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 3, 2014 and Thursday, March 6, 2014.

MEMBERS PRESENT: Bert Hancock, Chair
Brian Mahlendorf, Vice Chair
Sebastian Anzaldo
Jason Lanoha

MEMBERS NOT PRESENT: Jacque Donovan
Sean Kelley, Alternate
Teri Teutsch, Alternate

STAFF PRESENT: Mike Carter, Zoning Board of Appeals Administrator
Jay Davis, Assistant Director - Permits & Inspections
RoseMarie Lee, City Law
Clinette Warren, Recording Secretary

Mr. Hancock called the meeting to order at 1:01 p.m., introduced the Board members and staff, and explained the procedures for hearing the cases.
LAYOVERS

1. Case No. 14-015 (from 1-9-14)  
John Shavlik  
5843 Grover Street  
Omaha, NE 68106  
REQUEST: Waiver of Section 55-206 & 55-207(d)(3) - Variance to the interior side yard setback from 10' to 6' and to the minimum separation between dwelling units from 25' to 10.7' to allow for use of the site for two-family residential.  
LOCATION: 5843 Grover Street  
ZONE: R5  
RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on March 13, 2014, Larry Jobeun and John Shavlik appeared before the Board.

Mr. Jobeun stated that the applicant was agreeable with the eight conditions set by Jay Davis, Assistant Planning Director – Permits and Inspections, in an email dated March 13, 2014. Those conditions would allow the structures to exist in their current condition.

In response to Mr. Anzaldo, Mr. Shavlik stated that he agreed with the eight conditions connected with approval of his request.

Garry Gernandt, City Council – District #4, appeared before the Board in support of the request and the requirements for the property by the Planning Department.

With regard to condition 8, Mr. Mahlendorf commented that the Planning Department has the right to enter a home with reasonable cause, with or without the waiver. He stated that the Board wanted to ensure that the applicant would continue to be in compliance with all conditions.

Mike Carter, Zoning Board of Appeals Administrator, noted for the record that an email was received from a neighbor in opposition to the request.

Mr. Anzaldo moved to APPROVE subject to the following conditions: 1) Removal of the stove in the kitchen in the existing home lower level; 2) Removal of the gas service to that unit by way of an MUD lock out on the meter; 3) The applicant must provide drawings and obtain all building, electrical, plumbing and mechanical permits for the new single-family residence; 4) The applicant must provide a 1-hour rated ceiling between the garage and the unit above; 5) Addition of a 1-hour rated stair enclosure from the unit to the garage with 60-minute fire-rated doors at the top and bottom of the stairs; 6) The applicant must obtain all required inspections prior to insulating and/or drywall; 7) Inspection of the interior of the lower unit of the house prior to issuance of the permit; and 8) As allowed by Chapter 43 of the Omaha Municipal Code, Section 43-9: Right-of-Entry, the Building and Development Division of the City of Omaha Planning Department may enter the basement of the existing home at any time with reasonable cause to inspect for compliance. Mr. Mahlendorf seconded the motion.

AYES: Anzaldo, Mahlendorf, Lanoha, Hancock  
MOTION CARRIED: 4-0
2. Case No. 14-019 (from 2/13/14)
Amy Sladovnik (Trust)
7637 Fairway Drive
Omaha, NE 68152
REQUEST: Waiver of Section 55-166 – Variance to the
front yard setback from 35’ to 29’ and to the
rear yard setback from 25’ to 23’ to
construct home additions.
LOCATION: 11025 Oak Street
ZONE: R3
RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on March 13, 2014, Misty Newman appeared before the
Board on behalf of the applicants.

Mike Carter, Zoning Board of Appeals Administrator, recalled that the Board had previously requested that
the applicant obtain letters from the adjacent neighbors stating their support for the waiver. That
information had been submitted. He added the Planning Department feels that there is no hardship or
practical difficulty and, therefore, recommended denial.

Ms. Newman stated that the applicants had received letters in support from all of the surrounding
neighbors. In response to Mr. Hancock, she stated that the applicant planned to reside in the home.

Based on the expressed support from the neighbors, the value that will be added to the neighborhood and
the applicants’ plan to reside in the home, the Board expressed support for the request.

Mr. Mahlendorf moved to APPROVE as submitted. Mr. Hancock seconded the motion.

AYES: Mahlendorf, Lanoha, Anzaldo, Hancock

MOTION CARRIED: 4-0
NEW CASES

3. Case No. 14-026
   Rod Whitman
   Omaha Neon Sign Company
   1120 North 18th Street
   Omaha, NE 68102
   REQUEST: Waiver of Section 55-836 – Variance to the
   maximum height for 3 wall signs from 35’ to
   45’ and 54’ (2).
   LOCATION: 3702 South 72nd Street
   ZONE: CC

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on March 13, 2014, Rod Whitman appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to install three wall signs on the east, west and south elevations of the existing hotel as part of the renovation. The proposed location for the signs is the top of the walls, which is taller than the 35’ maximum allowed height for a wall sign in the CC (Community Commercial) District. The Planning Department supports the request, and believes that there is a flaw in the code which allows a taller building but not a sign that is as tall as the maximum building height. The Planning Department recommended approval in accordance with the plans submitted.

