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, May 2, 2016 and Thursday, May 5, 2016.

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

MEMBERS NOT PRESENT:  None

STAFF PRESENT:  Dave Fanslau, Assistant Director (Urban Planning)  
Mike Carter, Zoning Board of Appeals Administrator  
Jennifer Taylor, Assistant City Attorney  
Michelle Alfaro, City Planner  
Clinette Ingram, Recording Secretary

Mr. Mahlendorf called the meeting to order at 1:04 p.m., introduced the Board members and staff, and explained the procedures for hearing the cases.
NEW CASES:

1. Case No. 15-117
   Susan Schonlau
   6717 Mayberry Street
   Omaha, NE 68106

   REQUEST: Waiver of Section 55-186 - To amend a previously approved variance to the rear yard setback from 25’ to 22’ for construction of a home addition and deck.

   LOCATION: 6717 Mayberry Street
   ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on May 12, 2016, Ken Sorensen and David Danielson appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that a waiver had been previously approved for this address for a 23’ setback. When an inspection was performed on the footings, it was determined that the addition and deck were at a 22’ setback instead of 23’. The Planning Department did not support the original or revised request and recommended denial.

Mr. Sorensen explained that he did not have the correct dimensions on the drawings.

In response to Mr. Mahlendorf, Mr. Sorensen stated that the addition would be no larger than what was originally submitted on the previous plans.

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

AYES: Anzaldo, Aspen, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0
2. Case No. 16-028
   Paul Kelley, AIA
   440 North 61st Street
   Omaha, NE 68132

   REQUEST: Waiver of Section 55-865(b) – Variance to allow enlargement to a building housing a non-conforming use for an 80 sq. ft. vestibule addition.

   LOCATION:
   ZONE: 7348 Blondo Street
       R7-PK

   PLANNING DEPARTMENT RECOMMENDATION: Denial.

   At the Zoning Board of Appeals meeting held on May 12, 2016, Tressa Hoover and Paul Kelley appeared before the Board.

   Mike Carter, Zoning Board of Appeals Administrator, stated that the property had previously been granted a variance for an addition. The site is zoned R7 with a PK overlay and had been that way for decades. Prior to 1987, the current use was allowed; however, when the zoning was changed in 1987 the use was no longer permitted in the district. There was a non-conforming use waiver approved in 1994 when an addition was added to the north side of the building. The applicant has submitted a similar request to build an 80 sq. ft. vestibule addition for the safety of their clients. The Planning Department did not support the request made in 1994 and does not support the current request. He added that one of the requirements of the PK overlay was that no additions would be allowed. The Planning Department found no hardship or practical difficulty to support the request and recommended denial.

   Mr. Kelley submitted current photos of the existing structure (Exhibit B). He stated that the driveway that goes around to the north side of the parking lot is narrow and that the intention was to eliminate the pedestrian traffic in that area. He stated that the project would improve the safety for clients, raise the floor level in the reception area so that the interior ramp could be removed, and would reduce drafts in the building.

   In response to Mr. Mahlendorf, Mr. Kelley stated that there were multi-family residences to the west and north of a facility, and a rental property to the east. He stated that he contacted the owners of those residence about the project.

   Ms. Hoover stated that, due to the advanced ages and physical abilities of her father-in-law’s clients, the project would help to facilitate that individuals.

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

   AYES: Aspen, Donovan, Lanoha, Anzaldo, Mahlendorf

   MOTION CARRIED: 5-0
3. **Case No. 16-030**
   Vincent Saporito  
   2185 Hoodoo Drive  
   Colorado Springs, CO 80919  
   
   **REQUEST:** Waiver of Section 55-186 & 55-187(e) – Variance to the front yard setback from 35’ to 11.2’ and to the interior side yard setback from 5’ to 0.48’ to allow a new carport to remain.  
   **LOCATION:** 1006 Glenwood Avenue  
   **ZONE:** R4(35)

**PLANNING DEPARTMENT RECOMMENDATION:** Denial of the waiver for the interior side yard setback and approval of the waiver to the front yard setback.

