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, September 3, 2012 and Thursday, September 6, 2012.

MEMBERS PRESENT: Bert Hancock, Chair  
Brian Mahlendorf, Vice Chair  
Sebastian Anzaldo  
Teri Teutsch, Alternate  
Sean Kelley, Alternate

MEMBERS NOT PRESENT: Jacque Donovan  
Jonathan Nash, Jr.

STAFF PRESENT: Mike Carter, Zoning Board of Appeals Administrator  
Rick E. Cunningham, Planning Director  
Dave Fanslau, Current Planning Manager  
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)  
   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, September 13, 2012, no one appeared before the Board.

Mr. Anzaldo moved to LAYOVER until the October 11, 2012 meeting of the Board. Ms. Teutsch seconded the motion.

AYES: Anzaldo, Mahlendorf, Teutsch, Kelley, Hancock

MOTION CARRIED: 5-0
NEW CASES

2. Case No. 12-080
   Suzanne Claussen
   IRET Properties
   11422 Miracle Hills #510
   Omaha, NE 68154
   REQUEST: Waiver of Section 55-833 – Variance to the maximum height from 20’ to 36’ for 2 existing and 8 additional wall signs
   LOCATION: 12002 Pacific Street
   ZONE: LO

RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Suzanne Claussen, IRET Properties, appeared before the Board.

Ms. Claussen requested a layover to give the property owner additional time to review recently discovered zoning documentation.

Mr. Anzaldo moved to LAYOVER until the October 11, 2012 meeting of the Board. Mr. Kelley seconded the motion.

AYES: Anzaldo, Mahlendorf, Teutsch, Kelley, Hancock

MOTION CARRIED: 5-0
REQUEST: Waiver of Section 55-830 – Variance to allow an 8’ 6’6” tall, 112 78 sq. ft. monument sign not allowed in the R5 district

LOCATION: 17555 Emmet Street

ZONE: R5

RECOMMENDATION: Approval subject to the monument sign being no more than 6’ tall and 25 square feet in size.

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Pedro Vargas, Omaha Neon Sign Company, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is requesting an 8’ tall, 112 sq. ft. monument sign that is not allowed in a R5 (Urban Family Residential) district. He explained that the assisted living facility is a residential use facility and, therefore, is not allowed a monument sign. The applicant is requesting the waiver because of visibility issues. Mr. Carter stated that the Planning Department recommends that the applicant install the type of sign permitted for schools or churches, which would be a 6’ tall, 25 sq. ft. monument sign.

Mr. Vargas agreed that the sign size could be adjusted in accordance with the Planning Department’s recommendation. He added that the sign would have to be a wall cabinet sign with lighting inside to accommodate the request of the applicant. In response to Mr. Hancock, Mr. Vargas stated that in order to keep the masonry sign, an 8’x14’ sign would be needed.

In response to Ms. Teutsch, Mr. Carter confirmed that at the December 2012 meeting of the Board, the applicant was granted a waiver with the condition that no other waivers would be requested or approved.

In response to Mr. Mahlendorf, Mr. Vargas stated that the smallest the sign could be and still remain a monument sign would be 6 1/2’ tall and 10’ wide.

Mr. Mahlendorf moved to APPROVE subject to: 1) the sign remaining as a monument masonry structure; 2) the sign being no larger than 6’6” tall and 12’ wide; 3) no other signage in place on the property. Ms. Teutsch seconded the motion.

AYES: Mahlendorf, Teutsch, Kelley, Anzaldo, Hancock

MOTION CARRIED: 5-0
   2914 “R” Street
   Omaha, NE 68107
   LOCATION: 5219 South 29th Street
   ZONE: GI

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

RECOMMENDATION: Approval, in accordance with the plan submitted.

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, no one appeared before the Board.

Mr. Anzaldo moved to LAYOVER until the October 11, 2012 meeting of the Board. Mr. Hancock seconded the motion.

