MINUTES
ZONING BOARD OF APPEALS
REGULAR MEETING - THURSDAY, FEBRUARY 13, 2013
LEGISLATIVE CHAMBERS - LC LEVEL – 1:00 P.M.
OMAHA/DOUGLAS CIVIC CENTER
1819 FARNAM STREET
OMAHA, NEBRASKA

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, February 4, 2013 and Thursday, February 7, 2013.

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

MEMBERS NOT PRESENT: Jonathan Nash, Jr.
Sean Kelley, Alternate

STAFF PRESENT: Mike Carter, Zoning Board of Appeals Administrator
RoseMarie Lee/Rosemarie Horvath, City Law
Clinette Warren, Recording Secretary

Mr. Hancock called the meeting to order at 1:06 p.m., introduced the board members, as well as the staff, and explained the procedures for hearing the cases.
NEW CASES

1. Case No. 13-009
   Morton Middle School
   Omaha Public Schools
   4606 Terrace Drive
   Omaha, NE 68134

   REQUEST: Waiver of Section 55-830 – Variance to the maximum sign budget from 32 sq. ft. to 208 sq. ft. and to the maximum sign area for 2 wall signs from 32 sq. ft. to 72 sq. ft. each.

   LOCATION: 4506 Terrace Drive
   ZONE: R3

   RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, February 14, 2013, Kirby Smith with Curzon Promotional Graphics, 1013 South 75th Street, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the request is for two additional pennant style wall signs on the east and south walls of the school. This would require waivers to the overall sign budget and sign area. He stated that there is no hardship or practical difficulty. Also, the existing signage has been allowed due to a waiver granted in 2007. The Planning Department recommended denial.

Mr. Smith stated that the staff and students wanted to add some decoration to the building while also acknowledging that Morton is an A+ school that is AVID (Advancement via Individual Determination) certified. He noted that the only other signage is the existing 18” channel letters that state the name of the school.

In response to Ms. Teutsch, Mr. Smith stated that the framing of the sign is made from aluminum, while the actual banner is made of vinyl. He added that the banner would not be illuminated, and would be located 10’ off the ground. Mr. Smith explained that the banner could be scaled down. In response to Mr. Mahlendorf, Mr. Smith stated that the banner is intended to be permanent, although it is interchangeable.

Mr. Anzaldo suggested adding the message from the proposed banner to the existing signage. He felt that the addition of the banner would be repetitious. Ms. Donovan stated that she could not support this type of permanent signage.

Mr. Anzaldo moved to DENY. There was not a second to his motion.

In response to Mr. Anzaldo, Mr. Smith stated that he would need to consult with the staff from Morton to see if they would consider replacing the existing signage with the proposed banner.

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

AYES: Anzaldo, Donovan, Mahlendorf, Teutsch

NAYES: Hancock

MOTION CARRIED: 4-1
2. Case No. 13-010
Plaza Properties, LLC
11911 “I” Street
Omaha, NE 68137

REQUEST: Waiver of Section 55-740(f) – Variance to
the perimeter parking lot landscaping from
5’ to 0’ on Lots 1 and 2 to allow for approval
of an administrative subdivision.

LOCATION: 11911 “I” Street
ZONE: GI/GI-FW

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, February 14, 2013, Kris Moore with Magnum Development Corporation, 11550 “I” Street, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that an administrative subdivision is being proposed which would subdivide the property from 3 lots into 2. The site is currently a parking lot for an auto sales business. Subdivision of the property would allow the existing camper business to combine the lot with their property to the east. He explained that the new lot line would require a 5’ minimum of landscaping on each side. The Planning Department believes there is no hardship or practical difficulty that would prevent landscaping from being installed and recommended denial.

Ms. Moore stated that the two neighbors occupying the property, Plaza Pontiac and A.C. Nelson RV’s, will continue to use the property as they always have. She explained that currently the two parties have an agreement which allows A.C. Nelson to store some of their property on the lot owned by Plaza Pontiac. The two parties would like an agreement where A.C. Nelson would legally own the property. Ms. Moore further explained that, aside from the legal agreement, no other changes to the property would occur.

Mr. Hancock stated that the Board had visited the site and did not see the need to install landscaping in between existing lots. However, in exchange for approval of the request, the Board suggested that a minimum of 8 evergreen trees be installed around the southern boundary of the parking lot. Ms. Teutsch added that the addition of the trees would be a buffer and would add greenery to the current landscape. In response, Ms. Moore stated that she would inform Plaza Pontiac and A.C. Nelson about the conditions of the Board’s approval. Mr. Hancock added that the applicant should work with the Mr. Carter to decide where the additional trees should be located.

Mr. Mahlendorf moved to APPROVE subject to the installation of a minimum of 8 evergreen trees along the south boundary of the property; also, the applicant must continue to work with the City regarding the landscaping plan. Ms. Donovan seconded the motion.

