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, July 30, 2012 and Thursday, August 2, 2012.

MEMBERS PRESENT: Bert Hancock, Chair
Brian Mahlendorf, Vice Chair
Sebastian Anzaldo
Jacque Donovan
Jonathan Nash, Jr

MEMBERS NOT PRESENT: Teri Teutsch, Alternate
Sean Kelley, Alternate

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

Mr. Hancock called the meeting to order at 1:02 p.m., introduced the board members, as well as the staff, and explained the procedures for hearing the cases.
LAYOVERS

1. Case No. 12-043
   (over from 5/10/12)
   Buck’s, Inc. - Layover
   4973 Dodge Street
   Omaha, NE 68132

   REQUEST: Waiver of Section 55-366 & 55-740(f) –
   Variance to the maximum impervious coverage on Lot 1 from 85% to 85.5%; to
   the rear yard setback on Lots 1 & 2 from 15’ to 2’ and 1.63’; to the minimum perimeter
   landscaping on Lots 1 & 2 from 5’ to 0’; and to the minimum interior landscaping on Lot
   1 from 5% to 0% to allow for the approval of an administrative subdivision

   LOCATION: 8455 Frederick Street and
              3052 South 84th Street

   ZONE: CC & CC/FF

   RECOMMENDATION: Denial.

   At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, John Fullenkamp, 11440
   West Center Road, appeared before the board on behalf of the applicant.

   Mr. Fullenkamp stated that, since the last Zoning Board of Appeals meeting on July 12, 2012, the
   property had been rezoned and is now subject to the Major Commercial Corridor District (MCC)
   guidelines. He added that this was done voluntarily by the property owner. Mr. Fullenkamp explained that
   waivers are being requested mainly because of the topography of the lot.

   In response to Mr. Anzaldo, Mr. Fullenkamp stated that, if the lot was subdivided, any future owners
   would be required to abide by the MCC guidelines.

   Mr. Mahlendorf stated that some of the benefits of the waivers initially granted for this property are a
   much improved appearance of the intersection, and the reduction in the number of access points on 84th
   Street. He added that, if the current waivers were granted, there would be no major changes to the
   appearance of the lots.

   Mr. Mahlendorf moved to APPROVE. Mr. Nash seconded the motion.

   AYES: Anzaldo, Mahlendorf, Nash, Hancock

   NAYES: Donovan

   MOTION CARRIED: 4-1
2. Case No. 12-057  
Bob Stratton  
c/o Broadmoor Hills  
18510 Capitol Court  
Omaha, NE 68022  

REQUEST: Waiver of Section 55-831 - Variance to maximum sign area for a monument sign from 20 sq. ft. to 48 sq. ft. and to the total sign area from 40 sq. ft. to 62 sq. ft.

LOCATION: 18510 Capitol Court  
ZONE: R6-ACI-4(PL)

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, Bob Stratton, 809 North 96th Street, appeared before the board in behalf of the applicant.

Mr. Stratton stated that the property owner is proposing to place a sign for their apartment complex on Dodge Street, which would require that the sign be placed on a hill. Taking into account setback requirements, he explained that the letters on the sign would be too small to be noticeable. The property owner is proposing to add a larger, more noticeable sign with additional landscaping to make it more appealing.

Ms. Donovan moved to APPROVE subject to the removal of all other temporary signage along West Dodge Road. Mr. Nash seconded the motion.

AYES: Donovan, Mahlendorf, Nash, Anzaldo, Hancock

MOTION CARRIED: 5-0
3. Case No. 12-064
   Judy Olson
   9621 North 30th Street
   Omaha, NE 68112

REQUEST: Waiver of Section 55-146 – Variance to the
         front yard setback from 40’ to 27’ and to the
         interior side yard setback from 10’ to 9’ to
         allow an approximate 43 sq. ft. garage
         addition.

LOCATION: 9621 North 30th Street
ZONE: R2-ED

RECOMMENDATION: Approval, in accordance with the plans submitted, subject to the exterior materials
of the addition matching the existing home.

