PRE-MEETING:

The board members in attendance were: Jeremy Aspen, Sean Kelley, Dustin Friedman, and Kristine Moore. Planning Department staff in attendance were: Cliff Todd and Clinette Ingram. The cases were reviewed. Mr. Todd advised that the applicants for Cases 18-149 and 18-169 had requested layovers. The applicant for Case 18-120 had requested that their case be withdrawn.

Certification of Publication: Zoning Board of Appeals Administrator certifies publication of this agenda in the Daily Record, the official newspaper of the City of Omaha on Monday, February 4, 2019 and Thursday, February 7, 2019.

MEMBERS PRESENT: Jason Lanoha, Chair
Jeremy Aspen, Vice-Chair
Dustin Friedman
Brian Mahlendorf
Kristine Moore

MEMBERS NOT PRESENT: Sean Kelley

STAFF PRESENT: Cliff Todd, Zoning Board of Appeals Administrator
Jake Placzek, City Planner
Jennifer Taylor, City Attorney
Clinette Ingram, Recording Secretary

The meeting was called to order at 1:00 p.m. Mr. Lanoha introduced the board members and staff, and explained the procedures for hearing the cases. He noted that the applicants for Cases 18-149 and 18-169 had requested layovers. The applicant for Case 18-120 had requested that their case be withdrawn.

Mr. Mahlendorf moved to LAYOVER Cases 18-149 and 18-169 until the March 14, 2019 meeting. Mr. Aspen seconded the motion.

AYES: Aspen, Freidman, Mahlendorf, Moore, Lanoha

MOTION CARRIED: 5-0.
LAYOVER CASES:

1. Case No. 18-149 (from 11/8/18 & 12/13/18)
   Dave Paladino
   2816 B Street, LCC
   2702 Douglas Street
   Omaha, NE 68131

   REQUEST: Waiver of Section 55-843 - Variance to the maximum size for a pole sign from 150 sq. ft. to 432 sq. ft. and to the maximum height from 35' to 55' to allow for a new electronic messaging center.
   LOCATION: 2816 “B” Street
   ZONE: GI

This case was laid over until the March 14, 2019 meeting.
2. Case No. 18-169 (from 12/13/18)
   Matt and Jaylene Eilenstine
   1618 South 213th Circle
   Omaha, NE 68022

   REQUEST: Waiver of Section 55-166 - Variance to the rear yard setback from 25’ to 10’ to allow for construction of a new pool house/indoor sports court.

   LOCATION: 1618 South 213th Circle
   ZONE: R3

   This case was laid over until the March 14, 2019 meeting.
NEW CASES:

3. Case No. 19-013  
   William Novak  
   3606 North 156th Street  
   #307  
   Omaha, NE 68116  
   REQUEST: Waiver of Section 55-740(e) - Variance to the hard-surfacing requirement for a temporary parking lot from 4/1 to 10/31 for the years 2019-2020.  
   LOCATION: Generally south of West Maple Road between 230th and 233rd Streets  
   ZONE: AG-FW  

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on February 14, 2019, William Novak appeared before the board on behalf of the applicant.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was requesting a waiver of the hard-surfacing requirement for temporary parking from April 1 through October 31 for 2019 and 2020 to facilitate parking for a variety of activities including a soccer tournament, tubing and tanking operations on the Elkhorn River and various outdoor special events. He explained that the zoning ordinance does not provide any exceptions to the hard-surfacing requirement for temporary uses. The Planning Department recommended denial of the waiver request.

Mr. Novak explained that recreational activity has increased since he bought the property. He added that the Elkhorn Soccer Club also uses his property for parking. He stated that it was impractical to create hard-surface parking since the use of the land was seasonal and because the soil was so soft. In addition, he noted that any water run-off into the Elkhorn River from a hard-surface would not be beneficial.

Ms. Moore moved to APPROVE subject to the applicant applying for a Temporary Use Permit and a Floodplain Development permit. Mr. Aspen seconded the motion.

