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, October 31, 2016 and Thursday, November 3, 2016.

MEMBERS PRESENT:  
Brian Mahlendorf, Chair  
Sebastian Anzaldo  
Jeremy Aspen  
Jacque Donovan, Vice-Chair  
Sean Kelley (Alternate)

MEMBERS NOT PRESENT:  
Jason Lanoha  
Michael Gorman (Alternate)

STAFF PRESENT:  
Mike Carter, Zoning Board of Appeals Administrator  
Dave Fanslau, Assistant Director  
Jennifer Taylor, City Attorney  
Michelle Alfarro, City Planner  
Clinette Ingram/Rikki Flott, 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. 16-095
   Pastor Rivera
   2104 Q Street
   Omaha, NE 68107
   REQUEST: Waiver of Section 55-740(f)(4) – Variance to the minimum perimeter parking lot landscaping from 5’ to 0’ to allow pavement to remain.
   LOCATION: 2104 Q Street
   ZONE: GC

PLANNING DEPARTMENT RECOMMENDATION: Layover the request to allow the applicant to submit a complete site plan of the property including paving on the north side of the building and to show how the off-street parking will be designed.

At the Zoning Board of Appeals meeting held on November 10, 2016, Pastor Rivera appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the existing parking lot improvements were constructed on the west side of the building without an approved building permit. A building permit was eventually submitted and approved with required changes which included 5’ of perimeter parking lot landscaping on the west side of the site and the addition of pavement to the area to the north. The applicant had submitted a partial site plan and requested that the pavement be allowed to remain up to the property line. The original plan showed pavement over the property line, which is not permitted. The Planning Department believed that the case should be laid over to give the applicant time to submit a complete site plan of the property, including pavement on the north side of the building and to show how the off-street parking will be designed on the site.

Pastor Rivera explained that if the pavement was removed there would be no parking for the store. Mr. Mahlendorf stated that the board had discussed the case and that there was some support for allowing the applicant to allow the pavement to go up to the property line; however, the parking configuration for the lot did not work since cars would need to back out onto Q Street to exit the site. He stated that there needed to be a connection from the existing parking lot to 21st Street that would allow one-way through traffic and a right or left hand turn onto 21st Street. The applicant was in agreement with that plan.

Ms. Donovan moved to APPROVE in accordance with the plans submitted, subject to the applicant meeting with the City and providing an additional drive-through lane that would connect the parking lot with 21st Street. Mr. Aspen seconded the motion.

AYES: Anzaldo, Aspen, Donovan, Kelley, Mahlendorf

MOTION CARRIED: 5-0
2. Case No. 16-096
   Shannon Hejkal
   12551 Bristol Circle
   Omaha, NE 68164
   REQUEST: Waiver of Section 55-786 – Variance to the residential fence regulations to allow a fence taller than 4’ and more than 50% closed, within the required street side yard setback.
   LOCATION: 12551 Bristol Circle
   ZONE: R4

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on November 10, 2016, Shannon Hejkal appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant lived on a corner lot in a circle. The applicant was proposing to install a 4.5’ tall semi-private fence that would match the existing fence of a neighbor to the east. The proposed fence exceeds the height and openness that is allowed in the zoning ordinance. The code requires that the fence be located 15’ back from the property line, or that the fence be reduced to 4’ if built on the property line. The Planning Department found no hardship or practical difficulty and recommended denial.

Ms. Hejkal explained that a fence was needed in the area where her children played. She added that one of her neighbors to the rear had a 6’ privacy fence and another has a 4.5’ white picket fence. She felt that a wrought-iron or chain-link fence would not match those existing fences. Finally, she stated that her family planned to get a large breed dog and that they waiting for permission to install a white picket fence that is identical to her neighbor. Ms. Hejkal explained that there were no visibility issues and that she had obtained written approval from her neighbors.

In response to Ms. Donovan, Ms. Hejkal stated that she was agreement with installing the fence 5’ from the property line.

Mr. Aspen moved to APPROVE in accordance with the plans submitted, subject to the fence being 5’ back from the property line. Mr. Kelley seconded the motion.

AYES: Aspen, Donovan, Kelley, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0
3. Case No. 16-097
   Mike Jansen
   6223 South 170th Street
   Omaha, NE 68135

   REQUEST: Waiver of Section 55-126 - Variance to the rear yard setback from 35’ to 20’ 25’ to allow construction of a deck.