At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, Judy Olson, 9621 North 30th
Street, appeared before the board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a
small addition to the front of the existing garage. The addition will match the existing side wall of the
garage and the existing front wall of the home. The proposed addition will not encroach any further into
the front yard or interior side yard setback than the existing home does. It also appears to be consistent
with other homes in the neighborhood. Mr. Carter stated that the Planning Department recommends
approval in accordance with the plans submitted, subject to the exterior materials of the addition
matching the existing home.

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

AYES: Mahlendorf, Nash, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0
Case No. 12-065
Brother Mike Wilmot S.J.
GESU Housing, Inc.
5008 ½ B Dodge Street
Omaha, NE 68132

REQUEST: Waiver of Section 55-206 & 55-207(g) - Variance to the front yard setback from 35' to 25' and to the street side yard setback from 15' to 5' (4149 Burdette) to allow for the construction of 2 single-family homes

LOCATION: 4145 Burdette Street and
4149 Burdette Street

ZONE: R5(35)

RECOMMENDATION: Approval, subject to the complying with new sidewalk standards in the subdivision ordinance, 53-9(9) Sidewalks.

At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, Mike Hall, 14225 Dayton Circle, and Brother Mike Wilmot SJ, GESU Housing, Inc., appeared before the board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct two new single-family homes. The front yard and street side yard setbacks being requested are similar to many other homes in the neighborhood. Mr. Carter further stated that the Planning Department supports infill developments, noting that similar waivers were granted to a property on Burdette Street in 2010. He stated that the Planning Department recommends approval, subject to compliance with the new sidewalk standards in the subdivision ordinance.

Brother Wilmot agreed to comply with the new sidewalk standards in the subdivision ordinance.

Mr. Anzaldo moved to APPROVE subject to the complying with the new sidewalk standards in the subdivision ordinance, 53-9(9) Sidewalks. Mr. Nash seconded the motion.

AYES: Anzaldo, Donovan, Mahlendorf, Nash, Hancock

MOTION CARRIED: 5-0
5. Case No. 12-066
Brother Mike Wilmot SJ
GESU Housing, Inc.
5008 ½ B Dodge Street
Omaha, NE 68132

REQUEST: Waiver of Section 55-206 – Variance to the street side yard setback from 15’ to 7.33’ to allow a 769 sq. ft. addition

LOCATION: 2154 South 33rd Street
ZONE: R5(35)

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, Brother Mike Wilmot SJ, GESU Housing, Inc., and Dan Emsick appeared before the board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is requesting a waiver of the street side yard setback for a 769 sq. ft. addition to an existing home. He noted that there is no hardship or practical difficulty since the property can be built in compliance with regulations. Mr. Carter stated that the Planning Department recommends denial.

Brother Wilmot explained that the property owner suffered a severe stroke and will be moving into the home with her mother.

Mr. Mahlendorf stated that the board had driven by the property and noticed that the property to the west sits back at the same distance that is being proposed by the applicant.

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

AYES: Anzaldo, Donovan, Mahlendorf, Nash, Hancock

MOTION CARRIED: 5-0
6. Case No. 12-067
Mark Sanford
1306 North 162nd Street
Omaha, NE 68118

REQUEST: Waiver of Section 55-734 – Variance to the number of off-street parking stalls from 59 to 0 for Pet Services and General Retail Sales uses

LOCATION: 801 South 16th Street
ZONE: DS-ACI-1(PL)

RECOMMENDATION: Approval, subject to the applicant applying for rezoning to CBD-Central Business District.

At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, Mark Sanford, Architect, and Mark Kraft, Property Owner, appeared before the board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is requesting a waiver of the off-street parking stall requirement for both Pet Services and General Retail Sales uses. Since the existing building takes up the entirety of the property, there is no place for off-street parking. He stated that the property should be rezoned to CBD-Central Business District, which is exempt from providing off-street parking. Mr. Carter noted that the rezoning is supported by the Downtown Master Plan. He further noted that the Pet Services use requires that all activities must be performed totally within the building, with no observable external effects. Mr. Carter stated that the Planning Department recommends approval, subject to the applicant applying for rezoning to CBD-Central Business District.