AYES: Aspen, Friedman, Mahlendorf, Moore, Lanoha  

MOITON CARRIED: 5-0.
4. **Case No. 19-014**  
Joe Semin  
17104 Chalet Drive  
Bellevue, NE 68123

**REQUEST:** Waiver of Section 55-186 - Variance to the front yard setback from 35' to 20' and the rear yard setback from 25' to 24' to allow for construction of a new home.

**LOCATION:** 2308 South 6th Street  
**ZONE:** R4(35)

**PLANNING DEPARTMENT RECOMMENDATION:** Approval of the front yard setback waiver from 35' to 20', subject to submitting an application to rezone the property to R4, denial of the rear yard setback waiver from 25' to 24.

At the Zoning Board of Appeals meeting held on February 14, 2019, Joe Semin appeared before the board on behalf of the applicant.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new single-family home. As submitted, the proposed design did not meet the required 35’ front yard setback or the required 25’ rear setback. He noted that Planning Department has typically supported a 25’ setback for properties that are zoned R4(35) when appropriate. In this case, the proposed 20’ setback was consistent with the neighborhood and by requiring the applicant to rezone to R4, the waiver request would be reduced to 5’. However, the Planning Department did not support the rear yard setback as these lots are undeveloped and a plan could be designed that would reduce the depth of the building by 1’ in order to be in compliance with the zoning code. The Planning Department recommended approval of the front yard setback waiver from 35’ to 20’, subject to submittal of an application to rezone the property to R4, but denial of the rear yard setback waiver from 25’ to 24.

Mr. Semin explained that the home was for his mom and that it would be handicap accessible.

Mr. Aspen noted that the improvement would redevelop the parcel and improve the area. Mr. Mahlendorf further noted that the front of the proposed home would line up with adjacent properties and he supported the redevelopment of the lot.

Mr. Mahlendorf moved to APPROVE subject to the applicant submitting an application to rezone the property to R4. Mr. Lanoha seconded the motion.

**AYES:** Friedman, Mahlendorf, Moore, Aspen, Lanoha

**MOTION CARRIED:** 5-0.
5. Case No. 19-015  
GESU Housing, Inc.  
5008 ½ B Dodge Street  
Omaha, NE 68132  

REQUEST: Waiver of Sections 55-186 & 55-742(b)  
- Variance to the front yard setback from 35’ to 25’ to allow parking in the front yard setback and for construction of a single-family home.

LOCATION: 3916 Miami Street  
ZONE: R4(35)

PLANNING DEPARTMENT RECOMMENDATION: Approval in accordance with the plans submitted subject to submitting an application to rezone the property to R4.

At the Zoning Board of Appeals meeting held on February 14, 2019, Mike Hall appeared before the board on behalf of the applicant.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the Planning Department has supported a 25’ setback for properties that are zoned R4(35) when appropriate. The proposed 25’ front yard setback is consistent with the neighborhood and rezoning the property to R4 would change the front yard setback to 25’, which would make the waiver no longer necessary upon approval. The Planning Department recommended approval in accordance with the plans submitted subject to the applicant submitting an application to rezone the property to R4.

Mr. Hall stated that the applicant was in agreement with the Planning Department’s recommendation and planned to rezone the property to R4.

Mr. Aspen moved to APPROVE in accordance with the plans submitted subject to the applicant submitting an application to rezone the property to R4. Ms. Moore seconded the motion.

AYES: Mahlendorf, Moore, Aspen, Friedman, Lanoha

MOTION CARRIED: 5-0.
6. Case No. 19-016  
Eddy Santamaria  
Contrivium Design  
1301 Nicholas Street  
#301  
Omaha, NE 68108  

REQUEST: Waiver of Sections 55-246 & 55-740(e)  
- Variance to the minimum rear yard setback from 25’ to 10'6"; to the front yard setback from 35’ to 0’ and to the hard-surface driveway requirement to allow for construction of a new single-family home.