AYES: Anzaldo, Mahlendorf, Teutsch, Kelley, Hancock

MOTION CARRIED: 5-0
5. Case No. 12-083
   Terry Rush
   Omaha Neon
   1120 North 18th Street
   Omaha, NE 68102

REQUEST: Waiver of Section 55-830 – Variance to the maximum total permitted sign area from 32 sq. ft. to 57 50 sq. ft.; and to allow a 20’ 16’ tall, 57 50 sq. ft. pole sign not otherwise allowed

LOCATION: 5710 South 176th Avenue
ZONE: R4

RECOMMENDATION: Approval, subject to sign being no taller than 12’ and 50 square feet in sign area and that the sign be redesigned as a monument sign.

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Troy Panagiotis, Omaha Neon Sign Company, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to replace an existing electronic sign at 176th Avenue and “Q” Street with a modified pole sign. Mr. Carter stated that, as proposed, the Planning Department does not support the request; however, if the plan were modified the Planning Department could support a waiver for a sign no taller than 12’ and 50 sq. ft. in size, and the sign being redesigned as a monument sign.

Mr. Panagiotis stated that Millard West High School was granted a variance in 2002 for a pole sign with electronic messaging. He explained that part of the reason for the requested elevation of the pole sign is because of vandalism. Mr. Panagiotis stated that his client could agree to reduce the size of the sign from 57 sq. ft. to 50 sq. ft. However, in order to avoid vandalism to the sign, they preferred to have the sign be 20’ tall.

In response to Mr. Hancock, Mr. Panagiotis stated he was prepared to make a compromise of the size of the sign between the 20’ being requested and the 12’ suggested by the Board, which would be 16’.

Mr. Mahlendorf stated that he would support a sign height of 16’ if it ensured that the electronic signage would be removed.

The motion was modified as follows:

Mr. Kelley moved to APPROVE subject to sign being no larger than 16’ tall with a 50 sq. ft. sign area and the sign being redesigned as a monument sign. Seconded by Ms. Teutsch.

In response to Mr. Hancock, Mr. Panagiotis stated he was prepared to make a compromise of the size of the sign between the 20’ being requested and the 12’ suggested by the Board, which would be 16’.

Mr. Mahlendorf stated that he would support a sign height of 16’ if it ensured that the electronic signage would be removed.

The motion was modified as follows:

Mr. Kelley moved to APPROVE subject to sign being no larger than 16’ tall with a 50 sq. ft. sign area and the sign being redesigned as a monument sign. Seconded by Ms. Teutsch.

AYES: Anzaldo, Mahlendorf, Teutsch, Kelley, Hancock

MOTION CARRIED: 5-0
At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Jeffrey T. Lampe, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is requesting a waiver for a street side yard setback on an existing building. He added that the applicant has constructed a covered entrance on the side of the building without a building permit; the covered entrance also extends past the property line into the right-of-way. The Planning Department recommended denial since there is no hardship or practical difficulty.

In response to Mr. Hancock, Mr. Lampe explained that he was not sure whether the addition of the covered entrance was covered under the General Repair Permit, which was obtained to repair damage done by a vehicle hitting the building. When he contacted the Planning Department he was advised that a separate permit would be required for the construction of the covered entrance.

Mr. Anzaldo mentioned that he has received calls about Mr. Lampe’s SUV that is occasionally parked on the sidewalk outside of the building, obstructing the sidewalk. Mr. Lampe agreed to park in another area.

In response to Ms. Teutsch, Mr. Lampe stated that there is a party room in the basement of the building. He explained that there is a stairwell from the basement that exits on the southeast corner of the building, and a secondary stairwell that exits into the interior of the building.

Mr. Anzaldo suggested that some greenery be added to the entrance of the building.

Rick Cunningham, Planning Director, clarified that a permit is not obtained at the time of application. He explained that the work was done without a permit and is, therefore, subject to a quad fee. He added that a lease would likely be required since the covered entrance is built on the right-of-way, and suggested that these items be included in the motion.

Mr. Anzaldo moved to APPROVE subject to payment of the quad fee and obtaining a lease for the right-of-way. Ms. Teutsch seconded the motion.

