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 31, 2014 and Thursday, April 3, 2014.

MEMBERS PRESENT: Brian Mahlendorf, Vice Chair
Sebastian Anzaldo
Jacque Donovan
Jason Lanoha
Sean Kelley, Alternate

MEMBERS NOT PRESENT: Bert Hancock, Chair
Teri Teutsch, Alternate

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

Mr. Mahlendorf called the meeting to order at 1:00 p.m., introduced the Board members and staff, and explained the procedures for hearing the cases.
NEW CASES:

1. Case No. 14-034
   Dillons Companies, Inc.
   2700 E. Fourth Avenue
   Hutchinson, KS 67501
   REQUEST: Waiver of Section 55-734 – Variance to the required number of off-street parking stalls from 287 to 256 to allow an accessory fuel center.
   LOCATION: 888 South Saddle Creek Road (Bakers)
   ZONE: GI & GC, (CC-MCC-Pending)

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on April 10, 2014, Mark Johnson (11440 West Center Road) appeared before the Board on behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that the proposal results in the removal of 62 parking stalls. The applicant would receive a credit for a bike rack and new bus shelter that will be installed as part of the project, which brings the required number of parking stalls to 287. The Planning Department believes there is a hardship resulting from the codes excessive parking requirements for grocery stores, which makes no allowances for how the space in the store is actually used. The applicant has also indicated that the space for the proposed fuel center is sparsely used for parking and that the remaining spaces are sufficient to meet the needs of the stores. The Planning Department recommended approval in accordance with the plans submitted.

Mr. Johnson was in agreement with Mr. Carter’s statements.

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

AYES: Anzaldo, Donovan, Lanoha, Kelley, Mahlendorf

MOTION CARRIED: 5-0
2. Case No. 14-035
   Chris Wayne
   City of Omaha
   1819 Farnam Street
   Omaha, NE 68183

   REQUEST: Waiver of Section 55-206 – Variance to the street side yard setback from 15’ to 10.9’ to construct a new home.
   LOCATION: 4201 Lake Street
   ZONE: R5(35)

   RECOMMENDATION: Approval, in accordance with the plans submitted.

   At the Zoning Board of Appeals meeting held on April 10, 2014, Chris Wayne appeared before the Board.

   Mr. Wayne explained that the original lot is unusually narrow for a corner lot, which makes it difficult to construct a new home with the required setback.

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

   AYES: Donovan, Lanoha, Kelley, Anzaldo, Mahlendorf

   MOTION CARRIED: 5-0
3. Case No. 14-036
Scott & Mary Pat Paul
5501 Harney Street
Omaha, NE 68132

REQUEST: Waiver of Section 55-166 - Variance to the street side yard setback from 17.5’ to 15.2’ to construct a screened porch.

LOCATION: 5501 Harney Street
ZONE: R3

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on April 10, 2014, Scott Paul and Mary Pat Paul appeared before the Board.

Mr. Paul stated that he would like to construct a screened in porch on the east side of the home. He submitted photographs (Exhibit 2) of the home. In response to Ms. Donovan, Mr. Paul stated that the existing footings would be used for the addition.

Mike Carter, Zoning Board of Appeals Administrator, stated that the Planning Department does not believe there is a hardship or practical difficulty since the existing improvement can be located in the setback. He added that it is not typical of the neighborhood to have waivers to the street side yard setback. The Planning Department recommended denial.

In response to Mr. Kelley, Mr. Paul stated that the existing shrubs along 55th Street would remain in place and that his surrounding neighbors are in support of the project. Ms. Donovan noted that the porch was similar to others in the neighborhood that were as close to the setback as what the applicant was proposing.