LOCATION: 1436 South 16th Street  
ZONE: R7

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on February 14, 2019, Eddy Santamaria appeared before the board on behalf of the applicant.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant was proposing to construct a new single-family home on this undeveloped property and due to the unique home design, a number of waivers were being requested. The Planning Department found no hardship or practical difficulty to support the waiver requests since they are design preferences. Since the property was undeveloped at the time, the Planning Department believed that it would be better to design a home that would fit the existing lot instead of trying to fit an existing lot around a yet to be constructed home. The Planning Department recommended denial of the waiver requests.

Mr. Santamaria stated that the property owners wanted a sustainable home in the downtown area where they could raise their family. The design of the home allowed for maximum daylight exposure. The proposed strip driveway would allow for water collection for irrigation. He indicated that the home had been designed according to Urban Design guidelines. With regards to the front yard setback, Mr. Mahlendorf stated that the front yard setback request of 0’ fit the character of the neighborhood. He also noted that the adjacent property is a parking lot. Mr. Santamaria explained that there was an environmental hardship with regards to the rear yard since the amount of natural light would be reduced if the garage was built according to code. He also noted that there were other properties that came within 10’ of the rear yard setback. He stated that the waiver would allow for infill development and would permit an urban living environment for the family.

There was a brief discussion about sustainability being used as a hardship. Mr. Lanoha stated that Chapter 55 of the Omaha Municipal Code did not address redevelopment of infill parcels at that time. He noted that it would be difficult for the applicant to redevelop the lot and comply with the standards of the current code. He added that if it could be built according to those standards, it wouldn’t benefit the neighborhood. The board expressed approval for the proposed plans.

Mr. Aspen mentioned that there was a hardship because of the odd shape of the west lot line. The applicant was advised that Public Works wanted the final design of the gate to be modified so that it would be located at least 20’ from the curb back of South 16th Street.

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

AYES: Moore, Aspen, Friedman, Mahlendorf, Lanoha

MOTION CARRIED: 5-0.
7. Case No. 19-017
Paul Ludeman
2704 North 78th Street
Omaha, NE 68134

REQUEST: Waiver of Section 55-146 - Variance to the minimum rear yard setback from 25’ to 8’ to allow for construction of a new single-family home.

LOCATION: 7803 Miami Street
ZONE: R2

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on February 14, 2019, Roger Harvey (Heritage Homes – 15701 South Hwy 50, Springfield, NE) and Paul Ludeman appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated the applicant was proposing to construct a new single-family home but could not meet the rear setback due to topographical issues. Considering this is new construction on a vacant lot, the Planning Department found no hardship or practical difficulty to support the request and recommended denial.

Mr. Harvey stated that the rear yard variance was being requested due to the grading of the site. He noted that there was a letter from the adjacent neighbor stating support for the project.

Michael Mach (2536 North 78th Street) appeared before the board. He explained that his back yard would be adjacent to the applicant’s property. He wanted the lot to remain vacant so that there would be a buffer for his home. It was explained to Mr. Mach that the 8’ setback would be on the west side of the lot where the back yard would be located. Mr. Mach had no further objections to the request.

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

AYES: Aspen, Friedman, Mahlendorf, Moore, Lanoha

MOTION CARRIED: 5-0.
8. Case No. 19-018
Colleen Mason
PJ Morgan Company
7801 Wakely Plaza
Omaha, NE 68114

REQUEST: Waiver of Section 55-716 - Variance to the minimum bufferyard requirement between a GI and R7 district from 50' to 0' to allow for construction of a new trash enclosure.