AYES: Anzaldo, Mahlendorf, Teutsch, Kelley, Hancock

MOTION CARRIED: 5-0
7. Case No. 12-085  
Triple C Development, Inc.  
200 Armory Road  
Centre, AL 35960  

REQUEST: Waiver of Section 55-716 & 55-734 – Variance to the required buffer yard between GC & R7 from 30’ to 14.3’ and 0’ and the minimum number of off-street parking stalls from 33 to 28, to allow construction of a retail store

LOCATION: 2601 North 16th Street, 2617 North 16th Street, 2619 North 16th Street, and 1518 Ohio Street

ZONE: GC (CC-ACI-2(PL) (pending))

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Terry Morrison, Ehrhart Griffin & Associates, 3552 Farnam Street, appeared before the Board to represent the applicant for the development of a Family Dollar store.

Mr. Hancock noted that the Planning Department recommended approval and requested a motion from the Board.

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

AYES: Teutsch, Kelley, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0
REQUEST: Waiver of Section 55-166 – Variance to the rear yard setback from 25’ to 15’ to allow construction of a 1,000 sq. ft. detached garage

LOCATION: 805 South 212th Street
ZONE: R3

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Tony Friend, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is requesting a waiver of the rear yard setback to construct a 1,000 sq. ft. detached garage. He explained that a building permit had already been issued which reflected the garage being in compliance with the required rear yard setback. He added that the Planning Department finds that there is no hardship or practical difficulty and recommends denial.

Mr. Friend submitted signatures from his neighbors in support of the proposed plan (Exhibit 2). He stated that he feels the 25’ rear yard setback is a hardship for his neighbors, whose back porch is located near his garage. He explained that placing the garage back 10’ would eliminate that hardship. He further explained that his home has an attached garage, and that the extra 10’ would allow him to safely exit it.

In response to Ms. Teutsch, Mr. Friend stated the proposed garage would allow him to store an antique, classic car. He stated that he was aware that he could legally construct the garage if the size was reduced to 750 sq. ft.; however, he wanted to be able to fit at least three cars in the garage. He also noted that there are no houses behind his property that would be affected by his request.

Since Mr. Friend’s request was primarily a design preference and did not demonstrate a hardship, Ms. Teutsch moved to DENY. Mr. Hancock seconded the motion.

AYES: Anzaldo, Mahlendorf, Teutsch, Hancock

NAYES: Kelley

MOTION CARRIED: 4-1
REQUEST: Waiver of Section 55-782(b)(6) – Variance to side yard setback from 3’ to 0.5’ 1’ and to the rear yard setback from 3’ to 0.5’ 1’ to erect a 22’ x 24’ detached garage

LOCATION: 3218 Center Street
ZONE: R3

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Dale Luebbert, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to replace an existing garage that was damaged in a hit-and-run accident. The proposed garage would be 22’ x 24’ with a setback of 0.5’ from the property line. The Planning Department recommends denial since there is no hardship. He explained that one of the reasons for the 3’ setback is to minimize the potential of a structure being hit by a vehicle in an alley.

In response to Mr. Hancock, Mr. Luebbert explained that if the garage were moved 3’ from the property line, it would be difficult for him to get a vehicle inside. He noted that when his garage was hit it was actually on the property line, and that he is proposing to place the garage 6” from the line. He also stated that he is adding a 5’ cast-in-place wall on the alley side, and eliminating the roof overhang.

In response to Mr. Anzaldo, Mr. Luebbert stated that the previous garage was 20’ x 14’. He added that he would not want to reduce the size of the garage since it would be hard to fit most vehicles.

There was some discussion between Mr. Luebbert and the Board as to whether the proposed garage could be built at least 1’ from the alley.

Mr. Anzaldo moved to LAYOVER to allow the applicant additional time to bring a more presentable plan before the Board. Ms. Teutsch seconded the motion.

Mr. Hancock stated that he would support either a layover or placement of the proposed garage an additional 6” from the side yard lot line and 6” from rear yard lot line.

Mr. Carter explained that if the applicant decided to build his garage on the property line, the case would have to be laid over so that the request could be re-advertised and so that his neighbors could be notified of the change.

Mr. Luebbert was concerned that if he accepted the Board’s suggestion, he would not be able to get into his garage.

After further discussion, Mr. Luebbert agreed to accept a waiver of the side yard setback to 1’ and the rear yard setback to 1’.

The motion was amended as follows: Mr. Anzaldo moved to APPROVE the interior side yard setback from 3’ to 1’ and the rear yard setback from 3’ to 1’. Ms. Teutsch seconded the motion.