Mr. Kraft agreed to apply for the rezoning to CBD-Central Business District.

Mr. Anzaldo moved to APPROVE, subject to the applicant applying for rezoning to CBD-Central Business District. Mr. Nash seconded the motion.

AYES: Donovan, Mahlendorf, Nash, Anzaldo, Hancock

MOTION CARRIED: 5-0
7. Case No. 12-068  
Verizon Wireless  
1620 “M” Street  
Lincoln, NE 68501  
REQUEST: Waiver of Section 55-740(e) - Variance to the hard surface driveway and parking area requirement to allow gravel surface  
LOCATION: NE of Northern Hills Drive and Calhoun Road (Hwy 75)  
ZONE: DR-ED

RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, Jon Yoachim, 1875 “D” Road, Unadilla, Nebraska, appeared before the board in behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is requesting a waiver of the hard surface driveway and parking area requirement to allow a gravel surface. This request is part of a Special Use Permit that was approved by the Planning Board. He explained that this is located in the Northern Hills Environmental Overlay District, which supports this use as long as the natural features of the area are maintained. Mr. Carter stated that the Planning Department recommends approval in accordance with the plans submitted.

Mr. Carter noted that there was an adjacent property owner to the north who contacted the Planning Department with concerns regarding the tower. That person was directed to attend the City Council meeting where that issue would be discussed.

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

AYES: Mahlendorf, Nash, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0
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<thead>
<tr>
<th>Case No.</th>
<th>12-069 (WITHDRAWN)</th>
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<tr>
<td>Applicant</td>
<td>Brother Mike Wilmot SJ</td>
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<td>GESU Housing, Inc.</td>
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<td>5008 ½ B Dodge Street</td>
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<td>Omaha, NE 68132</td>
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<td>REQUEST:</td>
<td>Waiver of Section 55-207(g) - Variance to the front yard setback from 35' to 25' to allow for the construction of a single family home</td>
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<td>LOCATION:</td>
<td>4220 Erskine Street</td>
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<td>ZONE:</td>
<td>R5(35)</td>
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This request was withdrawn at the request of the applicant.
9. Case No. 12-070
Alejandro Soto
2011 “W” Street
Omaha, NE 68107

REQUEST: Waiver of Section 55-186 & 55-782(b)(6) - Variance to the maximum impervious coverage from 50% to 54% to the front yard setback from 60’ to 31’, to the interior side yard setback from 3’ to 1’, and to the rear yard setback from 3’ to 2’4” to allow construction of a 217 sq. ft. detached accessory building.

LOCATION: 2011 “W” Street
ZONE: R4(35)

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, Alejandro Soto, 2011 “W” Street, appeared before the board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the waivers were being requested after construction had already begun. He further stated that since there is no hardship or practical difficulty, the Planning Department recommends denial.

Mr. Soto stated that he needed more storage space for his children’s toys and tools since his home is small.

Mr. Hancock explained that Mr. Soto would likely have to pay a quad fee since the work was done without a permit.

Mr. Soto stated that he contacted his neighbors and they have no problems with the shed.

Mr. Mahlendorf stated that the Board had visited the property and noted that the addition was not out of context with other properties in the neighborhood. However, he stressed to Mr. Soto the importance of obtaining a building permit.

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

Mr. Anzaldo advised Mr. Soto that the framing of the shed was done incorrectly. He requested that Rick Cunningham, Planning Director, have an inspector take a look at the building before any other work is done. Mr. Cunningham responded that part of the permitting process is to have an inspector look at the structure to ensure that the work is performed correctly.

In response to Mr. Hancock, Mr. Soto stated that the addition would match the home in regards to the materials being used.