LOCATION: 1211 William Street
ZONE: GI

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on February 14, 2019, Colleen Mason and Ryan Ellis, both with PJ Morgan Real Estate – 7801 Wakely Plaza, appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated the applicant was proposing to construct a new 8’ x 17’ trash enclosure in the far southeast corner of the property. The Planning Department found no hardship or practical difficulty to support the request since it is a design preference. The department believed that placing trash receptacles directly adjacent to a residential property would unfairly impact the adjacent homeowner. He explained that the intent of a bufferyard is to create a landscaped area which separates and partially obstructs the view of two adjacent land uses or property from one another and in this example, a trash enclosure is a perfect example as to why a bufferyard is needed. The Planning Department recommended denial of the request.

Ms. Mason stated that the dumpster would serve the properties to the west of it (1407, 1409 and 1411 South 13th Street). She indicated that it would also serve 1419, 1423 and 1423 South 13th Street. She explained that due to the zoning of the properties, temporary uses of the lot and the proposed future construction of a bank with a drive-through at 1407 North 13th Street, the dumpster needed to be placed in the corner of the lot near a residential garage.

Ms. Moore inquired as to why the dumpster could not be placed at the southwest corner of the lot. Ms. Mason responded that there was an alley in that location and the dumpster would need to be 50' from the center of the alleyway. Mr. Mahlendorf stated that he could not support putting a dumpster next to residential properties, especially at a 0’ setback. He explained that, in this instance, the residential property would be given preference over commercial properties. He asked if alternate locations could be provided. Mr. Ellis stated that they would need to come back with other possible locations for the dumpster. Ms. Mason explained that there were some issues because that area was in the process of redevelopment so it was a challenge to serve the existing tenants as well as any other businesses that may come into the area.

Mr. Lanoha stated that he also could not support the waiver as presented. Mr. Mahlendorf mentioned that the board could possibly waive the requirement that the dumpster needed to be 50’ from the center of the alleyway.

Mr. Mahlendorf moved to LAYOVER until the March 14, 2019 meeting. Mr. Lanoha seconded the motion.

AYES: Friedman, Mahlendorf, Moore, Aspen, Lanoha

MOTION CARRIED: 5-0.
9. Case No. 19-019
   Isaac Nelson McDaniel Wallquist
   Construction
   2628 South 87th Street
   Omaha, NE 68124

   REQUEST: Waiver of Section 55-715 - Variance to the street yard landscaping from 75% to 67% to allow for a circular driveway.

   LOCATION: 1724 South 105th Street
   ZONE: R1

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on February 14, 2019, Isaac Nelson appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant had indicated that due to the amount of vehicles as well as the hill on 105th Street, backing out of their driveway onto traffic could be quite difficult and at times dangerous. The Planning Department found no hardship or difficulty to support the request since it is a design preference. Mr. Todd noted that there are numerous locations in the existing driveway which would allow for a vehicle to turn around in order to not have to exit onto 105th Street by backing out. The Planning Department recommended denial of the request.

Mr. Nelson stated that his clients wanted to make access to 105th Street easier. He explained that although the Planning Department believed there were some areas on the site where a vehicle could turn around, it was difficult to navigate if they had visitors and there were a couple of cars parked in the driveway. He stated that there would never be on-street parking on 105th Street. He added that there was also traffic that comes down the hill to the north of the property, making it difficult to safely back into traffic. He acknowledged that there was a large amount of paving in the front yard that could possibly be reduced, especially in the courtyard area.

Mr. Aspen stated that he could consider supporting the request if the property owner removed large amounts of concrete in a couple of areas on the site. Mr. Lanoha stated that he could not find a hardship since there was so much driveway already at this location. Mr. Nelson suggested a layover so that he could speak with his client about removing some of the concrete from the driveway. Mr. Mahlendorf noted that if the concrete could be reduced to 67% the applicant would not need to come back.

Mr. Aspen moved to LAYOVER until the March 14, 2019 meeting. Ms. Moore seconded the motion.