   LOCATION: 13804 Cuming Street
   ZONE: R1

   PLANNING DEPARTMENT RECOMMENDATION: Denial.

   At the Zoning Board of Appeals meeting held on November 10, 2016, Mike Jansen (Mike Jansen Custom Decks) appeared before the Board.

   Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to replace an existing deck with a larger deck that would encroach into the rear yard setback as close as 20’ from the rear property line. The Planning Department found no hardship or practical difficulty and recommended denial.

   Mr. Jansen stated that he was unaware that there was a 35’ setback for the property; he believed that it was 25’. He added that he could change the stair so that it would encroach 25’ into the setback. He explained that the homeowners had a large family and did lot of outside entertaining.

   Mr. Mahlendorf noted that the property abutted a DR outlot area so there would be very little impact. Ms. Donovan stated that she would support a 25’ setback.

   Ms. Donovan moved to APPROVE the setback from 35’ to 25’. Ms. Kelley seconded the motion.

   AYES: Donovan, Kelley, Anzaldo, Aspen, Mahlendorf

   MOTION CARRIED: 5-0
4. Case No. 16-098
Ruben Castelan
3402 Avenue B
Council Bluffs, IA 51501

REQUEST: Waiver of Section 55-186 – Variance to the rear yard setback from 25’ to 21’4” to allow reconstruction of an addition.

LOCATION: 2706 Madison Street
ZONE: R4(35)

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

At the Zoning Board of Appeals meeting held on November 10, 2016, Ruben Castelan, Maria Cabral and Mr. Garcia appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the existing structure on the back of the home had been enclosed and was not in compliance with the footing requirements of the building code. The structure was subsequently removed and the applicant was proposing to rebuild the addition as an enclosed structure with the correct footings and that was in compliance with other requirements of the building code. The Planning Department was in support of the request due to the substandard size of the lot. Mr. Carter explained that the lot was about 14’ shorter than a typical R4 lot. The Planning Department recommended approval in accordance with the plans submitted.

In response to Mr. Anzaldo, Mr. Garcia stated that the addition would match the existing home.

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

AYES: Kelley, Anzaldo, Aspen, Donovan, Mahlendorf

MOTION CARRIED: 5-0
5. Case No. 16-099
Superior Lighting, Inc.
2121 South 24th Street
Omaha, NE 68108

REQUEST: Waiver of Section 55-832 – Variance to the overall sign budget from 40 sq. ft. to 107 sq. ft. and to the maximum size of a wall sign from 40 sq. ft. to 97.5 sq. ft. for 2 wall signs.

LOCATION: 4014 Leavenworth Street
ZONE: R7-ACI-1(PL) (GO-pending)

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

At the Zoning Board of Appeals meeting held on November 10, 2016, Zachary Weeks appeared before the Board on behalf of the University of Nebraska Medical Center.

Mike Carter, Zoning Board of Appeals Administrator, stated that 2 wall signs were being proposed for the south side of the new outpatient center. The property owner was proposing to change the zoning of the property to GO (General Office). He explained that the College and University Facility use is very restrictive with regards to signage. The Planning Department believed that the use of the building was more suitable for an office use, which is allowed more signage. The Planning Department recommended approval in accordance with the plans submitted.

Mr. Weeks explained that the signage would direct traffic into the parking lots.

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

AYES: Donovan, Kelley, Aspen, Mahlendorf

MOTION CARRIED: 4-0-1
6. Case No. 16-100
Deb Hale
11213 Davenport Street
Suite 300
Omaha, NE 68154

REQUEST: Waiver of Section 55-246 – Variance to the interior side yard setback from 10' to 8.1' to allow 4 existing decks to be rebuilt in their current location.

LOCATION: 4910 Davenport Street
ZONE: R7

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

At the Zoning Board of Appeals meeting held on November 10, 2016, Deb Hale and Mr. Peterson with Peterson Construction appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the site had an existing multi-family structure on it with 4 decks on the east side of the building that extend into the required side yard setback. The applicant was proposing to rebuild those decks in the exact same location. The Planning Department felt that there was a hardship since the structures were existing and recommended approval in accordance with the plans submitted.

