

MINUTES
ZONING BOARD OF APPEALS
REGULAR MEETING - THURSDAY, MARCH 14, 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, March 4, 2013 and Thursday, March 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: Chad Weaver, Assistant Director
Mike Carter, Zoning Board of Appeals Administrator
Alan Thelen, 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

(This case was heard after Case 13-019)

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| 1. | Case No. 12-044
<i>(over from 6/14/12)</i>
TRP Properties, LLC
12910 F Plaza
Omaha, NE 68137 | REQUEST: Waiver of Section 55-804 & 55-786(f) –
Variance to allow the existing use to exceed
the maximum permitted sound levels of the
GI district; and to allow a 27' tall sound
barrier wall. |
| | | LOCATION: 12802, 12910, 12928 & 13010 F Plaza |
| | | ZONE: GI |

RECOMMENDATION: The Department finds that there is no practical difficulty or hardship and therefore the requested variance should be denied. The violations are detrimental to the health, safety and welfare of the public and the uses of surrounding properties are negatively affected.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Councilman Franklin Thompson and Jerry Slusky appeared before the Board.

Councilman Thompson stated that although he has not been in favor of OTM (Omaha Track Materials) in the past, he feels that some progress had been made with the applicant. He requested additional time to ensure that all parties involved are in agreement. He also mentioned that a meeting would occur approximately two weeks from the date of the March 14, 2013 ZBA meeting, that would allow him to hear from neighbors who are directly and indirectly affected by any decisions that are made.

Mr. Slusky supported Councilman's Thompson request for a layover. He explained that this would give the applicant time to meet with the neighbors and to formulate a plan to bring back to the Board.

In response to Mr. Hancock, Councilman Thompson explained that the proposed agreement with the applicant includes the use of covered buildings which would potentially reduce the amount of noise being produced. He also acknowledged that although the neighbors may find the level of noise acceptable, the City may not.

Todd Kuser, a neighbor, stated that there had recently been productive communication with the applicant and that some progress had been made.

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

AYES: Anzaldo, Donovan, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0

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|----|--|-----------|---|
| 2. | Case No. 13-009
<i>(over from 2/14/13)</i>
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 |

This case was withdrawn at the request of the applicant.

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| 3. | Case No. 13-011
<i>(over from 2/14/13)</i>
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" 20' for a garage/home addition.

LOCATION: 10552 Mullen Road

ZONE: R1 |
|----|--|---|

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Matthew and Mary Ann Mullen appeared before the Board. There was also a neighbor that appeared in support of the request.

In response to Mr. Hancock, Mr. Mullen stated that he did meet with Mr. Peterson, his neighbor to the north, regarding the proposed addition. Mr. Mullen also submitted a revised plan (Exhibit B) which showed the setback at 20' instead of 16'7" as originally requested. In addition, he proposed installing additional trees along the north border of the property.

Mr. Anzaldo moved to APPROVE per revised plan (Exhibit B). Ms. Donovan seconded the motion.

AYES: Mahlendorf, Teutsch, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0

NEW CASES

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| 4. | Case No. 13-017
Creighton University
2500 California Plaza
Omaha, NE 68178 | REQUEST: | Waiver of Section 55-825(c) – Variance to the maximum area for a temporary sign from 32 sq. ft. to 108 sq. ft. for a banner for 4 weeks during the College World Series. |
| | | LOCATION: | 1624 Mike Fahey Street |
| | | ZONE: | DS-ACI-1(PL) |

RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Barton Arnold, 1635 North 107th Avenue, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the waiver being requested has been granted to the applicant for the previous two years. He explained that a practical difficulty does exist due to the temporary nature of the banner which advertises an event. He noted that the Planning Department supports the request and recommends approval.

Ms. Teutsch stated that attention should be given so that the Creighton portion of the sign does not increase in size over time. Mr. Arnold responded that the size has not changed.

In response to Mr. Hancock, Mr. Arnold stated that the banner will be made of mesh and secured with stainless steel fasteners.

