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, April 29, 2013 and Thursday, May 2, 2013.

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

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

STAFF PRESENT: Rick Cunningham, Planning 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.
RECONSIDERATION

1. 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
   buffer yard between R8 and R6/R5(35)/R4(35) from 30’ to 10’; to the
   minimum number of off-street parking stalls from 118 to 37; 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

At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, Curt Field (Prochaska & Associates) appeared before the Board on behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that this case had been approved for reconsideration at the April 11, 2013 meeting. It was originally approved at the March 14, 2013 with a different design. He explained that the current proposal is similar to what already exists on the site, with the exception of a slight expansion of the lot for additional handicapped parking stalls; additional landscaping will also be installed. He stated that the Planning Department recommended approval, in accordance with the plans submitted.

Mr. Field stated that he met with a representative of the neighborhood and decided to retain the green space along the north side of the property.

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

Bill Wardell appeared in support of the request. He stated that he agreed with the applicant.

AYES: Anzaldo, Donovan, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0
2. Case No. 12-044
(over from 6/14/12, 3/14/13 & 4/11/13)
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

At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, Ed Pohren (Smith Gardner Slusky Law) appeared before the Board on behalf of the applicant.

Mr. Pohren discussed the final agreement between the City of Omaha and TRP Properties (Exhibit 5 – Variance from Performance Standards for Noise and Maximum Permitted Sound). He mentioned the “Noise Reduction Protocols” that were agreed upon by TRP, along with the construction of two sound enclosure buildings and a sound barrier wall that would reduce the level of noise that enters the surrounding neighborhood. He also stated that the applicant is proposing to install additional landscaping next to the walls to reduce the noise from trains. He noted the adjustment in the hours of operation and added that if further adjustments needed to be made, TRP would address them with the neighborhood association. He referred to the three location points where the sound readings would be taken and the accepted noise levels for the various operations on the site. He also discussed how any future violations would be handled by the City of Omaha.

In response to Ms. Donovan, Mr. Pohren stated that he was aware of the most recent changes that were made to Exhibit 5. She stated that the Board would accept the City’s version of that document.

Alan Thelen, Attorney – City Law Department, stated that he had just received the applicant’s version of Exhibit 5 just before the meeting. He noted the two minor changes made by Mr. Pohren, in Sections 2c and 3a.

Ms. Donovan moved to APPROVE subject to the conditions of the City’s version of Exhibit 5 (Variance from Performance Standards for Noise and Maximum Permitted Sounds), which includes Attachments A, B and C. Mr. Anzaldo seconded the motion.

Rick Cunningham, Planning Director, clarified with Mr. Pohren the locations of any future sound measurements.

AYES: Donovan, Mahlendorf, Teutsch, Anzaldo, Hancock

MOTION CARRIED: 5-0
At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, Juan Soto appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant constructed a deck on the rear of the home that encroaches into the rear yard setback which causes the property to exceed the allowed maximum impervious coverage. The Planning Department recommended denial since there is no hardship or practical difficulty. Mr. Carter noted that the existing deck is larger than the one that was replaced.

Mr. Soto stated that he hired a contractor who assured him that he would take care of everything concerning the deck. He explained that a city inspector informed him that the deck was not built correctly.

Mr. Mahlendorf stated that the Board did visit the property and noted that the deck was well-built and that it fit the context of the neighborhood.

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

Ms. Donovan advised the applicant that in the future he would need to obtain the proper permits before performing repairs on his property.

Rick Cunningham, Planning Director, suggested that the motion be amended to state that a building permit and all required inspections be performed.

Mr. Mahlendorf AMENDED the motion: Approval subject to the applicant obtaining a building permit and all required inspections. Ms. Donovan seconded the motion.