At the Zoning Board of Appeals meeting held on May 12, 2016, Mr. Saporito appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that a carport had been constructed without the benefit of a building permit that encroached into the two setbacks. He stated that there was no hardship or practical difficulty to allow the carport to encroach into the side yard; however, it did line up with the front of the home. He advised that if the board was inclined to grant the request, the applicant should be directed to adjust the structure so that it did not cross over the property line on the north side. The Planning Department recommended denial of the waiver for the interior side yard setback and approval of the waiver to the front yard setback.

Mr. Saporito explained that the contractor who constructed the carport did not pull permits for the structure. He added that the encroachment was unintentional.

The applicant was not aware that overhang of the structure crossed over the property line .37’ on the north side. In response to Mr. Lanoha, Mr. Saporito stated that he was not aware of any opposition from any of the adjacent neighbors.

Ms. Donovan moved to APPROVE in accordance with the plans submitted subject to the roof of the carport being altered to fit within the boundary lines of the property. Mr. Anzaldo seconded the motion.

**AYES:** Donovan, Lanoha, Anzaldo, Aspen, Mahlendorf

**MOTION CARRIED:** 5-0
4. Case No. 16-038
Joel & Nancy Schlessinger
632 North 159th Street
Omaha, NE 68118

REQUEST: Waiver of Section 55-715 – Variance to the minimum street yard landscaping depth from 30' to 0' to allow construction of a new home.

LOCATION: 3310 South 228th Terrace
ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on May 12, 2016, Susan Rohrig (Architect) and Mike Tackett (Contractor) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant planned to construct a new home on 3 lots in The Sanctuary subdivision. Variances had been granted to this and other sites in this particular subdivision to allow 15' front yard setbacks. He noted that there were some issues that resulted due to the steep grades on the site. He stated that the Planning Department found no hardship or practical difficulty and believed that the home should be built in compliance with the previous waivers and, therefore, recommended denial.

Ms. Rohrig stated that the site was challenging to build on because of the drop-offs on the lots. She also felt that there should not be a 30' landscaping depth requirement when the home is allowed to be built at 15'.

Mr. Mahlendorf noted that that it appeared that there was a 50’ – 60’ grade difference from the front to the back of the lot.

Mr. Lanoha stated for the record that his company was involved with the development; however, he had no financial interests in the project. He provided some history of the zoning of the neighborhood. He explained that most homes in the area would need one or more waivers because of the zoning classification. He added that the proposed waivers should have little to no impact on the adjacent lots.

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

AYES: Lanoha, Anzaldo, Aspen, Donovan, Mahlendorf

MOTION CARRIED: 5-0
5. Case No. 16-039
Omaha School District 66 of
Douglas County Nebraska
909 South 76th Street
Omaha, NE 68114

REQUEST: Waiver of Section 55-715 & 55-735(b) – Variance to the minimum street yard landscaping percentage from 60% to 38%, to the minimum street yard landscaping depth from 15’ to 10’ and to allow parking for a non-residential use within the front yard setback of a residential zoning district for the construction of a new elementary school.

LOCATION: 9801 West Center Road – Oakdale Elementary School
ZONE: DR (R4 pending)

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

At the Zoning Board of Appeals meeting held on May 12, 2016, Michael Coyle (500 Energy Plaza) appeared on behalf of Westside Community Schools. Also in attendance were Dr. Blane McCann (Superintendent – Westside Community Schools), Dan Block (DLR Group), Rob Zimmerman (Project Advocates), Andrea Siegel (Oakdale School Advisory Committee) and Jamie Friedl (Oakdale School Advisory Committee).

Mike Carter, Zoning Board of Appeals Administrator, stated that the Planning Department supported the request, noting that there was hardship that resulted from the small size and irregular shape of the site. He mentioned the limitations that occur when building a school in a residential neighborhood and the need to provide adequate stacking space for cars and buses. He explained that historically the Planning Department has been supportive of waivers for these types of uses in residential zoning districts because of the restrictive nature of residential zoning. The Planning Department recommended approval in accordance with the plans submitted.