Ms. Donovan moved to APPROVE. Ms. Teutsch seconded the motion.

AYES: Teutsch, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0

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| 5. | Case No. 13-018
Creighton University
2500 California Plaza
Omaha, NE 68178 | REQUEST: | Waiver of Section 55-825(c) – Variance to the maximum area for a temporary sign from 32 sq. ft. to 132 sq. ft. for a banner for 4 weeks during the College World Series. |
| | | LOCATION: | 815 North Florence Boulevard |
| | | ZONE: | DS-ACI-1(PL) |

RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Barton Arnold, 1635 North 107th Avenue, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the banner being requested is smaller in size from the banner used in 2012. The Planning Department supports the request and recommended approval.

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

AYES: Anzaldo, Donovan, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0

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| 6. | Case No. 13-019
James Haley
7011 Farnam Street
Omaha, NE 68132 | 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: 7011 Farnam Street |
| | | ZONE: R3 |

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, James Haley appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to install an in-ground pool in the backyard of the property, which would require a 6' tall fence. He explained that the house is on a corner lot and that the proposed fence would encroach into the street side yard setback. The Planning Department found that there is no hardship or practical difficulty since a fence can legally be constructed on the property and, therefore, recommended denial.

Mr. Haley submitted pictures (Exhibit B) which showed the condition of the existing retaining wall that currently sits between the applicant's property and the adjacent neighbor's property. He explained that the neighbor has given him permission to remove the retaining wall, grade the area and install landscaping. Mr. Haley stated that the proposed fence would not obstruct the view of traffic at the corner. He also mentioned that two of his neighbors have given their support for the request.

In response to Mr. Mahlendorf, Mr. Haley stated that there is an existing chain-link fence already on the property. He explained that the proposed cedar fence would be located farther than the chain-link fence and would be situated behind a row of existing hedges, which would screen the fence.

Ms. Donovan inquired as to whether the applicant would consider laying the case over to give the Board an opportunity to visit the property. Mr. Haley responded that his daughters could appear in his place if he was not available.

Mr. Hancock stated that he could not support the waiver since the fence could be constructed legally.

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

AYES: Donovan, Mahlendorf, Teutsch, Anzaldo, Hancock

MOTION CARRIED: 5-0

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| 7. | Case No. 13-020
Ronald G. Jones, Sr.
12715 Sky Park Drive
Omaha, NE 68137 | REQUEST: Waiver of Section 55-782(b)(2) – Variance to allow a structural element (railing) more than 2' above the adjacent ground level. |
| | | LOCATION: 12715 Sky Park Drive |
| | | ZONE: R2 |

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Ronald G. Jones, Sr. appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant constructed a deck in the backyard without an approved building permit. He explained that the code allows a 2' tall structure where the deck is currently situated. Due to the 2' requirement, the railings attached to the deck are not allowed. He stated that the Department finds that there is no hardship or practical difficulty since the deck would be in compliance if the railings were removed and, therefore, recommended denial.

Mr. Jones explained that the railing would make the deck safer. He stated that none of the neighbors he had spoken with had any objections to the railings.

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

AYES: Mahlendorf, Teutsch, Donovan, Hancock

ABSTAIN: Anzaldo

MOTION CARRIED: 4-0-1

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| 8. | Case No. 13-021
Juan J. Soto
4103 South 22 nd Street
Omaha, NE 68107 | REQUEST: | Waiver of Section 55-206 – Variance to the rear yard setback from 25' to 10' and to the maximum impervious coverage from 55% to 60% to allow a new deck to remain. |
| | | LOCATION: | 4103 South 22 nd Street |
| | | ZONE: | R5(35) |

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, no one appeared before the Board.

