

ZONING BOARD OF APPEALS  
REGULAR MEETING - THURSDAY, APRIL 9, 2015  
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, March 31, 2015 and Thursday, April 2, 2015.

MEMBERS PRESENT: Brian Mahlendorf, Chair  
Jacque Donovan, Vice-Chair  
Jeremy Aspen  
Sebastian Anzaldo  
Jason Lanoha

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

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

**SHOW CAUSE HEARING:**

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| 1. Case No. 14-013 (from 1/8/15, 2/12/15 & 3/12/15)<br>Premier Bank<br>Chris Maher<br>16802 Burke Street<br>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.<br><br>LOCATION: 4314 & 4318 Dodge Street, 109 North 43 <sup>rd</sup> Avenue<br><br>ZONE: GC-ACI-2(50) |
|---|---|

PLANNING DEPARTMENT RECOMMENDATION: Approval of the revised plan, subject to the following 4 conditions and compliance with 55-854, whichever is most restrictive: **1)** Sizing of Message Space: The current "message space" is 132 lines (height) by 176 columns (width). The bank is able to adjust the "message space" to have a 6 ½ inch black/blank space on all sides of the sign to make our new "message space" to 110 lines (height) by 154 columns (width); **2)** Brightness Settings: The bank's sign is currently set up with the manufacturer's recommended brightness settings of "automatic". This means that based on the sunlight exposure throughout the day the brightness automatically adjusts. For example, if it is a cloudy day, the brightness setting would be set at 70%. If it is a sunny day, the brightness setting would be as bright as 100%, and in the evening, the brightness setting would adjust to 10-15%. There are two options that the bank can do to adjust the brightness settings: a) Adjust the maximum brightness setting to 80% instead of 100% during the daytime so the brightness is set up for a cloudy day all of the time. b) In creating each slide image, we would incorporate more pastel or darker colors (black, dark red, mauve, etc.) and limit the amount of brighter colors (white, bright blue, bright green, etc.) **3)** Slide cycle: Limit the number of slides in the cycle to a specific number of slides per minute. (i.e. at one (1) slide per ten (10) seconds for a total of six (6) slides in one minute). The transitional from one image to another will appear instantaneous. **4)** Off-premises Signage: The monument sign will not broadcast any so-called "off-premises" signage.

At the Zoning Board of Appeals meeting held on April 9, 2015, Larry Jobeun, 11440 West Center Road, and Chris Maher appeared before the Board.

The Board had recently visited the site and found that the sign complied with the Planning Department's recommendations. Mr. Mahlendorf advised the applicant that the sign could remain in place only if it continued to be in compliance with the guidelines put in place by the Planning Department.

Mr. Jobeun requested that the waiver run with the land so that the sign would not risk removal if the building was purchased by another owner.

Ms. Donovan moved to APPROVE the revised plan, subject to the four (4) conditions listed in the Planning Department's recommendation report and compliance with 55-584, Performance Standards, whichever is most restrictive. The waiver shall run with the land. Mr. Aspen seconded the motion.

AYES: Anzaldo, Donovan, Lanoha, Aspen, Mahlendorf

MOTION CARRIED: 5-0

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**LAYOVERS:**

2. Case No. 15-010 (*from 2/12/15 & 3/12/15*) **WITHDRAWN**  
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

This request was withdrawn at the request of the applicant.

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3. Case No. 15-011 (*from 3/12/15*) REQUEST: Waiver of Section 55-246, 55-734, 55-735(a)(1), 55-716 & 55-715 – Variance to the front yard setback from 35' to 8'; to the rear yard setback from 25' to 20'; to the interior side yard setback from 10' to 2' (trash enclosure); to the required number of off-street parking stalls from 33 to 22; and to allow off-street parking for a multi-family residential use in the front yard setback of a residential zoning district; to the minimum street yard landscaping depth from 10' to 6'; to the required bufferyard between R7 and R5 from 14' to 6' and to the street side yard setback from 15' to 9', to allow construction of a 22-unit apartment building and parking lot.
- LOCATION: 1030 & 1034 South 30<sup>th</sup> Avenue, 3006 & 3008 Pacific Street
- ZONE: R7

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted, subject to compliance with Article 22, Urban Design.