AYES: Anzaldo, Donovan, Mahlendorf, Nash, Hancock

MOTION CARRIED: 5-0
10. Case No. 12-071
Dan Baker
1834 Jefferson Street
Omaha, NE 68107

REQUEST: Waiver of Section 55-187(e) – Variance to the front yard setback from 35’ to 27’ to allow a 215 sq. ft. deck to remain

LOCATION: 1834 Jefferson Street
ZONE: R4(35)

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, Dan Baker, appeared before the board.

Mike Carter, Zoning Board of Appeals Administrator, stated that applicant started construction on a deck on the front of the home without a building permit. The deck encroaches into the required front yard setback, and is part of an overall rehabilitation of the home. He stated that the Planning Department recommends denial since a legal stoop can be built to allow access to the property, and because a deck can be built elsewhere on the site.

Mr. Mahlendorf stated that the Board noticed several homes in the neighborhood that have had decks built onto the front of the property.

Mr. Baker explained that he suffers from congestive heart failure, and that part of the stairs could quickly be converted to a ramp or lift for wheelchair access if necessary. He further explained that this was the reason the stairs were built near the driveway.

In response to Ms. Donovan, Mr. Baker stated that he would not be adding a roof onto the deck. He added that he would probably add a perimeter around the outside to bring the posts together, and perhaps brackets to hang planters.

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

Mr. Hancock advised Mr. Baker that he would still need to obtain a building permit, which would possibly include a penalty fee since the permit was obtained after the work was already done.

Rick Cunningham, Planning Director, stated that the deck was over 30" above ground and informed Mr. Baker that he is required to install a guardrail.

Mr. Baker stated that the contractor he hired stated in their contract that they would provide permits. He explained that he later discovered that they had not done so.

AYES: Donovan, Mahlendorf, Nash, Anzaldo, Hancock

MOTION CARRIED: 5-0
11. Case No. 12-072
   Vicky Stadther
   McDonald’s USA
   1650 W. 82nd Street #900
   Bloomington, MN 55431-9888

   REQUEST: Waiver of Section 55-925 & 55-716 - Variance to the Build-to/setback dimension along Dodge Street for a Type C frontage in an ACI-2 District from 45’ to 25’6” and to the required buffer yard between CC and DR from 30’ to 10’

   LOCATION: 7717 West Dodge Road
   ZONE: CC-ACI-2(65)-FF

   RECOMMENDATION: Approval in accordance with the plans submitted, subject to the conditions set forth by the Urban Design Review Board: 1) a sidewalk being added to the eastern edge of the building heading north toward Dodge Street; 2) installation of landscaping hedge approximately 36” high on the northern edge of the drive and 2’ from the edge of the curb to allow for placement of snow; 3) reinforcement of the baseline along Dodge Street to include shade trees of the same species spaced about 25’ on center; 4) elimination of the small landscaped half-circle on the northeast corner; 5) the trash and grease enclosure should be of the same materials as the building; and 6) installation of a bike rack.

   At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, Vicky Stadther, McDonald’s, USA, appeared before the board on behalf of the applicant.

   Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant has been working with the Urban Design Division of the Planning Department to redevelop the site of the new McDonald’s restaurant. The applicant is attempting to comply with the ACI and the buffer yard requirements to the fullest extent possible, but they will need the requested waivers in order to do so. The Urban Design Review Board recommends approval of the waiver for the ACI regulation, because of a miscalculation in the code. Mr. Carter stated that the Planning Department recommends approval in accordance with the plans submitted, subject to the conditions set forth by the Urban Design Review Board which include the following: 1) a sidewalk being added to the eastern edge of the building heading north toward Dodge Street; 2) installation of landscaping hedge approximately 36” high on the northern edge of the drive and 2’ from the edge of the curb to allow for placement of snow; 3) reinforcement of the baseline along Dodge Street to include shade trees of the same species spaced about 25’ on center; 4) elimination of the small landscaped half-circle on the northeast corner; 5) the trash and grease enclosure should be of the same materials as the building; and 6) installation of a bike rack.

   Ms. Stadther agreed to comply with the conditions as set forth by the Urban Design Review Board.

   Jed Moulton, Urban Design Manager, stated that the City is in the process of correcting the error in the code so that these types of waivers would not be required in the future.

