

ZONING BOARD OF APPEALS  
REGULAR MEETING - THURSDAY, JUNE 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, June 3, 2013 and Thursday, June 6, 2013.

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

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

STAFF PRESENT: 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.

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**LAYOVERS**

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| 1. | Case No. 13-056<br><i>(from 5-9-13)</i><br>Larry R. Vierregger<br>11652 Pierce Street<br>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   |

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, Larry Vierregger appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that when he researched other garages in the neighborhood, he found that there were no waivers granted for detached garages. The existing detached garages are all 750 sq. ft. or smaller. And garages over 750 sq. ft. meet the setback requirements of the district. He found no evidence to support the applicant's claim. The Planning Department recommended denial.

Mr. Vierregger submitted a record of a neighboring property (Exhibit "C", 1242 South 117<sup>th</sup> Street) which showed a detached garage that was 768 sq. ft. He also mentioned a 2,400 sq. ft. detached garage at 11718 Hickory Road. Mr. Carter explained that although the garage is over 750 sq. ft. it meets the setback requirements. In response to Mr. Hancock, Mr. Carter explained that if a garage is built within the setback there is not limitation on the size of the garage as long as it meets certain requirements.

Mr. Vierregger stated he obtained a recent survey that shows that his side yard is 12' instead of 8'. Mr. Hancock noted that there is still only 3' on the rear yard instead of the required 25'.

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

AYES: Anzaldo, Donovan, Mahlendorf, Kelley, Hancock

MOTION CARRIED: 5-0

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2.	Case No. 13-059 <i>(from 5-9-13)</i> Jim Vyhldal 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' x 40'4", 2-level detached garage.
		LOCATION:	22125 Trailridge Boulevard
		ZONE:	R1

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, Jim Vyhldal and Bill Johnson appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a detached garage to the rear of the property that would encroach into the rear yard setback. The Planning Department found that there is no hardship or practical difficulty since a garage can be constructed in compliance with the code and recommended denial.

Mr. Hancock stated that he did not want to set a precedent for a relatively new subdivision by granting the waiver being requested.

Mr. Mahlendorf stated that he did not want to approve a waiver that could potentially affect the property to the rear.

Mr. Johnson stated that he had examples of several garages in the subdivision that were anywhere from 5' to 15' from the property lines. Mr. Mahlendorf responded that none of the garages appeared to be over 750 sq. ft. In response to Mr. Mahlendorf, Mr. Vyhldal stated that he wanted to store and work on antique tractors inside of his garage.

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

AYES: Donovan, Mahlendorf, Kelley, Anzaldo, Hancock

MOTION CARRIED: 5-0

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| 3. | Case No. 13-061<br><i>(from 5-9-13)</i><br>Robert Fox<br>5402 "A" Street<br>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)  |

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, Robert Fox appeared before the Board.

Mr. Fox submitted drawings (Exhibit B) of the layout of his home to support his claim that he could not build the garage more towards the rear of the property. Mr. Hancock noted that the applicant also submitted a list of neighbors (Exhibit C) who expressed support for the project. In response to Mr. Anzaldo, Mr. Fox stated that there were no neighbors in opposition to his plan.

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

In response to Ms. Donovan, Mr. Fox stated that the reason for the depth of the garage is for the alignment of the roof and also for storage space. Mr. Mahlendorf noted that there would also be a 2' reduction of the setback.

AYES: Mahlendorf, Kelley, Anzaldo, Hancock

NAYES: Donovan

MOTION CARRIED: 4-1

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4. Case No. 13-063  
*(from 5-9-13)*  
John Jeanetta  
Heartland Family Service  
2101 South 42<sup>nd</sup> 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 0%; 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

RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, John Jeanetta appeared before the Board.

Mr. Jeanetta requested a layover to give him additional time to meet with the neighbors.