At the Zoning Board of Appeals meeting held on April 9, 2015, Robert Torson (6542 South 118<sup>th</sup> Street), Kristin Chandler (6542 South 118<sup>th</sup> Street) and Larry Jensen appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant had met with the neighbors. He noted that the Planning Department had received letters from some of the neighbors about the request. The Planning Department supported the request due to the difficulties involved with redevelopment projects in urban areas of the city. The Planning Department recommended approval in accordance with the plans submitted, subject to compliance with Article 22, Urban Design.

Mr. Torson explained that a letter inviting the neighbors to a meeting about the project was unintentionally not mailed, resulting in a meeting with no attendees. The applicant subsequently invited all neighbors within 150' of the proposed project to another meeting on March 23, 2015. He stated that, in general, there was support for the project; however, one of the biggest concerns was with the parking situation. He mentioned the Planning Department's support of the 1:1 parking ratio.

In response to Mr. Lanoha, Mr. Torson stated that there would be 22 units with 22 on-site parking stalls. Mr. Lanoha mentioned that there were indications that some of the proposed stalls would be leased to another property. In response, Mr. Jensen confirmed that there was an agreement in place which stated that some stalls would be leased to another property five houses away. This would result in only 16 available parking stalls for the proposed apartment building. Mr. Carter stated that the Planning Department was under the impression that all of the parking stalls were specifically for the proposed apartment building and that this new development meant that parking would fall below the 1:1 standard. This would cause the Planning Department to reconsider its support for the project. Mr. Mahlendorf stated that the parking situation would need to be decided on before the Board was able to make an informed decision on the case.

Mr. Anzaldo stated that the Board had not been presented with the actual facts of the case and that it should either be laid over or something should be presented to the Board that showed that the off-site stalls were perpetual; if that did not occur he added that he would not support the project.

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Bonnie Urbanek, 1017 South 30<sup>th</sup> Avenue, appeared in opposition to the request. She felt that 22 units were too many for the location and that there should be a minimum of 25 parking stalls for the building. She also questioned the amount of green space being proposed for the project.

In response to Mr. Lanoha, Mr. Jensen stated that he would provide information to the Board that would indicate that all of the 22 parking stalls would be for that building only. Mr. Anzaldo stressed that all of the parking stalls needed to be on-site or that a perpetual lease should be in place for the off-site stalls. He expressed disappointment over the fact that 6 stalls had been previously designated to persons who would not be living on the premises.

Mr. Aspen moved to LAYOVER to give the applicant time to clarify parking issues. Ms. Donovan seconded the motion.

AYES: Donovan, Lanoha, Aspen, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0

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4. Case No. 15-024 (*from 3/12/15*)      REQUEST:      Waiver of Section 55-266, 55-734 & 55-740(f) – Variance to the interior side yard setback from 10' to 5.75'; to the rear yard setback from 25' to 2' (trash enclosure); to the minimum perimeter parking lot landscaping from 10' to 8' and to the required number of off-street parking stalls from 40 to 32, to construct a 28-unit apartment building.
- John Caniglia  
Icon Properties Midtown  
P.O. Box 540308  
Omaha, NE 68154
- LOCATION:      3412, 3420 & 3424 Dodge Street; 111 North 35<sup>th</sup> Street
- ZONE:          R8-ACI-2(50)

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted, subject to compliance with Article 22, Urban Design.

At the Zoning Board of Appeals meeting held on April 9, 2015, Dan Dolezal (Ehrhart Griffin & Associates – 3552 Farnam Street) and John Caniglia appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the case had been laid over to allow time for the applicant to meet with the neighbors. A new set of building elevations had been submitted. The Planning Department believed that there was a hardship/practical difficulty due to the infill nature of this project along the Dodge Street corridor. The Planning Department recommended approval in accordance with the plans submitted, subject to compliance with Article 22, Urban Design.