AYES: Donovan, Mahlendorf, Teutsch, Anzaldo, Hancock

MOTION CARRIED: 5-0
3. Case No. 13-011
Matthew J. Mullen
10552 Mullen Road
Omaha, NE 68124

REQUEST: Waiver of Section 55-126 - Variance to the rear yard setback from 35’ to 16’7” for a garage/home addition.

LOCATION: 10552 Mullen Road

ZONE: R1

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, February 14, 2013, Matthew J. Mullen, 10552 Mullen Road, and Kent Therkelsen with KRT Construction, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a garage and home addition to the rear of the existing home. This would require an encroachment as close as 16’7” to the rear property line. He further stated that since there is no hardship or practical difficulty, the Planning Department recommended denial. He added that any additions should be constructed in compliance with zoning regulations.

Mr. Mullen stated that the reason for the request is because he has 3 small children and also because of the irregular shape of the lot. He further stated that he had obtained signatures from his neighbor located on the northeast and east corners of the lot. He also mentioned a neighbor to the east who had expressed concern with the encroachment into the setback.

Mr. Mahlendorf was concerned with the amount of encroachment being requested into the setback area. In response, Mr. Therkelsen stated that attempts were made to situate the garage differently; however, it would be difficult to maneuver a vehicle inside. Mr. Mullen added that there are several trees that separate his property and the property directly behind his home (10545 Shirley Street). Ms. Donovan suggested that the garage be constructed near the front of the home, instead of the rear.

Mr. Hancock stated that although the Board did receive several letters in support of the request, there was some opposition from the neighbor directly to the rear.

Mr. Eric Peterson, 10545 Shirley Street, appeared in opposition to the request. He expressed concern with the resale value of his home and with the amount of space being requested in the waiver.

Mr. Hancock stated that it would be in the best interest of the Board to layover the case, giving them the opportunity to visit the property. He added that it would also allow the applicant to look into other options for the placement of the garage.

Mr. Mahlendorf suggested that, if the case were laid over, the applicant provide a better layout for the proposed plan.

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

AYES: Mahlendorf, Teutsch, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0
4. Case No. 13-012  
Syngenta Crop Protection, LLC  
4110 Gibson Road  
Omaha, NE 68107  
REQUEST: Waiver of Section 55-526 – Variance to the front yard setback from 50’ from center line to 28.75’ from center line, to construct a canopy addition.  
LOCATION: 4111 Gibson Road  
ZONE: HI

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, February 14, 2013, Gary Norton, The Schemmer Associates, appeared before the Board.

Mr. Norton stated that, due to recent flooding, the corporate headquarters for Syngenta has instructed that flood proofing and security upgrades be installed. He explained that the canopy would direct visitors to the entrance of the building and direct water away from the building, thereby reducing trip hazards and icy conditions. In response to Mr. Hancock, Mr. Norton stated that the canopy would be made of metal with steel columns.

Mike Carter, Zoning Board of Appeals Administrator, stated that the Planning Department recommended denial since there is no hardship or practical difficulty, and because a canopy can be constructed legally on the property.

Mr. Mahlendorf supported the request since the business is located in a heavy industrial area, and because the canopy could prove useful in directing visitors to the entrance of the building.

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

AYES: Teutsch, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0
5. Case No. 13-013
   Doug Riddington
   6202 California Street
   Omaha, NE 68132

   REQUEST: Waiver of Section 55-166 – Variance to the
            front yard setback from 35’ to 26’ 29’6” for
            the existing home and from 35’ to 32’ for a
            11’x23’ garage addition.

   LOCATION: 13728 Decatur Street
   ZONE: R3

   RECOMMENDATION: Approval of the waiver request for the existing home. Denial of the waiver for the
                    proposed garage addition.

   At the Zoning Board of Appeals meeting held on Thursday, February 14, 2013, Mick McGuire with
   Straightline Design, Inc. and Doug Riddington appeared before the Board.

   Mr. McGuire submitted a revised site plan along with a surveyors certificate (Exhibit #B).

   Mike Carter, Zoning Board of Appeals Administrator, stated that the original survey that was submitted
   with the application indicated that the corner of the building near Decatur was at 26’. The location of the
   proposed addition is also at 26’. He noted that this property was granted a waiver in 1993 to allow a 30’
   setback off Decatur Street. He explained that there was some confusion since it was thought that the
   home was constructed with the 26’ front yard setback, instead of the 30’ setback which was granted with
   the waiver based on a survey. Mr. McGuire determined that the home is actually built with a setback of
   29’6”. Mr. Carter stated that the Planning Department supports the waiver for the existing home, but
   does not support the waiver for the proposed garage addition. He added that there is no hardship or
   practical difficulty that would justify the need for an additional waiver for the garage addition as
   proposed.

   In response to Mr. Hancock, Mr. Riddington explained how the proposed driveway would be constructed
   on the property. He stated that it is difficult to sell the home because it does not have a three-car garage. In
   response to Mr. Anzaldo, Mr. Riddington stated that he was able to locate the exact materials that are
   on the existing home that would be used for the proposed addition.

