

**MINUTES**  
**Administrative Board of Appeals**  
**July 29, 2013**

**MEMBERS PRESENT:**

David Levy, Vice Chair  
Jose Lopez  
Bode Labode  
Ann O'Connor, Chair

**MEMBERS ABSENT:**

Jim Weaver

**OTHERS PRESENT:**

Rosemarie Lee, Law Department  
Kevin Denker, Planning Department  
Roger Carroll, Planning Department  
Andrea Wisniewski, Recording Secretary

---

**ROLL CALL:**

Ms. O'Connor called the meeting to order at 1:00 pm. The Board received as Exhibit 1 in each of this meeting's cases the contents of the City's file on each case.

**CASES:**

13-6-42 *From 6/24/2013*

Arthur E Woodcock  
3003 S 9<sup>th</sup> St  
Omaha NE 68108

REQUEST: Appeal expiration of Third Grade Stationary Engineer's license.

**6/24/2013:**

Mr. Woodcock was not present. Thomas Phipps, City Planning Department, reported that he has checked his files and there have been no complaints against Mr. Woodcock or his license. He raised no objection to the renewal of this license.

Motion by Mr. Lopez to hold this case over to the July 29, 2013 meeting. Second by Mr. Labode.

AYES: Labode, Weaver, Lopez

NAYS: Levy

Motion carried 3-1. Case held over to July 29, 2013.

**7/29/2013:**

Mr. Woodcock was not present. The Board Secretary confirmed that she had spoken to Thomas Phipps, City Planning Department, in regards to this case. Mr. Phipps had stated that his division had no objection to the renewal of this license, as there have been no complaints made against the applicant.

Motion to approve by Mr. Levy. Second by Mr. Lopez.

AYES: Levy, Lopez, O'Connor

NAYS: Labode

Motion carried 3-1. Appeal granted.

13-6-48 *From 6/24/2013*

Ernest W Timmons  
Timmons Properties  
1306 Sunshine Bd  
Bellevue NE 68123

REQUEST: Appeal notice of nuisance in regards to trash containers (RE: 4716 Cuming St).

**6/24/2013:**

Mr. Timmons was not present. The Board Secretary stated that Mr. Timmons had contacted her; he was unable to appear at today's meeting due to a family emergency that requires him to be out of the state. He requested that the Board hold this case over in order to give him time to appear before them.

Motion to hold this case over to the July 29, 2013 meeting by Mr. Weaver. Second by Mr. Lopez.

AYES: Labode, Weaver, Lopez, Levy.

Motion carried 4-0. Case held over to July 29, 2013.

**7/29/2013:**

Mr. Timmons was not present. The Board Secretary stated that Mr. Timmons had contacted her; he was unable to appear at today's meeting due to a death in his family. She added that Mr., and Mrs. Timmons have been in contact with the Planning Department and are considering applying to the Zoning Board of Appeals in order to seek a waiver that would allow them to leave their dumpster in its current location; albeit with appropriate screening. Mr. Denker stated that he had spoken with Michael Carter, who is the Administrator for the Zoning Board of Appeals. Mr. Carter suggested that if the applicants were directed to go to the Zoning Board in regards to a dumpster, a term of sixty days would be preferable over the thirty days currently being stipulated by the Board.

Motion by Mr. Levy to grant appeal with the following stipulations: 1) Applicant must make application to Zoning Board of Appeals within thirty days; and 2) property must be in full compliance with the ordinance in regards to trash containers within 180 days. Second by Mr. Labode

AYES: Lopez, Labode, Levy, O'Connor

Motion carried 4-0. Appeal granted as stipulated above.

13-6-40 *From 6/24/2013*  
Christopher J Ybarra  
9010 Valley St  
Omaha NE 68124

REQUEST: Appeal Omaha Police Department denial of  
firearm registration. (RE: 2339 N 61<sup>st</sup> St)

**6/24/2013:**

Mr. Ybarra was not present. Lt. David Sedlacek, Omaha Police Department, reported that this application was denied due to a conviction for marijuana less than one ounce.

Motion by Mr. Weaver to hold this case over to the July 29<sup>th</sup>, 2013 meeting. Second by Mr. Labode.

AYES: Weaver, Lopez, Labode

NAYS: Levy

Motion carried 3-1. Case held over to July 29, 2013.

**7/29/2013:**

Christopher Ybarra appeared before the Board. Lt. David Sedlacek, Omaha Police Department, reported that Mr. Ybarra's application was denied due to a conviction for marijuana less than one ounce dating from August 18, 2010. Mr. Ybarra was fined \$300.00 for this offense.

Mr. Ybarra stated that he would like to own a firearm for his own protection. He added that his drug use issues are in his past. In response to Ms. O'Connor's question, Lt. Sedlacek confirmed that there were no other items of concern on Mr. Ybarra's record.

Mr. Levy commented that according to the applicant's letter, Mr. Ybarra stated that he purchased the firearm in question late last year. He questioned the applicant as to why he chose to wait five months to register his firearm. Mr. Ybarra replied that he had not been aware that he needed to register the firearm immediately after purchase. He stated that in the five months between purchase and his attempt to register it, the firearm in question never left his home.

Motion to deny by Mr. Levy. Second by Mr. Lopez.

AYES: Labode, Levy, Lopez, O'Connor.

Motion carried 4-0. Appeal denied.