   Ms. Donovan moved to APPROVE along with the recommendations from the City. Mr. Nash seconded the motion.

   AYES: Mahlendorf, Nash, Anzaldo, Donovan, Hancock

   MOTION CARRIED: 5-0
12. Case No. 12-073

Ken Oster
Oster Construction, Inc.
15710 “L” Street
Omaha, NE 68135

REQUEST: Waiver of Section 55-126 – Variance to the rear yard setback from 35’ to 8’ to construct a pool house

LOCATION: 3511 South 228th Terrace

ZONE: R1

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, Ken Oster, appeared before the board in behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a new home, which includes a pool house to the rear of the property. The property owner has indicated that they would like to preserve the natural features of the area, which includes preserving some mature oak trees that are on the property. Mr. Carter explained that this would require an encroachment into the required rear yard setback. He stated that the property owner was previously granted a waiver by the Zoning Board of Appeals, and that no hardship or practical difficulty exists to support further encroachment. For these reasons the Planning Department recommends denial.

Mr. Carter did inform the Board that the Planning Department received a letter from the developer and one from the landscape architect in support of the request.

Mr. Mahlendorf stated that there is a large drainage area behind the property that extends the setback area and the buffer yard between the applicant’s property and the one adjacent to it.

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

AYES: Nash, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0
13. Case No. 12-074
John Schmidt
Historic Florentine LLC
1940 South 49th Street
Omaha, NE 68106

REQUEST: Waiver of Section 55-740 & 55-737 - Variance to the perimeter parking lot landscaping from 5’ to 2’2” and from 10’ to 3’4” and 2’9”, to allow compact stalls to overhang into a required landscaped area, and to allow 53.3% of the total parking stalls to be compact stalls

LOCATION: 907-11 South 25th Street
ZONE: DS

RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, Chris Turner, Alley Poyner Macchietto Architecture, appeared before the board in behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to renovate the existing historic building, which would include adding additional parking stalls. He explained that, because of limited space, waivers are needed since there is not enough space for the required stall size and landscaping. Approval of the waivers would enable the applicant to provide off-street parking for the residents of the building. Mr. Carter stated that the Planning Department recommends approval in accordance with the plans submitted.

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

AYES: Anzaldo, Donovan, Mahlendorf, Nash, Hancock

MOTION CARRIED: 5-0
14. Case No. 12-075
   Jason Alberico
   Hansen Enterprises LLC
   5712 South 60th Street
   Omaha, NE 68117

   REQUEST: Waiver of Section 55-740(f) – Variance to the perimeter parking lot landscaping requirement from 5’ to 2.72’ to allow a paved driveway to remain
   LOCATION: 5702 South 60th Street
   ZONE: GI-FF

   RECOMMENDATION: Denial.

   At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, Chris Turner, Jason Alberico and Doug Kellner, TD2, appeared before the board.

   Mike Carter, Zoning Board of Appeals Administrator, stated that construction had been done on the property without a building permit. He explained that the original building permit came in with the proposed building located near the middle of the property, with some adjacent parking. As the project progressed, additional concrete was added for parking, along with a paved driveway which extends out to 60th Street. Mr. Carter further explained that when the driveway was built, it did not comply with the 5’ landscaping requirement as specified by the code. He added that there is no hardship or practical difficulty; therefore, the Planning Department recommends denial.

   In response to Mr. Hancock, Mr. Alberico explained that the concrete drive, which is built up to the new facility, replaced a gravel road that had been in place since 1977. He stated that, although the drive encroaches on the 5’ perimeter, there are industrial areas to the north and south. Hansen’s Truck Salvage, which is also owned by Hansen Enterprises LLC, is located to the north and Hawkins Construction stores industrial equipment on the property to the north. He explained that they are attempting to improve the look of the area and make their facilities better for their customers.

   Mr. Mahlendorf stated that it would not have taken much effort to install the driveway correctly; although, he admitted that the concrete driveway was a better alternative to the gravel road. In response to Mr. Mahlendorf, Mr. Carter stated that a permit would still need to be obtained so that the installation of the driveway would be on record.

