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 30, 2013 and Thursday, October 3, 2013.

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

MEMBERS NOT PRESENT: Jonathan Nash, Jr.
Teri Teutsch, Alternate

STAFF PRESENT: Mike Carter, Zoning Board of Appeals Administrator
RoseMarie Horvath, 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. 12-024  
   (over from 3/8/12)  
   Don Mandel  
   Alegent Health  
   12809 West Dodge Road  
   Omaha, NE  68154  
   REQUEST:  
   Waiver of Section 55-503 & 55-740(f)(4) -  
   Variance to the permitted use regulations of the GI district to allow a Medical Office use  
   and to the perimeter parking lot landscaping from 10’ to 5.1’ and from 5’ to 3.1’.

   LOCATION:  
   8613 North 30th Street; 2910 Tucker Street;  
   and 8604 North 29th Street.

   ZONE:  
   GI

RECOMMENDATION: Approval in accordance with the plan submitted, subject to: 1) Adjusting the pavement along the south edge (Tucker Street) for the new parking lot to provide 2’ of additional landscaping with a 16’ deep parking stall; and 2) Applicant applying for a rezoning from GI-General Industrial District to GO-General Office District for the site.

At the Zoning Board of Appeals meeting held on October 10, 2013, Don Mandel and Doug Kellner (10836 Old Mill Road) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that this case has been delayed since March 2012 to allow time to address issues regarding purchase of the property. He explained that the applicant plans to enlarge the parking lot to the south towards Tucker Street, which requires a Use Waiver. In addition, the applicant is seeking a variance to the perimeter landscaping along Tucker Street and the alley. The Planning Department supports the variances considering the small amount of encroachment and due to the excessive width of the Tucker Street right-of-way. The Planning Department recommends approval in accordance with the plans submitted, subject to the applicant adjusting the pavement along the south edge of the parking lot along Tucker Street to provide 2’ of additional landscaping with a 16’ deep parking stall and also rezoning from GI (General Industrial District) to GO (General Office District) for the site.

Mr. Mandel stated that he was in agreement with the Department’s recommendation and explained that there were some delays in obtaining a clear title for the property.

Ms. Donovan moved to approve subject to the parking stalls along Tucker Street being reduced to 16’ to allow for 7.1’ of perimeter landscaping and the applicant applying for rezoning from GI-General Industrial District to GO-General Office District for the site. Mr. Kelley seconded the motion.

AYES: Anzaldo, Donovan, Mahlendorf, Kelley, Hancock

MOTION CARRIED: 5-0
2. Case No. 13-084  
(from 7-11-13, 8-8-13 & 9-12-13)  
Scott Seaton  
Warehouse 51, LLC  
9864 North 109th Avenue  
Omaha, NE 68142  

REQUEST: Waiver of Section 55-716, 55-717(c), 55-718(c)(2) & 55-506 - Variance to the required buffer yard between DR (GI pending) and R4/DR from 60’ with screening to 10’ with screening to allow a driveway in the buffer yard; to allow a 6’ solid fence for screening at the exterior boundary of the buffer yard; to the required number of trees from 190 to 0; and to the minimum lot width from 100’ to 60’.

LOCATION: 9260 Scott Street (north of Scott Street between Irvington Road and 92nd Avenue)

ZONE: DR (GI Pending)

RECOMMENDATION: The Planning Department recommends approval of the variances to the buffer yard depth from 60’ to 10’ to allow the driveway in the buffer yard, to allow a 6’ tall solid fence for required screening at the exterior boundary of the buffer yard and to the lot width from 100’ to 60’, and recommends denial of the variance to the number of trees for the landscaped buffer yard from 190 to 0, as requested.

At the Zoning Board of Appeals meeting held on October 10, 2013, Doug Kellner (10836 Old Mill Road) and Scott Seaton appeared before the Board.

Mr. Kellner provided some history of the case. He explained that, due to the 60’ buffer yard, the applicant is now required to plant 190 additional trees on the site. Since there are already 231 trees being planted, he requested that the tree requirement for the buffer yard be reduced from 190 to 0.