Mr. Mahlendorf noted that the Board received a letter of support from the Gifford Park Neighborhood Association. Mr. Caniglia stated that he did meet with the neighborhood association on two separate occasions and that everyone seemed to be in agreement with the project.

Mr. Anzaldo moved to APPROVE in accordance with the plans submitted, subject to compliance with Chapter 55 - Article 22 (Urban Design) of the Omaha Municipal Code. Mr. Aspen seconded the motion.

AYES: Lanoha, Aspen, Anzaldo, Donovan, Mahlendorf

MOTION CARRIED: 5-0

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**NEW CASES:**

5.	Case No. 15-029 Signworks, Inc. 4713 F Street Omaha, NE 68178	REQUEST:	Waiver of Section 55-825(c) – Variance to the maximum area for a temporary wall sign from 32 sq. ft. to 132 sq. ft. for a banner for 4 weeks during the College World Series.
		LOCATION:	815 Florence Boulevard
		ZONE:	DS-ACI-1(PL)

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

At the Zoning Board of Appeals meeting held on April 9, 2015, Burton Arnold (Signworks, Inc.) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, noted that the request had been before the Board several times in the past. The Planning Department has supported the request in the past due to the temporary nature of the banner and the unique community event it supports. The Planning Department recommended approval in accordance with the plans submitted.

In response to Ms. Donovan, Mr. Arnold stated that the banners would be exactly the same as what was used the previous year.

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

AYES: Aspen, Anzaldo, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0

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| 6. | Case No. 15-030<br>Signworks, Inc.<br>4713 F Street<br>Omaha, NE 68178 | REQUEST:  | Waiver of Section 55-825(c) – Variance to the maximum area for a temporary wall sign from 32 sq. ft. to 108 sq. ft. for a banner for 4 weeks during the College World Series. |
|    |  | LOCATION: | 1624 Mike Fahey Street  |
|    |  | ZONE:     | DS-ACI-1(PL)  |

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

At the Zoning Board of Appeals meeting held on April 9, 2015, Burton Arnold (Signworks, Inc.) appeared before the Board.

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

AYES: Anzaldo, Donovan, Lanoha, Aspen, Mahlendorf

MOTION CARRIED: 5-0

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| 7. | Case No. 15-031<br>Greenstreet Cycles<br>2452 Harney Street<br>Omaha, NE 68131 | REQUEST: Waiver of Section 55-824(b)(4) – Variance to allow a projecting sign to be within 25' of 2 existing, projecting signs. |
|    |  | LOCATION: 2452 Harney Street  |
|    |  | ZONE: CBD-ACI-1(PL)   |

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

At the Zoning Board of Appeals meeting held on April 9, 2015, Ben Swan (Greenstreet Cycles/Kellogg Place) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the property in question has three bays and that two have existing projecting signs in front that project into the right-of-way. The code requires 25' of separation between signs; the third sign would result in the signs being non-compliant. The Planning Department believed there is a hardship due to the location of the building and the spacing of the tenants, and recommended approval in accordance with the plans submitted.

In response to Mr. Mahlendorf, Mr. Swan stated that he had already submitted a right-of-way lease application for the signs. Mr. Mahlendorf also noted that a letter of support had been submitted by Councilmember Chris Jerram.

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

AYES: Donovan, Lanoha, Aspen, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0

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8.	Case No. 15-032 Robert J. Brau 7705 North 207 <sup>th</sup> Circle Omaha, NE 68022	REQUEST:  LOCATION: ZONE:	Waiver of Section 55-108 – Variance to the interior side yard setback from 25' to 10' to construct a new home. 18218 Trailridge Road DR
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PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on April 9, 2015, Robert Brau appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was requesting a waiver to the interior side yard setback of the property to construct a single-family home. The lot is over 40,000 sq. ft. in size and 100' wide at the required setback. The Planning Department believed that the home could be built in compliance with zoning regulations and that there was no hardship or practical difficulty to justify the waiver. The Planning Department recommended denial. He mentioned that after some research, it was found that other waivers were granted in the neighborhood, with only one allowing a structure as close as 10' to the property line.