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

   In response to Mr. Hancock, Mr. Kellner stated that TD2 was not involved in the design of the project, but that they were involved afterwards to ensure that all code requirements were met.

   Mr. Carter advised that a Flood Plain Permit would also need to be obtained.

   AYES: Donovan, Mahlendorf, Nash, Anzaldo, Hancock

   MOTION CARRIED: 5-0
15. **Case No. 12-076**  
Philip Kommer  
1031 South 30th Avenue  
Omaha, NE 68105

**REQUEST:** Waiver of Section 55-246 & 55-734 - Variance to the minimum lot width from 30’ to 25.9’ and 24’; to the minimum lot size (Lot 2) from 3,000 sq. ft. to 2,888 sq. ft.; and to the required number of off-street parking stalls (Lot 2) from 2 to 0 to allow for the approval of an administrative subdivision

**LOCATION:** 1029/1031 South 30th Avenue  
**ZONE:** R7

**RECOMMENDATION:** Approval, in accordance with the plans submitted, subject to the applicant providing documentation that the split building will meet building code and applying for rezoning to R5.

At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, Philip Kommer, 1031 South 30th Avenue, appeared before the board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to subdivide the property into 2 separate lots, which would provide a separate lot for each unit. He explained that the practical difficulty is that the limited width of the lot prevents the subdivision of the property; however, approval of the waivers would allow separate ownership of each unit. Mr. Carter stated that the Planning Department recommends approval subject to the applicant providing documentation that the split building will meet building code and applying for rezoning to R5.

Mr. Kommer stated that he is in agreement with the City’s recommendation to rezone the property to R5. He added that splitting the property would allow him to get FHA financing for the property.

In response to Mr. Anzaldo, Mr. Kommer stated that he was living in the southern half of the property, and is currently in the process of rehabbing the northern half.

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

Mr. Carter noted that he was contacted by a neighbor who was opposed to the request, specifically in regards to the parking waiver.

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

**MOTION CARRIED:** 5-0
16. Case No. 12-077
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, August 9, 2012, Matt Geiger, appeared before the board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a garage addition on top of an existing garage. The existing garage has access off Kristy Street, and there is also access for an existing garage off North Post Road. He stated that the Planning Department recommends denial since there is no hardship or practical difficulty, and because a garage in compliance with the ordinance can be constructed on the property.

Mr. Geiger stated that the foundation for the proposed garage has been in place for several years and that they would like to build on top of it. In response to Mr. Mahlendorf, Mr. Geiger stated that if the waiver were approved, there would be a total of 6 - 8 garage spaces, including a car port. Mr. Geiger explained that he owns a construction company and would be using the majority of the space for storing tools and equipment.

In response to Mr. Hancock, Mr. Geiger stated that he plans to enclose the car port in the future.

Mr. Carter advised the applicant of the zoning regulations that restricts what type of equipment can be stored at a residence, especially work equipment and vehicles. He further explained that he should be aware that he could be guilty of violating the ordinance if it was found that he was operating a business out of his home. Mr. Geiger responded that there is a separate office space for his business, and that his family owns three cars and a boat.

Mr. Mahlendorf stated that he was reluctant to support the waiver, since adding a garage to the existing foundation would drastically change the view of the surrounding area. Mr. Geiger responded that the property is located a significant distance from the street and that the adjacent property sits almost on the street.

Ms. Donovan stated that she does not support the waiver since there is adequate space for the applicant to develop the property legally. Mr. Anzaldo suggested that Mr. Geiger come up with an alternative plan since it did not appear that he would get the votes need for the request to be approved.

Mr. Mahlendorf suggested that Mr. Geiger could discuss other options with the Planning Department.

