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, August 29, 2016 and Thursday, September 1, 2016.

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

MEMBERS NOT PRESENT: Sean Kelley (Alternate)
Michael Gorman (Alternate)

STAFF PRESENT: Mike Carter, Zoning Board of Appeals Administrator
Jennifer Taylor, City Attorney
Michelle Alfaro, City Planner
Clinette Ingram, 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.
LAYOVERS:

1. Case No. 16-065 (from 8/11/16)  
   Paul Janky  
   PNJ LLC  
   20805 U Circle  
   Elkhorn, NE 68022  
   REQUEST: Waiver of Section 55-734 - Variance to the number of required off-street parking stalls from 4 to 0 to allow for a garage addition to an existing business.  
   LOCATION: 4835 South 136th Street  
   ZONE: CC-FF  

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

At the Zoning Board of Appeals meeting held on September 8, 2016, Paul Janky appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, explained that the case had been laid over to give the applicant the opportunity to appear. The applicant was proposing to construct a garage addition on the existing building. The Planning Board recommended approval of a Special Use Permit with one of the conditions being that the applicant obtain a waiver for off-street parking from the Zoning Board of Appeals. There would be no specific parking on the site, but on-street parking would be provided that would meet the minimum requirements. The Planning Department believed that the plan was acceptable and recommended approval in accordance with the plans submitted.

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

AYES: Anzaldo, Aspen, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0
2. Case No. 16-068 (from 8/11/16)  
   Omaha Central Church of the Nazarene  
   8206 Blondo Street  
   Omaha, NE 68134  
   LOCATION: 2920 North 118th Street  
   ZONE: LI  

   REQUEST: Waiver of Section 55-485 and 55-734 - Variance to the permitted use regulations of the LI district to allow a Religious Assembly use not otherwise permitted and to the number of off-street parking stalls from 90 to 27.

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on September 8, 2016, Brian Farrell (Investor’s Realty) and Jeff Edwards (Omaha Central Church of the Nazarene) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, recalled that the case had been laid over to give the applicant time to obtain a parking agreement with the Bellevue University to the south.

Mr. Farrell stated that although Bellevue University had initially agreed to allow the applicant use some of their parking stall, the university changed its mind after speaking with its insurance company. He noted, however, that there was support from all of the existing tenants and the property owner. He mentioned that Dave Sall with Swimtastic was in support of the request and that he could obtain a letter of support if necessary.

Mr. Mahlendorf recalled that one of the adjacent tenants (Michael Dillon – PE101) had appeared in support of the request at the August 11, 2016 meeting.

In response to Mr. Anzaldo, Mr. Farrow stated that there have been approximately 30 cars parked in the lot during Sunday morning services. Wednesday services begin around 6:00 pm and last until about 8:00 pm. The parking stalls were not assigned to any particular tenant.

Mr. Anzaldo moved to APPROVE in accordance with the plans submitted for this applicant only and for a maximum of five (5) years. Ms. Donovan seconded the motion.

AYES: Aspen, Donovan, Lanoha, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0
3. Case No. 16-076(from 8/11/16) Les Bruntz 20762 Nancy Circle Omaha, NE 68022 REQUEST: Waiver of Section 55-186 – Variance to the front yard setback from 25’ to 17.8’ to construct a 35’ x 39’ detached garage. LOCATION: 20762 Nancy Circle ZONE: R4

This case was withdrawn at the request of the applicant.
NEW CASES:

4. Case No. 16-078
   Erin Carey
   6958 North 97th Circle
   Omaha, NE 68122
   REQUEST: Waiver of Section 55-829 – Variance to the permitted sign area from 40 sq. ft. to 286 sq. ft., to the size of the wall sign from 40 sq. ft. to 96 sq. ft., and to the maximum wall height for a wall sign from 16 ft. to 34 ft. to allow installation of a new wall sign.
   LOCATION: 7000 Mercy Road – College of Saint Mary
   ZONE: DR & DR-ACI-2(65)