Mr. Brau stated that this lot was one of three narrow lots in the area. He mentioned a couple of other homes in the neighborhood that were within 10' of the property line.

In response to Mr. Lanoha, Mr. Brau stated that he was purchasing the lot from the neighbor to the west who requested that the home be built as far to the east as possible. There is currently no home on the lot to the east. Mr. Lanoha noted that the home would be pushed back 100' from the front property line and that it would be fairly consistent with the neighborhood.

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

AYES: Lanoha, Aspen, Anzaldo, Donovan, Mahlendorf

MOTION CARRIED: 5-0



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10.	Case No. 15-035 Matt Kronaizl Kronaizl Investments, Inc. 21046 X Street Omaha, NE 68022	REQUEST:  LOCATION: ZONE:	Waiver of Section 55-715 – Variance to the minimum street yard landscaping percentage from 60% to 51%. 1818 North 197 <sup>th</sup> Street R4
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PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on April 9, 2015, Matt Kronaizl appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that a building permit was issued for this property. The plans were redlined to indicate the amount of pavement that was allowed in the street yard area. It was later determined that the applicant could not comply with 40% maximum pavement requirement in the street yard. The Planning Department found no hardship or practical difficulty since the property can be developed in compliance with the zoning ordinance and, therefore, recommended denial.

Mr. Kronaizl stated that he believed that when the plans were originally approved by the City, they were approved as submitted. He was not aware that waivers were needed. He stated that the challenge of constructing a new home is the 43' street yard. He explained that the neighborhood covenants require at least a 3-car garage, which would increase the amount of impervious coverage. He presented pictures of other homes in the neighborhood that did not comply with the ordinance. He stated that the hardship is that, without the waiver, the driveway would be too small.

The Board felt that the applicant needed additional time to reconfigure the front portion of the driveway.

Mr. Aspen moved to LAYOVER to allow the applicant time to redesign the driveway. Mr. Lanoha seconded the motion.

AYES: Anzaldo, Donovan, Lanoha, Aspen, Mahlendorf

MOTION CARRIED: 5-0

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11.	Case No. 15-036 Aaron Bailey 6721 South 46 <sup>th</sup> Avenue Omaha, NE 68117	REQUEST:	Waiver of Section 55-782(b)(6) – Variance to the street side yard setback from 15' to 1'6" to construct a 960 square foot detached garage.
		LOCATION:	6721 South 46 <sup>th</sup> Avenue
		ZONE:	R7

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on April 9, 2015, Aaron Bailey appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a large, detached garage on the property to the north of the existing home. It would be as close as 1'6" from the property line that runs along the street, resulting in the need for a waiver. The Planning Department found no hardship or practical difficulty and felt that the building size should be reduced and, therefore, recommended denial.

Mr. Bailey stated that only part of the structure would sit in front of the home and that it would not be a detached garage, but a pole shed that would be used to store a boat and some tools. He explained that the structure would be back further onto the property than what was shown on the plans. An existing shed on the property would be torn down to make more room for the new structure.

Mr. Mahlendorf stated that there was some confusion regarding the actual dimensions of the structure in relation to the property. He suggested that the applicant hire a professional surveyor to find out the exact dimensions of the property.

In response to Mr. Asepn, Mr. Bailey stated that he had spoken with his neighbors and that none had any objections to the project.

Mr. Aspen stated that he was not in support of the project due to the size and style of the proposed structure which he felt were not a good fit for the neighborhood. Mr. Lanoha commented that he found it difficult to support the project for similar reasons and also because there was no hardship demonstrated on the part of the applicant.

Mr. Anzaldo moved to LAYOVER to allow the applicant time to submit a survey and consider a redesign of the building. Mr. Mahlendorf seconded the motion.