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

AYES: Lanoha, Anzaldo, Mahlendorf, Hancock

MOTION CARRIED: 4-0
4. Case No. 14-027
   Petrita Cervantes
   5317 South 32nd Street
   Omaha, NE 68107
   REQUEST: Waiver of Section 55-246 – Variance to the front yard setback from 35’ to 16’ to allow construction of a 20’ x 21’ carport.
   LOCATION: 5317 South 32nd Street
   ZONE: R7

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on March 13, 2014, Petrita Cervantes appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that applicant is proposing to construct a 20’x21’ carport in front of an existing garage that has alley access. The carport will cover an existing paved driveway and will be as close as 16’ from the property line along 32nd Street, resulting in the need for the waiver. The Planning Department finds that there is no hardship or practical difficulty since the residence already has an existing garage and, therefore, recommended denial.

Ms. Cervantes explained that her existing garage has access from the alley which is not maintained by the City as a result of it being vacated. She added that her garage is filled with yard equipment and other items. She would also like the carport constructed for medical reasons. There had previously been a carport in the proposed location which the City had the applicant remove since there was no permit for it. Ms. Cervantes submitted pictures of the original carport and a letter from her physician that attested to her medical issues (Exhibit B).

Mr. Hancock noted that the applicant’s home is closer to the street than the proposed carport would be. Mr. Carter mentioned that any drainage from the carport would need to be addressed.

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

AYES: Anzaldo, Mahlendorf, Lanoha, Hancock

MOTION CARRIED: 4-1
5. Case No. 14-028  
Neal Curtis  
4132 North 79th Street  
Omaha, NE 68134

REQUEST: Waiver of Section 55-734 & 55-740 - Variance to the required number of off-street parking stalls from 13 to 2 and to allow vehicles to back into the street for a Daycare Services (General) Use.

LOCATION: 5968 North 30th Street  
ZONE: GC

RECOMMENDATION: Denial as requested. Approval from 8 stalls to 2 stalls, for a maximum capacity of 32 children, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on March 13, 2014, Neal Curtis appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that this case had been before the Board in 2002. At that time, a waiver was granted to allow 3 off-street parking stalls instead of the required 8 for a daycare and to allow vehicles to back into the street. The waiver was granted for the previous applicant only. Similar waivers were being requested for the current tenant. The owner has indicated that many of the children are brought to the daycare by bus or van, and very few are dropped off which makes traffic to the daycare minimal. Mr. Carter explained that any use of the building would require a waiver due to limited space. The applicant is now requesting a capacity of 52 children, which requires 13 off-street parking stalls. The Planning Department believes there is a practical difficulty; however, it is not comfortable with the child capacity being requested. The Department is more comfortable with what was granted previously for this site, which was the maximum capacity of 32 children and 8 cars. He noted that the applicant has leased parking along Stone Avenue, and has agreements with two nearby churches for additional off-street parking. The Planning Department recommends denial of the waiver as requested, but recommends approval from 8 stalls to 2, for a maximum capacity of 32 children, in accordance with the plans submitted.

In response to Mr. Hancock, Mr. Curtis explained that more than 90% of the children who attend the daycare receive Title XX and are delivered by van. He explained that usually there are 20 – 30 children in attendance along with 6 – 7 staff members; however, there could be as many as 52 children during summer and Christmas vacations. He stated that the arrangement has been in place and has worked for approximately 12 years. There was some discussion regarding signage for the building and how transportation works for the daycare business.

Mr. Mahlendorf explained that the Board was hesitant because of the maximum number of children being requested. He stated that if the request was approved, it would include a time limit to see how the arrangement works.

Mr. Mahlendorf moved to APPROVE the waivers as requested subject to the case being re-evaluated in 24 months. Mr. Anzaldo seconded the motion.

AYES: Mahlendorf, Lanoha, Anzaldo, Hancock

MOTION CARRIED: 4-0
6. Case No. 14-030
   Nate McDaniel
   2628 South 87th Street
   Omaha, NE 68124
   REQUEST: Waiver of Section 55-126 - Variance to the
   interior side yard setback from 25’ to 14.5’
   to allow home additions.
   LOCATION: 10555 Mullen Road
   ZONE: R1

   RECOMMENDATION: Approval, in accordance with the plans submitted.

   At the Zoning Board of Appeals meeting held on March 13, 2014, Jack Martis (Bruce Frasier Architects)
   appeared before the Board.

   Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct
   additions to the south side of the existing home. The south wall encroaches into the required interior side
   yard setback. The additions being proposed would match the setback of the existing home and, therefore,
   requires a waiver. He explained that the addition does not comply with the nonconforming section of the
   zoning ordinance due to an existing encroachment at the front of the home. Since the addition does not
   project further than the existing home encroachment and isn't excessively large, the Planning Department
   felt it was acceptable and recommended approval in accordance with the plans submitted.