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

AYES: Teutsch, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0

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| 9. | Case No. 13-022
Terri Fitzgerald
Children's Respite Care Center
13336 Industrial Road, Suite 101
Omaha, NE 68137 | REQUEST:

LOCATION:
ZONE: | Waiver of Section 55-716 – Variance to the required bufferyard between CC & R3 from 30' to 15' to allow the construction of a new parking lot.
5321 South 138 th Street
CC |
|----|--|------------------------------------|---|

RECOMMENDATION: Approval, subject to submittal of an acceptable landscape plan for screening along Discovery Drive.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Brian Lodes, 10836 Old Mill Road, and Terri Fitzgerald appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the Planning Department feels that there is a hardship for the applicant due to the 100' wide right-of-way along Discovery Drive. He explained that the abnormally wide right-of-way is more common with collector or arterial streets. He added that City ordinance allows a 50% reduction of the required bufferyard along collector or arterial streets, which would reduce the area from 30' to 15'. The area south of Discovery Drive is open space, with the residences being located 200' away from the proposed encroachment. The Planning Department recommended approval, subject to submittal of an acceptable plan for screening along Discovery Drive.

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

AYES: Anzaldo, Donovan, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0

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| 10. | Case No. 13-023
City of Omaha Planning
Department – Chris Wayne
1819 Farnam Street
Omaha, NE 68183 | REQUEST: | Waiver of Section 55-246 & 55-742(b) –
Variance to the front yard setback from 35'
to 20' and to the rear yard setback from 25'
to 23.5'; and to allow parking in the front
yard setback; to allow construction of a new
home, deck, and stairs. |
| | | LOCATION: | 1625 Corby Street |
| | | ZONE: | R7 |

RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Chris Wayne appeared before the Board.

Mr. Wayne stated that the waivers being requested for cases 13-023 through 13-031 are for the City's community development program. He explained that the lots for the homes are unusually small, which make it difficult to develop the land.

In response to Mr. Mahlendorf, Mr. Wayne stated that most of the homes are in the process of being rezoned making the waivers being requested temporary waivers.

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

AYES: Donovan, Mahlendorf, Teutsch, Anzaldo, Hancock

MOTION CARRIED: 5-0

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11. Case No. 13-024
City of Omaha Planning
Department – Chris Wayne
1819 Farnam Street
Omaha, NE 68183
- REQUEST: Waiver of Section 55-246 & 55-742(b) –
Variance to the front yard setback from 35'
to 20', to the street side yard setback from
15' to 13', and to the rear yard setback from
25' to 17.8'; and to allow parking in the
front yard setback; to allow for construction
of a new home, deck, and stairs.
- LOCATION: 1804 Corby Street
ZONE: R7

RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Chris Wayne appeared before the Board.

(See minutes for Case #13-023)

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

AYES: Mahlendorf, Teutsch, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0

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| 12. | Case No. 13-025
City of Omaha Planning
Department – Chris Wayne
1819 Farnam Street
Omaha, NE 68183 | REQUEST: | Waiver of Section 55-206 & 55-742(b) –
Variance to the front yard setback from 25'
to 20' and to the rear yard setback from 25'
to 15'; and to allow parking in the front yard
setback; to allow for construction of a new
home, deck, and stairs. |
| | | LOCATION: | 1822 Corby Street |
| | | ZONE: | R5 |

RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Chris Wayne appeared before the Board.

(See minutes for Case #13-023)

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

AYES: Teutsch, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0

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| 13. | Case No. 13-026
City of Omaha Planning
Department – Chris Wayne
1819 Farnam Street
Omaha, NE 68183 | REQUEST: Waiver of Section 55-187(e) – Variance to
the front yard setback from 35' to 25' to
allow for construction of a single family
home.

LOCATION: 4230 Ohio Street
ZONE: R4(35) |
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RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Chris Wayne appeared before the Board.

(See minutes for Case #13-023)

Ms. Teutsch moved to APPROVE subject to the applicant submitting an application to rezone the property to R4. Ms. Donovan seconded the motion.

AYES: Anzaldo, Donovan, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0

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| 14. | Case No. 13-027
City of Omaha Planning
Department – Chris Wayne
1819 Farnam Street
Omaha, NE 68183 | REQUEST: Waiver of Section 55-246 & 55-742(b) –
Variance to the front yard setback from 35'
to 25'; and to allow parking in the front yard
setback; to allow construction of 3 single
family homes. |
| | | LOCATION: 1526, 1530, and 1538 North 18 th Street |
| | | ZONE: R7 |

RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Chris Wayne appeared before the Board.