AYES: Donovan, Lanoha, Anzaldo, Mahlendorf

NAYES: Aspen

MOTION CARRIED: 4-1

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12.	Case No. 15-038 Lamar Outdoor 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)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on April 9, 2015, Mike Degan (13330 California Street, Suite 200) and Jim Deitering (Lamar Outdoor) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the request is similar to a previous request (Case 14-042) that is under litigation and that pertains to an off-premise sign. The applicant proposed the installation of an electronic message sign on the eastern side of the existing billboard. The applicant indicated that they owned signs across the street that would be removed if the electronic messaging was allowed. It was later determined that the applicant did not own the signs. At that time the case was in court with a temporary injunction barring the City from issuing or attempting to issue any permits for the sign. The Planning Department found no hardship or practical difficulty and recommended denial.

Mr. Degan stated that the Board had previously directed all parties involved in the original case (14-042) to work together on an agreement. They could not come to an agreement and the applicant decided to withdraw the case. He discussed some of the history of the case, explaining that it had been determined that Lamar did not own the actual signs but were leasing them. As a result, they could change the sign faces but could not remove the structures. He stated that Lamar was issued a valid sign permit with the condition that the sign faces be removed. Lamar Outdoor notified the landowner (Rainbow Studios) that they wanted to terminate the lease and remove the sign faces. Before this could be done, attorneys for Waitt Outdoor filed a lawsuit against Lamar Outdoor and the City of Omaha and an injunction was issued. That injunction prevents Lamar from removing their sign faces and complying with the terms of the permit that was issued to them by the City of Omaha. It also prevents the City of Omaha from issuing any permits until a decision has been made in the courts. Mr. Degan stated that a waiver was being requested based on the hardship that has resulted from the litigation process which prevents Lamar from exercising their property rights. He noted that neither Waitt nor Rainbow had objected to the permit or filed an appeal for their own sign but chose to circumvent that process and file a lawsuit. The applicant proposed removing a billboard located in the parking lot of the University of Nebraska Omaha arena if the waiver was approved. In addition, if the waiver was granted Lamar would voluntarily drop its cross claim against the City of Omaha. He indicated that the University of Nebraska foundation was in full support of the waiver.

In response to Mr. Mahlendorf, Mr. Degan stated that the removal of the UNO sign would be in addition to the cap and replacement of the six existing sign faces.

Nils Anders Erickson (Rainbow Recording Studios, Inc.) appeared before the Board. He stated that the applicant cancelled in the middle of a year lease with less than a 30-day notice. He added that the judge had given the applicant every opportunity to remove and replace the signs but that they had chosen not to do so.

Mike Delich, (Owner – Waitt Outdoor, 4717 "F" Street) appeared before the Board. He explained that, to date, the judge of the original case had decided that the permit should remain with the property. It was also decided that Mr. Erickson is the owner of the permit.

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Mr. Mahlendorf urged all parties involved in the case to work together to come to an agreement. He stated that if the Board had to make a decision it would be made in the best interest of the city as whole and not for the individuals involved.

Ms. Donovan expressed concern over the possibility of the sign at UNO was removed and another being erected in an even more undesirable location nearby. Mr. Dietering acknowledged that it was possible; however, he felt that it would still be an improvement to have the sign removed from the front of the new arena.

In response to Mr. Anzaldo, Mr. Dietering stated that he would consider whether he would be able to remove another sign in addition to the one located at the UNO property.

In response to Mr. Lanoha, Mr. Dietering explained that the cap and replace is based on total square footage of signage. The six faces that are attached at 4428 Dodge Street are 6 - 11'x23' signs. In response to Ms. Donovan's concerns about additional signage near the UNO arena, he stated that, due to the zoning of the area, billboard signs may not be allowed. He agreed to provide that information at the next meeting along with additional locations where signage could be removed.