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

In response to Mr. Hancock, Mr. Geiger stated that the proposed garage would be built over the existing basement, and that here would be a total of three garages at the front of the property. Mr. Hancock noted that there were already 3 curb cuts for the property, and suggested that one could be removed. He also stated that Mr. Geiger could consider a detached garage as another option. Mr. Hancock also stated that there was some skepticism from the board regarding the total number of garage spaces at the residence since the applicant admitted that he owns a construction business and stores equipment at the home.

AYES: Nash, Anzaldo, Donovan, Mahlendorf, Hancock
MOTION CARRIED: 5-0

17. Case No. 12-078  
   William Jensen  
   9430 Chicago Street  
   Omaha, NE 68114  
   REQUEST: Waiver of Section 55-126 - Variance to the interior side yard setback from 25' to 19' 21' to allow for garage addition  
   LOCATION: 9430 Chicago Street  
   ZONE: R1  

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, William Jensen, 9430 Chicago Street, Julie Leslie, 9430 Chicago Street, and Isaac Nelson, Nelson Drafting, appeared before the board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicants were proposing to construct a three-car garage addition in front of an existing garage. The proposed addition would encroach 6' into the required 25' side yard setback. He stated that the Planning Department recommends denial because there is no demonstrated hardship or practical difficulty since the property can be developed in compliance with setback regulations.

Mr. Jensen explained that if he were to add another stall to the existing garage, he would have to take down a tree. He is proposing to turn the existing garage into a living space and build the 3 car garage in front of the existing garage.

Mr. Mahlendorf suggested a plan that would adjust the waiver being requested from 25' to 21', instead of 25' to 19'. Mr. Nelson stated that he had discussed other options with the applicant in case their request was not approved, which included installing double doors or shifting windows.

Mr. Mahlendorf moved to APPROVE the variance to the interior side yard setback from 25' to 21' to allow for a garage addition. Ms. Donovan seconded the motion.

AYES: Anzaldo, Donovan, Mahlendorf, Nash, Hancock

MOTION CARRIED: 5-0
18. Case No. 12-079
Kum & Go
6400 Westown Parkway
West Des Moines, IA 50266

REQUEST: Waiver of Section 55-740(f), 55-716, 55-406
- Variance to the perimeter parking lot landscaping from 10’ to 7.56’ & 3.06’ and to the required buffer yard between GC and R7 from 30’ to 13’ and between GC & R4(35) from 30’ to 24.42’ and to the front yard setback of 50’ from center line to 40’ from center line to allow for the construction of a convenience store

LOCATION: 4103 Leavenworth Street
ZONE: GC

RECOMMENDATION: Denial. The applicant should work with Planning Department staff to comply with ACI regulations.

At the Zoning Board of Appeals meeting held on Thursday, August 9, 2012, Joshua House, Kum & Go Convenience Stores, and Katie Underwood, Olsson Associates, appeared before the board.

Mike Carter, Zoning Board of Appeals Administrator, stated that applicant is proposing to demolish the site and construct a new Kum & Go facility on the property. He explained that the area will be designated with the ACI (Areas of Civic Importance) overlay within the next couple of months, and that City staff has been working with the applicant to design an acceptable plan for this project that would implement as many ACI characteristics as possible. He added that the plan being proposed by the applicant does not meet those characteristics; therefore, the Planning Department recommends denial of the request.

Regarding the variance to the perimeter parking lot landscaping, Ms. Underwood explained that Public Works informed them that they would need to dedicate right-of-way in order to pull the sidewalk back from the curb line on Leavenworth Street. This would allow them to comply with Public Works' minimum requirement for green space and the minimum width for sidewalks. The waiver for the required buffer yard was directed by Kum & Go's preference as to how far back they would like to have their building placed, based on minimum parking widths.

Jed Moulton, Urban Design Manager – Planning Department, explained that the primary goal of Urban Design Zoning is to have an impact on development that would not otherwise address the context of a location. He stated that Leavenworth Street is a corridor that is undergoing a transition and in the process of being rehabilitated. Mr. Moulton noted that in previous cases with Kum & Go, the department has been willing to accommodate the ACI zoning and reduce the requirements based on the context of the location. Since the ACI overlay is imminent for this area, Mr. Moulton stated that it would be unfortunate to approve the requested waivers without supporting the Urban Design objectives. He presented slides that illustrated alternative options to the proposed plan, focusing mainly on the relationship of the building to the street and the site perimeter.