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

AYES: Kelley, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0

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| 5. | Case No. 13-065<br><i>(from 5-9-13)</i><br>Allen Grimes<br>Legacy Homes Omaha, LLC<br>12040 McDermott Plaza, Ste. 200<br>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.<br><br>LOCATION: 13624 Miami Street<br><br>ZONE: R3 |
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RECOMMENDATION: Approval in accordance with the plans submitted, subject to the applicant submitting an application for rezoning to R4.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, Allen Grimes appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the Green Meadows area has historically requested that properties be rezoned from R3 to the standards for an R4 setback. He further stated that the Planning Department supports the request subject to the applicant submitting an application for rezoning of the property to R4.

Mr. Grimes stated that he was in agreement with the City's recommendation.

Ms. Donovan moved to APPROVE in accordance with the plans submitted, subject to the applicant submitting an application for rezoning to R4. Mr. Kelley seconded the motion.

AYES: Anzaldo, Donovan, Mahlendorf, Kelley, Hancock

MOTION CARRIED: 5-0

**NEW CASES**

6.	Case No. 13-066 1301 Holdings, LLC Clifford Ehlers 1315 Jones Street Omaha, NE 68102	REQUEST: Waiver of Section 55-63 – Variance to allow a site to be in more than one base zoning district.
		LOCATION: 1301 & 1315 Jones Street
		ZONE: DS-ACI-1(PL) & CBD-ACI-1(PL)

RECOMMENDATION: Approval.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, Jason Thiellen (E & A Consulting Group) and Dominick Vaccaro appeared before the Board.

Mr. Thiellen stated that the City recommended that his client obtain the adjacent property at 1315 Jones in order to expand the proposed project. His client is currently in the process of rezoning the property at 1315 from DS (*Downtown Service District*) to CBD (*Central Business District*). The property at 1301 has already been rezoned. Since construction is not allowed on a site with split zoning, the applicant is requesting a waiver so that a building permit can be obtained.

Mr. Mahlendorf clarified that the waiver being requested would be temporary until the rezoning process is finalized.

In response to Mr. Anzaldo, Mr. Vaccaro provided some background on the project. Mr. Hancock noted that the Planning Department recommended approval.

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

AYES: Donovan, Mahlendorf, Kelley, Anzaldo, Hancock

MOTION CARRIED: 5-0

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| 7. | Case No. 13-067<br>Nancy Melby<br>12244 Woolworth Avenue<br>Omaha, NE 68144 | REQUEST: Waiver of Section 55-740(e)(3) – Variance to the requirement that a paved, hard surface driveway be provided for a structure capable of storing a personal vehicle. |
|    |   | LOCATION: 12244 Woolworth Avenue   |
|    |   | ZONE: R2   |

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, Nancy Melby appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to build a 16'x24' detached structure with a 9' wide door. He explained that the code states that a structure that is capable of storing a vehicle requires a hard surface drive. The applicant has indicated that they intend to store some oversized items in the shed, not a vehicle. Mr. Carter stated that there appears to be adequate access on the side of the home to put a hard surface driveway back to the structure. The Planning Department recommended denial and suggested that the door to the structure be 6' or less so that a hard surfaced driveway would not be required.

Ms. Melby stated that as a compromise, it was proposed to relocate the door to the structure making it more difficult to store a vehicle. In response to Ms. Donovan, Ms. Melby stated that a commercial lawn mower, trampoline and patio furniture would be stored inside the shed. She submitted pictures (Exhibit B) of the property which showed bushes and rock along the side of the home. She also stated that the existing shed is deteriorated and would be taken down. The proposed shed would match the materials of the existing home.

Mr. Mahlendorf stated that there would be more support for the request if the width of the door was reduced to 8'. Mr. Melby responded that a 9' door is preferred. Mr. Donovan stated that she was hesitant to set a precedent by approving a 9' door for a shed in this case. Mr. Mahlendorf suggested that, if a 9' door was allowed, it be situated on either the north or west side of the shed, preventing a vehicle from entering the garage. Mr. Melby responded that there is a short retaining wall on the north and the neighbor's yard along the west.

Mr. Melby stated that the home at 12248 William Street has a two-car garage with overhead doors and no driveway. Mr. Carter explained that the current code may not have been in place when that garage was constructed.

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

Ms. Melby stated that she did not think there was anything else she could change that would ensure that a vehicle would not be stored in the shed. She decided to build the structure with an 8' door.