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

AYES: Lanoha, Aspen, Anzaldo, Donovan, Mahlendorf

MOTION CARRIED: 5-0

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13.	Case No. 15-039 William Harrison 2264 South 186 <sup>th</sup> Street Omaha, NE 68130	REQUEST:	Waiver of Section 55-786(e) – Variance to the residential fence regulations to allow a 6’ tall, wrought-iron style fence in the front yard setback of a residential district (186 <sup>th</sup> Circle).
		LOCATION:	2264 South 186 <sup>th</sup> Street
		ZONE:	R4

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on April 9, 2015, William Harrison appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to install the 6’ tall, wrought-iron fence along 186<sup>th</sup> Circle so that a pool can be put in the back yard. The property has multiple street frontages, including two that are considered to be front yards. The code does not allow 6’ tall fences in the front yard setback. The Planning Department found no hardship or practical difficulty and believed that a fence in compliance with the code could be constructed and, therefore, recommended denial.

Mr. Mahlendorf noted that there was a challenge resulting from the property having multiple front yards. Mr. Harrison stated that the pool would be primarily used for medical reasons. He mentioned that other homes in the neighborhood have 6’ fences on their property line and that, because of the distance from the fence to the street and the use of wrought-iron for the fence material, sight lines would not be impaired.

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

AYES: Aspen, Anzaldo, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0

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| 14. | Case No. 15-041<br>Esther Silver<br>1411 North 58 <sup>th</sup> Street<br>Omaha, NE 68132 | REQUEST: Waiver of Section 55-183 – Variance to the permitted use regulations of the R4 district to allow a <i>Duplex Residential</i> use not otherwise permitted. |
|     |   | LOCATION: 1409–1411 North 58 <sup>th</sup> Street  |
|     |   | ZONE: R4(35)   |

PLANNING DEPARTMENT RECOMMENDATION: Approval, subject to submittal of an applicant rezoning the property from R4 to R5.

At the Zoning Board of Appeals meeting held on April 9, 2015, Lois Finkel (CBS Home Real Estate – 15950 West Dodge Road) appeared before the Board on behalf of the applicant.

Ms. Finkel stated that the homeowner had lived in the duplex since 1956 and was not aware that in 1987 zoning for the property had changed. The applicant was in the process of selling the home; however, the bank would not give the prospective buyers a loan until the property was rezoned to R5.

Ms. Donovan moved to APPROVE in accordance with the plans submitted, subject to the submittal of an application to rezone the property from R4 to R5. Mr. Aspen seconded the motion.

AYES: Anzaldo, Donovan, Lanoha, Aspen, Mahlendorf

MOTION CARRIED: 5-0

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| 15. | Case No. 15-042<br>Rose Blumkin Performing Arts<br>2001 Farnam Street<br>Omaha, NE 68102 | REQUEST:<br><br>LOCATION:<br>ZONE: | Waiver of Section 55-839(b) – Variance to the total permitted sign area from 469 sq. ft. to 1,081 sq. ft. to allow installation of 3 wall signs.<br><br>2001 Farnam Street<br>CBD-ACI-1(PL) |
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PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on April 9, 2015, Julie Walker (Rose Theater) and Rob Tomanek (Signworks, Inc.) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to install 3 wall signs on the east side of the building to advertise the various events at the theater. The proposed signs are approximately 819 total square feet, which would bring the total signage to 1,081 square feet. The Planning Department found no hardship or practical difficulty and felt that the signage should comply with the zoning regulations. He mentioned that the Rose is both a National Register property and a Local Landmark, and that it must appear before the Landmarks Heritage Preservation Commission for approval of the proposed signage on the property. The Planning Department recommended denial of the request.

Ms. Walker stated that the applicant wanted to replicate how the proposed signs were originally displayed on the building.

Mr. Mahlendorf acknowledged the civic importance of the building; however, he stated that the Board was hesitant to permanently increase the signage for the building.

Mr. Tomanek explained that the proposed signs would have an aluminum frame with retainers around the edges. Ms. Walker stated that the signs would be changed once per year at the start of each theater season. The middle sign would list all of the shows for the season, and the signs on either side would advertise the big summer show and the holiday show.