Rick Cunningham, Planning Director, suggested that the applicant could have the garage built on an angle. Mr. Luebbert responded that he did not want to have the garage built in a way that could possibly affect the value of the home if he decided to sell it in the future.

AYES: Anzaldo, Mahlendorf, Teutsch, Kelley, Hancock

MOTION CARRIED: 5-0
REQUEST: Waiver of Section 55-740(c), 55-740(f), and 55-735(b) - Variance to the minimum perimeter parking lot landscape from 10' to 5'; to allow vehicles to overhang into required landscaped area; and to allow parking for non-residential use to be located within a required front yard setback; for the construction of a new parking lot

LOCATION: 1600 South 50th Street
ZONE: R4(35)

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Joe Flaxbeard, Lamp Rynearson & Associates, 14710 West Dodge Road, appeared before the Board.

Mr. Flaxbeard stated that the location is currently the site of a historic fire station, which the Fire Department plans to use for educational purposes. The City of Omaha also plans to use the location as a demonstration area for pervious concrete. Mr. Flaxbeard explained that the old and damaged pavement will be removed, the driveway will be replaced, and pervious concrete will be installed in some areas. He further stated that they are attempting to match the historical boundaries of the lot, while taking into consideration drive aisle and parking stall lengths. He explained that the reason for the 5’ parking lot landscape request is so that there will be a functional parking space for the property. In response to the Mr. Mahlendorf, Mr. Flaxbeard explained that the Fire Department would like to have the landscaped island reconstructed in front of the fire station.

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

AYES: Mahlendorf, Teutsch, Kelley, Anzaldo, Hancock

MOTION CARRIED: 5-0
ZONING BOARD OF APPEALS
Minutes – September 13, 2012
Page 12

11. Case No. 12-089
   Scott P. Moore
   Baird Holm

   REQUEST: Waiver of Section 55-786(e) – Variance to the residential fence regulations to allow a 6’ tall wrought iron fence in the street side yard setback and Reasonable Accommodation request

   LOCATION: 17164 Valley Drive
   ZONE: R4

RECOMMENDATION: Denial

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Chris Hedican, Baird Holm Law, 1700 Woodmen Tower, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the property owner had previously requested and was denied a waiver for a 6’ tall wrought iron fence within the street side yard setback in July 2012. The applicant then applied to request a Reasonable Accommodation for the fence. He noted that the Planning Department finds that the applicant has failed to provide proof that the requested accommodation is related to the individual’s disability, and that the requested accommodation is necessary to provide the disabled individual with an opportunity to use and enjoy housing. Referring to the City of Omaha Reasonable Accommodation Policy, Mr. Carted added that the applicant has failed to provide any documentation that proves that the location of the fence within the required setback will “affirmatively enhance the disabled individual’s quality of life by ameliorating the effects of the disability and the disabled individual will be denied an equal opportunity to enjoy the housing of their choice.”

Mr. Hedican stated that after receiving the recommendation of denial from the Planning Department, a letter (Exhibit 2) was obtained from the doctor of the homeowner’s son, which supported the need for, and location of, the 6’ fence.

Mr. Hancock noted that if the fence was placed 15’ from the proposed location, a waiver would not be necessary. He added that the doctor’s statement does not support the claim that the additional 15’ of street side yard is needed. In response, Mr. Hedican referred to the doctor’s statement, quoting that “the fence placement should be at the yard’s normal dimensions for maximal developmental benefits.” He explained that the child’s illness prevents him from enjoying the dimensions of the yard without supervision, the same way as another child without disabilities would. He added that the child’s motor skills would benefit from the larger play area.

Mr. Hancock stated that the Board had considered the City of Omaha Reasonable Accommodation Policy that had been adopted in response to similar cases. Referring to the Process and Analysis section, he noted that applicant clearly meets the requirement of a qualified individual with a disability as defined in the policy. The Board also agreed that the requested accommodation is related to the disability. However, the Board questioned whether the desired accommodation would affirmatively enhance the child’s quality of life since the yard included a considerable amount of space. Mr. Hancock noted that, from his observations, the space they wish to include has already been landscaped and could not be used as a play area. In response, Mr. Hedican stated that if the homeowner’s son did not have a disability, then a 4’ fence would be acceptable. The installation and location of the 6’ fence would not allow the child to use the yard the same way as someone without disabilities. Mr. Hedican added that the child would most likely be living with his parent for their entire lifetimes; therefore, they would like for him to be able to use the yard the same way as any other child would.