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

AYES: Donovan, Kelley, Anzaldo, Mahlendorf

ABSTAIN: Aspen

MOTION CARRIED: 4-0-1
7. Case No. 16-101  
Villa Vinee Company, LLC  
7700 Howard Street  
Omaha, NE 68114  

REQUEST: Waiver of Section 55-831 - Variance to the overall sign budget from 40 sq. ft. to 73 sq. ft. and to the required setback from 6' to 0' to allow a monument sign.

LOCATION: 7700 Howard Street  
ZONE: R6-PUD

PLANNING DEPARTMENT RECOMMENDATION: Approval of the waiver of the overall sign budget only, in accordance with the plans submitted.

At the Zoning Board of Appeals meeting held on November 10, 2016, Robert Hancock and Gaby Ryan (Signworks) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant had appeared before the Planning Board to amend their Planned Unit Development plan. The property owner was proposing to construct a sign on the northwest corner that would replace a previously existing sign. The sign that was in place and subsequently removed had not been permitted and did not meet the requirements for setbacks. The site also did not meet the overall sign budget for its use. The Planning Board recommended approval of the overall sign budget request but did not grant the waiver for the setback. Mr. Carter explained that the Zoning Board could grant the waiver for the overall sign budget and the sign would need to be placed at a 6' setback. The Planning Department recommended approval for the sign budget only, in accordance with the plans submitted.

In response to Mr. Anzaldo, Mr. Hancock stated that he was in agreement with the Planning Department’s recommendation.

Mr. Anzaldo moved to APPROVE the waiver of the overall sign budget only, in accordance with the plans submitted. Mr. Kelley seconded the motion.

AYES: Donovan, Kelley, Anzaldo, Aspen, Mahlendorf

MOTION CARRIED: 5-0
8. Case No. 16-102
Oldenhuis Contracting
4501 Leavenworth Street
Omaha, NE 68106

REQUEST: Waiver of Section 55-166 – Variance to the rear yard setback from 25’ to 0.5’ and to the interior side yard setback from 7’ to 3’ to allow construction of a 24’4” x 30’4”, 2-story detached garage.

LOCATION: 5203 Izard Street
ZONE: R3

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on November 10, 2016, Chris Oldenhuis appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to replace an existing detached garage with a 2-story, detached garage. Since the overall floor area of the structure would exceed the 750 sq. ft. exception, the code requires a 25’ rear yard setback and a 7’ side yard setback. The applicant was requesting to use the same .5’ rear yard setback as the current structure, and to go as close as 3’ from the interior side yard. The Planning Department found no hardship or practical difficulty and recommended denial.

Mr. Oldenhuis stated the neighbor to the rear did not oppose the project. He added that the garage would be pushed to the west so that it would meet the 3’ interior yard setback. He explained that his client wanted the upper level of the garage to be used for light storage and that he wanted a full set of stairs instead of pull-down stairs, for safety purposes. The homeowner indicated that he had no intentions of finishing the upstairs space.

In response to Ms. Donovan, Mr. Oldenhuis stated that the garage would be closer on the west to an adjacent neighbor’s garage.

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

AYES: Kelley, Anzaldo, Aspen, Donovan, Mahlendorf

MOTION CARRIED: 5-0
9. Case No. 16-103
Universal Renovations
10605 Bondesson Circle
Omaha, NE 68122

REQUEST: Waiver of Section 55-186 – Variance to the maximum impervious surface coverage from 50% to 58% to allow construction of a new garage and driveway extension.

LOCATION: 419 North 47th Street
ZONE: R4(35)

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

At the Zoning Board of Appeals meeting held on November 10, 2016, Nicholas Thompson (Universal Restorations) and Louise O’Connor (Property Owner) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new 20' x 20' detached garage with an extension to the existing driveway at the rear of the property. The project would cause the site to exceed the maximum impervious coverage by 8%. The Planning Department believed that there was a hardship due to the substandard size of the lot. Typically the lot size for the R4 district is at minimum 50’ wide; the lot in question was only 43’ wide. He noted that if the lot was a normal size, a waiver would not be needed. The Planning Department recommended approval in accordance with the plans submitted.

The applicant planned to use materials that would match the existing home.

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

AYES: Anzaldo, Aspen, Donovan, Kelley, Mahlendorf

MOTION CARRIED: 5-0
10. Case No. 16-104

Duane Dowd
220 North 89th Street
Suite 201
Omaha, NE 68114

REQUEST: Waiver of Section 55-734 – Variance to the minimum number of off-street parking stalls from 158 stalls to 90 stalls for construction of a senior living facility.