Mike Carter, Zoning Board of Appeals Administrator, stated that the Planning Department is supportive of the applicant installing half of the required number of trees (95), instead of 0 as requested, since it was initially in support of a 30’ wide buffer yard instead of the required 60’. He added that there is no hardship that prevents the applicant from installing 95 trees. He further added that the Department supports the other variances being requested.

In response to Mr. Mahlendorf, Mr. Seaton stated that 213 trees are already being added to the approximate 1,500’ of buffer yard and along the interstate right-of-way. He added that the adjacent property owner would prefer that a fence be installed along the property line instead of on the inside of the buffer yard. Mr. Kellner noted that there are existing trees along the fence that would remain in place. Instead of placing trees along the highway right-of-way, Ms. Donovan preferred that trees be placed outside of the fence so as to provide a buffer for the neighbors. Mr. Kellner responded that many of the lots near the area have not yet been developed.

John Fullenkamp, 11440 West Center Road, spoke as a representative of Celebrity Homes and the Glenmoor Subdivision. He provided information regarding the placement of fences in the area. He stated that the neighborhood preferred that there be a consistent fence with the landscaping being situated inside. He further stated that his client supports the applicant’s request of a waiver for the 190 extra trees in addition to the 213 trees that will be planted.

Mr. Mahlendorf felt that the 190 additional trees were not necessary. Mr. Hancock felt that there was hardship because of the zoning of the property. He believed that sufficient screening would be provided by the fence that is placed along the property line.

Mr. Mahlendorf moved to APPROVE in accordance with the plans submitted. The required number of trees has been reduced to 0; however, mitigation trees should be placed in the buffer area. Ms. Donovan seconded the motion.
AYES: Donovan, Mahlendorf, Kelley, Anzaldo, Hancock

MOTION CARRIED: 5-0
3. **Case No. 13-107**  
   **LOCATION:** 607 North 65th Street  
   **ZONE:** R1  

   **REQUEST:** Waiver of Section 55-126 – Variance to the maximum impervious coverage from 30% to 35.4% to allow home additions.

   **Jackson Martis**  
   1005 S. 76th Street  
   Omaha, NE 68114

   **RECOMMENDATION:** Denial.

At the Zoning Board of Appeals meeting held on October 10, 2013, Myriel Boes and Jackson Martis appeared before the Board.

Mr. Martis stated that the original plan was to place the garage addition in the front yard setback to line up with the existing garage; however, the Board suggested at its September 2013 meeting that the applicant consider placing the addition further towards the rear of the home. He explained that relocating the addition has resulted in the need to extend the driveway, which puts the impervious coverage at approximately 35% instead of the required 30%. He felt that there is a hardship due to the lot being approximately 4,000 square feet smaller than the 20,000 square feet which is the minimum lot size for R1. He explained that if the property was at the 20,000 square feet, a waiver would not be necessary. He also stated that the property is located on a dead-end street with no cul-de-sac and that part of the concrete in front of the home is used to help vehicles to maneuver when exiting the street. Mr. Martis submitted a letter in support from an adjacent neighbor (Exhibit C).

In response to Mr. Hancock, Mr. Martis stated that some of the concrete on the property would need to be removed due to the amount of impervious coverage. He indicated on the drawing (Exhibit B) exactly which portions of concrete would be removed.

Mr. Mahlendorf felt that there was a hardship due to the smaller lot size.

Mr. Mahlendorf moved to APPROVE in accordance with the revised plans submitted, which includes Exhibit B. Mr. Kelley seconded the motion.

In response to Mike Carter, Zoning Board of Appeals Administrator, Mike Caldwell (Bruce Frasier Architects), stated that street yard landscaping had been calculated at 61% instead of the 75% as required for R1. For this reason, Mr. Carter explained that another waiver may be required. Mr. Hancock stated that the request for the additional waiver would need to be advertised. Mr. Caldwell stated that he would recalculate the amount of street yard landscaping to be sure whether an additional waiver request was necessary.