Mr. Anzaldo withdrew his motion.

Mr. Mahlendorf moved to APPROVE in accordance with the plans submitted, subject to the door to the structure being no wider than 8'. Ms. Donovan seconded the motion.

AYES: Mahlendorf, Kelley, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0

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8.	Case No. 13-068 Mark Wiesman Wiesman Development, LLC 1000 North 90 <sup>th</sup> Street Suite 100 Omaha, NE 68114	REQUEST:	Waiver of Section 55-366, 55-716 & 55-734 – Variance to the maximum height from 60’ to 72’8”; to the required buffer yard between CC & R7 from 20’ to 10’; and to the required number of off-street parking stalls from 666 to 495, to allow construction of a new office building.
		LOCATION:	9102 Burt Street
		ZONE:	CC

RECOMMENDATION: Approval in accordance with the plans submitted, subject to the property owner agreeing to not lease more than current 65,000 sq. ft. in the existing building (902 N. 91<sup>st</sup> Plaza) and agreeing to remove the existing building no later than July 1, 2018, and sooner if possible.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, Mark Wiesman appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is requesting to build a new 5-story office building on the southern portion of the property. There is an existing building on-site that will be removed and another that will remain. The applicant is proposing to exceed the maximum height from 60’ to 72’8” and install 30 parking stalls where there is currently grass. The applicant has indicated that of the existing building’s 105,000 sq. ft. of gross floor area, approximately 25,000 sq. ft. is common space, which is not leasable. The applicant has also agreed not to lease more than the 65,000 sq. ft. that is being leased by the current tenants. Also, when the new building is constructed approximately 10 – 15 new stalls will be added. In addition, the applicant has stated that a current tenant has a 3 – 5 year lease and that when they have vacated the premises the building will be demolished, allowing for the construction of a second new office building. The Planning Department supports the request and recommended approval in accordance with the plans submitted, subject to the property owner agreeing to not lease more than the currently occupied 65,000 sq. ft. in the existing building (902 N. 91<sup>st</sup> Plaza) and agreeing to remove the existing building no later than July 1, 2018, or sooner if possible. In addition, approval would be subject to the applicant submitting an application to rezone the property to GO (*General Office District*) in place of the current CC (*Community Commercial District*) zoning.

Mr. Mahlendorf moved to APPROVE in accordance with the plans submitted, subject to the property owner agreeing to not lease more than the currently occupied 65,000 sq. ft. in the existing building (902 N. 91<sup>st</sup> Plz.) and agreeing to remove the existing building no later than July 1, 2018 or sooner if possible. Approval is also subject to submitting an application to rezone the property to GO (General Office District). Ms. Donovan seconded the motion.

Mr. Wiesman explained that the lease allows the current tenants to occupy the space until the end of September 2018. He requested that the motion would make an allowance for the additional time. Mr. Mahlendorf stated that the Board would probably be willing to give a short extension when and if it becomes necessary. Ms. Donovan clarified that the current tenants should not be given any extensions to their current lease.

Mr. Mahlendorf modified his original motion to state October 1, 2018. Ms. Donovan seconded the amendment to the motion.

AYES: Kelley, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0

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| 9. | Case No. 13-069<br>College World Series of Omaha,<br>Inc.<br>5010 Dodge Street<br>Omaha, NE 68132 | REQUEST: Waiver of Section 55-825(c) – Variance to<br>the temporary sign regulations to allow a<br>temporary video projection from June 13 –<br>June 26, 2013.<br><br>LOCATION: 455 North 10 <sup>th</sup> Street (Century Link Center)<br><br>ZONE: CBD-ACI-1(PL) |
|----|---|--|

RECOMMENDATION: Approval in accordance with the plans submitted, subject to the following: 1) Submittal of an acceptable, revised location on the site for the display; 2) The time frame for the display being June 13-June 26, 2013; from dusk to midnight; 3) The applicant coordinating with Omaha Police and Public Works Departments to address any issues that arise; 4) Obtaining any necessary approvals from the Public Works Department and Nebraska Department of Roads; and 5) no advertising is allowed.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, Dan Morrissey appeared before the Board.