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

AYES: Lanoha, Kelley, Anzaldo, Donovan, Mahlendorf

MOTION CARRIED: 5-0
4. Case No. 14-037
Ryan Durant
Omaha Housing Authority
540 South 27th Street
Omaha, NE 68105

REQUEST: Waiver of Section 55-715, 55-734, 55-716, 55-735(a), 55-740(f)(4) – Variance to the street yard landscaping depth from 10' to 7.7'; to the required buffer yard between R8 & R4(35) from 30' to 7.7'; to the minimum number of off-street parking stalls from 173 to 48; to allow off-street parking for a multiple-family residential use in the front yard setback of a residential district, and to the perimeter parking lot landscaping from 10' to 7.7' to allow reconstruction/expansion of the parking lot.

LOCATION: 5900 Northwest Radial Highway
ZONE: R8

RECOMMENDATION: Approval, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on April 10, 2014, Matt Hubel (Schemmer Associates) appeared before the Board on behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant had been mandated by the Department of Housing and Urban Development (HUD) to improve accessibility of the parking lots at various locations within the city. The applicant is proposing to reconstruct the existing parking lot at the Benson Tower on the east and north sides of the building, which creates a need for the requested waivers. The applicant has indicated that the need for parking is much lower than what is typical for a multi-family facility, since many of the residents do not own cars. Additional stalls that will be added to the south along with additional landscaping to screen the parking lot from the properties to the east. The Planning Department recommended approval in accordance with the plans submitted.

In response to Mr. Lanoha, Mr. Hubel stated that the trees along 59th Street would remain in place.

Greg McDermott, 3119 North 60th Street, was concerned with how the project would affect his property. It was determined that the project would not affect Mr. McDermott’s property.

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

AYES: Kelley, Anzaldo, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0
5. Case No. 14-038
Eloy Flores
3007 “V” Street
Omaha, NE 68107

REQUEST: Waiver of Section 55-206 & 55-207(g) – Variance to the front yard setback from 35’ to 29’ and to the rear yard setback from 25’ to 18’, to allow construction of a garage and room additions.

LOCATION: 3007 “V” Street & 5706 South 30"th Street
ZONE: R5(35)

RECOMMENDATION: Approval of the front yard setback waiver from 35’ to 29’; denial of the rear yard setback from 25’ to 18’.

At the Zoning Board of Appeals meeting held on April 10, 2014, Eloy Flores appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a garage addition towards the front of the home which requires a waiver for the front yard setback. The Planning Department recommended approval of that request. The applicant also proposed an addition for the rear of the home which would encroach into the rear yard setback. The Planning Department believed there is no hardship or practical difficulty that requires an encroachment in the rear yard setback. The Planning Department recommends denial of that request.

In response to Mr. Anzaldo, Mr. Flores stated that combined, the two lots are approximately 88’ x 106’. Mr. Anzaldo stated that the applicant should have presented a survey of the lots. In response to Ms. Donovan, the applicant stated that the materials used for the additions would match the existing home. She also urged the applicant to obtain a survey so that the addition would not be built closer than the 18’ that may be allowed.

Mr. Anzaldo moved to APPROVE subject to the applicant presenting a survey to Permits and Inspections upon application for the building permit. Mr. Lanoha seconded the motion.

AYES: Anzaldo, Donovan, Lanoha, Kelley, Mahlendorf

MOTION CARRIED: 5-0
6. Case No. 14-039
   Mark Pluhacek
   3625 California Street
   Omaha, NE 68131

   REQUEST: Waiver of Section 55-166 & 55-767(c) – Variance to the rear yard setback from 25' to 3'; to the interior side yard setback from 7' to 3' and 0'; and to allow a Home Occupation in an accessory building to construct a detached artist studio and wood trellis.

   LOCATION: 3625 California Street
   ZONE: R3

   RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on April 10, 2014, Mark and Kristin Pluhacek appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a detached, accessory building to be used as an artist studio with approximately 732 square feet of total floor space. The structure would include 672 square feet on the main floor and 64 square feet on the second floor space. The zoning regulations do not allow for this type of use in an accessory building located outside of the buildable area in this district. The Planning Department found that there is no hardship or practical difficulty since the property can be constructed in compliance with the code. The Department also believes the applicant has intentionally created the need for the request. Mr. Carter noted that there was no information which detailed exactly how the space would be used. The Department has assumed that a resident of the home would be using the building and has included the Home Occupation waiver as part of the request. He added that, if the Board decided to grant the waivers, it should be with the condition that the structure is not converted to a living space and that the Home Occupation is limited to the property owner only. The Planning Department recommended denial.

Mr. Pluhacek explained that the space would be used as a private art studio by his wife. He further explained that the existing garage will be removed. However, the attempt is to build the structure in such a way that it can be converted into a garage at a later date.

In response to Mr. Lanoha, Mr. Carter explained that the use of the structure causes the need for a waiver, since typically a Home Occupation use for a main home, not a detached building. It was noted that the wood trellis that was shown on the original plans was not included on the revised plans.

Ms. Donovan mentioned that there were letters of support from the surrounding neighbors.

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

AYES: Donovan, Lanoha, Kelley, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0
7. Case No. 14-040
   Laura Sherman
   10126 Edna Circle
   La Vista, NE 68128

   REQUEST: Waiver of Section 55-786 – Variance to the residential fence regulations to allow an 8’ tall chain-link fence.

   LOCATION: 2515 “H” Street
   ZONE: R7

   RECOMMENDATION: Approval, in accordance with the plans submitted, subject to the fence being no taller than 6’.

At the Zoning Board of Appeals meeting held on April 10, 2014, no one appeared before the Board.

The Board decided to vote for a layover to give the applicant another opportunity to appear.

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

AYES: Lanoha, Kelley, Anzaldo, Donovan, Mahlendorf

MOTION CARRIED: 5-0
8. Case No. 14-041  
Dennis Circo  
Circo Properties, LLC  
4611 South 96th Street  
Omaha, NE 68127  
REQUEST: Waiver of Section 55-740(f)(4) - Variance to the perimeter parking lot landscaping from 10’ to 0’ to replace an existing parking lot.  
LOCATION: 4611 South 96th Street  
ZONE: GI  

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on April 10, 2014, Doug Dreessen (Thompson, Dreessen & Dorner) appeared before the Board on behalf of the applicant.

Mr. Dreessen explained that the applicant is proposing to construct a 10’ addition to the side of the existing building and would like to reconstruct the parking on the west side. The existing stalls are currently full depth with 0’ buffer yard; however, they would be converted to compact parking stalls. In order to avoid an ice hazard, the applicant is proposing to remove the stalls on the west and re-grade the area, resulting in water being directed away from the building.

There was some discussion about the existing landscaping. It was noted that there were no plans to change the amount of impervious coverage.

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

AYES: Kelley, Anzaldo, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0
9. Case No. 14-042
Lamar Outdoor Advertising
TLC Properties
4849 “G” Street
Omaha, NE 68117

REQUEST: Waiver of Section 55-853(a) – Variance to allow an electronic off-premise sign closer than 700’ to an existing standard off-premise sign.

LOCATION: 4409 Dodge Street
ZONE: CC-ACI-2(50)

RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on April 10, 2014, Michael Degan (13330 California Street) appeared before the Board on behalf of the applicant. Jerry Slusky also appeared.

Mr. Degan requested that the Board lay the case over. He felt that a layover would allow time for all parties involved to resolve some of the issues and possibly eliminate the need for the applicant to appear before the Board.

Jerry Slusky, 8712 West Dodge Road, stated that his client was in support of the layover.

In response to Mr. Anzaldo, Larry Jobeun and Jay Davis (Assistant Director – Permits & Inspections) stated that they were also in support of a layover.

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

AYES: Anzaldo, Donovan, Lanoha, Kelley, Mahlendorf

MOTION CARRIED: 5-0
10. Case No. 14-043
   Melinda Pearson
   University of Nebraska Medical Center
   4400 Emile Street
   Omaha, NE 68198
   REQUEST: Waiver of Section 55-223, 55-226, 55-716, 55-735 & 55-740(f)(5) – Variance to the permitted use regulations of the R6 District to allow a Surface Parking use not otherwise permitted; to the maximum impervious coverage from 60% to 85%; to the required buffer yard between R6 & R4(35) from 15’ to 10’; to allow off-street parking for a non-residential use in the front yard setback of a residential zoning district; and to the minimum interior parking lot landscaping from 5% to 3.6% 4.5%, to construct a parking lot.
   LOCATION: 911 South 40th Street
   ZONE: R6

RECOMMENDATION: Approval, in accordance with the plans submitted, subject to providing the required interior parking lot landscaping.

At the Zoning Board of Appeals meeting held on April 10, 2014, John Coolidge (14710 West Dodge Road) and Melinda Pearson appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant is proposing to construct a parking lot on the property. Typically the process includes approval by the Planning Department and City Council for a Parking Overlay District on a residentially zoned property. The applicant requested a waiver to allow construction of the parking lot prior to the approval of the Parking Overlay District. The Planning Department believes there is a hardship since the applicant needs to have the parking lot available sooner. The applicant intends to complete the process to have the property rezoned to R5 and the Parking Overlay District. He felt that the applicant should comply with the interior parking lot landscaping requirement of 5%, since it is not usually waived as part of the Parking Overlay. He noted that, although there was no landscape plan provided by the applicant, landscaping is required around the perimeter of the parking lot. The Planning Department recommended approval in accordance with the plans submitted, subject to providing the required interior parking lot landscaping.

Mr. Coolidge stated that, after re-examining the plans, the landscaping could possibly be increased to 4.5% or more. He explained that the right-of-way on Mason Street would eventually be vacated enabling the lot size to increase. As a result, there would be adequate landscaping on the site. There was some discussion about the revised plans for the project which had not been previously submitted. In response to Mr. Anzaldo, Ms. Pearson also discussed future plans for the surrounding properties.

Mr. Donovan moved to APPROVE in accordance with the revised plans (Exhibit B). Ms. Donovan seconded the motion.

AYES: Donovan, Lanoha, Kelley, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0
11. Case No. 14-044
   Harvey W. Turner
   Kidz N Nature, Inc.
   15067 Lake Street
   Omaha, NE 68116
   REQUEST: Waiver of Section 55-183 – Variance to the permitted use regulations of the R4 district to allow a temporary Daycare Services (General) use no later than 8/15/14.
   LOCATION: 15067 Lake Street
   ZONE: R4

   RECOMMENDATION: Approval subject to the Daycare Services (General) use ending no later than August 15, 2014.

   At the Zoning Board of Appeals meeting held on April 10, 2014, Susan Turner and Mallory Taylor appeared before the Board.

   Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant currently operates a daycare from her home, which is limited to 10 children. She is proposing to have 11 children for a portion of the weeks until mid-August, when a child with special needs leaves to begin kindergarten. The Planning Department supports the request since it is temporary in nature and recommended approval, subject to the Daycare use ending no later than August 15, 2014.

   Ms. Turner stated that she had spoken with her neighbors and they were in support of the request.

   Ms. Donovan moved to APPROVE subject to the Daycare Services (General) use ending no later than August 15, 2014. Mr. Lanoha seconded the motion.

   AYES: Lanoha, Kelley, Anzaldo, Donovan, Mahlendorf

   MOTION CARRIED: 5-0
APPROVAL OF MINUTES

Mr. Anzaldo moved to APPROVE the minutes for the February 13, 2014 meeting. Ms. Donovan seconded the motion.

AYES: Anzaldo, Donovan, Lanoha, Mahlendorf

ABSTAIN: Kelley

MOTION CARRIED: 4-0-1

Mr. Anzaldo moved to APPROVE the minutes for the March 13, 2014 meeting. Mr. Mahlendorf seconded the motion.

AYES: Anzaldo, Lanoha, Mahlendorf

ABSTAIN: Donovan, Kelley

MOTION CARRIED: 3-0-2

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:02 p.m.

Approved (date)

Bert Hancock, Chair

Clinette Warren, Secretary