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

**MOTION CARRIED:** 5-0
4. Case No. 13-115
   (from 9-12-13)
   Quality First Construction
   Tim Schaeffer
   7565 Main Street
   Omaha, NE 68127
   REQUEST: Waiver of Section 55-715 – Variance to the
   minimum street yard landscaping percentage from 70% to 62% and to the
   minimum street yard landscaping depth from 25’ to 8’ to allow a driveway addition.
   LOCATION: 224 North 245th Circle
   ZONE: R2

   RECOMMENDATION: Approval of the variance to the street yard landscaping depth from 25’ to 8’ and
denial of the variance to the street yard landscaping percentage.

At the Zoning Board of Appeals meeting held on October 10, 2013, Tim Schaeffer and Mike Thiem
appeared before the Board.

In response to Mr. Hancock, Mr. Thiem stated that he did submit a landscape plan that attempted to
soften the look of the concrete. He referred to pictures that had been submitted to the file of nearby
properties with circle drives that were similar to his property. He also submitted signatures of neighbors
who are in support of the request. Mr. Hancock did not recall exactly what the Board requested of the
applicant at the previous Board meeting. He inquired as to why the extra concrete could not be removed
in accordance with the original plan. Mr. Thiem responded that it would be difficult for a car to enter and
exit the garage. He added that it would also mean that sprinkler heads would need to be relocated, sod
would have to be removed, and the sidewalk would need to be reconstructed.

Mr. Mahlendorf noted that the applicant’s home was in context with other homes in the neighborhood
with regards to the amount of concrete in front. In response to Mr. Hancock, Mr. Thiem was in
agreement with the waiver request being tied to the landscaping plan.

Mr. Mahlendorf moved to APPROVE in accordance with the plans submitted, subject to the landscaping
plan that was submitted as additional documentation. Mr. Hancock seconded the motion.

AYES: Kelley, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0
NEW CASES

5. Case No. 13-116
   Ready Mixed Concrete Company
   A Div. of Lyman Richey Corp.
   Kevin Schmidt
   4315 Cuming Street
   Omaha, NE 68131
   REQUEST: Waiver of Section 55-506 – Variance to the
   LOCATION: minimum lot width in a GI District from 100’
   ZONE: to 87.33’ (Lot 1, Ready Mixed Railroad
   Addition) to allow for approval of a
   subdivision.

   RECOMMENDATION: Approval, in accordance with the plans submitted.

   At the Zoning Board of Appeals meeting held on October 10, 2013, Matt Tinkham (Lamp, Rynearson &
   Associates) appeared before the Board.

   Mike Carter, Zoning Board of Appeals Administrator, stated that the Planning Board recommended
   approval of the plat for the subdivision at its October 2, 2013 meeting, subject to the Zoning Board of
   Appeals’ approval of the waiver request. He noted that a practical difficulty exists due to the railroad
   right-of-way that cannot be expanded. He stated that the Planning Department supports the request and
   recommends approval in accordance with the plans submitted.

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

   Mr. Hancock suggested that improvements be made to the area adjacent to old “L” Street. Mr. Tinkham
   stated that in the future the applicant plans to add sidewalks and landscaping.

   AYES: Anzaldo, Donovan, Mahlendorf, Kelley, Hancock

   MOTION CARRIED: 5-0
6.  Case No. 13-117  
Bill Gable Carpentry  
7105 Joyce Street  
Omaha, NE 68138  
REQUEST: Waiver of Section 55-186 & 55-187(e) - Variance to the front yard setback from 35’ to 5’2” and to the interior side yard setback from 5’ to 1’ to allow construction of a 5’5” x 17’10” deck.  
LOCATION: 1619 “N” Street  
ZONE: R4(35)  

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on October 10, 2013, Bill Gable appeared before the Board.

In response to Mr. Mahlendorf, Mr. Gable stated that the work should be completed in six months.

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

AYES: Donovan, Mahlendorf, Kelley, Anzaldo, Hancock  
MOTION CARRIED: 5-0
7. Case No. 13-118

Mark Bulger
Walter B. Roberts Corporation
1024 South 32nd Street
Omaha, NE 68105

REQUEST: Waiver of Section 55-716 & 55-734 – Variance to the required buffer yard between R7 and R4 from 30’ to 20’, 21’ and 8’; and to the required number of off-street parking stalls from 95 to 64 to allow construction of a new apartment building.