Mr. Coyle stated that the waiver would apply to the north side of the property. Mr. Block stated that the school was located so that it would meet most of the required setbacks and fit in with the topography of the lot. On the north side of the lot would be the drop-off loop and some parking. There would also be parking on the east side of the site. On the east and south side of the parking lot would be a 4’ high landscaped buffer for screening.

In response to Mr. Lanoha, Mr. Block explained that the majority of the trees along the perimeter of the site would be preserved. He added that, at the request of the neighbors, a berm and landscaping would be added to provide a buffer for some of the adjacent properties.

Mr. Zimmerman stated that one of the goals of the school district was to engage with the community on the design of the new school. Direct mail post cards were sent to the surrounding neighborhood and several meetings were held to obtain input from the community. Neighbors expressed concerns about the traffic situation and meetings were held just to discuss that issue. Notifications about the project were also published on a Facebook page, Twitter and the school website. He noted that, since November 2015, 23 meetings were held about the project. A design advisory committee of about 20 members was formed that included educators, parents and members of the community. Seven design advisory committee meetings, six Board of Education meetings, and five public meetings had been held about the project. Meetings were also held with neighbors who had concerns about traffic, outdoor play areas and storm water drainage. Meeting were also held with Public Works about traffic and post-construction storm water issues. The Omaha Police Department also provided input about the original site plan. The original site plan was modified to address as many concerns as possible. As a result, the building was moved 50’ to the west, the landscape buffer on the south and east was increased, and an enclosure was proposed for the dumpster. The revised site plan was presented and approved by the Board of Education on April 11, 2016.

In response to Mr. Lanoha, Mr. Zimmerman stated that there was some concern about the location of the dumpsters and the location of the delivery area. In response to those concerns, the building was moved further to the west, the berm to the west was extended, more trees were proposed, and the dumpster and transformer were relocated behind a masonry screen wall.
Ms. Siegel was in support of the proposed site plan. She felt that the design committee had represented the community fairly. She stated that the committee took into consideration the neighborhood’s top concerns which were: safety, education and operational efficiency.

Larry Jobeun, 11440 West Center Road, appeared on behalf Tom and Carrie Kelly (9640 Oak Circle), Lance and Betty Pittack (9646 Oak Circle), and Denny and Sunny Lundgren (9636 Oak Circle). They all reside to the south of the proposed school. He explained that those neighbors were opposed because in the original meetings the applicant had indicated that no waivers would be needed to build the school. They were also not invited to be a part of the design advisory group. The proposed dumpster would be located closest to these neighbors. Mr. Jobeun stated that his clients wanted to request a layover to address the following issues: 1) the location of the dumpster/servicing area and operating characteristics; 2) extension of the proposed screen wall; and, 3) the creation of a buffer yard agreement.

Mr. Aspen was concerned that the opposition’s request was too late in the process. Mr. Jobeun responded that a layover would not negatively impact the timing of the demolition/construction schedule for the school. Mr. Block believed that a layover would put the district and taxpayers at risk if there was a substantial design change. Ms. Donovan noted that any changes would apply mainly to landscaping and buffering and not necessarily to the design of the building.

Mr. Coyle stated that the district would make commitments to the neighbors as to what times deliveries and pickups would occur. He added that he was not aware of exactly what would be accomplished by laying the case over. He assured the board that the district was committed to working with the neighbors as closely as possible for acceptable solutions.

Mr. Lanoha listed four concerns that were mentioned by Mr. Jobeun: 1) a buffer yard agreement; 2) a masonry wall; 3) location change; and 4) operating characteristics. He stated that the board was not expecting that any changes would be made to the building itself, which left three issues. Mr. Lanoha suggested that a more specific schedule be set for all deliveries and garbage pickup. In response to Mr. Mahlendorf, Mr. Jobeun stated that his clients preferred to have a more detailed agreement in place with regards to operating characteristics.

