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, February 2, 2015 and Thursday, February 5, 2015.

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

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

STAFF PRESENT: Mike Carter, Zoning Board of Appeals Administrator
Travis Gibbons, City Planner
Jennifer Taylor, City Law
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.
LAYOVER CASES:

   Premier Bank
   Chris Maher
   16802 Burke Street
   Omaha, NE 68118
   REQUEST: Waiver of Section 55-824(d) – Variance to allow a monument sign on a property with a building closer than 15’ to the property line.
   LOCATION: 4314 & 4318 Dodge Street, 109 North 43rd Avenue
   ZONE: GC-ACI-2(50)

PLANNING DEPARTMENT RECOMMENDATION: The sign should be revised to comply with the plans as submitted to the Board at the January 2014 meeting.

The applicant requested a layover of this case.

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

AYES: Anzaldo, Teutsch, Lanoha, Aspen, Donovan

MOTION CARRIED: 5-0
NEW CASES:

2. Case No. 15-001  
   William Novak  
   3606 North 156th Street  
   Suite 307  
   Omaha, NE 68116  
   REQUEST: Waiver of Section 55-740(e) – Variance to the hard-surfacing requirement for a temporary parking lot from 5/1/15 – 10/31/15 & 5/1/16 – 10/31/16.  
   LOCATION: Generally south of West Maple Road between 230th and 233rd Streets  
   ZONE: AG-FW

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on February 12, 2015, William Novak appeared before the Board.

Mr. Novak stated that the waiver was similar to what he requested last year (Case 14-018). He explained that parking is on the grass and that there were no issues with mud being tracked into the streets. At the Board’s request, the applicant requested a waiver that would last for the 2015 and 2016 seasons.

In response to Ms. Donovan, Mr. Novak stated he did not use the three nights that the Board allowed for music to be played past 11:00 p.m.; however, he did appreciate having that option.

Mr. Anzaldo moved to APPROVE as requested, subject to no music being played beyond 11 p.m. with the exception of three (3) nights where the music can be played later, subject to the Planning Department’s issuance of a Temporary Use Permit for those nights. Ms. Teutsch seconded the motion.

AYES: Teutsch, Lanoha, Aspen, Anzaldo, Donovan  
MOTION CARRIED: 5-0
3. Case No. 15-003  
Nathan Egger  
312 South 68th Street  
Omaha, NE 68132  

REQUEST: Waiver of Section 55-146 – Variance to the interior side yard setback from 10’ to 3’ to construct a garage addition.  
LOCATION: 312 South 68th Street  
ZONE: R2  

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on February 12, 2015, Nathan Egger appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct an irregularly shaped garage addition to the north side of the existing home. The structure would be as close as 3’ to a 10’ wide, unimproved alley to the north of the property. He stated that there was no hardship or practical difficulty that would justify the request and that the Planning Department recommended denial. He mentioned that no other waivers had been previously granted in the neighborhood that allowed a structure as close as 3’ from the setback; however, the property to the west was granted a waiver in 2009 to allow a garage addition with a 5’ setback.

Ms. Donovan mentioned that the Board had driven by the property. Mr. Egger explained that he wanted to add a small, one-car garage to the north of the property for more secure parking. Ms. Donovan stated that the applicant should obtain a survey so that it could be determined exactly how close the structure would be to the setback. Mr. Lanoha inquired about the elevations of the property. He stated that he would support the request if the applicant limited the height of the addition to a single story; the architectural style and materials used were consistent with that of the existing home; and the applicant must submit a survey at the time of building permit application. The applicant was in agreement with those terms.

Ms. Teutsch mentioned that the neighbor to the north had submitted an email which mentioned some concerns about the project. Mr. Egger stated that he had not spoken with that neighbor directly.

Mr. Lanoha moved to APPROVE subject to the following: 1) the addition being no taller than one (1) story high; 2) the architecture of the structure and the materials used are consistent with the existing home; and 3) the applicant must submit a survey at the time of building permit application. Mr. Aspen seconded the motion.

AYES: Lanoha, Aspen, Anzaldo, Teutsch, Donovan  

MOTION CARRIED: 5-0
4. Case No. 15-004
   Bronco Land Company
   7134 Pacific Street
   Omaha, NE 68106

   REQUEST: Waiver of Section 55-853(a) & 55-826
   (a)(3) & (4) - Variance to the spacing
   requirements for an electronic/static off-
   premise advertising sign.