AYES: Mahlendorf, Teutsch, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0
At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, Mike Emsick appeared before the Board on behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that this case was laid over to allow the applicant time to provide information regarding the status of any permits that were obtained for this property. He also discussed the property with Code Enforcement. Mr. Carter stated that based on that discussion and his research of the property, no documentation had been found to verify that the structure had been legally converted from a single-family home to a duplex. Also, no past waivers could be found for the existing stairs, which indicates that the property did not receive the necessary permits for the dwelling unit on the second floor. Mr. Carter stated that typically the Planning Department has discouraged conversions of single-family homes for additional dwelling units, especially in situations where the property is unable to comply with site development regulations. For those reasons, the Planning Department recommended denial of the request for the stair waiver.

Mr. Hancock referred to item number 4 listed on a letter submitted by Mr. Emsick (Exhibit B), which states that the owner has no intentions of making the property a triplex. Mr. Hancock noted that the property would probably not be returned to a single-family dwelling; therefore, it needed to be decided how to bring the property into compliance as much as possible. He stated that there would be no place to put in a parking stall, especially with the location of the existing stairs.

In response to Mr. Hancock, Mr. Emsick stated that currently parking is on-street to the east of the property.

Mr. Hancock stated that because the property is zoned R7, it is possible for the property to be a multi-family dwelling. He added that the issue would be that if the duplex was allowed to remain, additional waivers would then be required. Mr. Carter stated that the applicant would need a waiver for site area per unit, for the number of parking stalls and possibly others.

In response to Ms. Donovan, Mr. Emsick stated that there is a set of abandoned, internal stairs inside the property that could be an option for the applicant. She noted that this was one of the few homes in the area where access to the second floor was on the exterior. She suggested that Mr. Emsick look into the possibility of an internal stair (Option 5 of the plans). In response to Ms. Teutsch, Mr. Emsick stated that the applicant is aware of the violations on the property and has taken steps to bring the property to code.

Mr. Anzaldo stated that he had been contacted by Mr. Emsick, who requested that they meet at the property. In response to Mr. Anzaldo, Mr. Emsick agreed to obtain all waivers and permits necessary to bring the property to code. He agreed that 60 days would be sufficient time to do so. Mr. Emsick stated that, at Mr. Anzaldo’s request, he did meet with the neighbor across the street whose main concern was protecting his investment in his home.

Mr. Hancock stated that photos (Exhibit C) from Code Enforcement would be added to the file. He noted that one of the photos showed existing stairs on the interior that had been blocked off at the top of the stair.

Rick Cunningham, Planning Director, stated that a permit could be placed on hold if it did not meet the requirements for zoning, which would mean that a waiver from the Zoning Board of Appeals would be
needed for the applicant to obtain a permit. Mr. Hancock clarified that a building permit would not be allowed until the necessary waivers were approved.

Mr. Anzaldo moved to LAYOVER for 60 until the July 11, 2013 meeting of the Board. Ms. Donovan seconded the motion.

AYES: Teutsch, Anzaldo, Donovan, Mahlendort, Hancock

MOTION CARRIED: 5-0

Ricardo Castro appeared in support of the applicant. Mr. Hancock suggested the Mr. Castro appear when the case is before the Board again in 60 days.
NEW CASES

5. Case No. 13-050
   Shamrock Development, Inc.
   1414 Harney Street, Suite 400
   Omaha, NE 68102
   REQUEST: Waiver of Section 55-740(b) – Variance to
   the required curb length per car for 90°
   angle stalls from 9’ to 8’6”.
   LOCATION: 1501 Jackson Street
   ZONE: CBD-ACI-1(PL)

At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, David Hawes (Leo A. Daly) and
Steven Hopper (Shamrock Development) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a
multi-story apartment building with one commercial bay on the ground floor and two levels of interior
parking. The applicant is proposing that the stalls be 8’6” in width instead of the required 9’. He stated
that a hardship and practical difficulty exists due to the property not permitting an efficient use of space
for 9’ parking stalls, which are reserved for residents of the apartment. The Planning Department
recommends approval in accordance with the plans submitted.