LOCATION: 6657 North 56th Street
ZONE: CC

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

At the Zoning Board of Appeals meeting held on November 10, 2016, Rob Woodling appeared before the Board on behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that a Conditional Use Permit to allow Multi-Family Residential use had been approved by the Planning Board at its October 5, 2016 meeting. One of the conditions of approval was that the applicant obtain a waiver for parking from the Zoning Board of Appeals. The applicant was requesting a 1:1 parking ratio for the facility. The Planning Department has typically supported these types of projects in the past for senior-living facilities. He added that if the senior-living facility was to leave the site, the applicant had indicated on the plans that there was the ability to provide the number of parking stalls that the code requires for an apartment building. The Planning Department believed that the waiver was acceptable and recommended approval in accordance with the plans submitted.

Mr. Woodling explained that many of the seniors that live in the facility would not have cars, but would more than likely get rides from family member and others to where they need to go. He added that there will be 1 on-site, live-in manager that would reside in one of the units.

In response to Mr. Anzaldo, Mr. Woodling explained that there would be a covenant on the land that stipulated that the land would be used for senior housing for 45 years.

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

AYES: Aspen, Donovan, Kelley, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0
11. Case No. 16-105
Susan Lehr
1424 South 85th Avenue
Omaha, NE 68124

REQUEST: Waiver of Section 55-786 – Variance to the residential fence regulations to allow a 6’ tall, privacy fence in the front yard setback along 87th Street.

LOCATION: 1424 South 85th Avenue
ZONE: R2

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on November 10, 2016, Jerry Slusky and Susan Lehr appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant had a property that was considered to be a double-fronted property; there was a front on 85th Avenue and 87th Street, across the street from Westside High School stadium. The applicant was proposing to install a 6’ tall, privacy fence up to the property line along 87th Street. The Planning Department found no hardship or practical difficulty to allow the waiver. He added that if the board was inclined to grant the request, adjustments should be made to accommodate the new home that was being built to the south. He explained that the proposed fence should not obstruct visibility for pedestrians or vehicles. The Planning Department recommended denial.

Ms. Lehr explained what her hardships and/or practical difficulties were. One was the nature of the unique lot, which she stated dictated the location of the fence. She stated that her adjacent neighbors had no objections to the placement of the fence, adding that she had submitted statements of support from her neighbors to the north and south. Ms. Lehr stated that the fence would not interfere with the light, air, privacy or open space of the neighboring residence, which were all conditions set forth in the municipal code. Finally she stated that if the waiver were not granted, a portion of her yard would become “dead space” or essentially space that would be used for trash. She submitted photos (Exhibit B) of other properties that appeared to have fences up to the property line.

In response to Mr. Mahlendorf, Ms. Lehr stated that she preferred that the fence be located outside of the hedge line. Mr. Mahlendorf responded that the board had visited the site and that it appeared that the fence would line up better with the neighbor to the north if the fence was east of the hedges, closer to the home.

Ms. Donovan moved to APPROVE in accordance with the plans submitted, subject to the fence being located east of the existing shrubs along 87th Street. Mr. Mahlendorf seconded the motion.

AYES: Donovan, Kelley, Anzaldo, Aspen, Mahlendorf

MOTION CARRIED: 5-0
12. Case No. 16-106

420 Condominium Regime
7801 Wakely Plaza
Omaha, NE 68114

REQUEST: Waiver of Section 55-787 – Variance to the required storm shelter size from 99 sq. ft. to 0 sq. ft. to allow for the reconstruction of 12 residential units to their pre-fire occupancy.

LOCATION: 420 South 11th Street
ZONE: CBD-ACI-1(PL)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on November 10, 2016, Brenda Nelson (Alley Poyner Macchietto Architecture) and Jay Palu (Alley Poyner Macchietto Architecture) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that property was west of another structure that had been destroyed by fire. The applicant was proposing to rebuild the 12 residential units within the building to how they existed before the fire. There was not a storm shelter in the original structure. The Planning Department found no hardship or practical difficulty, believing that the shelter space could be provided, and recommended denial.