Ms. Teutsch stated that the Board had driven by the property twice, both in July 2012 and September 2012, and noticed that the 15’ of space in question is a heavily landscaped berm with trees. She questioned whether the space could actually be used by the child. Mr. Hedican stated that it was up to the parents’ and doctors’ discretion as to whether the child would be able to use and explore the space the same way that a child without disabilities.
Mr. Mahlendorf expressed that, although he had doubts about the legitimacy of the request, he did feel that the applicant did provide enough information to support the need for consideration of a Reasonable Accommodation request. In response, Mr. Hedican assured the Board that the homeowners were not taking advantage of their son’s medical condition for aesthetic purposes. He explained that the homeowner’s were attempting to make their son’s life as normal as possible.

Mr. Hancock agreed with Mr. Mahlendorf, stating that from a practical standpoint he did not feel that there was a hardship with the child’s ability to use the space already available. However, he admitted that there was a valid legal argument for the request.

Mr. Kelley commented that he would defer to professionals to decide what would be in the best interest of someone who is disabled.

Mr. Mahlendorf moved to APPROVE to allow a 6’ tall wrought iron fence in the street side yard setback as originally submitted. Mr. Kelley seconded the motion.

AYES: Mahlendorf, Kelley, Hancock, Anzaldo

NAYES: Teutsch

MOTION CARRIED: 4-1
The following four cases were heard together.

12. Case No. 12-090
Rob Woodling
Camden Creek, LLC
1886 South 126th Street
Omaha, NE 68144

REQUEST: Waiver of Section 55-784(e) & 55-186 – Variance to the maximum impervious coverage for a cluster subdivision in a R4 district from 50% to 63%

LOCATION: Camden Creek Subdivision between Decatur Street and Seward Street near 84th Avenue

ZONE: R4

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Rob Woodling, 1886 South 126th Street, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was requesting waivers for the maximum impervious coverage for a cluster subdivision. He explained that the subdivision was originally developed in 2006, subsequently street improvements were constructed and street lights installed. The property has been vacant since that time. Mr. Carter stated that the hardship exists because the property was constructed by a previous developer and has been vacant for some time. The Planning Department recommends approval in accordance with the plans submitted.

Mr. Hancock expressed concern over the impervious coverage waiver being requested, considering that the City is using a large amount of resources to correct the problem of storm water runoff. Mr. Woodling explained that the number of streets, instead of the public right-of-way, was used in the calculation for a cluster subdivision. If the right-of-way was used in the calculation, the maximum impervious coverage would be at 40% instead of 63%. Mr. Woodling further stated that the City of Omaha installed sewers in 2009, and that they have not been modified in any way. He confirmed with Public Works that a Paving and Sanitary Improvement District was put on the lots.

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

AYES: Kelley, Anzaldo, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0
The following case was heard with Case No. 12-090.

13. Case No. 12-091
Rob Woodling
Camden Creek, LLC
1886 South 126th Street
Omaha, NE 68144

REQUEST: Waiver of Section 55-784(c)(1) – Variance to the setback from a public street in a cluster subdivision from 25’ to 15.3’, 20.6’, 17.5’, 20.2’, 21.7’, 11.1’, and 18.3’ to allow construction of 7 single-family homes

LOCATION: 1612, 1630, 1636, 1704, 1722, 1734, and 1740 North 84th Terrace

ZONE: R4

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Rob Woodling, 1886 South 126th Street, appeared before the Board.

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

AYES: Anzaldo, Mahlendorf, Teutsch, Kelley, Hancock

MOTION CARRIED: 5-0
The following case was heard with Case No. 12-090.

14. Case No. 12-092
Rob Woodling
Camden Creek, LLC
1886 South 126th Street
Omaha, NE 68144

REQUEST: Waiver of Section 55-784(c)(1) – Variance to the setback from a public street in a cluster subdivision, from 25’ to 9.5’, 23.5’, 15.6’, 18.9’, and 16.5’ to allow construction of 5 single-family homes

LOCATION: 1601, 1610, & 1720 North 84th Avenue and 1717 & 1627 North 84th Terrace

ZONE: R4

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Rob Woodling, 1886 South 126th Street, appeared before the Board.