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

At the Zoning Board of Appeals meeting held on September 8, 2016, Greg Fritz (College of Saint Mary) and Erin Carey (ASI Signage) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the property owner was proposing to put up a new, larger wall sign on the west facing wall of Mercy Hall. The larger sign requires an amendment to the Use Permit and resulted in the opportunity to bring other sign issues into compliance. Some of the existing signs were previously granted waivers and fall under the total sign budget for this address. As part of the request, temporary signs located on the north side of the fitness center, and that had not been permitted were removed. 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: Donovan, Lanoha, Anzaldo, Aspen, Mahlendorf

MOTION CARRIED: 5-0
5. Case No. 16-079
   Leo A. Daly
   Jon McCarville
   8600 Indian Hills Drive
   Omaha, NE 68114
   REQUEST: Waiver of Section 55-735(b) – Variance to allow off-street parking for a non-residential use in the front yard setback of a residential district.
   LOCATION: 7400 Western Avenue
   ZONE: R3 & R3-ACI-2(50)

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

At the Zoning Board of Appeals meeting held on September 8, 2016, Jon McCarville appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that a new parking lot that was being proposed for the north side of the Creighton Prep campus. The property owner had purchased some additional property for the 143-stall parking lot. In order to construct the lot, a waiver was needed to allow parking to encroach in the front yard setback along Seward Street. The current setback is 35’ from the property line; however, the parking lot would be approximately 20’ from the property line. The Planning Board approved a Major Amendment to the Conditional Use Permit, subject to approval of the requested waiver from the Zoning Board of Appeals. The Planning Department believed that the waiver was acceptable since it provided additional off-street parking for visitors and students. The Planning Department recommended approval in accordance with the plans submitted.

In response to Mr. Mahlendorf, Mr. McCarville explained that there would be, at a minimum, a 4’ tall hedge wall along the east, north and west borders of the parking lot to cut down on headlight reflections. In addition, there would be a mound and spruce trees along the east of the lot that would provide more screening from headlights. The property to the south is owned by Creighton. He indicated that the additional parking was due to demand and would eliminate the need for students to park in the surrounding neighborhood.

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
6. Case No. 16-080
Grace Longley
Megumi, LLC
1325 Lynnwood Lane
Omaha, NE 68152

REQUEST: Waiver of Section 55-734 - Variance to the number of off-street parking stalls from 18 to 13.

LOCATION: 1054 South 20th Street
ZONE: GI (DS-pending)

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

At the Zoning Board of Appeals meeting held on September 8, 2016, Jon McCarville appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that there are 9, 1-bedroom apartments in the building along with 1,000 square feet of commercial space. Based on the code, the site would require 18 parking stalls. The Planning Department has supported 1 parking stall for each apartment in these types of situations, which would result in only 13 stalls being required for the entire site. The applicant was able to re-stripe the parking lot and provide a handicapped stall in addition to the 13 parking stalls. He noted that the location had bicycle access and was close to bus routes. The Planning Department recommended approval in accordance with the plans submitted.

Mr. Lanoha commented that the board has consistently supported the 1:1 parking ratio in urban areas. Mr. Mahlendorf confirmed with the applicant that the stalls were strictly for the residents and visitors of the property.

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

AYES: Anzaldo, Aspen, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0
7. Case No. 16-081
   Dialysis Clinic, Inc.
   Paul Passman
   1633 Church Street, Suite 500
   Nashville, TN 37203
   REQUEST: Waiver of Section 55-734 – Variance to the number of off-street parking stalls from 76 to 71.
   LOCATION: 7070 Spring Street
   ZONE: GO

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted, subject to this applicant only.

At the Zoning Board of Appeals meeting held on September 8, 2016, Brinker Harding appeared before the Board on behalf of the applicant.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to use the existing building for a dialysis clinic. The change from a General Office use to a Medical Office use created a higher demand for parking. He explained that many of the patients to the clinic will be dropped off. Due to the unique nature of the proposed use, the Planning Department recommended approval in accordance with the plans submitted for this applicant only.

Mr. Anzaldo stated that he had spoken with many of the neighbors and that they were all in support of the proposed use. In response to Mr. Mahlendorf, Mr. Harding stated that the facility would include 8 - 10 beds and that each patient’s visit would last for approximately 4 hours.

Mr. Anzaldo moved to APPROVE in accordance with the plans submitted, for this applicant only. Mr. Aspen seconded the motion.