Mr. Palu stated that there were 13 individual owners with property lines that divided the building. Improvements were made in accordance with Life Safety requirements whenever possible. He explained that the building was converted into condominiums approximately 20 years ago and did not meet current standards. He explained that the basement and first floor were used for commercial purposes with residential condos located on the second, third and fourth floors. There was no public space with the exception of code-required egress hallways and one stair. The second stair went through the adjacent building that had been damaged by fire. There was no access to the basement through the first floor. A storm shelter could not be constructed on the upper floors due to the wood frame of the building. In addition, the elevator did not extend to the basement because there was no pit for it. Also, if there was a pit for the elevator, there would be no access for the first floor tenant.

The Board discussed the challenge of waiving Life Safety requirements in this case while respecting the property lines of all 13 property owners. In response to Mr. Mahlendorf, Mr. Palu stated that waivers also had to be obtained from the Building Board of Review for other issues.

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

AYES: Kelley, Anzaldo, Aspen, Donovan, Mahlendorf

MOTION CARRIED: 5-0
13. Case No. 12-044

Terry R. Peterson
12910 F Plaza
Omaha, NE 68137

REQUEST: Waiver of Section 55-804 and 55-786(f) - To amend previously approved request to allow the existing use to exceed the maximum permitted sound levels of the GI district; and to allow a movable sound wall taller than 10’.

LOCATION: 12802, 12910, 12928 and 13010 F Plaza

ZONE: GI

PLANNING DEPARTMENT RECOMMENDATION: Approval of the waiver request contingent upon all the terms and conditions of the approved Exhibit 5, as amended to allow a movable sound wall and the maximum permitted sound level not to exceed 80.5 dBA for a maximum of 4 sound spikes in a given hour.

At the Zoning Board of Appeals meeting held on November 10, 2016, Jerry Slusky and Terry Peterson appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that in 2013 the Zoning Board of Appeals approved a waiver request that allowed the site to exceed the maximum sound levels of the GI district and to allow a 27’ tall, sound barrier wall along the north property line. Those waivers were granted with the condition that the applicant comply with “Exhibit 5”. Also related to the approval, and as described in Exhibit 5, was an agreement to construct two sound enclosures buildings, an adjustment in the hours-of-operation, and continued communication between the applicant and the Westwood Heights Neighborhood Association, along with addressing other issues. The sound wall was to be completed by May 31, 2014, however, the applicant indicated that this was not done due to a railroad easement. As a result, the Planning Department would not approve any building permits until the sound wall issue was addressed. The applicant submitted an application to modify the previously approved waiver to allow a 22’ tall, movable sound wall instead of the permanent sound wall that had been approved by the board. The movable sound wall had already been constructed and was built on 2 flatbed rail cars that could be moved along the north side of the property in an attempt to soften the noises towards the residential property on the north side of the railroad tracks.

Mr. Carter stated that Exhibit 5 of the originally approved waiver allowed the following: the “maximum permitted sound from 60 dBA to 70 dBA, provided that the waiver shall be increased to 77 dBA for railcar loading and unloading activities only; and that OTM can exceed the 10 dBA and 17 dBA maximum by an additional 2 dBA for a maximum of 4 sound spikes for any given hour”.

As part of the requested amendment, the City and the applicant jointly hired a sound engineer to conduct a sound level survey to measure the effectiveness of the proposed movable sound wall. The survey was conducted in July 2016 and a written report submitted shortly thereafter. The sound survey determined that the movable sound wall reduced the maximum sound level recorded by approximately 2 dBA as compared to no sound wall. The report stated that the largest noise spikes appeared to be generated by the vibration of the rails as they contacted the ground or each other. Based on the results of the sound survey for the proposed movable sound wall the applicant is requesting to amend the previously approved waiver to increase the maximum permitted sound level from 79.0 dBA to 80.5 dBA. He noted that the 79 dBA waiver approval was only permitted for railcar loading and unloading activities and was limited to a maximum of 4 sound spikes for any given hour. The Planning Department recommended that the applicant should provide a time table for the proposed building construction that is required as part of the waiver approval and that all other aspects of the original approval remain in place.