Ms. Donovan stated that her issue with the layover was that it had nothing to do with the waivers that were being requested. Mr. Aspen stated that perhaps the issues could have been brought before the Planning Board. Mr. Mahlendorf felt that there were some details that needed to be worked out. Mr. Anzaldo expressed support for a layover and felt that it would provide some acceptable solutions for the adjacent neighbors to the south.

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

AYES: Aspen, Donovan
NAYES: Lanoha, Mahlendorf, Anzaldo

MOTION FAILED: 3-2

Mr. Anzaldo moved to LAYOVER to give the applicant time to discuss the following items with adjacent property owners: 1) a buffer yard agreement; 2) a masonry screen wall; and 3) operating characteristics in addition to other issues that may be deemed necessary to discuss among both parties. Mr. Aspen seconded the motion.

AYES: Anzaldo, Aspen, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0
6. Suzanne & Walter Scott
Foundation
C/o Calvin Sisson
11422 Miracle Hills Drive
Suite 408
Omaha, NE 68154

REQUEST: Waiver of Section 55-84, 55-87 & 55-734 - Variance to the use regulations of the AG district to allow a General Office use, to the required number of off-street parking stalls from 129 to 48, to the maximum building coverage from 5% to 9.8% and to the maximum impervious surface coverage from 10% to 15.5%, to allow construction of a foundation and family office building.

LOCATION: 10616 & 10718 North 84th Street
ZONE: AG-ED

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

At the Zoning Board of Appeals meeting held on May 12, 2016, John Boyer (Attorney - 500 Energy Plaza) and Joe Flaxbeard (Lamp, Rynearson & Associates - 14710 West Dodge Road) appeared before the Board on behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct an office building and surface parking lot that will house the property owner’s foundation and family offices. The agricultural zoning of the property does not allow a General Office use, so a use waiver is required. The proposed office building will have 38,600 sq. ft. of office space and 22,400 sq. ft. of underground garage space for 31 vehicles. A surface parking lot would provide another 17 parking stalls. The Planning Department believed that the waivers were acceptable due to the unique nature and limited function of the facility. The Department also believed that there was a hardship/practical difficulty that resulted from the unique nature of the use on the site and because of its beneficial impact to a variety of organizations and individuals throughout the metropolitan area, including the City of Omaha. The applicant indicated that the facility would not operate as a typical office building, so there would be less of a demand for parking. He explained that the zoning ordinance and Master Plan did not anticipate this type of unique facility in this area. He noted that the property would be located in the Lake Cunningham Environmental Overlay District which was created to protect that area. The applicant submitted an impact study and planned to address any issues based on that study. The applicant proposed improvements related to stormwater management that would be in compliance with city code, which would address any issues with the watershed. The Planning Department recommended approval in accordance with the plans and operating statement submitted.

Mr. Flaxbeard stated that the building would be used by the six family foundations and would be used as a family office facility. He explained that the structure would match the look of the existing barn and would be heavily landscaped.

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

Mr. Herman Haver (10511 North 84th Street) appeared in opposition to the request. Mr. Haver’s residence is to the east of the proposed project. He had questions about zoning, building size, parking and underground tanks. Mr. Haver was informed that there would be no connection to city sewer or water and that the property would be serviced by existing septic systems. He stated that when the property owners built on the adjacent land, his well went dry and had to be replaced. He also was concerned about the smell of the water. He stated that his neighbor also had a shortage of water. He wanted confirmation that the applicant would take care of any future water shortage issues. He felt that he and his neighbors were in jeopardy of not getting enough water for their homes. Mr. Mahlendorf referred to a well test report that indicated that there would be no issues with the water.

Mr. Boyer stated that there was no opposition to the project from 14 of the 16 neighbors that were contacted. He stated that there would be more communication with Mr. Haver to answer his questions and discuss any issues he had.
Regarding the well issue, Mr. Flaxbeard stated that there were four existing wells that tied into the water system. Testing was done on the wells for water quality, which passed all state requirements, and production. He indicated that the owners were attempting to tie the water system in with the new building.