   LOCATION: 7120/7152 Pacific Street
   ZONE: GC-ACI-2(65)-FF
   GI-ACI-2(65)-FF

   PLANNING DEPARTMENT RECOMMENDATION: Denial.

   The applicant requested a layover of the case.

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

   AYES: Aspen, Anzaldo, Teutsch, Lanoha, Donovan

   MOTION CARRIED: 5-0
5. Case No. 15-008  
James Lemon  
Greater New Hope Missionary  
1411 North 30th Street  
Omaha, NE 68131  
REQUEST: Waiver of Section 55-186 & 55-735(b) – Variance to the maximum impervious coverage from 50% to 86% and to allow off-street parking for a non-residential use in a residential district within the required street side yard setback to construct a parking lot.  
LOCATION: 2918 Hamilton Street  
ZONE: GC & R7 (R4 pending)  

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

At the Zoning Board of Appeals meeting held on February 12, 2015, Terry Morrison appeared before the Board on behalf of the property owner.  

Mike Carter, Zoning Board of Appeals Administrator, stated that applicant was proposing to install a 32-stall parking lot to the east of the existing church, which would cause the overall site to exceed the maximum allowed impervious coverage. It would also cause a 5’ encroachment into the street side yard setback along Hamilton Street. The Planning Board approved a Conditional Use Permit and rezoning of the property at its December 3, 2014 meeting, with one of the conditions being approval of the requested waiver from the Zoning Board of Appeals. The Planning Department believed there was a hardship and has supported similar requests for civic uses in residential areas in the past. He mentioned that there will landscaping added that will help screen the parking lot from residential properties in the area. The Planning Department recommended approval in accordance with the plans submitted.  

Mr. Morrison was in agreement with the Planning Department’s recommendation.  

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

AYES: Anzaldo, Teutsch, Lanoha, Aspen, Donovan  

MOTION CARRIED: 5-0
6. Case No. 15-010 - LAYOVER
St. John’s Lutheran Church
11120 Calhoun Road
Omaha, NE 68152

REQUEST: Waiver of Section 55-829 - Variance to the front yard setback from 12’ to 0’ to construct a monument sign.

LOCATION: 4519 Kelby Road
ZONE: DR-ED

The applicant requested a layover of this case.

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

AYES: Teutsch, Lanoha, Aspen, Anzaldo, Donovan

MOTION CARRIED: 5-0
7. Case No. 15-012
Pat Mendick
6643 Aberdeen Circle
Papillion, NE 68133
REQUEST: Waiver of Section 55-506 – Variance to the rear yard setback from 10’ to 0’ to allow an existing building to remain and a 200 sq. ft. addition to the building.
LOCATION: 4670 G Street
ZONE: GI

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on February 12, 2015, Pat Mendick appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that an existing building had been built to the rear of the industrial site without any permits that could be found. The applicant was proposing to build an addition to that building. The Planning Department found no hardship or practical difficulty to support the request and recommended denial.

Mr. Mendick stated that he was not aware of when the structure was built. He wanted to know what could be done to correct the situation before the addition was constructed.

Dave Gross, 6016 Pinkney Street, appeared before the Board. He was the agent who assisted the applicant in purchasing the property. He stated that the title search revealed that there is a permanent easement in place from the neighbor to the north that allows the existing structure to be in its current location. The agreement grants a 20’ easement for that property regardless of who owns it. Ms. Donovan advised the applicant that he should obtain a Certificate of Occupancy for the building so the inspections can be performed.

Mr. Aspen moved to APPROVE subject to the applicant obtaining a Certificate of Occupancy for the entire building. Ms. Teutsch seconded the motion.

AYES: Lanoha, Aspen, Anzaldo, Teutsch, Donovan

MOTION CARRIED: 5-0
8. Case No. 15-013
Sister Marilyn Ross
Holy Name Housing Corporation
3014 North 45th Street
Omaha, NE 68104

REQUEST: Waiver of Section 55-207(e)(1) – Variance to allow 5 townhome units in a townhouse structure.

LOCATION: Generally between Maple and Corby Streets between 36th and 38th Streets

ZONE: R4-35 (R6-PUD pending)

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

At the Zoning Board of Appeals meeting held on February 12, 2015, Doug Kellner, (Thompson, Dreessen & Dorner), appeared before the Board on behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that applicant was proposing to construct 3 single-family homes and a townhouse development on the site. One of the proposed structures has five units although no more than four are allowed. There is an easement that runs through the property that restricts how it can be developed. The Planning Board recommended approval of a Planned Unit Development (PUD) at its January 7, 2015 meeting, subject to approval of the requested waiver by the Zoning Board of Appeals. The Planning Department recommended approval in accordance with the plans submitted.