The Planning Department found that there was a hardship and that the request was reasonable considering the specific characteristics of the case, operational changes of the business and the two (2) sound enclosure buildings required as part of the Exhibit 5 agreement. The Planning Department recommends approval of the waiver request contingent upon all the terms and conditions of the approved Exhibit 5, as amended to allow a movable sound wall and the maximum permitted sound level to not exceed 80.5 dBA for a maximum of 4 sound spikes in a given hour.
Mr. Peterson explained that the permanent wall that he originally intended to build would encroach on AT&T easements. In addition, the Omaha Works Industrial Park would not allow the wall to be built on the north property line. He then decided to build a wall on top of flat cars, or center beam cars, and to position them wherever noise was being produced. He indicated that there were 2 of cars that were 160’ long and 22’ high. He believed that the movable walls were effective. His sound engineers had suggested that some areas of gapping be taken care of and that another car be added to increase the length of the movable wall from 160’ to 240’. He added that until the sound wall issue was remedied, the City would not issue permits for the buildings. He noted that most of the offensive sound was created by the loading and unloading of rail cars and that such work was performed less than 300 hours per year, or 15% of the time. In response to Mr. Mahlendorf, Mr. Peterson stated that the rail-breaking processes that had created much of the constant noise had been moved to Chicago. Mr. Peterson explained that the constant noise from other sorting operations would be reduced once the buildings could be built and moved inside.

Mr. Mahlendorf noted that the actual length of the movable cars approximately 140’. Mr. Peterson responded that another 80’ would be added to bring the total length of the cars to 235’. There was some discussion about the height of the walls that were originally intended to be 27’ tall. Mr. Peterson explained that once the movable wall was put closer to the source of the noise, it was determined that a 27’ wall was not necessary.

There was some discussion about the process that was used by the sound engineering company to test the noise levels at the site, and whether the test was long enough to determine the correct levels. Mr. Peterson indicated that he attempted to make as much noise as possible during testing times to get the proper measurements. In response to Mr. Mahlendorf, Mr. Peterson stated that the 3rd sound wall could be in place within the next 2 – 3 months. He added that the buildings could be constructed as soon as a building permit could be obtained.

Charlie Vantilburg, 12711 C Street, appeared before the board. He stated that he had no objections to the sound wall, but that it did nothing to reduce the amount of noise that he hears at his home. He admitted that the applicant had taken some measures to make the situation somewhat better but that the wall would not take care of the sounds he hears. He testified that there were some days when there was no sound at all and then there were days when there would be noise from 15 minutes up to 8 hours. He added that, at times, different operations could be happening on separate ends of the site, which made it impossible for the applicant to reduce the sound in both places. He likened the noise to the continuous ringing of a bell. He also questioned why the applicant needed a variance to the sound levels.

Tom Everson – Chairman of the Westwood Heights Neighborhood Association, 12418 C Street, appeared before the board on behalf of the association. He mentioned that the neighbors that he had spoken with were concerned about on-going noise that they believed had not been mitigated. There was also concern about the devaluation of their properties. He stated that the applicant had periodically been in attendance at the neighborhood association meetings. He expressed some frustration with the fact that the buildings had not been built on the site as promised.

There was some discussion about the results of the sound tests.

Dave Fanslau, Assistant Director – Planning Department, stated that the Planning Department had discussed whether a waiver should be granted when it was possible that it might not be necessary once the buildings were built on the site and some of the operations were moved inside. He added that another study could be conducted when the building were built.

Mr. Slusky mentioned that the City’s sound engineer had similar results to the engineer hired by the applicant. He requested that the applicant be allowed to use the portable wall and have the sound increased by 1.5 dBA. He agreed that another sound test could be conducted in the spring after the building were constructed. He felt that any delay, especially with issuing building permits, would penalize the neighborhood.
After some discussion, it was determined that the board would make an amendment to the original Sound Variance Agreement dated May 9, 2013.

Ms. Donovan moved to AMEND the Sound Variance Agreement dated May 9, 2013, as follows: Section 1 to allow the sound decibels to go up to 80.5 during sound spikes allowed four times an hour; and Section 3 to allow 3 mobile sound screens to be installed instead of the permanent wall. The mobile sound screens would be modified to allow for the overlapping of the screens. Per the agreement 2 buildings would be constructed to house some of the operations being performed outside. The Sound Variance Agreement will be amended by the parties and the required sound wall and buildings must be in place within 6 months after obtaining a valid building permit. Mr. Anzaldo seconded the motion.

AYES: Anzaldo, Aspen, Donovan, Kelley, Mahlendorf

MOTION CARRIED: 5-0
APPROVAL OF MINUTES:

The minutes for the October meeting will be approved at the next scheduled meeting.

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 3:33 p.m.

____________________________________________
Approved (date)

____________________________________________
Brian Mahlendorf, Chair

____________________________________________
Clinette Ingram, Secretary