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

AYES: Anzaldo, Donovan, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0
6. Case No. 13-051
Bonnie Vaughan
12056 Ohio Circle
Omaha, NE 68164
REQUEST: Waiver of Section 55-166 – Variance to the front yard setback from 35’ to 24.9’ and to the rear yard setback from 25’ to 19.5’ to allow construction of a 12’x20’x22’ garage addition.
LOCATION: 12056 Ohio Circle
ZONE: R3

At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, Steven Cich appeared before the Board.

Mr. Cich lives at the home. He stated that his contractor would be performing the work.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a 20’x22’ garage addition on the east side of the existing home, which will encroach into the required front yard setback as close as 24.9’ from the front property line. The Planning Department found that there was no hardship or practical difficulty and that any additions should be constructed in compliance with the regulations and, therefore, recommended denial.

Mr. Chich explained that a shed could not be added to the backyard because of its limited size. The larger garage would allow the applicant to store yard equipment and other items. He submitted photos of the property (Exhibit B).

In response to Mr. Hancock, Mr. Chich stated that there would be a total of four garage stalls. Ms. Donovan suggested that the applicant consider a single garage since there were not many homes with four-car garages. Mr. Hancock agreed, stating that a four-car garage would be excessive; however, he did support one additional space.

Mr. Mahlendorf moved to APPROVE the front yard setback from 35’ to 24.9’ and to the rear yard setback from 25’ to 19.5’ to allow construction of a 12’x22’ garage addition. Ms. Donovan seconded the motion.

Wesley Devereaux, 12055 Miami Street, appeared in opposition to the request. He stated that if the proposed garage was built it would block the view from his bedroom to the street. He added that the patio is only 26’ from his bedroom window. He was concerned that the addition would block the breeze that comes into his bedroom window. Ms. Donovan pointed out that the Mr. Devereaux’s window appeared to be quite a bit higher than the proposed garage addition. She further noted that the garage would only be half of the width of what the applicant was requesting. Mr. Hancock also stated that the applicant could legally move the two-car garage back 15’, and noted that the option being approved is a better option. Mr. Carter added that actually the garage would be set back approximately 30’ from the property line.

AYES: Donovan, Mahlendorf, Teutsch, Anzaldo, Hancock
MOTION CARRIED: 5-0
At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, David Aldrich appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a 6’ tall privacy fence along the east side of the existing driveway, starting approximately 16’ from the property line along Hickory Street. The Planning Department believes that there is a hardship since the two existing homes on the north side of Hickory Street already encroach into the front yard setback. The Planning Department recommends approval in accordance with the plans submitted, subject to the fence being no closer to the property line along Hickory Street than the house to the east.

Mr. Aldrich explained that the existing fence is only 24” tall. He added that the proposed fence would be safer and would help to prevent objects from landing in the neighbor’s garden.

Mr. Mahlendorf moved to APPROVE in accordance with the plans submitted, subject to the 6’ privacy fence being no closer to the property line along Hickory Street than the house to the east. Ms. Donovan seconded the motion.

AYES: Mahlendorf, Teutsch, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0
8. Case No. 13-053
   Dennis & Teresa Anderson
   5211 Underwood Avenue
   Omaha, NE 68132
   REQUEST: Waiver of Section 55-166 - Variance to the rear yard setback from 25' to 17' to construct a 2-story house addition.
   LOCATION: 5211 Underwood Avenue
   ZONE: R3

At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, Dennis and Teresa Anderson appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicants were proposing to construct an approximately 14'x13', two-story addition on the south side of their existing home. The addition will consist of a kitchen addition on the first floor and a home office on the second floor. As proposed, the addition will encroach into the rear yard setback. He noted that the home meets the rear yard setback requirements based on an exception in the code; however, the encroachment would cause the addition to be not in compliance with the code. The Planning Department felt that there is no hardship or practical difficulty and recommended denial.