AYES: Anzaldo, Donovan, Lanoha, Mahlendorf

NAYES: Aspen

MOTION CARRIED: 4-1
7. Case No. 16-041
    Relevant Community Church
    P.O. Box 520
    Omaha, NE 68022

REQUEST: Waiver of Section 55-186 – Variance to the maximum impervious coverage from 50% to 60% to allow construction of a church.

LOCATION: 21220 Elkhorn Drive
ZONE: AG (R4 pending)

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

At the Zoning Board of Appeals meeting held on May 12, 2016, Jason Thiellen (E & A Consulting Group – 10909 Mill Valley Road) appeared before the Board on behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new church on a vacant parcel. The Planning Board recommended approval of the platting and rezoning of the property at its May 5, 2016 meeting along with the approval of a Conditional Use Permit, subject to approval of the requested waiver from the Zoning Board of Appeals. The Planning Department has historically supported these types of requests for civic uses and, therefore, recommended approval in accordance with the plans submitted.

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

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

AYES: Donovan, Lanoha, Anzaldo, Aspen, Mahlendorf

MOTION CARRIED: 5-0
Case No. 16-042
Tate Meier
14520 Burdette Street
Omaha, NE 68116

REQUEST: Waiver of Section 55-87 - Variance to the minimum lot size from 20 acres to 6.1 acres to allow construction of a single-family home and outbuilding.

LOCATION: 10004 North 132nd Street
ZONE: AG

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

At the Zoning Board of Appeals meeting held on May 12, 2016, Tate Meier appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that there were two parcels that were bisected by a former railroad right-of-way. The parcel to the north is 6.1 acres and the parcel to the south is about 10 acres. The applicant was proposing to obtain a waiver for the north parcel to build a home and outbuilding. As part of the process, the property would be platted and the south parcel would become an outlot and would not be developable. The Planning Department believed that there was a hardship due to the existing parcel size and the inability to acquire additional land to increase the size of the parcel and, therefore, recommended approval in accordance with the plans submitted.

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

AYES: Lanoha, Anzaldo, Aspen, Donovan, Mahlendorf

MOTION CARRIED: 5-0
9. Case No. 16-043 - WITHDRAWN
Dale Fenske
14740 Grover Street
Omaha, NE 68144
REQUEST: Waiver of Section 55-146 – Variance to the interior side yard setback from 10’ to 7’ to allow an outdoor kitchen to remain.
LOCATION: 25022 Farnam Circle
ZONE: R2

Withdrawn at the request of the applicant.
10. Case No. 16-044
    Travis Buel
    9905 Devonshire Drive
    Omaha, NE 68114

    REQUEST: Waiver of Section 55-146 – Variance to the
    interior side yard setback from 10’ to 8’ to
    allow for construction of a garage addition.

    LOCATION: 9905 Devonshire Drive
    ZONE: R2

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on May 12, 2016, Tate Meier appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a
26’ x 24’ garage addition that encroached into the sideyard setback. The Planning Department found no
hardship or practical difficulty to allow the encroachment since it was a design preference and, therefore,
recommended denial.

Mr. Buel showed some pictures of the site and stated that he had spoken with his neighbors and that they
were not opposed to the project. One of those neighbors submitted a statement of support.

Ms. Donovan moved to APPROVE in accordance with the plans submitted subject to the structure being
constructed using like materials to match the existing home. Mr. Aspen seconded the motion.

AYES: Anzaldo, Aspen, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0
APPROVAL OF MINUTES:

Mr. Anzaldo moved to APPROVE the minutes for the April 14, 2016 meeting. Mr. Aspen seconded the motion.

AYES: Anzaldo, Aspen, Donovan, Lanoha

ABSTAIN: Mahlendorf

MOTION CARRIED: 4-0-1

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 3:24 p.m.

____________________________________________
Approved (date)

____________________________________________
Brian Mahlendorf, Chair

____________________________________________
Clinette Ingram, Secretary