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

AYES: Mahlendorf, Teutsch, Kelley, Anzaldo, Hancock

MOTION CARRIED: 5-0
The following case was heard with Case No. 12-090.

15. Case No. 12-093
   Rob Woodling
   Camden Creek, LLC
   1886 South 126th Street
   Omaha, NE 68144

   REQUEST: Waiver of Section 55-784(c)(2) – Variance to the setback from other property lines in a cluster subdivision from 20’ to 19.6’, 19.8’, 11.3’, 10.3’, 7.7’, 12.8’, 17.4’, and 15.9’ to allow construction of 8 single-family homes

   LOCATION: 1601, 1607, 1613, 1619, 1625, 1631, 1703, and 1715 North 84th Avenue

   ZONE: R4

   RECOMMENDATION: Approval, in accordance with the plans submitted.

   At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Rob Woodling, 1886 South 126th Street, appeared before the Board.

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

   AYES: Teutsch, Kelley, Anzaldo, Mahlendorf, Hancock

   MOTION CARRIED: 5-0
16. Case No. 12-094
Darin Smith
Arch Icon Development
505 Walker Street
Woodbine, IA 51579

REQUEST: Waiver of Section 55-737, 55-740(c), & 55-740(f)(4) – Variance to the perimeter landscaping from 5’ to 2’ and 0’; to allow vehicles to overhang into a required landscape area and to the minimum grouping of compact stalls from 5 to 2; for the construction of a parking lot

LOCATION: 2405 Farnam Street
ZONE: CBD-ACI-1(PL)

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Darin Smith, Arch Icon Development, appeared before the Board.

Mr. Smith stated that he and his partners were planning to restore the historic building at 2401 Farnam Street. He stated that they are proposing to have 12, one and two bedroom apartments and commercial space. They have also purchased the lot next to the property at 2405 Farnam Street to provide secure parking for their tenants.

Mike Carter, Zoning Board of Appeals Administrator, stated that the Planning Department supports the request since there is limited space between the two existing buildings and because the proposed plan would provide off-street parking for the property. He stated that the Planning Department recommends approval in accordance with the plans submitted.

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

Mike Sena, 2411 Farnam Street, appeared in opposition to the request. He explained that his property is directly to the west of the proposed parking lot. He was mainly concerned that the 2’ waiver for perimeter landscaping would not actually be 2’ because of the vehicles that would overhang into the landscaped area. Albert Macchietto, Alley Poyner Macchietto Architecture, explained that the proposed plan allows for the required stall width, depth, and circulation while providing access to the building on the west side. Mr. Macchietto stated that the applicant is willing to plant small shrubs in the 2’ between cars to make up for the lack of landscaping.

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

Steven Smith, who lives at the property to the south of the Boxing Club, appeared in opposition to the request. Mr. Smith wanted assurance that the alley would not be a part of the proposed project. Mr. Carter explained that the alley is no longer technically an alley, but an access easement. In response to Mr. Anzaldo, Mr. Macchietto confirmed that the alley is not part of the proposed plan.

AYES: Kelley, Anzaldo, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0
17. Case No. 12-095
   Kevin & Amanda Hebner
   20945 Timber Lane Drive
   Omaha, NE 68022
   REQUEST: Waiver of Section 55-126 – Variance to the
             front yard setback from 50’ to 40’ to allow
             construction of a house addition
   LOCATION: 20945 Timber Lane Drive
   ZONE: R1

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Kevin and Amanda Hebner, appeared before the Board.

Regarding this case, Mr. Mahlendorf stated that the Board has dealt with similar situations where there is a difficulty because of the difference between Omaha zoning regulations and previous Elkhorn zoning regulations. He noted that the applicant was not closer to the property line than what was allowed by the former Elkhorn zoning.