AYES: Mahlendorf, Moore, Aspen, Friedman, Lanoha

MOTION CARRIED: 5-0.
10. Case No. 19-020  
Robert Torson Architects  
6542 South 118th Street  
Omaha, NE 68137  
REQUEST: Waiver of Section 55-123 - Variance to allow Duplex Residential, a use not permitted in the R1 district.  
LOCATION: 606 South 93rd Street  
ZONE: R1  

This case was withdrawn at the request of the applicant.
11. Case No. 19-021
   Eric Westman
   Alley Poyner Macchietto
   Architecture
   1516 Cuming Street
   Omaha, NE 68102
   REQUEST: Waiver of Sections 55-716 & 55-740 - Variance to the minimum bufferyard requirement between a CC and R8 district from 20’ to 6’2” and to the minimum perimeter parking lot landscaping from 10’ to 0’ to allow for construction of a new parking lot.
   LOCATION: 4950 Dodge Street
   ZONE: CC-ACI-2(50)

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on February 14, 2019, Amy Lawrenson (Baird Holm Law), Eric Westman (Alley Poyner) and Joe Dethlefs (Thompson, Dreessen & Dorner) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant intended to demolish the existing building to build a new parking lot that would provide more parking for the remaining tenants near that property. The new parking lot would provide an additional 54 spaces including 2 new ADA compliant spots. The Planning Department did not support the request as the proposed project will further emphasize and support dependence on the automobile along the City’s only Bus Rapid Transit Route which is scheduled to start operation in early 2020. The Planning Department found no hardship or practical difficulty to support the request since it was the result of a design preference and recommended denial.

Ms. Lawrenson stated that after careful consideration, RH Land Management decided to remove this building from of its fleet of rentals due to security and maintenance issues. She added that it was no longer cost-effective or efficient to continue to manage the property. The proposed parking would provide additional parking for Film Streams and other tenants. The bufferyard waivers would be in addition to waivers that were granted when the property was initially redeveloped as part of the Dundee Theater redevelopment project. With the exception of Film Streams all of the surrounding properties are owned by RH Land Management. She indicated that the waivers would allow for better navigation of the parking lot. With regards to the landscaping waiver, she explained that Film Streams does not want trees along Dodge Street since it would block the marquis and possibly cause safety issues. She added that the landscaping would blend in with what exists there now and keep the property visible. The access from Dodge Street would be removed and relocated along Capitol Avenue. Their goal is to have vehicles park near their destination instead of traveling around the lots. She stated that the lot would be very well landscaped with trees. In response to the City’s concerns about the effect of the project on the future transit route, Ms. Lawrenson stated that those regulations were not currently in effect so it was difficult to plan around those. She also reasoned that more parking could be requested considering the number of seats in the theater. She believed that the development was the best current use of the property without impairing future development.

Mr. Mahlendorf was in support of the access being moved off of Dodge Street. He believed that the waivers along Capitol were reasonable; however, he and Mr. Lanoha believed that an opportunity was being missed to put a building along Dodge Street.

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

AYES: Aspen, Friedman, Mahlendorf, Moore, Lanoha  MOTION CARRIED: 5-0.
12. Case No. 19-022  
Mario Martinez  
3502 Pine Street  
Omaha, NE 68105  

REQUEST: Waiver of Section 55-166 - Variance to the interior side yard setback from 7’ to 3’ to allow for the construction of a new home addition.

LOCATION: 3502 Pine Street  
ZONE: R3

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on February 14, 2019, Mario & Cheryl Martinez and Rob Weberg (Ambassador Home Improvement) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicants were proposing to construct a new addition to the home which was originally built in 1918. The R3 zoning district requires an interior sideyard setback of 7’ but the existing home was constructed at 3’. The existing home measures 26’ in length which would allow the applicant a 13’ addition without the need for a waiver. In this case, the addition is 14’11”. The Planning Department recommended denial of the waiver request.

Mr. Martinez stated that he wanted to add a kitchen addition to the rear of the home. He stated that he had talked to the neighbors who were all in support of the project (Exhibit B).