AYES: Aspen, Donovan, Lanoha, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0
8.  
Case No. 16-082  
Robert Torson Architects  
6542 South 118th Street  
Omaha, NE 68137  

REQUEST:  
Waiver of Section 55-146 – Variance to  
the rear yard setback from 25’ to 20’10”  
and to the maximum impervious surface  
coverage from 40% to 45% to allow a  
garage addition.  

LOCATION:  
2327 South 103rd Street  
ZONE:  
R2

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on September 8, 2016, Steve Hendrickson (Owner) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the owner was proposing to construct a single-stall garage addition and remodel the existing deck on the east side of the home. The Planning Department found no hardship or practical difficulty and believed that any new construction on the site should comply with zoning regulations and recommended denial.

Mr. Hendrickson explained that existing garage was too small for the home. He stated that he would be constructing the garage over a space with an existing carport and concrete pad. The driveway would remain exactly the same. He planned to replace the deck in its exact location.

The board noted that the projects would have very little, if any, impact on the surrounding properties.

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
9. Case No. 16-083
Steve Huber
16820 Frances Street
Suite 102
Omaha, NE 68130
REQUEST: Waiver of Section 55-126 & 55-715 - Variance to the maximum height from 35’ to 46’ and to the minimum street yard landscaping depth from 15’ to 1’ to allow construction of a new home.
LOCATION: 3510 & 3520 South 228th Terrace
ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on September 8, 2016, Steve Huber (Curt Hofer Construction) appeared before the Board. Mr. Lanoha stated that he would be abstaining from this case due to a potential conflict of interest.

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new home on the two vacant properties. There were steep grades on the property which causes the variation of the height. He also explained that there were streets on both sides of the property and that the driveway encroaches into the street yard landscaping depth. The Planning Department found no hardship or practical difficulty and believed that a home in compliance with zoning regulations could be constructed on the property and, therefore, recommended denial.

Mr. Huber explained that there was an approximate 37’ drop between the two streets that the site sits on. The applicant proposed constructing the home in a way that would allow the mature trees on the site to remain and that would disrupt the natural grade of the site as little as possible. Mr. Mahlendorf noted that there was a letter of opposition to the request. Mr. Huber stated that he had spoken with the opposing neighbors on a couple of occasions and that he would be open to having more communication with them. The applicant indicated that there would only be one area of the home that would be at 46’.

Tom Slobodnik (3520 South 229th Street) appeared in opposition to the request on behalf of KONA, LLC. Mr. Slobodnik stated that property in question was approximately 90’ from his client’s property. He presented a video taken by a drone that showed the elevations on the site. His client’s concern was that there would be a structure towering over their home. He stated that his client had nothing against the homeowner and that they were not trying to prevent them from building their “dream home” but that their concern was with the towering structure that they believed would be in their front yard. They felt that the home would look like a commercial office building in a residential neighborhood. There was also some safety concerns about the grade of the driveway and what could happen during icy conditions. In response to Mr. Mahlendorf, Mr. Slobodnik stated that his clients did not feel that more time would resolve their issues with the project.

Mr. Mahlendorf felt that more time would be beneficial for Mr. Slobodnik and the applicant to attempt to resolve their concerns, in addition to giving the board the opportunity to visit the site.

Ms. Donovan suggested that a rendering be submitted showing the location of the trees to the rear of the proposed home.

Mr. Aspen moved to LAYOVER to allow the applicant to meet with the neighbors and to give the board the opportunity to visit the site. Ms. Donovan seconded the motion.
AYES: Anzaldo, Aspen, Donovan, Mahlendorf

ABSTAIN: Lanoha

MOTION CARRIED: 4-0-1
10. Case No. 16-084
McNeil Company
Deb Zandt
4666 South 132nd Street
Omaha, NE 68137

REQUEST: Waiver of Section 55-126 – Variance to the rear yard setback from 35’ to 8’ and 19’8” to allow existing pool features to remain and for construction of a covered pool patio.

LOCATION: 13708 Cuming Street
ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on September 8, 2016, Deb Zandt appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the homeowners were proposing to construct a cover for the existing patio space next to the pool. There were also existing pool features that encroach as close as 8’ to the rear property line. The Planning Department found no hardship or practical difficulty and believed that any features and structures should be built in compliance with the code and, therefore, recommended denial.