The applicant stated that he was proposing to project still images of fans doing “the wave” on the wall of the CenturyLink Center.

Mr. Anzaldo moved to APPROVE in accordance with the plans submitted, subject to the following: 1) Submittal of an acceptable, revised location on the site for the display; 2) The time frame for the display being June 13 – June 26, 2013 from dusk to midnight; 3) The applicant will coordinate with the Omaha Police Department and Public Works to address any issues that might arise; 4) The applicant must obtain any necessary approvals from the Public Works Department and Nebraska Department of Roads; and 5) No advertising is allowed. Ms. Donovan seconded the motion.

In response to Mr. Morrissey, Mr. Mahlendorf clarified that the College World Series logo should not be displayed.

AYES: Anzaldo, Donovan, Mahlendorf, Kelley, Hancock

MOTION CARRIED: 5-0

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| 10. | Case No. 13-070<br>Douglas County School District<br>0001<br>3215 Cuming Street<br>Omaha, NE 68131 | REQUEST:  | Waiver of Section 55-108, 55-715 & 55-786<br>– Variance to the front yard setback from<br>50' to 38.93'; to the maximum impervious<br>coverage from 25% to 29.5%; to the<br>minimum street yard landscaping depth<br>from 30' to 13' and 9'; and to the residential<br>fence regulations to allow a 10' tall fence. |
|     |  | LOCATION: | 2110 "O" Street (H.P. Smith Park)   |
|     |  | ZONE:     | DR  |

RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, Joe Zadina (Lamp, Rynearson & Associates) and Jeremy Madson (Omaha Public Schools) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that a major Amendment to a Special Use Permit was approved by the City council at its April 23, 2013 meeting, with the condition that certain waivers are obtained from the Zoning Board of Appeals. He explained that the project involves adding tennis courts and a storage building. The Planning Department believes there is a practical difficulty for the continued redevelopment of the site and recommended approval in accordance with the plans submitted.

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

Mr. Anzaldo commented on Mr. Dan Vanmeter's contributions to the City of Omaha and expressed appreciation for all that he does on behalf of the city's school children.

AYES: Donovan, Mahlendorf, Kelley, Anzaldo, Hancock

MOTION CARRIED: 5-0

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| 11. | Case No. 13-071<br>2013 U.S. Senior Open<br>6900 Country Club Road<br>Omaha, NE 68152 | REQUEST: Waiver of Section 55-740(e) – Variance to the hard-surfacing requirement for a temporary parking area.<br><br>LOCATION: 7105 Newport Avenue<br>ZONE: CC-ACI-4(PL) |
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RECOMMENDATION: Approval, in accordance with the plans submitted, subject to the following: 1) Public Works Department approval of the location of street access for the temporary parking area; 2) The property being restored to its original condition no later than August 15, 2013; 3) A water truck located on site for potential grass fires; 4) Continued coordination with Public Works, Omaha Police Department and any other agencies involved; 5) Promptly cleaning up any gravel or mud tracked out onto the public street and repairing any damage to the street; and, 6) Parking allowed only July 8-14, 2013.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, Danny Rodgers appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that this case is similar to others that have come before the Board with regards to parking (Case Numbers 12-116, 12-117 and 13-044). The Planning Department supports the request and feels that, due to the temporary nature of the event, it is not feasible to construct hard-surface lots and recommended approval subject to the stipulations listed above.

Mr. Kelley moved to APPROVE in accordance with the plans submitted, subject to the following: 1) Public Works Department approval of the location of street access for the temporary parking area; 2) The property must be restored to its original condition no later than August 15, 2013; 3) A water truck must be located on-site for potential grass fires; 4) Continued coordination with Public Works, the Omaha Police Department and other agencies involved; 5) Any gravel or mud that is tracked out onto the public street must be promptly cleaned and any damage to the street must be repaired; and 6) Parking is allowed only from July 8 – 14, 2013. Mr. Mahlendorf seconded the motion.

