and the alley has been vacated. He stated that the department believes that there is a practical difficulty because of the street frontages within an urban type setting and the North Omaha Revitalization Plan supports a variety of housing types. Mr. Carter stated that the department recommends approval in accordance with the plans submitted.

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

AYES: Anzaldo, Donovan, Nash, Kelley, Hancock

MOTION CARRIED: 5-0
10. Case No. 12-032
   Robert J. Quartoroli
   17727 North Reflection Circle
   Bennington, NE 68007

   REQUEST: Waiver of Section 55-126 – Variance to the
   front yard setback from 50’ to 35’ to allow
   construction of a single-family home

   LOCATION: 22106 Quail Circle
   ZONE: R1

   RECOMMENDATION: Approval in accordance with the plans submitted.

   At the Zoning Board of Appeals meeting held on Thursday, April 12, 2012, Jim Buser, 10250 Regency
   Circle, appeared before the board with Robert Quartoroli. Mr. Buser offered to answer any questions.

   Mike Carter, ZBA Administrator, stated that the applicant is proposing to construct a new home on the
   only remaining vacant lot in the circle. Mr. Carter stated that the subdivision was originally platted under
   Elkhorn regulations, which permitted a 35’ setback. He stated that the proposal appears to be consistent
   with the existing homes on the circle therefore the department recommends approval in accordance with
   the plans submitted.

   In response to Mr. Anzaldo, Mr. Quartoroli indicated that the property would be his personal residence.

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

   AYES: Donovan, Nash, Kelley, Anzaldo, Hancock

   MOTION CARRIED: 5-0
REQUEST: Waiver of Section 55-363 – Variance to the permitted use regulations of the CC District to allow Outdoor sports and recreation use

LOCATION: 20902 Cumberland Drive

ZONE: CC

RECOMMENDATION: Approval, in accordance with the plans submitted, subject to: 1) A 30’ bufferyard per Section 55-716 of the Omaha Municipal Code (OMC) along the north property line adjacent to the outdoor area; 2) A landscaping/screening plan acceptable to the Planning Department; 3) Install, to city standards, a drive aisle with parking on both sides along the south side of the outdoor area to the east property line. This will also provide future access for the property to the east. If the Department determines that there is a parking issue including illegal parking or parking off-site because of the demands of the business then additional parking must be added; 4) Outdoor activities must end no later than 11:00 p.m. and no games can start after 9:30 p.m.; 5) No amplified sound can occur after 11:00 p.m. and the project must comply with noise and lighting regulations in the OMC, including Chapters 44 and 55; 6) A Temporary Use Permit must be granted for any special events; and 7) All necessary permits and a Certificate of Occupancy must be approved for the project.

At the Zoning Board of Appeals meeting held on Thursday, April 12, 2012, Larry Jobeun, 11440 West Center Road, appeared before the board on behalf of Steve Sempeck. Mr. Jobeun submitted minutes and a memo from the archives of Elkhorn. He pointed out that the whole building was a Conditional Use Permit as far as the indoor and outdoor aspects of the recreational area under Elkhorn zoning. Mr. Jobeun stated that he agrees with the department’s recommendation and offered to answer any questions.

In response to Ms. Donovan, Mr. Jobeun stated that his client began the construction because he was not unaware that if a Conditional Use Permit was not acted upon within a certain amount of time then it would not be a valid permit.

In response to Mr. Hancock, Mr. Jobeun explained that there was interaction with the public/neighbors when the original Conditional Use Permit was initiated.

Mr. Hancock stated the concept is a great use for the property but the concern is what might happen at a recreational facility therefore the board would like an opportunity to review the use and any complaints in one year. Mr. Jobeun pointed out that his client would be making a substantial investment into the site with respect to the volleyball and horseshoe courts. Mr. Anzaldo stated he is in favor of the request but suggested that there be a review in one year only if there are any complaints.

Mike Carter, ZBA Administrator, stated that the department supports the request subject to the seven listed conditions on the recommendation report.

In response to Mr. Anzaldo, Mr. Jobeun stated that the facility has indoor carting and verified that he is in favor of the conditions recommended by the planning department.

Mr. Sempek, 20902 Cumberland, stated that he thought there is a limit to how many special permits can be obtained each year for special events.

Mr. Anzaldo moved to APPROVE subject to: 1) A 30’ bufferyard per Section 55-716 of the Omaha Municipal Code (OMC) along the north property line adjacent to the outdoor area; 2) A landscaping/screening plan acceptable to the Planning Department; 3) Install, to city standards, a drive aisle with parking on both sides along the south side of the outdoor area to the east property line. This will provide future access for the property to the east. If the Department determines that there is a parking issue, including illegal parking or parking off-site, because of the demands of the business, then additional parking must be added; 4) Outdoor activities must end no later than 11:00 p.m. and no games
can start after 9:30 p.m.; 5) No amplified sound can occur after 11:00 p.m. and the project must comply with noise and lighting regulations in the OMC, including Chapters 44 and 55; 6) A Temporary Use Permit must be granted for any special events; 7) All necessary permits and a Certificate of Occupancy must be approved for the project; and 8) A review will be required in one year only to make corrections if there are any complaints. Ms. Donovan seconded the motion.