Mr. Anderson explained that kitchen space for the home is only 9'x9'. Ms. Donovan noted that there were letters in support of the request submitted by the owners of the two adjacent properties (5208 Underwood Avenue and 5208 California Street). He stated that there is a hardship since his elderly mother-in-law cannot visit due to the current location of the bathroom.

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

Mr. Hancock further noted that there is a hardship due to the irregular shape of the lot.

Rick Cunningham, Planning Director, reminded the applicant that all permits would need to be obtained before any work is done.

AYES: Teutsch, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0
9. Case No. 13-054  
Kerr Construction  
2610 North 58th Street  
Omaha, NE 68104  
REQUEST: Waiver of Section 55-186 & 55-187(e) –  
Variance to the front yard setback from 35’ to 28’ and to the street side yard setback from 15’ to 10’6” to replace existing stoop and stairs.  
LOCATION: 6255 South 41st Avenue  
ZONE: R4(35)

At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, Scott Kerr appeared before the Board on behalf of the property owner.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to replace the front stoop and stairs. He explained that right-of-way had been dedicated on 41st Avenue and Madison which caused the existing home to be non-conforming to the front and street side yard setbacks. The Planning Department recommended approval in accordance with the plans submitted.

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

AYES: Anzaldo, Donovan, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0
10. Case No. 13-055
   Jenny Allgood
   4815 Davenport Street
   Omaha, NE 68132
   REQUEST: Waiver of Section 55-186 - Variance to the
            front yard setback from 25’ to 16’ and to the
            maximum impervious coverage from 50% to
            56% to allow a 2-story home addition.
   LOCATION: 4815 Davenport Street
   ZONE: R4

At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, Jenny Allgood appeared before
the Board.

Ms. Allgood explained that she plans to replace the existing deteriorating, enclosed front porch and
second floor addition with an open front porch that will include a sun room/office on the second floor.

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

Mr. Hancock noted that the Planning Department also recommended approval for this case.

AYES: Donovan, Mahlendorf, Teutsch, Anzaldo, Hancock

MOTION CARRIED: 5-0
11. Case No. 13-056
    Larry R. Vierregger
    11652 Pierce Street
    Omaha, NE 68144

    REQUEST: Waiver of Section 55-782(b)(6) - Variance to the maximum size for an accessory building outside of the buildable area in a residential district from 750 sq. ft. to 960 sq. ft.

    LOCATION: 11652 Pierce Street
    ZONE: R2

At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, Larry Vierregger appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a detached garage at the rear of the property that would exceed the maximum allowed 750 sq. ft. outside the buildable area. The Planning Department found that there was no hardship or practical difficulty since a garage can be constructed in compliance with regulations. He noted that no other waivers to the maximum size of an accessory building have been granted in the neighborhood. He added that it appeared that the driveway had been recently widened, although there was no record of a permit being issued. He stated that the driveway would need to be permitted and brought into compliance, whether or not a waiver was granted at today’s meeting. The Planning Department recommended denial.

Mr. Vierregger stated that he would like to build a larger garage to store a boat and classical cars. He admitted that he did replace his driveway and widened it in anticipation of constructing a larger garage. He also submitted photos (Exhibit B) of other homes in the neighborhood that were granted waivers for garages (1245 Pine Road and 11813 William Street). He stated that his proposed garage would be similar to the one at 11813 William Street. Mr. Vierregger stated that he had recently had the property surveyed and the side setback would probably be 11’ or 12’ instead of 8’.

Mr. Hancock stated that the Board would like the opportunity to look at other properties in the area with similar garages. Mr. Mahlendorf also stated that he would like to see the most recent survey of the property.

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

AYES: Mahlendorf, Teutsch, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0
12. **Case No. 13-057**  
Bluestem Investments, LLC  
2842 Tucker Street  
Omaha, NE 68112  

**REQUEST:** Waiver of Section 55-506, 55-734, 55-740(f)(4) & 55-740(e)(1) - Variance to the front yard setback from 50' from center line to 42' from center line (2872 Tucker); to the parking lot perimeter landscaping from 10’ to 0’ and 5’ to 1’ (2872 Tucker); to the number of off-street parking stalls from 50 to 12; and to permit off-street parking facilities to be surfaced with permeable pavers; to allow for the enlargement of the existing business.