Mr. Kellner explained that there are steep slopes throughout the site along with curbs and the existing sanitary sewer.

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

AYES: Aspen, Anzaldo, Teutsch, Lanoha, Donovan

MOTION CARRIED: 5-0
9. Case No. 15-014
Esmeralda Villarreal
2808 South 31st Street
Omaha, NE 68105

REQUEST: Waiver of Section 55-206 – Variance to the interior side yard setback from 5' to 0.5' to construct a 2-story home addition.

LOCATION: 2808 South 31st Street
ZONE: R5(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on February 12, 2015, Esmeralda Villarreal appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that applicant was proposing to construct a 2-story addition on the south side of the existing home where there is currently a 1-story enclosed porch. The addition would not encroach any further into the side yard setback than the existing porch does and will match the current setback of the home. He noted that it does encroach 0.5' from the side property line and that the home to the south encroaches approximately 3' – 4' from the side property line which puts both homes in close proximity to one another. The Planning Department recommended denial of the request.

In response to Ms. Donovan, Ms. Villarreal stated that she had spoken with her neighbor and that he was in support of the request. She added that he wanted to attach a fence to the proposed addition and build a set of stairs.

In response to Mr. Lanoha, Ms. Villarreal stated that she chose build where the existing porch is since there is already a foundation in place.

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

AYES: Anzaldo, Teutsch, Aspen, Donovan

NAYES: Lanoha

MOTION CARRIED: 4-1
10.  Case No. 15-015
Mark Sanford
1306 North 162nd Street
Omaha, NE 68118

REQUEST:  Waiver of Section 55-363 – Variance to the permitted use regulations of the CC District to allow a Body & Fender Repair Services use not otherwise permitted.

LOCATION:  15555 Q Street
ZONE:  CC

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on February 12, 2015, Thomas Wortman (Owner) and Mark Sanford appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to redevelop the site and open a Body and Fender Repair business. The parcel is zoned CC (Community Commercial); the use being proposed is typically limited to industrial areas due to the negative effects that that type of operation can have on the area with regards to noise, odors, and unsightliness. The Planning Department does not support the request since it believes there are other locations available for this type of business in the city. He noted that a revised site plan had been submitted to the Planning Department that was different from what the Board had previously received.

Mr. Wortman submitted a packet (Exhibit #2) which included several letters of support from various sources. He provided some background information about the business and discussed how it operates. He stated that he wanted to redevelop the site as a “micro-body” shop which would handle smaller jobs like bumper repairs, mirror and door handle replacements, glass repair, etc. He explained that any vehicle towed to the shop would be hauled to a larger facility so that no wrecked cars are stored on-site. He added that noise from the facility would be reduced since many parts are now glued on or snapped in place. He stated that at his Shenandoah location, he has never had any issues with paint fumes or loud noises affecting surrounding businesses.

In response to Mr. Lanoha’s question about what he felt was his hardship, Mr. Wortman stated that at present if a car needs a small repair it has to be taken to a facility several miles away and then returned. He explained that the current process for small repairs is not profitable for his business. He also felt that industrial zoning was not appropriate for the type of work that is performed at a micro-shop.

In response to Mr. Anzaldo, Mr. Wortman stated that his business would be in operation between 7:30 a.m. and 5 p.m., Monday through Friday. He re-stated that there would be no equipment stored at his Q Street location. Also in response to Mr. Anzaldo, Mr. Sanford stated that the applicant was in agreement with complying with MCC (Major Commercial Corridor Overlay District) standards, including the removal of any pole signs and replacing it in compliance with Urban Design standards, such as with a monument sign. The waiver would be for this applicant only and additional landscaping would be required, especially in the buffer yards. The Public Works Department indicated that access to Q Street must be closed and the site must comply with storm water management standards. Mr. Sanford stated that the storm water management standards could be met; however, closing access to Q Street posed a problem since anyone heading east would be re-routed through the neighborhood, possibly causing issues for the neighbors. That issue would need to be settled with Public Works. He added that, at Public Work’s request, the 156th Street access could be moved further south to comply with current driveway access standards. In response to Mr. Anzaldo, Mr. Carter stated that if the request was not approved, the existing estimating business would be allowed to remain but would still need to comply with the various standards for the site.