AYES: Nash, Kelley, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0
12. Case No. 12-034 - Layover
   Omaha Senior Partners, LLC
   15677 Spaulding Street
   Omaha, NE 68116
   LOCATION: 10909 M Street
   ZONE: GI

REQUEST: Waiver of Section 55-503 – Variance to the permitted use regulations of the GI District to allow Assisted living use

LOCATION: 10909 M Street
ZONE: GI

RECOMMENDATION: Layover to allow the applicant time to work with the Planning Department to address use issues/conflicts and to submit additional information including a detailed operating statement and site improvements.

At the Zoning Board of Appeals meeting held on Thursday, April 12, 2012, Mr. Hancock stated that the applicant has requested that the case be laid over.

Ms. Donovan moved to LAYOVER at the request of the applicant. Mr. Kelley seconded the motion.

AYES: Kelley, Anzaldo, Donovan, Nash, Hancock

MOTION CARRIED: 5-0
13. Case No. 12-035  
Dennis Duer  
Professional Associates, Ltd.  
256 North 115th Street, Suite 4  
Omaha, NE 68154  
LOCATION: 6112 South 13th Street  
ZONE: R4(35)

REQUEST: Waiver of Section 55-186 – Variance to the street side yard setback from 15’ to 13’ 1” to allow a porch addition

RECOMMENDATION: Approval, in accordance with the plan submitted, subject to bringing the fence along Washington Street into compliance and moving the shed to a legal location.

At the Zoning Board of Appeals meeting held on Thursday, April 12, 2012, Dennis Duer, Professional Associates, 256 North 115th Street, appeared before the board with Obdulia Olvera, owner. Mr. Duer offered to answer any questions.

Mike Carter, ZBA Administrator, stated that the porch addition is currently under construction and the addition is approximately 5.5’ x 19.5’ located over the entrance on the east side of the home. The applicant states that the waiver request is to prevent water from entering the residence and to protect the foundation. Mr. Carter stated that the requested setback is consistent with the neighborhood area and does not appear to encroach any more than other properties on 13th Street therefore the department recommends approval in accordance with the plans submitted subject to bringing the fence along Washington Street into compliance and moving the shed to a legal location.

In response to Mr. Kelley, Mr. Duer stated that his client is in agreement with the recommendations from the planning department and the fence and shed will be moved.

Mr. Kelley moved to APPROVE in accordance with the plans submitted subject to bringing the fence along Washington Street into compliance and moving the shed to a legal location. Mr. Nash seconded the motion.

AYES: Anzaldo, Donovan, Nash, Kelley, Hancock

MOTION CARRIED: 5-0
14. Case No. 12-036  
Vision Properties  
667 North 66th Street  
Omaha, NE 68132  

REQUEST: Waiver of Section 55-187(e) – Variance to the front yard setback from 35’ to 21.5’ to allow reconstruction of existing covered porch  

LOCATION: 6340 North 36th Street  
ZONE: R4(35)  

RECOMMENDATION: Approval in accordance with the plans submitted.  

At the Zoning Board of Appeals meeting held on Thursday, April 12, 2012, Justin Haynes, Vision Properties, 12130 Woolworth Avenue, appeared before the board.  

Mike Carter, ZBA Administrator, stated that the applicant is in the process of renovating the property and has repaired some of the porch without a building permit but is now in the process of obtaining the building permit. Mr. Carter stated that the porch encroaches into the required setback but there is a practical difficulty because the home was originally constructed with a porch and the porch is an integral feature to the home therefore the department recommends approval in accordance with the plans submitted.  

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

In response to Mr. Hancock, Mr. Haynes answered that a general permit was obtained but based upon an engineer’s recommendation, a permit was needed for the porch addition.  

AYES: Donovan, Nash, Kelley, Anzaldo, Hancock  

MOTION CARRIED: 5-0
APPROVAL OF MINUTES

Ms. Donovan moved to APPROVE the March 8, 2012 meeting minutes. Mr. Hancock seconded the motion.

AYES: Anzaldo, Donovan, Hancock

ABSTAIN: Nash, Kelley

MOTION CARRIED: 3-0-2

DISCUSSION

Mr. Carter indicated that the Board has requested that someone from the legal department attend the next pre-meeting to discuss the new noise ordinance.

RoseMarie Horvath, Assistant City Attorney, stated that the City is in a continuous lawsuit with TRP. She stated that most recently TRP has asked that the City be found in contempt because they were cited for the new ordinance but the court has denied their request. The court told TRP that they would have to go before the Zoning Board of Appeals before any issues are decided.

Ms. Donovan questioned if there would be measurements taken before the next meeting. Rick Cunningham, Planning Director, answered that measurements were taken at the time of the most recent violation.

Mr. Anzaldo requested that the Board be informed of the new ordinance and any readings that have been taken. Mr. Hancock agreed that the Board needs to be familiar with the new noise ordinance.

ADJOURNMENT

Ms. Donovan moved to ADJOURN the meeting at 2:20 pm. Mr. Anzaldo seconded the motion.

AYES: Kelley, Anzaldo, Donovan, Nash, Hancock

MOTION CARRIED: 5-0

____________________________________________
Approved (date)

____________________________________________
Bert Hancock, Chair

____________________________________________
Debbie Hightower, Secretary