(See minutes for Case #13-023)

Ms. Donovan moved to approve subject to the applicant submitting an application to rezone the property to R5. Mr. Hancock seconded the motion.

AYES: Donovan, Mahlendorf, Teutsch, Anzaldo, Hancock

MOTION CARRIED: 5-0

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15. Case No. 13-028
City of Omaha Planning
Department – Chris Wayne
1819 Farnam Street
Omaha, NE 68183
- REQUEST: Waiver of Section 55-206, 55-207(g) & 55-742(b) – Variance to the front yard setback from 35' to 25'; and to the minimum lot width from 50' to 47' (3113 Franklin Street); and to allow parking in the front yard setback; to allow construction of 3 single family homes.
- LOCATION: 3109-11 Franklin Street, 3113 Franklin Street and 1622 North 31st Street
- ZONE: R5(35)

RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Chris Wayne appeared before the Board.

(See minutes for Case #13-023)

Mr. Mahlendorf moved to APPROVE subject to the applicant submitting an application to rezone the property to R5. Ms. Donovan seconded the motion.

AYES: Mahlendorf, Teutsch, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0

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| 16. | Case No. 13-029
City of Omaha Planning
Department – Chris Wayne
1819 Farnam Street
Omaha, NE 68183 | REQUEST: | Waiver of Section 55-207(g) & 55-742(b) –
Variance to the front yard setback from 35'
to 25'; and to allow parking in the front yard
setback; to allow construction of a single
family home. |
| | | LOCATION: | 3112-3114 Seward Street |
| | | ZONE: | R5(35) |

RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Chris Wayne appeared before the Board.

(See minutes for Case #13-023)

Ms. Teutsch moved to APPROVE subject to the applicant submitting an application to rezone the property to R5. Ms. Donovan seconded the motion.

AYES: Teutsch, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0

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17. Case No. 13-030
City of Omaha Planning
Department – Chris Wayne
1819 Farnam Street
Omaha, NE 68183
- REQUEST: Waiver of Section 55-246 & 55-742(b) –
Variance to the front yard setback from 35'
to 25'; and to allow parking in the front yard
setback; to allow construction of 4 single
family homes.
- LOCATION: 2515, 2516, 2521 & 2524 Patrick Avenue
ZONE: R7

RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Chris Wayne appeared before the Board.

(See minutes for Case #13-023)

Ms. Donovan moved to approve subject to the applicant submitting an application to rezone the property to R4. Ms. Teutsch seconded the motion.

AYES: Anzaldo, Donovan, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0

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| 18. | Case No. 13-031
City of Omaha Planning
Department – Chris Wayne
1819 Farnam Street
Omaha, NE 68183 | REQUEST: Waiver of Section 55-207(g) & 55-742(b) –
Variance to the front yard setback from 35’
to 25’; and to allow parking in the front yard
setback; to allow construction of 5 single
family homes. |
| | | LOCATION: 3711-17-19 Parker Street & 3718 and 3726
Parker Street |
| | | ZONE: R5(35) |

RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Chris Wayne appeared before the Board.

(See minutes for Case #13-023)

Ms. Donovan moved to APPROVE subject to the applicant submitting an application to rezone the property to R5. Ms. Teutsch seconded the motion.

AYES: Donovan, Mahlendorf, Teutsch, Anzaldo, Hancock

MOTION CARRIED: 5-0

Mr. Wayne stated that a document was available that outlined the selection process used by the City to determine which developers were chosen to develop city owned lots.