Mr. Anzaldo was hesitant to support the signage being up for the entire year since it would cover the historic exterior of the building. Mr. Mahlendorf stated that he would like to see examples of the signs being proposed and suggested that the signs be approved yearly by the Board. Ms. Walker submitted a copy (Exhibit B) of what the proposed signs for this year would like. In response to Mr. Lanoha, Ms. Walker stated that, due to the cost of the sign installation, the applicant was hesitant to accept a trial year with the signs.

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

AYES: Donovan, Lanoha, Aspen, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0

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16. Case No. 15-043  
Mustang Properties  
2226 South 89<sup>th</sup> 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)

PLANNING DEPARTMENT RECOMMENDATION: Approval, in accordance with the plans submitted, subject to compliance with Article XXII, Urban Design.

At the Zoning Board of Appeals meeting held on April 9, 2015, Charlie Sullivan (Mustang Properties) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to redevelop the property with a 6-unit apartment building. The Planning Department has supported similar projects in the past. Hardships exist due to the narrowness of the property and the redevelopment of the site with new residential construction in an urban area of the city. The Planning Department recommended approval in accordance with the plans submitted, subject to compliance with Article XXII, Urban Design. He mentioned that the 1:1 parking guideline would be used noting that there were other transportation alternatives in the area.

Mr. Sullivan explained that the 3-story building would consist of parking on the main level and 6, 1-bedroom units on the 2 floors above. To the west of the property is a parking lot; to the north is an office building; and, to the east are two rental properties.

In response to Ms. Donovan, Mr. Sullivan stated that he did not have elevation drawings available at the time.

Nils Anders Erickson (4817 Davenport Street) appeared in opposition to the request. He owns the two, single-family properties to the east: 4802 Douglas Street and 114 South 48<sup>th</sup> Street. He stated that the applicant purchased 4804 Douglas from him for his development. Mr. Erickson submitted a document from 2006 (Exhibit B) in which the applicant stated that 4804 Douglas would remain a green space. He objected to the design of the proposed building which he felt did not fit in with the character of the neighborhood.

Cody Raml (123 Dundee Ridge Court) appeared in opposition to the request. He objected to the size of the property which he felt was too big for the lot and to the limited number of parking places available for tenants. He felt that a 2:1 parking ratio would be more appropriate and that the extra traffic would be hazardous to the young children who play in the neighborhood. He also mentioned that the residents of Dundee Ridge Court received not notification of the applicant's plans until they received a notice from the City of Omaha.

Dustin Friedman (132 Dundee Ridge Court) appeared in opposition to the request. His main objection was to the developer himself and his past history in the area. He stated that there were issues with raccoons in the area that is included in the waiver. He felt that there was already enough commercial property in the area that took away from the residential quality of the neighborhood. He mentioned an email from another neighbor who was not in support of the request.

Douglas Rasmussen (128 Dundee Ridge Court) appeared in opposition to the request. He was in agreement with many of the objections raised by his neighbors. He stated that the ordinances were put in place for a reason and that the applicant must show why waivers were necessary. He felt that the height of the building would make it much larger than any other properties around and that it and would take away from the character of the neighborhood. He requested a layover so that he could have time to speak

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with an attorney to determine what, if anything, he had a right to do. In addition, he requested that an impact study be done with regards to traffic and parking.

Dana Raml (123 Dundee Ridge Court) appeared before the Board in opposition. She stated that the neighbors were not even aware of the project until the City mailed notices to them. She was concerned about the parking situation. She felt that, although public transportation was available, it did not meet the need for the area.

In response to the neighbors' concerns about height, Mr. Sullivan stated that the proposed structure would be about the same height as the homes in Dundee Ridge that are three stories tall with rooftop gardens. He explained that the height of the building would be no taller than 45'. There was some discussion about the waivers that were received for the Dundee Ridge project and whether a traffic study could be done for a project of this size.