Mr. Carter added that some of the ACI requirements reduce the need for certain waivers that are being requested.

Mr. Moulton presented examples of other projects that have included the ACI requirements, including the McDonald’s at 24th and Cuming Streets. He noted that the Urban Design Division frequently deals with formula style developments from national and regional companies like Kum & Go, CVS Pharmacy, and McDonald’s. He added that they are asking that the applicant be willing to make changes to what they consider to be “ absolutes” in their designs, for example, designing a dual-sided facility; and show a willingness to accommodate the ACI zoning requirements.

Mr. Moulton addressed the issue of canopy lights from the gas station shining into the homes of residents nearby. He explained that the lights can be recessed. He added that, without the ACI requirements in
place, the rooftop mechanical equipment will be exposed, with the sound of fans and condensers running.

Mr. Mahlendorf encouraged Kum & Go to attempt to fulfill some of the requirements of the ACI overlay.

Ms. Donovan moved to LAYOVER to allow the applicant time to work with the City on compliance with ACI regulations. Mr. Nash seconded the motion.

Mr. House addressed several of the concerns mentioned by Mr. Moulton and some of the Board members. One of these was the mechanical equipment on top of the building. He explained that their current design allows them to completely enclose and screen the equipment on the rooftop. He added that Kum & Go would be willing to work with the City in regards to the landscaping behind the building. He also noted that they would be willing to construct a 3.5’ wall in front of the store, which would help to screen some of the vehicles parked at the store. They are also proposing to add LED recessed lighting that will shine directly onto the pumps, eliminating excess light spilling outside of the property line. He shared a couple of renderings of what the proposed project would look like. He noted that there would be extensive landscape in front, which would provide additional screening.

In response to Mr. Mahlendorf, Mr. House explained that Kum & Go prefers not to change the usual location of their pumps since gasoline is their primary source of business, and they feel that this gets the customer inside the store. Mr. House stated that Kum & Go believes that their design with the pumps being located in front of the store works for them; but, he added that they are willing to do whatever else they can from a design aspect to comply with the ACI regulations.

Betty Tanner, Homeowner, appeared as an opponent to the request. She stated that she owns a home near the location for the proposed gas station. She expressed concern over the lighting and increased traffic generated by the gas station. Ms. Tanner stated that there was a 7-11 convenience store at the same location several years ago where Kum & Go is planning to build. She explained that there was a problem with homeless persons sleeping behind the store.

In response to Ms. Tanner, Mr. Mahlendorf explained that the proposed site was designed for the type of business being proposed. He added that the Zoning Board’s responsibility is to guide the property owners in making better design choices.

Collin Roberts, 824 South 41st Street, also appeared as an opponent to the request. He expressed concern over traffic and street maintenance issues. Mr. Mahlendorf explained that those issues would be handled by the Public Works Department. Ms. Donovan explained that Kum & Go’s appearance before the Zoning Board is because they were proposing to build outside of the allowed setbacks.

In response to Mr. Hancock, Mr. Moulton stated that the area where Kum & Go is proposing to build will be zoned ACI in two months.

Ms. Donovan informed Mr. House that the Zoning Board would be very reluctant to grant any waivers. She stressed the importance of the ACI regulations, and suggested that Kum & Go should make every effort to conform to those regulations.

AYES: Donovan, Mahlendorf, Nash, Anzaldo, Hancock

MOTION CARRIED: 5-0
APPROVAL OF MINUTES

Ms. Donovan moved to APPROVE the July 12, 2012 meeting minutes. Mr. Mahlendorf seconded the motion.

AYES: Mahlendorf, Anzaldo, Donovan, Hancock

ABSTAIN: Nash

MOTION CARRIED: 4-0-1

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:51 pm.

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Approved (date)

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Bert Hancock, Chair

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Clinette Warren, Secretary