Ms. Zandt explained that the cover was needed as protection for the grandchildren of the homeowner. The proposed cover would replace the existing, temporary cover and would be approximately 16’ x 14’.

Ms. Donovan noted that there was already an existing structure, the new structure would look better and would have little to no impact on the surrounding neighbors.

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

AYES: Anzaldo, Aspen, Donovan, Lanoha, Mahlendorf

MOTION CARRIED: 5-0
11. Case No. 16-085
   The Architectural Offices
   Randall J. Palandri AIA
   4610 Dodge Street
   Omaha, NE 68132
   REQUEST: Waiver of Section 55-126 – Variance to the interior side yard setback from 25’ to 10’ 13’ and to the maximum impervious coverage from 30% to 37%, to allow for a home addition, patio and driveway addition.
   LOCATION: 319 South 94th Street
   ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on September 8, 2016, Randall Palandri and Dan Dougherty (Property Owner) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that the property owner was proposing to construct an addition on the north and east sides of the existing home that would provide additional garage space, a new master bedroom and bath. The Planning Department found no hardship or practical difficulty and believed that any new construction should comply with zoning regulations and recommended denial. He noted that there was a letter of opposition from one of the neighbors.

Mr. Palandri stated that the home owner wanted to remodel the home in a way that would accommodate their family. He claimed that a home to the north (306 North 94th Street) and one to the west (307 North 94th Street) had received similar waiver for additions. He stated that the addition would match the design of the existing home. The homeowner had spoken to many of their neighbors about the project and had received mostly positive feedback.

In response to Ms. Donovan, Mr. Dougherty stated that he would be agreeable to constructing a 12’ garage instead of a 15’ garage.

Andy Schack (330 South 94th Street) appeared before the board. He spoke about protective covenants for the neighborhood and provided the property owner with a copy of them. Mr. Mahlendorf advised Mr. Schack that the board did not enforce covenants.

Ms. Donovan moved to APPROVE in accordance with the revised plan. Mr. Mahlendorf seconded the motion.

AYES: Aspen, Donovan, Lanoha, Anzaldo, Mahlendorf

MOTION CARRIED: 5-0
12.  Case No. 16-086  
CB Richard Ellis/Mega  
11213 Davenport Street  
Omaha, NE 68154

REQUEST:  Waiver of Section 55-834 – Variance to the sign regulations to allow an 88 square foot, above the peak roof sign not otherwise permitted in the GO (General Office) district and to the maximum sign budget from 113.25 square feet to 163 square feet.

LOCATION:  11213 Davenport Street  
ZONE:  GO-FF/FW

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on September 8, 2016, Sam Gardner (CBRE/Mega), Raymond Sass (Midland University) and Nate Neufind (Midland University) appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that applicant was proposing to install an 88 sq. ft. sign on the north side of the penthouse/mechanical space located above the roof of the existing office building. The code does not allow above peak, roof signs in a General Office district. The applicant also wanted to exceed the overall sign budget for the property. The Planning Department found no hardship or practical difficulty and believed that any new signage should be similar to the existing signage and recommended denial.

Mr. Gardner stated that the owner was in support of having Midland put their signage on top of the building. He stated that a precedent had already been set by the signage on the Feltz Wealth Plan building which is above the roof peak. He explained that the hardship was that the frontage of the building, which dictates the size of the sign, was small when compared to the large size of the structure. He also stated that the existing Hampton Inn reduced the visibility of the building.

In response to Mr. Mahlendorf, Mr. Gardner stated that the proposed location of the sign on the north elevation of the building. The proposed sign would be 5'8” tall and 32’ wide.

Mr. Carter stated that he had no record of a waiver being granted for the Feltz Wealth Plan sign. He also stated that a waiver had been previously granted for a monument sign for the applicant’s property with the condition that their sign budget would be reduced and other signs on the building would be removed. He stated that the board could decide to grant the applicant a larger sign below the peak. He added that the applicant should not be allowed to install a sign that would be higher than most of the other businesses in the area, especially because of the precedent that it would set. He further reasoned that an applicant should not be allowed to install a sign that was not in compliance because another business had a sign that had been illegally installed.