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19. Case No. 13-032
Ryan M. Durant
Omaha Housing Authority
540 South 27th Street
Omaha, NE 68105
- REQUEST: Waiver of Section 55-716, 55-734, & 55-735(a)(1) – Variance to the required bufferyard between R8 & R6 from 30' to 10' and 22'; to the minimum number of off-street parking stalls from 228 to 91 and to allow off-street parking for a multi-family residential use within the front /street side yard setback to allow for the reconstruction/expansion of the parking lot.
- LOCATION: 5904 Henninger Drive (Crown Tower)
- ZONE: R8

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Curt Field, Prochaska & Associates, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant had indicated that the Department of Housing and Urban Development (HUD) has required that improved accessibility be provided at the Crown Tower. As a result of this mandate the existing parking lot will need to be reconstructed, which will include expanding the lot and providing additional landscaping. He explained that the applicant is requesting a waiver to the minimum number of off-street parking stalls since the number of stalls being required is higher than the demand. The Planning Department recommended approval in accordance with the plans submitted.

In response to Mr. Mahlendorf, Mr. Field stated that space has been allocated for additional parking if it is needed in the future.

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

AYES: Mahlendorf, Teutsch, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0

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20. Case No. 13-033
Ryan M. Durant
Omaha Housing Authority
540 South 27th Street
Omaha, NE 68105
- REQUEST: Waiver of Section 55-716, 55-734, & 55-735(a)(1) – Variance to the required bufferyard between R8 and R6/R5(35)/R4(35) from 30' to 10'; to the minimum number of off-street parking stalls from 118 to 47 and to allow off-street parking for a multiple family residential use within the front /street side yard setbacks to allow the reconstruction/expansion of the parking lot.
- LOCATION: 4850 Underwood Avenue (Underwood Tower)
- ZONE: R8

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Curt Field, Prochaska & Associates, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, noted that this case was similar to case #13-032. The applicant received a mandate from the Department of Housing and Urban Development (HUD) to improve accessibility to the facility. Because of this, some of the existing parking will be replaced and additional parking is being provided along Webster Street. Mr. Carter noted that there should be additional parking stalls along the street due to the future Dundee Streetscape project. The Planning Department recommended approval in accordance with the plans submitted.

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

Mr. Field stated that OHA has agreed to deed 10' of their property for the Dundee Streetscape – 49th Street project, which adds further restrictions on the parking situation.

Paul Terbis, 4810 Webster Street, appeared to state his concerns about the request. He expressed concern over the loss of green space resulting from the project. He noted that when the property was previously landscaped, many of the trees and bushes that were planted had died. Mr. Hancock agreed with Mr. Terbis, and added that he would like to see a more effective plan to buffer the parking area. In response to Mr. Hancock, Mr. Terbis suggested that more trees be added.

Mr. Field stated that currently parking is 10' off Webster Street and that the 10' of landscaping will be maintained. He added that 3 – 4 more trees will be planted along the right-of-way. With regards to the lighting used, Mr. Field stated that the fixtures used will not cast light into the neighbors' homes.

Mr. Hancock suggested that the applicant install the diagonal parking that will be eventually added during the streetscape project, which would be beneficial for both the residents of the tower and the city as a whole. Mr. Carter noted that the off-street parking would not be specifically for residents of the tower. He explained that the parking being proposed by the applicant would be under their control, as opposed to the public parking on the street.

Ryan Durant, Omaha Housing Authority, stated that in order to utilize the funds provided by HUD, additional handicapped parking needed to be installed. He explained that the funds are also tied into parking reconstruction projects for other sites. In response to Mr. Hancock, Mr. Durant stated that additional trees could be added and dead trees would be replaced if necessary.

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Mr. Mahlendorf AMENDED his original motion APPROVED in accordance with the plans submitted, subject to the applicant placing a total of 8 new trees along Webster Street. Ms. Donovan seconded the motion.

AYES: Teutsch, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0

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21.	Case No. 13-034 Clay Reider 21919 Silverado Drive Omaha, NE 68022	REQUEST: Waiver of Section 126 – Variance to the interior side yard setback from 25' to 5' to allow construction of a 40'x50' garage.
		LOCATION: 21919 Silverado Drive
		ZONE: R1

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, no appeared before the Board in support of the request. The case was heard to allow neighbors who appeared the opportunity to speak.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a 40'x50' detached garage that would encroach as close as 5' to the side property line. He explained that the applicant had indicated that the structure cannot be constructed in compliance because of the laterals of the existing septic system. Mr. Carter stated that the Planning Department finds that there is no hardship or practical difficulty since a legal garage can be constructed in compliance with the ordinance. He also noted that the site should have a back-up location for the septic system. He added that the driveway width as proposed on the plan appeared to be too wide and would need to be addressed by the applicant. The Planning Department recommended denial.