LOCATION: 1024 South 32nd Street
ZONE: R7

RECOMMENDATION: Layover, to allow for proper advertising and notification of an additional variance.

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

AYES: Mahlendorf, Kelley, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0
8. Case No. 13-119

John Tripp
9319 Meadow Drive
Omaha, NE 68114

REQUEST: Waiver of Section 55-187(e) – Variance to front yard setback from 35’ to 2’ to allow a 11’9” x 19’4” carport to remain.

LOCATION: 9319 Meadow Drive

ZONE: R4(35)-FF

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 10, 2013, Meagan Tripp appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was requesting that a carport that had been constructed without a permit be allowed to remain. The carport extends in front of the garage as close as 2’ from the property line along Meadow Drive. He noted that no other homes have been allowed to encroach into the front yard setback and that it is out of character with the neighborhood. The Planning Department believes there is no hardship or practical difficulty and recommended denial.

Ms. Tripp stated that her husband built the carport and was not aware of the building codes. She felt that there was not enough space to build the carport on the side of the home and that it partially hidden by bushes that are adjacent to it.

Mr. Hancock stated that the carport extended too far into the front yard setback. Ms. Donovan felt that there was no hardship that would require that the carport be allowed to remain.

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

AYES: Kelley, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0
9. Case No. 13-120
Sherryl A. Rissi
6795 Seward Street
Omaha, NE 68104

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: 6795 Seward Street
ZONE: R4(35)

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 10, 2013, Sherryl A. Rissi appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to replace a 6’, dilapidated fence with a 6’ tall privacy fence within the street side yard setback. He explained that the code requires that the fence be setback 15’ from the property line, instead of right next to the property line as proposed. He stated that the Planning Department recommends denial since there is no apparent hardship or practical difficulty and because a 4’ tall, 50% open fence can legally be constructed on the property. He suggested that, if the Board decided to grant the request, they consider reducing the height of the fence to 4’ and require the applicant to verify that the location of the fence is not in the right-of-way.

Ms. Rissi stated that she was unaware that the fence was installed illegally when she purchased the home 10 years ago. She explained that the fence prevents snow from blowing across her driveway, which could prove to be hazardous when people come to pick her up. In response to Ms. Donovan, Ms. Rissi stated that she felt she needed a 6’ fence instead of a 4’ fence.

Ms. Donovan supported the request since the fence was in place when the applicant purchased the home and due to the fact that she relies on others for transportation.

Mr. Mahlendorf noted that the fence does not obstruct the intersection.

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

AYES: Anzaldo, Donovan, Mahlendorf, Kelley, Hancock

MOTION CARRIED: 5-0
10. Case No. 13-121  
Augusta Properties, LLC  
12828 Augusta Avenue  
Omaha, NE 68144  
REQUEST: Waiver of Section 55-716 – Variance to the required buffer yard between GO and DR from 30’ to 20’ to allow installation of a backup generator.  
LOCATION: 12828 Augusta Avenue  
ZONE: GO  

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 10, 2013, John Fullenkamp, 11440 West Center Road, appeared before the Board.

Mr. Fullenkamp stated that he is the owner of the property. He explained that a computer software company occupies the office space adjacent to the proposed location of the generator, which is approximately 7’ in length, 36” in width and 45” tall. He stated that a 10’ x 10’ concrete pad should be sufficient to hold the generator. Mr. Fullenkamp submitted a revised plan which showed a slightly different location for the concrete pad.

Mr. Anzaldo moved to APPROVE in accordance with the revised plans and subject to a 10’ x 10’ concrete pad. Mr. Kelley seconded the motion.

There was some discussion regarding how the generator would be filled at the proposed location. Mr. Fullenkamp suggested that the size of the pad be increased to 10’ x 15’. He also stated that the generator would be screened with landscaping.

Mr. Hancock suggested that the motion should state that no other structures be allowed in the setback for this use and building only.

Mike Carter, Zoning Board of Appeals Administrator, noted that, as per the Mechanical Code, there are specific regulations that must be followed when installing a generator with regards to the exact location of the generator, exhaust, and other issues. He wanted to ensure that the variance matches the specific requirements for the installation of the generator.