Ms. Donovan had an issue with the spray booth that would be used as part of the repair business. She also felt that there was no hardship that would justify the use. Mr. Carter mentioned that if the applicant left the building, the facility would remain and the next owner would want the same type of business. He added that adjustments may need to be made on the site plan, like off-street parking, so that the site can
be considered to be in compliance. Ms. Donovan was concerned about the precedent that would be set if the use was allowed at this location. She felt that the request went against zoning regulations and that there was not hardship that allowed this to occur.

Mr. Aspen stated that if the request was approved, it would almost require the condition that Q Street is opened so that traffic would not end up being re-routed into the neighborhood. In response to Mr. Lanoha, Jennifer Taylor – Attorney, City Law, stated that the Board could grant a Use Waiver with conditions. If the conditions of the Use Waiver were not met then it would be terminated.

Mr. Anzaldo moved to APPROVE the request subject to the site complying with MCC standards for this applicant only and contingent upon the applicant being allowed by the Public Works Department to have access to Q Street. Mr. Aspen seconded the motion.

AYES: Teutsch, Aspen, Anzaldo

NAYES: Lanoha, Donovan

MOTION FAILED: 3-2

Mr. Anzaldo suggested laying the case over so that some details could be worked out with regards to landscaping. The applicant was in agreement with a layover. Ms. Donovan requested more information that explained what a micro-shop is.

Mr. Lanoha stated that he felt the proposed use was not proper for what the property is zoned for.

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

AYES: Teutsch, Aspen, Anzaldo, Donovan

NAYES: Lanoha

MOTION CARRIED: 4-1
11. Case No. 15-016  
5319 North, LLC  
105 North 31st Avenue  
2nd Floor  
Omaha, NE 68131  

REQUEST: Waiver of Section 55-366, 55-716 & 55-734  
- Variance to the maximum building height from 45’ to 75’; to the required number of  
off-street parking stalls from 203 to 167; to the required buffer yard between CC  
(pending) and R4 from 30’ to 18’, 6’ and 11’ to construct a mixed-use building.  

LOCATION: 5319, 5339, 5343 and 5347 North 30th Street & 5330, 5342 North 29th Street  

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

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

At the Zoning Board of Appeals meeting held on February 12, 2015, Neeraj Agarwal – White Lotus Group,  
appeared before the Board on behalf of the applicant.  

Mr. Agarwal stated that the original plan for the site included a 4-story, mixed-used structure with  
commercial on the first floor and residential on the remaining 3 floors. The plan was revised to a 5-story  
building with 11,000 sq. ft. of commercial space and 110 units.  

Mike Carter, Zoning Board of Appeals Administrator, stated that the Planning Department was in support  
of the request and felt that the waivers were reasonable. He mentioned that it is sometimes difficult to  
redevelop areas in the urban parts of the city. The Planning Board recommended approval of the Major  
Amendment to the PUD (Planned Unit Development) plan for the project at its February 4, 2015 meeting.  
The Planning Department recommended approval in accordance with the plans submitted.  

In response to Mr. Lanoha, Mr. Agarwal stated that many of the residents will be students and employees  
of Metropolitan Community College and that the apartments will be affordable housing units.  

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

AYES: Lanoha, Aspen, Anzaldo, Teutsch, Donovan  

MOTION CARRIED: 5-0
DISCUSSION:

Jennifer Taylor, Attorney - City Law, provided an update on the Santa Monica Case (14-080). The City was preparing to submit a brief to the judge and await a ruling.

APPROVAL OF MINUTES:

Mr. Lanoha moved to APPROVE the minutes for the January 8, 2015 meeting. Mr. Anzaldo seconded the motion.

AYES: Anzaldo, Teutsch, Lanoha

ABSTAIN: Aspen, Donovan

MOTION CARRIED: 3-0-2

ELECTION OF OFFICERS:

Mr. Anzaldo moved to ELECT Mr. Mahlendorf as Chair of the Board. Ms. Teutsch seconded the motion.

AYES: Anzaldo, Teutsch, Lanoha, Aspen, Donovan

MOTION CARRIED: 5-0

Mr. Anzaldo moved to ELECT Ms. Donovan as Vice-Chair of the Board. Ms. Teutsch seconded the motion.

AYES: Anzaldo, Teutsch, Lanoha, Aspen, Donovan

MOTION CARRIED: 5-0

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:37 p.m.

Approved (date)

____________________________________________
Brian Mahlendorf, Chair

____________________________________________
Clinette Warren, Secretary