Ms. Donovan stated that the proposed location of the sign was not visible from the west because of the location of the Hampton Inn. She suggested that the applicant review the proposed location of the sign.

Mr. Sass explained that the sign would help to make people aware of the school’s presence in the Omaha area. He added that the proposed sign would help to make the school visible and easier to find. In response to Mr. Mahlendorf, Mr. Sass stated that the west and north sides of
the building were being considered for the sign. The board requested that better renderings of the proposed sign be submitted.

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

AYES: Donovan, Lanoha, Anzaldo, Aspen, Mahlendorf

MOTION CARRIED: 5-0
13. Case No. 16-087
Brad & Jeannie Metzler
8001 Keystone Drive
Omaha, NE 68134

REQUEST: Waiver of Section 55-764(d)(1)(a) - Variance to allow a Daycare Services (Limited) use in a residential structure that is not occupied as a residence by the owner or tenant.

LOCATION: 8001 Keystone Drive
ZONE: R2

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted, for this applicant only and applicant must live on-site.

At the Zoning Board of Appeals meeting held on September 8, 2016, Brad and Jeannie Metzler appeared before the Board.

Mike Carter, Zoning Board of Appeals Administrator, stated that there were two residential structures on the site, which is a non-conforming use in a single-family neighborhood. The proposed daycare is located to the south of the main residence. The structure was used in the past as a mother-in-law apartment. The owners wanted to operate a daycare with no more than 10 children. The code requires that the home should be occupied as a residence by the owner or tenant. In this situation, the owner or tenant would be residing in the main structure, not the daycare building. Mr. Carter noted that the situation was unique and that all other requirements for the daycare appeared to be in compliance with zoning regulations. He added that if the request was approved, the daycare building would need to comply with all Permits and Inspections regulations with regards to upgrades, in order to obtain a Certificate of Occupancy. The Planning Department recommended approval in accordance with the plans submitted, for this applicant only and the applicant must live on-site.

The applicants were in agreement with the Planning Department’s recommendations.

Mr. Anzaldo moved to APPROVE in accordance with the plans submitted for this applicant only and the applicant must live on-site. Mr. Aspen seconded the motion.

AYES: Lanoha, Anzaldo, Aspen, Donovan, Mahlendorf

MOTION CARRIED: 5-0
14. Case No. 16-088  
Mark Santo  
1107 South 99th Circle  
Omaha, NE 68124  

REQUEST: Waiver of Section 55-406 – Variance to the front yard setback from 50’ from center line to 42’ from center line to allow a warehouse addition to the existing building.  
LOCATION: 4028 Hamilton Street  
ZONE: GC  

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted, subject to the exterior materials matching the existing building.  

At the Zoning Board of Appeals meeting held on September 8, 2016, Mark Santo appeared before the Board.  

Mike Carter, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a warehouse addition to the west side of the existing office space that would be approximately 9’ from the property line, or 42’ from the center line of Hamilton Street. He noted that a number of existing buildings on the block were located close to the front property line and that the addition would not be out of character with those buildings. He stated that the ordinance did not address this type of issue in a commercial setting. The Planning Department felt that the request was acceptable and recommended approval in accordance with the plans submitted, subject to the exterior materials matching the existing building.  

Mr. Santo stated that, because of the age of the structure, the building materials would be hard to duplicate and were no longer in production. He proposed using a galvanized siding and painting the 12’ x 12’ garage door the same color as the existing building. In response to Mr. Mahlendorf, Mr. Santo explained that Public Works preferred that the addition not be built with a 0’ setback due to the front of the building being a garage door and not a storefront.  

Ms. Donovan moved to APPROVE in accordance with the plans submitted. 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 August 11, 2016 meeting. Ms. Donovan seconded the motion.

AYES: Anzaldo, Donovan, Lanoha, Mahlendorf

ABSTAIN: Aspen

MOTION CARRIED: 4-0-1

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:59 p.m.

____________________________________________
Approved (date)

____________________________________________
Brian Mahlendorf, Chair

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Clinette Ingram, Secretary