Ken and Alice Ristorff, 2918 South 219th Street, appeared in opposition to the request. They appeared as representatives for the neighborhood. Their home is also adjacent to the applicant's property. Mr. Ristorff noted that the proposed 2000 sq. ft. garage will be larger than some of the homes in the area. He submitted a petition (Exhibit B) signed with the names of the neighbors who are also opposed to the addition. He expressed concern with how the garage would affect the natural water runoff from the property. He also stated that Mr. Reider owns a power washing business, and that the neighbors are concerned that the garage would be used for commercial purposes.

In response to Mr. Hancock, Mr. Carter stated that if the applicant was to build in compliance with the Code, the Board would not be able to prevent construction of the garage. Mr. Hancock suggested that the neighbors refer to the neighborhood covenants. Mr. Ristorff stated that the covenants may not be as effective since allowance have been made for other property owners over the years.

Mr. Anzaldo moved to LAYOVER to give the applicant the opportunity to appear. Ms. Teutsch seconded the motion.

AYES: Anzaldo, Donovan, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0

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22. Case No. 13-035
Sixty Sorensen, LLC
105 North 31st Avenue
Omaha, NE 68131
- REQUEST: Waiver of Section 55-734 – Variance to the required number of off-street parking stalls from 104 to 81, to allow construction of a senior living facility.
- LOCATION: 5910 Newport Plaza (Northeast corner of 60th & Newport Plaza)
- ZONE: CC

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Dan Dolezal, Ehrhart Griffin & Associates, 3552 Farnam Street, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a 60-unit senior living facility on the property. He noted that the applicant was approved for a Conditional Use Permit to construct a multiple-family residential facility on the site by the City of Omaha Planning Board on February 6, 2013. The applicant has indicated that an area will be set aside for additional parking stalls if the need arises. Due to the low parking demand for a facility of this type, Mr. Carter stated that the Planning Department supports the request and recommends approval in accordance with the plans submitted.

Ms. Donovan moved to APPROVE in accordance with the plans submitted. Also, if demand deems it necessary, additional stalls will be provided as shown on the plan. Ms. Teutsch seconded the motion.

AYES: Donovan, Mahlendorf, Teutsch, Anzaldo, Hancock

MOTION CARRIED: 5-0

23.	Case No. 13-036 Sebastian Anzaldo 910 South 39 th Street Omaha, NE 68105	REQUEST:	Waiver of Section 55-186 & 55-187(e) – Variance to the front yard setback from 35' to 34'8"; to the rear yard setback from 25' to 11'4"; and to the minimum lot area from 5,000 sq. ft. to 4,862 sq. ft. to allow for construction of a single family home and deck.
		LOCATION:	3305 Polk Street
		ZONE:	R4(35)

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, March 14, 2013, Sebastian Anzaldo appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the waiver being requested for the property matches the setback for the home on the adjacent property.

Mr. Hancock noted that the Planning Department recommends approval for this case due to the shallow depth compared to a typical residential lot.

In response to Mr. Mahlendorf, Mr. Anzaldo stated that the home lines up with other homes along the front and rear. He added that the side yard has been extended to 6' from the required 5'.

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

AYES: Mahlendorf, Teutsch, Donovan, Hancock

MOTION CARRIED: 4-0

APPROVAL OF MINUTES

Mr. Anzaldo moved to APPROVE the February 14, 2013 meeting minutes as amended. Ms. Donovan seconded the motion.

AYES: Anzaldo, Donovan, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:21 p.m.

Approved (date)

Brian Mahlendorf, Acting Chair

Clinette Warren, Secretary