AYES: Mahlendorf, Kelley, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0

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| 12. | Case No. 13-072<br>Sue Henson<br>2611 South 117 <sup>th</sup> Street<br>Omaha, NE 68144 | REQUEST: Waiver of Section 55-146 – Variance to the minimum lot width from 80' to 60' and 48.2' to allow for approval of an administrative subdivision. |
|     |   | LOCATION: 2530 & 2532 North 75 <sup>th</sup> Street   |
|     |   | ZONE: R2-FF/FW  |

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, Sue Henson, appeared before the Board.

Ms. Henson is the realtor for the property owner. She explained that the lot being sold did not meet the minimum lot width when it was divided.

Mike Carter, Zoning Board of Appeals Administrator, stated that the Planning Department supports the request since there is a practical difficulty resulting from the two existing homes on the site, and 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: Kelley, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0

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| 13. | Case No. 13-073<br>Maxine Coffee<br>2708 South 134 <sup>th</sup> Avenue<br>Omaha, NE 68144 | REQUEST: Waiver of Section 55-186 – Variance to the interior side yard setback from 5' to 1.1' to allow construction of a <del>14' x 25.65'</del> 12'x24' garage addition. |
|     |  | LOCATION: 2708 South 134 <sup>th</sup> Avenue  |
|     |  | ZONE: R4(35)   |

RECOMMENDATION: Approval in accordance with the plans submitted, subject to reducing the depth of the addition to no more than 22' and the width to no more than 12'.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, Maxine Coffee and Dayne Brink appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that although the Planning Department supports the applicant's request due to the irregular shape of the lot, the garage should be slightly smaller to provide more setback than what is proposed. The Planning Department recommended approval in accordance with the plans submitted, subject to the reduction of the depth being requested to no more than 22' and the width to no more than 12'. Mr. Hancock clarified that the garage would line up with the front of the home and the rear would be shortened to reduce the encroachment into the side yard.

Mr. Carter stated that he did receive a call from the son of a nearby neighbor who is in opposition to the request.

Ms. Donovan moved to APPROVE in accordance with the plans submitted, subject to the garage being no larger than 12'x24'; also, the garage must line up with the front of the home and the materials used must match the existing home as submitted. Mr. Kelley seconded the motion.

Mr. Brink submitted a brochure (Exhibit B) that showed the materials that would be used for the addition.

Mark Malousek, Attorney, appeared on behalf of Lucille Mangiameli (13449 Wright Street), the neighbor adjacent to the applicant, who was in opposition to the request. Mr. Malousek explained that Ms. Mangiameli did not want the addition built so close to her residence. In response, Mr. Mahlendorf stated that due to the irregular shape of the lot, there is no other location on the property to construct the garage.

AYES: Anzaldo, Donovan, Mahlendorf, Kelley, Hancock

MOTION CARRIED: 5-0

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| 14. | Case No. 13-074<br>Foundations Development, Inc.<br>1886 South 126 <sup>th</sup> Street<br>Omaha, NE 68144 | REQUEST: Waiver of Section 55-735(a)(1) – Variance to allow off-street parking for a multiple family residential use in the front yard setback. |
|     |  | LOCATION: 4502 South 60 <sup>th</sup> Street  |
|     |  | ZONE: DR(R6-pending)  |

RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, Rob Woodling appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a 75 unit, multi-family residential structure on the site for a senior housing development. The Planning Board recommended approval of the project subject to the approval of the waiver for off-street parking. The Planning Department finds that there is a hardship due to the infill nature of the site. He explained that when the project is rezoned to R6, the front yard setback will be 35' from the property line. Also, the proposed parking will be 15' to 23' from the property line along 60<sup>th</sup> Street. The Planning Department recommends approval in accordance with the plans submitted.

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

AYES: Donvan, Mahlendorf, Kelley, Anzaldo, Hancock

MOTION CARRIED: 5-0

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15.	Case No. 13-075 GGS, LLC 4824 Farnam Street Omaha, NE 68132	REQUEST:	Waiver of Section 55-826(a)(4)(a) – Variance to allow an off-premise sign (billboard) closer than 150' from the property line of a residential zoning district.
		LOCATION:	5555 Center Street
		ZONE:	GI

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, Kyle Marcum (Watson & Ryan) and Maurine Gard appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is requesting a variance to relocate a billboard that has already been granted a permit for a location on the property. The applicant indicated that moving the billboard will make it less visible and will beautify the area. The Planning Department found that there was not hardship or practical difficulty since a permit has already been granted for the site and recommended denial.