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

AYES: Anzaldo, Mahlendorf, Teutsch, Kelley, Hancock

MOTION CARRIED: 5-0
18.  Case No. 12-096  
Kevin Neubauer  
7980 Harney Street  
Omaha, NE 68114  
REQUEST:  Waiver of Section 55-126 – Variance to the interior side yard setback from 25’ to 13’ to allow a garage addition  
LOCATION:  7980 Harney Street  
ZONE:  R1  
RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Kevin Neubauer, 7980 Harney Street, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to demolish an existing attached garage and construct a larger garage addition on the east side of the home that will encroach into the required setback. The proposed garage will match the setback of the existing garage. Mr. Carter explained that there is a hardship because other garages and homes in the neighborhood have setbacks less than 25’. Since the home will not be out of character with the neighborhood, the Planning Department recommends approval.

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

AYES: Mahlendorf, Teutsch, Kelley, Anzaldo, Hancock

MOTION CARRIED: 5-0
REQUEST: Waiver of Section 55-768 and 55-740(e) – Waiver of the hard surfacing requirement for a temporary parking lot or appeal of a decision of the City of Omaha Planning Department regarding denial of a temporary use permit request

LOCATION: South of 233rd Street and West Maple Road

ZONE: AG-FW

RECOMMENDATION: Denial

At the Zoning Board of Appeals meeting held on Thursday, September 13, 2012, Bill Novak, 2606 North 154th Avenue, appeared before the Board.

Mr. Carter, Zoning Board of Appeals Administrator, stated that the property location has been used in the past for various events. The applicant applied for a Temporary Use Permit for a music festival on September 20–24, 2012, and was denied by the Planning Department because the temporary parking was not hard surfaced.

Mr. Novak, Property Owner, explained that the festival promoter, Mr. Muller, was the applicant for the permit. Mr. Novak explained that he was not originally aware that a Temporary Use Permit was required for the event. He was informed by Dave Fanslau, Current Planning Manager that the parking area did not comply with the hard surface standard. Mr. Novak explained that, since non-refundable funds had already been invested, the County Attorney gave him the option of proceeding with the festival with the understanding that he would receive two misdemeanor citations from the City after the event was over. Mr. Novak explained that this hardship is that he does not have enough time to install a hard surface parking area. He also did not want to install a parking lot for events that would last only a few days, and destroy a large amount of green space at the riverfront. Mr. Novak noted that, in response to Mr. Fanslau’s concern about mud potentially being tracked onto City streets in the case of rain, the grass has a sand base which would absorb the rain. In addition, any vehicles parking on the grass would drive through a 600’ private gravel drive before entering paved streets, which would help to remove any mud from car tires. Mr. Novak requested that the waiver be granted for this final event, for which he is under contract.

In response to Mr. Hancock, Mr. Novak stated that he would need the Temporary Use Permit through September 30, 2012.

Mr. Mahlendorf moved to APPROVE the waiver of the hard surfacing requirement for a temporary parking lot through September 30, 2012. Ms. Teutsch seconded the motion.

Mr. Carter informed the Board that he did receive a call from a property owner concerned with the noise from the event. Mr. Novak responded that he addressed the issue with Mary Ann Borgeson, Douglas County Commissioner. He agreed to reduce the volume level of the music at 10:00 p.m. The performances will end at 2 a.m.

Kevin Stiles, President of the Elkhorn Soccer Club, appeared in support of the request. He stated that the Elkhorn Soccer Club has partnered with Mr. Novak to develop the area near the Elkhorn River. He further stated that limiting Mr. Novak’s use of the property would in turn have a negative impact on the Elkhorn Soccer Club. Mr. Stiles explained that his facility has adequate hard surface parking, and that they are willing to give Mr. Novak access to this parking whenever possible.

Rick Cunningham, Planning Director, explained that if the waiver were granted, the applicant would have to reapply for a Temporary Use Permit and would need to continue to work with the Planning Department to qualify for the permit.
AYES: Teutsch, Kelley, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 5-0
APPROVAL OF MINUTES

Mr. Mahlendorf moved to APPROVE the August 9, 2012 meeting minutes. Mr. Anzaldo seconded the motion.

AYES: Anzaldo, Mahlendorf, Hancock

ABSTAIN: Teutsch, Kelley

MOTION CARRIED: 3-0

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 3:19 p.m.

____________________________________________
Approved (date)

____________________________________________
Bert Hancock, Chair

____________________________________________
Clinette Warren, Secretary