13-7-49  
Jimi J Smith  
16707 L St  
Omaha NE 68135

REQUEST: Appeal Omaha Police Department denial of  
firearm registration.

Jimi Smith appeared before the Board. Lt. David Sedlacek, Omaha Police Department, reported that Mr. Smith's application was denied due to a conviction for attempted domestic violence assault dating from May 22, 1999. Mr. Smith received probation through Cass County Court for this offense. In response to Ms. O'Connor's question, Lt. Sedlacek confirmed that Mr. Smith was convicted of a misdemeanor in this instance, not a felony. He stated that Mr. Smith's record was somewhat unclear as to the disposition of this case. Mr. Levy asked Mr. Smith whether he could provide further details in regards to the incident in question.

Mr. Smith stated that at the time of his offense, he had been working for the Sherriff's office. He became involved in an altercation with his ex-wife which resulted in his arrest. Mr. Smith stated that his attorney advised him to accept a plea deal for misdemeanor assault, as a felony domestic violence charge would have preempted him from working as an officer. Since this incident, Mr. Smith stated that he received full custody of his three children and has since remarried. He added that he has had no additional issues since 1999, almost fifteen years ago.

Lt. Sedlacek confirmed that there were no other items of concern on the applicant's record. At Mr. Levy's request, Mr. Smith produced his license to purchase from the Sherriff's office.

Motion to approve by Mr. Levy. Second by Mr. Labode.

AYES: Levy, Lopez, Labode, O'Connor.

Motion carried 4-0. Appeal granted.

13-7-50  
Tim J Kuck  
5520 Miami St  
Omaha NE 68104

REQUEST: Appeal Omaha Police Department notice of  
nuisance (re: 2703 N 56<sup>th</sup> St)

Mr. Kuck was not present. The Board Secretary stated that she had received return confirmation of the notice sent out to Mr. Kuck by certified mail – this was signed June 24, 2013 by Anna Kuck. She stated that she had spoken to Mr. Kuck several weeks ago, before he filed his appeal with the Board. At that time, Mr. Kuck stated that he was attempting to obtain a new title for the vehicle from out of state and requested that the Board grant him the necessary four to five weeks for the necessary paperwork to be completed. Mr. Levy stated that as of today's date, Mr. Kuck has had adequate time to obtain the new title for the nuisance vehicle at his property.

Motion to deny by Mr. Levy. Second by Mr. Lopez.

AYES: Lopez, Labode, Levy, O'Connor

Motion carried 4-0. Appeal denied.

13-7-51  
David & Keisha Voth  
15675 Taylor St  
Omaha NE 68116

REQUEST: Appeal Omaha Police Department notice of  
nuisance

David Voth appeared before the Board. Kevin Denker, City Planning Department, stated that the appeal was in reference to a recreational vehicle over twenty feet in length on Mr. Voth's property. Mr. Voth explained that his neighborhood had a covenant agreement which allowed residents to park recreational vehicles in their driveways for part of the year. Mr. Voth's neighborhood was recently annexed into the City of Omaha, which voided the terms of the covenant agreement in regards to recreational vehicles. Mr. Voth presented a document showing that he had the support of his neighbors to leave his recreational vehicle on his property; he added that there are other homes in the neighborhood with campers in their driveways as well. In response to Mr. Levy's question, Mr. Voth replied that his camper is 30 feet in length.

After some discussion, Mr. Labode made a motion to deny the appeal. Second by Mr. Levy.

AYES: Labode, Levy, Lopez, O'Connor.

Motion carried 4-0. Appeal denied.

13-7-52

Dennis Kosmicki  
8704 Boyd St  
Omaha NE 68134

REQUEST: Appeal Omaha Police Department notice of  
nuisance

Dennis Kosmicki appeared before the Board. Kevin Denker, City Planning Department, stated that this property is zoned DR, or development reserve. He discussed the various vehicles currently on site, and stated that it is possible that gravel parking surface on this property has grandfather rights. He asked the Board lay this case over to their next meeting in order to allow him to research this matter further.

Motion to hold this case over to the August 26, 2013 meeting by Mr. Levy. Second by Mr. Labode.

AYES: Levy, Lopez, Labode, O'Connor

Motion carried 4-0. Case held over to August 26, 2013.

13-7-53

Charlotte J Pascarella  
8106 Castelar St  
Omaha NE 68124

REQUEST: Appeal Omaha Police Department notice of  
nuisance (re: The Happy Bar, 519 N 16<sup>th</sup> St)

Patrick Sodoro, attorney, appeared before the Board for Charlotte Pascarella, who goes by the name "Jean". Mr. Sodoro explained that The Happy Bar is a small, family owned business. There are four or five parking spaces in front of the bar; however, most customers park in a gravel lot across the street from the premises. Mr. Sodoro stated that his client is an elderly woman with health issues; she wants to work with the City in order to improve the gravel parking lot, but cannot afford to pave it. Mr. Sodoro stated that Ms. Pascarella is working with a contractor to explore having the parking lot re-graded and to have new gravel installed. Roger Carrol, City Planning Department, submitted photographs of the parking lot in question for the Board's review.

After some discussion, it was determined that additional time was needed in order for the applicant to work with the City and to research any possible grandfather rights that the property may have.

Motion to hold this case over to the August 26<sup>th</sup>, 2013 meeting by Mr. Levy. Second by Mr. Labode.

AYES: Lopez, Labode, Levy, O'Connor

Motion carried 4-0. