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, September 28, 2015 and Thursday, October 1, 2015.

MEMBERS PRESENT:  
Jacque Donovan, Vice-Chair  
Sebastian Anzaldo  
Jeremy Aspen  
Jason Lanoha  
Teri Teutsch, Alternate

MEMBERS NOT PRESENT:  
Brian Mahlendorf, Chair  
Sean Kelley, Alternate

STAFF PRESENT:  
Mike Carter, Zoning Board of Appeals Administrator  
Dave Fanslau, Assistant Director – Urban Planning  
Jennifer Taylor, City Law  
Michelle Alfaro, City Planner  
Clinette Warren, Recording Secretary

Ms. Donovan called the meeting to order at 1:00 p.m., introduced the Board members and staff, and explained the procedures for hearing the cases. Case 15-116 was moved to the end of the agenda.
LAYOVER CASES:

1. Case No. 15-043 - WITHDRAWN  
   Mustang Properties  
   2226 South 89th Court  
   Omaha, NE 68124  
   REQUEST: Waiver of Section 55-246 & 55-734 –  
   Variance to the interior side yard setback  
   from 10’ to 5’; to the rear yard setback from  
   25; to 10’; and to the maximum number of  
   off-street parking stalls from 9 to 8, to  
   construct a 6-unit apartment building.  
   LOCATION: 4804 Douglas Street  
   ZONE: R7-ACI-2(50)  

This request was withdrawn at the request of the applicant.
2. Case No. 15-112 (from 9-10-15) REQUEST: Waiver of Section 55-108 & 55-740(e) – Variance to the interior side yard setback from 25’ to 11’6” and the hard-surfaced driveway requirement, to allow for a garage addition and gravel driveway.

   Brian Reiman
   Midwest Construction Concepts
   14105 North 132nd Street
   Omaha, NE 68142

   LOCATION: 10607 North 47th Avenue
   ZONE: DR-ED

PLANNING DEPARTMENT RECOMMENDATION: Approval of the hard-surfaced driveway waiver, subject to the property owner agreeing to pave the drive approach, plus the first 50’ of driveway, when 47th Avenue is improved; and, denial of the waiver for the interior side yard setback.

At the Zoning Board of Appeals meeting held on October 8, 2015, Mark Michael (Midwest Construction Concepts) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, explained that the case had been laid over to give the applicant the opportunity to appear before the Board. He stated that a garage addition was being proposed for the side of the home which would encroach into the required side yard setback. He explained that the existing driveway and adjacent street were both gravel. The Planning Department supported the waiver of the hard-surfacing requirement for the driveway because of its location in Ponca Hills where excessive impervious coverage is discouraged. However, there was no hardship or practical difficulty to allow the waiver of the side yard setback. He added that, if the Board was inclined to approve the hard-surfacing requirement for the driveway, it should be with the condition that the property owner agrees to pave the drive approach, plus the first 50’ of driveway, whenever 47th Avenue is improved.

Mr. Michael explained that the property owner is a veterinarian who is always on-call. His vehicle carries all types of chemicals that he would like protected from theft. He mentioned the letter of support that was received from the neighbors at 10611 North 48th Avenue. He stated that the materials used for the addition would match those of the existing home.

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

AYES: Anzaldo, Aspen, Teutsch, Lanoha, Donovan

MOTION CARRIED: 5-0
NEW CASES:

3. Case No. 15-116
   Lamar Outdoor
   TLC Properties
   4849 G Street
   Omaha, NE 68117
   REQUEST: Waiver of Section 55-617 – Variance to allow a new permit for an electronic, off-premise sign in an ACI district not otherwise permitted.
   LOCATION: 4409 Dodge Street
   ZONE: CC-ACI-2(50)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 8, 2015, Mike Degan (13330 California Street) and Jim Deitering (Lamar Outdoor) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, explained that the ACI overlay was established for this property in 2009. The Planning Department believes that when the requested permit was requested in 2012 the sign should have been made to comply with ACI regulations. He stated that the intent of the ACI regulations for this particular section of the code is to reduce the number of non-conforming signs as they become obsolete. The Planning Department felt there was no hardship or practical difficulty that would allow the applicant to be issued a new permit for an electronic sign. He stated that the applicant could put a static billboard back in place. He noted that the Zoning Board of Appeals granted waivers of the separation requirement and Community Commercial District regulations for the proposed sign at its July 9, 2015 meeting. He added that, since that time, the Urban Design Review Board (UDRB) recommended approval of the requested waiver at its September 17, 2015 meeting, which would allow the off-premise sign at the Dodge Street location. The Planning Department recommended denial.

Mr. Degan stated that the sign has existed since 1982, which was before the current municipal code that governs off-premise, outdoor advertising. At that time the sign was considered to be a legal, non-conforming sign. In 2012, the applicant was granted a permit to erect a digital sign, which would replace the static sign, on the east face of the sign. While in the process of erecting the digital sign, a lawsuit was filed which prohibited the applicant from installing the sign at that time. The applicant appeared before the ZBA and was advised that, for the waiver to be granted, Lamar would need to remove more static outdoor advertising than what the code required. In response, the applicant submitted an amended takedown plan that included the proposition that, in exchange for converting 1 face of the existing sign to a digital sign, Lamar would remove 4 existing signs (including 3 that are located in ACI districts and 1 that is adjacent to the new Baxter Arena). Based on that takedown plan, the board approved the request for the waiver. Around that time, however, there was some dispute between the applicant and the City regarding the application of Section 55-617 of the ordinance. The applicant felt that the ordinance only applied if an established sign was being relocated. The applicant subsequently appeared before the UDRB with the same takedown proposal that had been presented to the ZBA, which resulted in the UDRB approving the applicant. Mr. Degan requested that the board waive Section 55-617, confirm its previous vote, and allow Lamar to proceed with its sign installation, pursuant to the amended takedown plan that had been presented to the Board.

In response to Mr. Aspen, Mr. Degan stated that the four signs listed on the takedown plan could be removed by the end of the year as long as the City was in agreement with the conditions of the plan. Mr. Lanoha noted that, according to that plan, signage would be removed from the following locations: 109 Park Avenue (1,012 sq. ft.); a credit for the signage at 4615 Dodge Street (744 sq. ft.); 4409 Dodge Street (306 sq. ft.); 6501 Center Street (Baxter Arena - 506 sq. ft.); and 36th & Leavenworth (253 sq. ft.).

In response to Mr. Lanoha, Mr. Deitering stated that the signs listed in the takedown plan would be completely removed before the electronic sign was put in place.

Margie Magnuson, (4151 Davenport Street – Midtown Neighborhood Alliance), appeared in opposition to the request. She represented the 16 neighborhood associations that are part of the Midtown
Neighborhood Alliance. The Midtown Neighborhood Alliance requested that the waiver be denied. She added that the Joslyn Castle Neighborhood Association, the Dundee-Memorial Neighborhood Association, the Gifford Park Neighborhood Association and the Bemis Park Neighborhood Association were also in opposition to the request. She mentioned that the sign was located in an ACI District and was protected under city code. She referred to the Omaha Streetscapes Handbook, which spoke about the effects of billboards on its surrounding area. She felt that City code and ACI guidelines would be ignored if the sign was allowed.

Julie Mierau, (140 North 39th Street – Joslyn Castle Neighborhood Association), appeared in opposition to the request. She mentioned that her association objected to the waivers that had been granted by the Zoning Board at its July meeting, and submitted a letter which stated that. She got other neighborhood associations in Midtown Omaha involved and created an on-line petition that received 243 signatures. She felt that if the billboard was allowed other billboard companies would follow suit.

Deirdre Evans, 418 North 38th Street, appeared in opposition to the request. Ms. Evans does not drive and walks to many of the places that she visits. She testified about the dangers of walking in traffic in her area. She felt that the electronic billboard would add to the distractions of drivers along Dodge Street and that only a static sign should be allowed.

Mr. Degan mentioned that digital signs are allowed in ACI districts with stipulations. He also explained that, per the municipal code, a cap is put on the number of off-premise electronic signs that any outdoor advertiser can have and that the signs are subject to various regulations.

Ms. Donovan explained to those in opposition that the board spends a significant amount of time on billboard cases and that it was attempting to do what is in the best interest of the city as a whole. Due to the unique nature of the case, she stated that it was not likely that this case would set a precedent for other billboard companies.

Mr. Aspen explained that he was in support of the waiver because of the benefit that it would provide for other neighborhoods to have the signs removed from those areas.

Mr. Aspen moved to APPROVE subject to the applicant removing the four signs listed in the revised takedown plan that was discussed at the July 9, 2015 meeting (Case 15-84) prior to installation of this electronic billboard. Mr. Anzaldo seconded the motion.

AYES: Aspen, Lanoha, Anzaldo, Donovan
NAYES: Teutsch
MOTION CARRIED: 4-1
4. Case No. 15-119
Azita Soraya-Martin
8240 Keystone Drive
Omaha, NE 68134

REQUEST: Waiver of Section 55-146 – Variance to the front yard setback from 40’ to 32.76’ to construct a home addition.

LOCATION: 8240 Keystone Drive

ZONE: R2

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 8, 2015, Ms. Soraya-Martin appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a home addition to the front of the existing structure, along Keystone Drive. The addition would encroach into the required front yard setback. The Planning Department found no hardship or practical difficulty and believed that an addition could be constructed in compliance with the code. The Department recommended denial.

Ms. Soraya-Martin stated that she was not originally aware of the setback location and that the addition would increase the value of her home. In response to Ms. Donovan, she explained that the rear of the home was redone last year so the addition could not be built to the rear. The addition would allow for the enlargement of the kitchen, living room and laundry room. She added that the neighbor at 8233 Keystone Drive was allowed to expand their garage 5’ – 6’ into the setback.

In response to Mr. Anzaldo, Ms. Soraya-Martin stated that, although she had not talked to her adjacent neighbor about the project, they had not informed her of any objections they had to the project.

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

AYES: Teutsch, Lanoha, Anzaldo, Aspen, Donovan

MOTION CARRIED: 5-0
5. Case No. 15-120
Maria E. Gamboa
423 Woolworth Avenue
Omaha, NE 68108

REQUEST: Waiver of Section 55-782(b)(6) – Variance to the interior side yard setback from 3’ to 2.5’ to allow existing foundation to be completed as a 17’ x 19’ garage.

LOCATION: 423 Woolworth Avenue
ZONE: R7

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on October 8, 2015, Ms. Gamboa appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that applicant was proposing to utilize an existing garage foundation to build an enclosed garage. The foundation appeared to have been constructed in the early 1990’s. The Planning Department supported the request since the foundation was already in place. The Planning Department recommended approval in accordance with the plans submitted.

Mr. Anzaldo advised the applicant that a building permit would be required for the use of the foundation and for the new construction.

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

AYES: Lanoha, Anzaldo, Aspen, Teutsch, Donovan

MOTION CARRIED: 5-0
6. Case No. 15-122
Bill Welchert
11550 Pawnee Road
Omaha, NE 68142

REQUEST: Waiver of Section 55-87 & 55-740(e) – Variance to the maximum building coverage from 5% to 13.5%; to the maximum impervious coverage from 10% to 13.5%; to the front yard setback from 50’ to 46’; and to allow a gravel driveway to remain, to allow the construction of home additions.

LOCATION: 11550 Pawnee Road
ZONE: AG-ED

PLANNING DEPARTMENT RECOMMENDATION: Approval of the waivers to the hard-surface driveway requirement and building and impervious coverage, subject to the applicant applying for rezoning of the property to DR (Development Reserve district) and agreeing to pave the approach, plus 50’ of driveway at such time that Pawnee Road is improved with a hard surface; denial of the front yard setback waiver request.

At the Zoning Board of Appeals meeting held on October 8, 2015, Mr. Welchert appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct additions to an existing structure. The property is slightly below 1 acre in size and the parcel has existed for several years. He explained that the issue with the parcel is that it is zoned Agricultural, which typically requires 20 acres. The Planning Department recommended that the parcel be rezoned to DR (Development Reserve District), eliminating the need for many of the waivers. He explained that, since the streets in the area are gravel, the Department has supported waivers of the hard-surface requirement. However, the applicant should be required to pave the approach, plus 50’ of the driveway at such time that Pawnee Road is improved. The Department did not support the waiver to the front yard setback since the DR zoning has the same front yard setback as the AG district.

Mr. Welchert stated that he was in agreement with the City’s recommendation except for the denial of the front yard setback request.

Mr. Lanoha moved to APPROVE in accordance with the plans submitted, subject to the applicant applying for a rezoning of the property to DR (Development Reserve District) and agreeing to pave the approach plus the first 50’ of driveway at such time that Pawnee Road is improved with a hard surface. Ms. Teutsch seconded the motion.

AYES: Anzaldo, Aspen, Teutsch, Lanoha, Donovan

MOTION CARRIED: 5-0
7. Case No. 15-123
    Dave Ulferts
    2612 North 152nd Street
    Omaha, NE 68116
    REQUEST: Waiver of Section 55-740(f)(4) & 55-928 – Variance to the perimeter landscaping from 15’ to 5.25’, and 10’ to 0’ to allow construction of a parking lot.
    LOCATION: 2609 St. Mary’s Avenue
    ZONE: DS-ACI-1(PL)

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on October 8, 2015, Mr. Ulferts appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the project was connected to the Travers Row Town Home project to the west. The street adjacent to the proposed parking lot had been vacated and the lot will utilize some of that space next to the row homes. The parking lot will provide parking for the tenants and visitors. There will also be access through the parking lot from St. Mary’s Avenue to Jones Street. The Planning Department supported the request and noted that landscaping had to be reduced because of the way the parking lot must be designed. The Department recommended approval in accordance with the plans submitted.

Mr. Ulferts added that there will be green space in the vacated street. He felt that the new parking lot would complement the space and would provide an easement for the flow of traffic. There some discussion about the commercial bay the applicant was proposing to build at the corner of the project.

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

AYES: Aspen, Teutsch, Lanoha, Anzaldo, Donovan

MOTION CARRIED: 5-0
8. Case No. 15-124  
    Michael Opatowski  
    210 Clayton  
    Denver, CO 80206  
    REQUEST: Waiver of Section 55-406 – Variance to the front yard setback from 50’ from center line (17’) to 42.5’ from center line (9.5’) to construct a canopy sign.  
    LOCATION: 6570 Maple Street  
    ZONE: GC  

(This case was heard last.)

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted, subject to the applicant: 1) Working with the Planning and Public Works Departments on an acceptable site plan to address the angled parking stall and sidewalk issues along Maple Street adjacent to the site; 2) Applying for a rezoning to a more appropriate commercial district, such as NBD (Neighborhood Business District), with the MCC-Major Commercial Corridor Overlay District; and 3) No more than 125 square foot of signage allowed.

At the Zoning Board of Appeals meeting held on October 8, 2015, Joe Saniuk (Architectural Offices – 4610 Dodge Street) appeared before the Board on behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to install a canopy on the existing building. The current parking between Maple Street and the side of the building already encroaches into the right of way creating a safety issue between pedestrians and traffic. The Planning Department supported the waiver request for the setback; however, because the signage would cause further non-compliance with the pedestrian/traffic issues, the Department feels that changes should be made to improve the area with regards to off-street parking and pedestrian traffic. He mentioned that there are other buildings along Maple Street that encroach further into the setback than what the applicant is proposing for the sign. The Planning Department recommended approval in accordance with the plans submitted, subject to the applicant: 1) Working with the Planning and Public Works Departments on an acceptable site plan to address the angled parking stall and sidewalk issues along Maple Street adjacent to the site; 2) Applying for a rezoning to a more appropriate commercial district, such as NBD, with the MCC-Major Commercial Corridor Overlay District; and 3) No more than 125 square foot of signage allowed.

Mr. Saniuk stated that his client was attempting to create space for signage. He agreed that the NBD zoning would be beneficial to his client and to the city; however, he stated that the Planning Department’s recommendation of angled parking was an issue. The applicant felt that it would be difficult to park near the building if there was angled parking in front along Maple Street and that it would be a safety hazard. In response, Mr. Carter explained that the Public Works Department believed that backing out of a 90° parking stall into traffic on Maple Street would be hazardous. He further explained that angled parking would force drivers to back out and go in one direction. Ms. Donovan stated that she was in support of angled parking for safety reasons.

Mr. Saniuk stated that his client was in agreement with reducing the signage to 125 square feet.

Mr. Aspen moved to APPROVE in accordance with the plans submitted subject to the applicant: 1) Working with the Planning and Public Works Departments on an acceptable site plan to address the angled parking stall and sidewalk issues along Maple Street adjacent to the site; 2) Applying for a rezoning to a more appropriate commercial district, such as NBD, with the MCC (Major Commercial Corridor) Overlay District; and 3) No more than 125 square footage of signage allowed. Ms. Teutsch seconded the motion.

AYES: Teutsch, Lanoha, Anzaldo, Aspen, Donovan  

MOTION CARRIED: 5-0
9. Case No. 15-125  
   Joshua J. Sweley  
   327 North 92\textsuperscript{nd} Street  
   Omaha, NE 68114  

   REQUEST: Waiver of Section 55-126 – Variance to the rear yard setback from 35’ to 31’ to construct a garage addition.  
   LOCATION: 327 North 92\textsuperscript{nd} Street  
   ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on October 8, 2015, Joshua Sweley appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a 14’ x 21’ garage addition on the north side of the existing home. The house is on the corner so it must also comply with the street side yard setback requirements on the north side. He explained that the existing home is located 31’ from the rear property line; the applicant would like to match the rear garage addition with the setback of the home, resulting in the need for the waiver. The Planning Department believed there was a hardship resulting from how the home is situated on the lot. Since the applicant was not proposing to go any further into the rear property line, and since everything else with the project was in compliance, the Department recommended approval in accordance with the plans submitted.

Mr. Sweley stated that he would be using materials that matched the existing home.

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

AYES: Lanoha, Anzaldo, Aspen, Teutsch, Donovan

MOTION CARRIED: 5-0
10. Case No. 15-126
    Angie Knutson-Smith
    437 North Molley Street
    Bennington, NE 68007
    REQUEST: Waiver of Section 55-740(e) – Variance to the hard-surfaced driveway requirement to allow a gravel driveway for a new home.
    LOCATION: 14014 North 108th Street
    ZONE: DR-ED

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted, subject to the applicant agreeing to pave the approach, plus the first 50’ of driveway at such time that 108th Street is improved with a hard surface.

At the Zoning Board of Appeals meeting held on October 8, 2015, Ms. Knutson-Smith appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, explained that the property was rezoned to DR (Development Reserve District) back in 2013. The applicant was proposing to construct a single-family home on the parcel. The adjacent street is gravel. The Planning Department was in support of the waiver since the property is located within the Lake Cunningham Environmental Overlay District, and recommended approval in accordance with the plans submitted, subject to the applicant agreeing to pave the approach, plus the first 50’ of driveway at such time that 108th Street is improved with a hard surface.

Ms. Teutsch moved to APPROVE in accordance with the submitted, subject to the applicant agreeing to pave the approach, plus the first 50’ of driveway at such time that 108th Street is improved with a hard surface. Mr. Aspen seconded the motion.

AYES: Anzaldo, Aspen, Teutsch, Lanoha, Donovan

MOTION CARRIED: 5-0
11. Case No. 15-127
Father Tom Fangman
2207 Wirt Street
Omaha, NE 68110

REQUEST: Waiver of Section 55-246 & 55-734 – Variance to the front yard setback from 35’ to 25’; to the street side yard setback from 25’ to 10’; and to the minimum number of off-street parking stalls from 90 to 15 to allow construction of a new parish center.

LOCATION: 2207 Wirt Street
ZONE: R7

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted, subject to: 1) The front yard setback at 25’ instead of the requested 20’; and 2) The applicant working with the Planning Department on acceptable building elevation plans for the addition that are consistent with existing structures in the neighborhood.

At the Zoning Board of Appeals meeting held on October 8, 2015, Keith Basham (Holland Basham Architects – 119 South 49th Avenue), appeared before the Board on behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that applicant was proposing to construct a new parish center addition adjacent to the existing parish office on the southwest corner of 22nd and Wirt. The proposed addition will be 6,000 square feet and will be located on the east side of the existing building. The addition would extend into the required setbacks along Wirt Street and 22nd Street. The Planning Department looked at the entire site with regards to parking requirements and supported most of the waivers. It was noted that there are many existing, non-conforming structures in the neighborhood, especially along 22nd Street. If the board decided to approve the request, the Planning Department requested that the setback along the front be at 25’ instead of 20’, since it was more consistent with the neighborhood. In addition, the applicant should work with the Planning Department on an acceptable building elevation plan for the addition that would be consistent with other existing structures in the neighborhood.

Mr. Basham stated that, after meeting with the Planning Department, the project had been reduced to meet the 25’ setback, which also reduced the number of required parking stalls from 90 to 60. He mentioned that some of the assembly space inside the building had also been reduced.

Mr. Aspen moved to APPROVE in accordance with the plans submitted, subject to: 1) The front yard setback of 25’ instead of the requested 20’; and 2) Working with the Planning Department on acceptable building elevation plans for the addition that are consistent with existing structures in the neighborhood. Ms. Teutsch seconded the motion.

AYES: Aspen, Teutsch, Lanoha, Anzaldo, Donovan

MOTION CARRIED: 5-0
APPROVAL OF MINUTES:

Ms. Teutsch moved to APPROVE the minutes for the August 13, 2015 meeting. Mr. Anzaldo seconded the motion.

AYES: Teutsch, Anzaldo, Donovan

ABSTAIN: Aspen, Lanoha

MOTION CARRIED: 3-0-2

Mr. Lanoha moved to APPROVE the minutes for the September 10, 2015 meeting. Ms. Donovan seconded the motion.

AYES: Lanoha, Aspen, Donovan

ABSTAIN: Anzaldo, Teutsch

MOTION CARRIED: 3-0-2

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:30 p.m.

Approved (date)

____________________________________________
Brian Mahlendorf, Chair

____________________________________________
Clinette Warren, Secretary