**LOCATION:** 2851, 2862 & 2872 Tucker Street, 8515 North 29th Street

**ZONE:** GI

At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, Brett Lundin (Bluestem Investments, LLC) and Dan Mulligan (Innerspace Studios) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the site is currently the location of a manufacturing facility that consists of two buildings on opposite sides of Tucker Street. The applicant is proposing to construct two additional buildings in that area; one building for office space and the other for manufacturing and warehouse space. Waivers are required for the front yard setback for the office building, landscaping, the parking lot, the number of off-street parking stalls and permeable pavers. He stated that the Planning Department feels there is a hardship and recommends approval of the requested waivers, with the exception of the hard-surfacing requirement for the parking lot, in accordance with the plans submitted.

Mr. Hancock stated that there was some support from the Board for the pavers the applicant is proposing to install. In response to Mr. Hancock, Mr. Lundin explained that the gravel would be contained by fencing and that curbing would be installed if necessary. He added that, after considering the matter of surfacing with Public Works, the permeable pavers were chosen as part of the storm water containment solution. He stated that there are two containment tanks underneath that catch storm water runoff.

Mr. Mahlendorf stated that this location could be beneficial in testing the use of permeable pavers for both the City, which is facing huge costs to sewer replacement, and for the applicant. Mr. Hancock agreed and added that the somewhat remote location of the facility makes this a good test area for the proposed pavers.

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

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

**MOTION CARRIED:** 5-0
13. Case No. 13-058  
Tidblom Enterprises, LLC 
dba Ceramic Tile Works Center 
11005 West Maple Road 
Omaha, NE 68164

REQUEST: Waiver of Section 55-734 & 55-769(d)(3) –  
Variance to the number of off-street parking  
stalls from 72 to 41 and to allow an  
accessory use to occupy more than 25% of  
the total floor area; for a 7,130 sq. ft.  
warehouse addition.

LOCATION: 11005 West Maple Road
ZONE: CC

At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, Mike Purdy appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that applicant is proposing to construct a warehouse addition to the existing building. The building is currently classified as a General Retail Sales use, which requires 72 parking stalls. The code limits the size of the warehouse addition to no more than 25% of the floor area of the existing building. He stated that the Planning Department supports the request, subject to the submittal of an application for a Conditional Use Permit for Warehousing and Distribution (Limited). Also, the Conditional Use Permit must be approved and all conditions satisfied before a Certificate of Occupancy will be issued.

Ms. Donovan moved to APPROVE subject to the submittal of an application for a Conditional Use Permit for Warehousing and Distribution (Limited). The Conditional Use Permit must be approved and all conditions satisfied before a Certificate of Occupancy will be issued. Ms. Teutsch seconded the motion.

AYES: Anzaldo, Donovan, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0
14. Case No. 13-059
   Jim Vyhlidal
   22125 Trailridge Boulevard
   Elkhorn, NE 68022

   REQUEST: Waiver of Section 55-126 - Variance to the rear yard setback from 35’ to 15’ to allow construction of a 32’x40’4”, 2-level detached garage.

   LOCATION: 22125 Trailridge Boulevard
   ZONE: R1

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was not able to appear.

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

AYES: Donovan, Mahlendorf, Teutsch, Anzaldo, Hancock

MOTION CARRIED: 5-0
15. Case No. 13-060
   Jared Gerber
   9312 Leavenworth Street
   Omaha, NE 68114
   REQUEST: Waiver of Section 55-166 – Variance to the front yard setback from 35’ to 14’; to the interior side yard setback from 7’ to 4’6” and 3’6’ to allow construction of porch and kitchen additions.
   LOCATION: 5501 Howard Street
   ZONE: R3

At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, Jared Gerber (Gerber Architecture) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to enclose the existing front porch and build an additional front porch alongside it, causing an encroachment into the required front yard setback. The applicant is also proposing to construct a kitchen addition off the rear of the property. He stated that the Planning Department supports the waiver for the kitchen addition since it would not project any further into the side yard setback. However, it does not support the waiver for the addition on the front of the home since the need for the waiver was created by the applicant.