Mr. Marcum stated that the existing pole for the billboard is directly on Center Street in front of the building. The applicant would like it relocated behind the building making it closer than 150' to a residential area. He noted that the residential area is a cemetery that lies behind a row of trees. In response to Mr. Hancock, Mr. Marcum stated that if the Board denied the request, the applicant would install the billboard legally for financial reasons. Mr. Mahlendorf noted that because the cemetery sits higher than the applicant's property, there should be less of an impact. He also preferred that the sign be moved as far away from Center Street as possible.

In response to Mr. Hancock, Ms. Gard stated that the existing building is approximately 22' - 24' tall while the billboard is 38'. Mr. Hancock wanted additional information with regards to the elevation levels of the land behind the proposed location of the sign.

Mr. Mahlendorf stated that a layover would give the City time to obtain additional information regarding the elevation of the building; the elevation of the closest property line; and whether relocating the sign to a new location would create an opportunity for another billboard to be placed nearby. Mr. Carter suggested that the Board request that the applicant install landscaping on the property.

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

AYES: Mahlendorf, Kelley, Anzaldo, Donovan, Hancock

MOTION CARRIED: 5-0

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16.	Case No. 13-076 John Eggen Bethany Lutheran 4200 North 204 <sup>th</sup> Street Elkhorn, NE 68022	REQUEST:  LOCATION: ZONE:	Waiver of Section 55-84 – Variance to the permitted use regulations of the AG district to allow a <i>Daycare services (general)</i> use. 4200 North 204 <sup>th</sup> Street AG
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RECOMMENDATION: Approval in accordance with the plans submitted, subject to the submittal of an application rezoning the property from AG to R5 and a minor amendment to a Conditional Use Permit to allow Religious Assembly in the R5 district.

At the Zoning Board of Appeals meeting held on Thursday, June 13, 2013, John Eggen appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the site located in Elkhorn is zoned Agricultural. The applicant is proposing to operate a second childcare center within the existing church. The current city regulation does not permit a daycare to be an accessory use to a church in an agricultural district. The Planning Department believes there is a hardship and recommends approval in accordance with the plans submitted, subject to the submittal of an application rezoning the property from AG to R5 and a minor amendment to a Conditional Use Permit to allow Religious Assembly in the R5 District. He explained that upon approval of the rezoning and the minor amendment, the daycares become accessory to the church and the use waiver will not be needed.

Ms. Donovan moved to APPROVE in accordance with the plans submitted, subject to the submittal of an application rezoning the property from AG to R5 and a minor amendment to a Conditional Use Permit to allow Religious Assembly in the R5 district. Mr. Kelley seconded the motion.

AYES: Kelley, Anzaldo, Donovan, Mahlendorf, Hancock

MOTION CARRIED: 5-0

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17. Case No. 13-077 - **WITHDRAWN** REQUEST: Waiver of Section 55-126 – Variance to the site development regulations of the R1 district to the site development regulations of the R3 district to allow construction of a new home.
- Century Development Company  
1505 North 203<sup>rd</sup> Street  
Omaha, NE 68022
- LOCATION: 421 S. 243<sup>rd</sup> Street  
ZONE: R1-FF

This case was withdrawn at the request of the applicant.

**APPROVAL OF MINUTES**

Mr. Anzald moved to APPROVE the May 9, 2013 meeting minutes . Ms. Donovan seconded the motion.

AYES: Anzaldo, Donovan, Mahlendorf, Hancock

ABSTAIN: Kelley

MOTION CARRIED: 4-0-1

**DISCUSSION**

Ms. Horvath stated that the USS Hazard case (#12-021 ) will be heard in the Court of Appeals.

**ADJOURNMENT**

It was the consensus of the Board to ADJOURN the meeting at 2:40 p.m.

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Approved (date)

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Bert Hancock, Chair

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Clinette Warren, Secretary