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

   AYES: Lanoha, Anzaldo, Mahlendorf, Hancock

   MOTION CARRIED: 4-0
7. Case No. 14-031
5319 North, LLC
105 North 31st Avenue
Omaha, NE 68131

REQUEST: Waiver of Section 55-366, 55-734, 55-716 & 55-737 – Variance to the maximum height of the building from 45’ to 60’; to the required number of off-street parking stalls from 189 to 152; to the required buffer yard between CC(pending) and R4 from 30’ to 10.72’, 15’ and 27.37’; and to the maximum number of compact parking stalls from 60 to 62; to allow construction of a Mixed Use Development.

LOCATION: 5319, 5339, & 5343 North 30th Street and 5330 & 5342 North 29th Street

ZONE: R4(35), GC & R4(PK) – (CC-ACI-2(PL) pending)

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on March 13, 2014, Neeraj Agarwal appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct an 85,000 square foot, 4-story, mixed-use commercial and residential building with a drive-thru on the property. The proposed building will consist of 23,000 square feet of ground floor commercial space and 3 stories of residential units above. The project will include 152 off-street parking stalls, which includes 62 compact stalls. In addition, a total of 36 on-street parking stalls will be constructed along the west side of 29th Street and on the north side of Fort Street. The Planning Board recommended approval of applications to replat and rezone the site. It also recommended approval of a PUD (Planned Unit Development), which requires the granting of the waivers being requested. The Planning Department believes there is a practical difficulty resulting from the development of the existing property within an urban area and recommended approval in accordance with the plans submitted.

Mr. Agarwal stated that the applicant feels the waivers are warranted based on the need for residential housing at this location. He noted that Metro Community College has a campus across the street near 30th and Fort. The college has indicated that they may eventually master lease the facility, or they would have a significant number of students, faculty and employees reside there. The applicant feels that parking is not really an issue since many of the residents would either attend or work at the college. He added that landscaping would be provided to lessen the impact of the project on the neighbors.

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

AYES: Anzaldo, Mahlendorf, Lanoha, Hancock

MOTION CARRIED: 4-0
8. Case No. 14-032
   Eugene H. Rhodman
   5705 North 116th Circle
   Omaha, NE 68164

   REQUEST: Waiver of Section 55-784(c) - Variance to the perimeter yard setback from a public street for a deck in a cluster subdivision from 25' to 15' to allow a 12’ x 12’ deck addition.

   LOCATION: 5705 North 116th Circle
   ZONE: R4(cluster)

   RECOMMENDATION: Approval, in accordance with the plans submitted.

   At the Zoning Board of Appeals meeting held on March 13, 2014, Eugene H. Rhodman appeared before the Board.

   Mike Carter, Zoning Board of Appeals Administrator, stated that this property is located in a cluster subdivision which requires a 25’ setback from all public streets. The applicant is proposing to build a 12’x12’ deck addition with pergola at a 15’ setback. He noted that the existing home already encroaches into the setback and that the proposed deck will not encroach any farther than the home does. The Planning Department recommended approval in accordance with the plans submitted.

   In response to Mr. Hancock, Mr. Rhodman provided details of the deck. Mr. Mahlendorf noted that a precedent has already been set in this neighborhood since many of the existing homes encroach in the setback.

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

   AYES: Mahlendorf, Lanoha, Anzaldo, Hancock

   MOTION CARRIED: 4-0
9. Case No. 14-033
   Service Select, LLC
   400 Mack Drive
   Croydon, PA 19021

   REQUEST: Waiver of Section 55-836 - Variance to the
            front yard setback from 12’ to 3’ for 2 pole
            signs.

   LOCATION: 10000 California Street (Westroads Mall)
   ZONE: CC

   RECOMMENDATION: Denial.

   At the Zoning Board of Appeals meeting held on March 13, 2014, Joseph Wieland, 8712 West Dodge
   Road, appeared before the Board.

   Mike Carter, Zoning Board of Appeals Administrator, recalled that five monument signs were approved for
   the Westroads site at the February 13, 2014 meeting. The applicant has indicated that they prefer to make
   two of the signs pole signs instead of monument signs. One of the signs would be located near the Joe’s
   Crab Shack location and the other would be north of Dick’s Sporting Goods. The Planning Department
   prefers that the applicant stay with the decision to install monument signs since they are consistent with
   the Urban Design regulations. The Planning Department recommended denial.

   In response to Mr. Hancock, Mr. Wieland stated that applicant prefers the variety of having monument
   and pole signs. Also, it eliminates line-of-sight issues at two of the locations. He also stated that the
   existing green signs that surround the mall will be removed. At Mr. Mahlendorf’s request, Mr. Wieland
   submitted a revised drawing of the proposed signs (Exhibit B).

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

   AYES: Lanoha, Anzaldo, Mahlendorf, Hancock

   MOTION CARRIED: 4-0
APPROVAL OF MINUTES

Minutes for the February 13, 2014 minutes will be approved at the April 10, 2014 meeting.

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:05 p.m.

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Approved (date)

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Bert Hancock, Chair

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Clinette Warren, Secretary