In regards to the porch addition, Mr. Gerber explained that proposed porch addition would come out no farther than the existing porch. He explained that the homeowner would like to add a powder room to the front of the home, along with an entryway that would prevent visitors from being able to view the entire main level of the home. In response to Mr. Hancock, Mr. Gerber stated that the front porch would be closed to add more living space to the front of the home.

Mr. Carter explained that the waiver for the kitchen addition is 3’6” and the porch addition is 4’6”. Ms. Donovan noted that none of the other homes in the neighborhood have enclosed front porches and that they are all evenly aligned. She added that there was probably support from the Board for the kitchen addition, but not for the porch.

Ms. Donovan moved to APPROVE the waiver for the interior side yard setback from 7’ to 3’6” for the kitchen addition, in accordance with the plans submitted; and to DENY the waiver for the variance to the front yard setback from 35’ to 14’ and the interior side yard setback from 7’ to 4’6” for the porch enclosure. Ms. Teutsch seconded the motion.

As an alternative to his original request, Mr. Gerber inquired as to whether only a portion of the porch could be enclosed. Mr. Hancock responded that there would be no additional living space approved for the front of the home. He suggested a layover if the applicant wanted to look into putting additional living space at the rear of the home.

Mr. Anzaldo suggested that Mr. Gerber withdraw the request of a waiver for the front porch, instead of receiving a denial from the Board. Mr. Gerber agreed that he would withdraw that request.

Mr. Gerber explained that the existing stairs are deteriorating and need to be rebuilt, and wanted to know if there would be any issues with replacing them. He stated that the size of the stairs will be increased. Mr. Cunningham stated that the applicant could possibly require a waiver if the stairs will encroach more into the front yard setback. He suggested that the Mr. Gerber speak with Jay Davis with the Planning Department in order to determine if a permit would be required.

After some discussion the motion was AMENDED as follows: Approval of the waiver for the interior side yard setback from 7’ to 3’6” for the kitchen addition, in accordance with the plans submitted. Also, the waiver was granted for the variance to the front yard setback from 35’ to 14’ to allow the applicant to rebuild the stairs on the existing front porch, subject to the new stairs not encroaching further into the front yard setback than they currently do. The applicant withdrew his request for a waiver for the proposed front porch enclosure and addition.
AYES: Mahlendorf, Teutsch, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0
16. Case No. 13-061
Robert Fox
5402 “A” Street
Omaha, NE 68106

REQUEST: Waiver of Section 55-187(e) - Variance to the front yard setback from 35’ to 29’ to allow construction of a garage addition.

LOCATION: 5402 “A” Street
ZONE: R4(35)

At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, Robert Fox appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a garage addition that projects approximately 6’ into the required front yard setback. He recommended denial since there is no hardship or practical difficulty and because a garage can be built in compliance with regulations.

Mr. Fox stated that he and his wife are attempting to give the house a different look from the others on the block by constructing a two-car garage with extra space for storage. He explained that the existing stoop is currently 4’ into the setback.

Mr. Hancock stated that the Board’s issue with the request is that, if it were granted, the home would not line up with all the other houses on the street. In response to Ms. Donovan, Mr. Fox stated that he could not increase the size of the garage from the rear because the kitchen space and basement would then need to be reconstructed.

Mr. Hancock explained that, although he felt the request was for mainly aesthetic reasons, there was a hardship for the applicant since constructing two-car garage without a waiver would mean that it would encroach into the existing living space.

Ms. Donovan requested a layover to give the applicant time to look into other options. She also wanted to give the Board an opportunity to visit the property.