Mr. Anzaldo suggested that the pad be a maximum of 10’ x 15’ to allow for any necessary changes in the location of the generator. Mr. Mahlendorf stated that the size of the concrete pad should not be limited to give the applicant the option of deciding what would be the best placement of the generator.

The amended motion reads as follows: APPROVE the variance to the required buffer yard between GO and DR from 30’ to 20’ to allow for a single backup generator to be placed, subject to landscaped screening of the generator and no other structures being allowed in the setback, for this building only.

Mr. Kelley amended his second.

In response to Mr. Hancock, Mr. Fullenkamp stated that other locations were considered for the generator. He explained that the roof was not chosen due to leakage issues from four existing air handling units. He added that there were would be issues with installing the generator on the side of the building.

AYES: Donovan, Mahlendorf, Kelley, Anzaldo, Hancock

MOTION CARRIED: 5-0
11. Case No. 13-122
Kurt and Sally Brueske
12930 Nicholas Street
Omaha, NE 68154

REQUEST: Waiver of Section 55-146 – Variance to the front yard setback from 40’ to 34.2’ to allow for construction of a garage addition.

LOCATION: 12930 Nicholas Street
ZONE: R2

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 10, 2013, Mick McGuire (Straightline Design) and Sally Brueske appeared before the Board.

Mr. McGuire submitted signatures from neighbors who had no objections to the addition and an email of support from a member of the Candlewood Homeowners Association (Exhibit B).

Mr. Mahlendorf noted that the side of the house is actually the front. He felt that there is a hardship due to the shape of the lot. In response to Ms. Donovan, Ms. Brueske stated that the existing deck would be removed and replaced with the addition.

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

Mr. Hancock stated that he was not in favor of the request explaining that it was not in character with the rest of the neighborhood and was excessive for the site.

In response, Ms. Brueske stated that she would like to park her cars in the garage on not in the driveway. She explained that a car was stolen from her driveway and both cars were damaged in a hail storm.

AYES: Mahlendorf, Kelley, Anzaldo, Donovan

NAYES: Hancock

MOTION CARRIED: 4-1
12. Case No. 13-123
Ruby L. Smith
6519 North 32nd Street
Omaha, NE 68112

REQUEST: Waiver of Section 55-742(b) – Variance to allow an off-street parking stall in the front yard setback with a Reasonable Accommodation request.

LOCATION: 6519 North 32nd Street
ZONE: R4(35)

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on October 10, 2013, Ruby L. Smith appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant had a parking space installed in the front of her property without the benefit of a permit. He explained that zoning regulations do not allow a parking stall in front of properties that have access to the rear from an alley or to the side of the home. The applicant is seeking a waiver to allow the parking stall to remain. He noted that the applicant has provided documentation for a Reasonable Accommodation request and a letter from her doctor which explains her disability. The Planning Department believes that the Reasonable Accommodation request is acceptable and meets the policy of the City and, therefore, recommends approval in accordance with the plans submitted.

Mr. Mahlendorf felt that the applicant provided acceptable documentation to support her request. He noted that her current parking is quite a distance from her home.

Mr. Mahlendorf moved to APPROVE in accordance with the plans submitted for this applicant only. Ms. Donovan seconded the request.

Mr. Carter mentioned that there was a letter in opposition to the request from a neighbor.

AYES: Kelley, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0
APPROVAL OF MINUTES

Mr. Mahlendorf moved to APPROVE the September 12, 2013 minutes. Ms. Donovan seconded the motion.

AYES: Anzaldo, Donovan, Mahlendorf, Hancock

ABSTAIN: Kelley

MOTION CARRIED: 4-0-1

Mr. Hancock briefly discussed Case Number 0-73 with RoseMarie Horvath, City Law. During the hearing of that case at the September 12, 2013 meeting, Mr. Levy stated that the Zoning Board of Appeals has no jurisdiction over the Special Use Permit and that it should be referred back to City Council who originally approved it. Ms. Horvath confirmed that issue with the Special Use Permit should go back before City Council.

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:33 p.m.

____________________________________________
Approved (date)

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Bert Hancock, Chair

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Clinette Warren, Secretary