In response to Mr. Aspen, Mr. Sullivan stated that he had not had a group meeting with the neighbors, although he had spoken to some individually. Mr. Mahlendorf stated that in order for some areas to be redeveloped, waivers would need to be granted. Ms. Donovan encouraged more green space in the driveway area. Mr. Lanoha also requested that the applicant submit plans that would show the conceptual design of the building.

Mr. Aspen moved to LAYOVER to give the applicant time to meet with the neighbors. Mr. Mahlendorf seconded the motion.

AYES: Lanoha, Aspen, Anzaldo, Donovan, Mahlendorf

MOTION CARRIED: 5-0

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17.	Case No. 15-044 Jared Gerber Gerber Architecture PC 9312 Leavenworth Street Omaha, NE 68114	REQUEST:  LOCATION: ZONE:	Waiver of Section 55-186 – Variance to the rear yard setback from 25' to 3' to allow a deck on the roof of a new detached garage. 5122 Nicholas Street R4(35)
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PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on April 9, 2015, Jared Gerber and Mike Vanone (Homeowner) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to build a new, 3-car garage generally in the same location that the existing 2-car garage is located. The proposed garage complies with all regulations; however, the applicant is proposing a deck for the top of the garage that would encroach into the rear yard setback. The Planning Department believed that the proposed deck is a design preference and recommended denial.

Mr. Gerber explained that the existing 2-car garage and deck were in disrepair and needed to be replaced. He explained that there is about an 8' drop-off from the backyard to the entrance of the garage along 52<sup>nd</sup> Street. This results in a garage with a flat roof that is approximately 18" to 24" above the back yard. He stated that the home to the north has a detached garage that provides a buffer between the two properties. In response to Ms. Donovan, Mr. Vanone stated that his wife had spoken with the neighbor to the north and that they had no objections to the request. Mr. Gerber stated that the garage would be moved from 5' from the property line to 3', which is allowed since it is detached.

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

AYES: Aspen, Anzaldo, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0



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Cindy Anderson, 9429 Westchester Lane, appeared in opposition to the request. She was in support of the Planning Department's recommendation of denial. She felt that the home would be too imposing on the lot and that it would not fit the character of the neighborhood.

Ms. Donovan suggested that the case be laid over so that the applicant could discuss the project with the neighbors and also redesign the plan so that there was minimal impact to the front yard setback. Mr. Lanoha mentioned that there was no hardship in this case but a design preference on the part of the applicant. He also encouraged communication with the neighbors.

Mr. Aspen moved to LAYOVER. Mr. Mahlendorf seconded the motion.

AYES: Anzaldo, Donovan, Lanoha, Aspen, Mahlendorf

MOTION CARRIED: 5-0



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20.	Case No. 15-047	REQUEST:	Waiver of Section 55-924 – Variance to the required sidewalk width from 10' to 6'.
	Matt Dwyer	LOCATION:	3824 Farnam Street
	P.O. Box 31202	ZONE:	NBD-ACI-1(PL)
	Omaha, NE 68131		

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

At the Zoning Board of Appeals meeting held on April 9, 2015, Eric Westman (Alley Poyner Macchieto Architecture) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the sidewalk width on the west side of the property does not meet the required 10' width. The proposal was recommended for approval by the Urban Design Review Board at its March 19, 2015 meeting. The Planning Department recommended approval in accordance with the plans submitted.

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

AYES: Lanoha, Aspen, Anzaldo, Donovan, Mahlendorf

MOTION CARRIED: 5-0

**APPROVAL OF MINUTES:**

Ms. Donovan moved to APPROVE the minutes for the March 12, 2015 meeting. Mr. Mahlendorf seconded the motion.

AYES: Aspen, Anzaldo, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0

**ADJOURNMENT**

It was the consensus of the Board to ADJOURN the meeting at 3:58 p.m.

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Approved (date)

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Brian Mahlendorf, Chair

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Clinette Warren, Secretary