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

AYES: Teutsch, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0
17. Case No. 13-062  
Dennis Circo  
Circo Strategic Investments  
9445 “J” Street  
Omaha, NE 68127  

REQUEST: Waiver of Section 55-84 – Variance to allow an accessory structure (private indoor tennis court) on a lot without a primary structure.

LOCATION: 21414 Arbor Street  
ZONE: AG

At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, Lee Hamann appeared before the Board.

Mr. Hamann requested a layover to give the applicant time to work through some issues.

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

AYES: Anzaldo, Donovan, Mahlendorf, Teutsch, Hancock

MOTION CARRIED: 5-0
18. Case No. 13-063 - **LAYOVER**  
John Jeanetta  
Heartland Family Service  
2101 South 42nd Street  
Omaha, NE 68105

REQUEST: Waiver of Section 55-735(a)(1), 55-246, 55-734, 55-740(f)(5), 55-740(b) & 55-763(c)(2) - Variance to the maximum Floor Area Ratio (FAR) from 1.0 to 1.55; to the maximum impervious coverage from 70% to 80%; to the minimum number of off-street parking stalls from 40 to 39; to the minimum interior parking lot landscaping from 5% to 2%; to allow off-street parking for a **Large Group Living** use in the front yard setback; to the maximum number of residents from 16 to 80; to the drive aisle width for a compact parking stall from 20’ to 16’ and 12’; and with a Reasonable Accommodation Request.

LOCATION: 4842 Sprague Street & 4835 Sahler Street  
ZONE: R7

Mr. Hancock noted that the applicant, John Jeanetta, had requested a layover for this case.

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

AYES: Donovan, Mahlendorf, Teutsch, Anzaldo, Hancock

MOTION CARRIED: 5-0
19. Case No. 13-064
Nottingham, LLC
12829 West Dodge Road
Suite #100
Omaha, NE 68154

REQUEST: Waiver of Section 55-716, 55-734, 55-735 & 55-740(f) – Variance to the bufferyard between R7 & R3 from 30’ to 15’; to the number of off-street parking stalls from 49 to 39; to the perimeter parking lot landscaping from 10’ to 8’; and to allow off-street parking for a Multiple Family Residential use in the front yard setback.

LOCATION: 3304, 3314, 3316 Burt Street & 3311 Cuming Street
ZONE: R3 & R7 (R7 Pending)

At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, Jason Thiellen (E & A Consulting) and Dan Fox, appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, recalled that this project had previously been before the Board (Case 12-038, May 10, 2012). He stated that since that time additional properties have been purchased that will provide additional parking for the existing apartment building. He added that the Planning Department does support the waivers in accordance with the plans submitted, subject to the removal of the two (2) parking stalls at the north end of the parking lot.

Ms. Donovan moved to APPROVE in accordance with the plans submitted, subject to the removal of the two (2) parking stalls at the north end of the parking lot. Mr. Hancock seconded the motion.

AYES: Mahlendorf, Teutsch, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0
20. Case No. 13-065
Allen Grimes
Legacy Homes Omaha, LLC
12040 McDermott Plaza
LaVista, NE 68128
REQUEST: Waiver of Section 55-166 - Variance to the front yard setback from 35’ to 25’ to allow construction of a new home.
LOCATION: 13624 Miami Street
ZONE: R3

At the Zoning Board of Appeals meeting held on Thursday, May 9, 2013, no one appeared before the Board.

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

AYES: Teutsch, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0
APPROVAL OF MINUTES

Ms. Teutsch moved to APPROVE the April 11, 2013 meeting minutes as amended. Mr. Mahlendorf seconded the motion.

AYES: Anzaldo, Donovan, Mahlendorf, Teutsch

ABSTAIN: Hancock

MOTION CARRIED: 4-0-1

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 3:14 p.m.

____________________________________________
Approved (date)

____________________________________________
Bert Hancock, Chair

____________________________________________
Clinette Warren, Secretary