   Mr. Hancock noted that there is a neighboring home that is also situated close to the curb line with five
   garages. He added the proposed garage would still be well within the street side yard setback. He stated
   that if the request was approved, the most current surveyor's certificate would need to be signed and
   stamped.

   In response to Ms. Teutsch, Mr. Riddington stated that he would install additional evergreens on the
   property.

   Mr. Anzaldo moved to APPROVE the revised plans subject to: the surveyor’s certificate being signed and
   stamped; the installation of 3 additional evergreens along Decatur Street; and, the building materials
   used must match the existing home. Ms. Teutsch seconded the motion.

   AYES: Anzaldo, Donovan, Mahlendorf, Teutsch, Hancock

   MOTION CARRIED: 5-0
6. Case No. 13-014  
Jen & Joseph Anthone  
318 South 54th Street  
Omaha, NE 68132  

REQUEST: Waiver of Section 55-166 – Variance to the front yard setback from 35’ to 30’ and to the interior side yard setback from 7’ to 6.3’ to construct an attached garage.

LOCATION: 318 South 54th Street  
ZONE: R3

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, February 14, 2013, Mick McGuire with Straightline Design, Inc. and Joseph Anthone appeared before the Board.

Noting the Planning Department’s recommendation of approval in accordance with the plans submitted, Mr. Hancock requested a motion.

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

Ms. Donovan noted that there were several homes in the neighborhood that had structures in similar locations.

Mr. McGuire submitted a list of signatures in support of the request (Exhibit #2).

AYES: Donovan, Mahlendorf, Teutsch, Anzaldo, Hancock  

MOTION CARRIED: 5-0
7. Case No. 13-015
   Joseph House
   10304 Camden Avenue
   Omaha, NE 68134

   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: 10304 Camden Avenue
   ZONE: R2

   RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, February 14, 2013, Joseph House appeared
before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the request is to allow a 6’ tall privacy
fence along 103rd Street. He noted that the applicant indicated that there are issues with the existing
trees and that they will need to be removed. The Planning Department recommended denial since a
legal fence can be constructed on the property.

Mr. House stated that he is requesting the waiver for the fence is because of the amount of commercial
traffic that flows along 103rd Street and because of the light pollution. He explained that
the trees on his property are being removed because of disease and that he has no plans to replace them
because of the cost involved. He also stated that the privacy fence would not affect visibility in the area.

In response to Mr. Mahlendorf, Mr. House stated that the existing chain-link fence sits 16’ away from the
property line. The fence he would like to install would sit 20’ from the property line, allowing him to
encompass his sprinkler system. He stated that the property line is 12’6” from the curb line. Mr. House
presented two other options for the location of the proposed fence.

Mr. Hancock stated that if the proposed fence was placed in the same location as the existing chain link
fence, it would be 16’ west of the property line. He suggested that the applicant move his sprinkler head
in exchange for the waiver. He clarified that the fence is being moved from 20’ to 16’.

Mr. Mahlendorf moved to APPROVE subject to the privacy fence being located 16’ west of the property
line on 103rd Street. Ms. Donovan seconded the motion.

AYES: Mahlendorf, Teutsch, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0
8. Case No. 13-016
Bluestone Development
720 North 13th Street
Omaha, NE 68102

REQUEST: Waiver of Section 55-734 & 55-740(f)(4) - Variance to the minimum number of parking stalls from 153 to 148 and to the perimeter parking lot landscaping from 10’ to 0’ to allow for redevelopment of the property.

LOCATION: 501 Park Avenue
ZONE: R8-ACI-1(PL)

RECOMMENDATION: Approval, in accordance with the plans submitted, subject to the applicant working with the Planning Department on providing additional perimeter landscaping along the south property line, near the driveway easement.

At the Zoning Board of Appeals meeting held on Thursday, February 14, 2013, Larry Jobeun, 11440 West Center Road, and Christian Christensen with Bluestone Development appeared before the Board.

Mr. Jobeun stated that the request is for an existing building that is being redeveloped that has some issues with existing easements. He expressed his agreement with the Planning Department’s recommendation.

Mr. Anzaldo stated his support for the project.

Mr. Anzaldo moved to APPROVE in accordance with the plans submitted, subject to the applicant continuing to work with the Planning Department with regards to the landscaping along the south property line. Ms. Teutsch seconded the motion.

AYES: Teutsch, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0
APPROVAL OF MINUTES

Ms. Donovan moved to APPROVE the January 10, 2013 meeting minutes as amended. Mr. Teutsch seconded the motion.

AYES: Anzaldo, Donovan, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0

DISCUSSION

RoseMarie Horvath, City Law Department, stated that there was a public meeting concerning the OTM case (12-044) on January 31, 2013. The Board did not meet with representative for the case as planned in time for the February 2013 Zoning Board of Appeals meeting. However, it was anticipated that the Board would finally meet with the representatives and the case would be heard at the March 2013 meeting.

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:19 p.m.

____________________________________________
Approved (date)

____________________________________________
Bert Hancock, Chair

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Clinette Warren, Secretary