Mr. Weberg stated that the addition would replicate the existing home. He explained that the extra 1’11” would allow him to put in new footings that are up to code instead of tying in to footings that may not be.

Ms. Moore moved to APPROVE in accordance with the plans submitted subject to the applicant using materials that are similar to those on the existing home. Mr. Lanoha seconded the motion.

AYES: Freidman, Mahlendorf, Moore, Aspen, Lanoha

MOTION CARRIED: 5-0.
13. Case No. 19-023
Matthew Werner
2933 SW Woodside Drive
Suite 200
Topeka, KS 66614

REQUEST: Waiver of Section 55-716 - Variance to the minimum bufferyard requirement between a CC and R8 district from 20' to 5'7" to allow for construction of a new commercial building.

LOCATION: 354 North Saddle Creek Road
ZONE: CC-MCC

PLANNING DEPARTMENT RECOMMENDATION: Denial.

At the Zoning Board of Appeals meeting held on February 14, 2019, Matthew Werner (Architect & Developer) and Trish Sieh (Kimley-Horn) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that the applicant had indicated that they intended to construct a new drive through restaurant on this currently undeveloped property. Based on the plan submitted, the applicant is unable to meet the required 20' setback between a CC and R8 district. The Planning Department found no hardship or practical difficulty to support the request since the waiver is the result of a design preference. Since the land is undeveloped, the layout could be redesigned to allow for the bufferyard to be constructed. The Planning Department recommended denial of the waiver request.

Ms. Sieh stated two reasons for the waiver request: 1) When the property was platted, the adjacent property to the west was zoned Industrial not Residential. She added that the 20' buffer would not be in character with the existing Walmart and Westlake Ace Hardware stores. 2) There was a substantial grade difference (approximately 23' vertical) between this property and the property to the west. She stated that the slope and the vertical separation created a 45' buffer between the two parking lots. Mr. Werner added that the existing 40' buffer is comprised mainly of trees.

Mr. Lanoha agreed with the applicant’s reasons for the waiver request.

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

AYES: Mahlendorf, Moore, Aspen, Friedman, Lanoha

MOTION CARRIED: 5-0.
14. Case No. 19-024
Design8 Studios
5801 North 90th Street
Omaha, NE 68134

REQUEST: Waiver of Section 55-832 - Variance to the total allowed sign budget from 40 sq. ft. to 55 sq. ft. and to the maximum allowed square footage per sign from 20 sq. ft. to 21 sq. ft. to allow for the replacement of two existing monument signs.

LOCATION: 1111 North 27th Street
ZONE: R7-PUD

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

At the Zoning Board of Appeals meeting held on February 14, 2019, Chuck Wiethop (Design8 Studios) appeared before the board.

Cliff Todd, Zoning Board of Appeals Administrator, stated that while applying for sign permits, the applicant found that the original signage on his property was installed illegally. The applicant intended to install two new monument signs that will meet the required setback. Due to the size of the property and the need to meet the required setbacks, the applicant requested a slight increase in the overall sign budget from 40 to 55 square feet and to the maximum square footage allowed per sign from 20 to 21 square feet. The Planning Department did not believe the request to be unreasonable and it has been supportive of similar requests in the past. The Planning Department recommended approval in accordance with the plans submitted.

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

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

AYES: Moore, Aspen, Friedman, Mahlendorf, Lanoha

MOTION CARRIED: 5-0.
APPROVAL OF MINUTES:

Mr. Aspen moved to APPROVE the minutes for the January 10, 2019 meeting. Mr. Lanoha seconded the motion.

AYES: Aspen, Freidman, Moore, Lanoha

ABSTAIN: Mahlendorf

MOTION CARRIED: 4-0-1.

ADJOURNMENT

It was the consensus of the Board to ADJOURN the meeting at 2:18 p.m.

____________________________________________
Approved (date)

____________________________________________
Jason Lanoha, Chair

____________________________________________
Clinette Ingram, Secretary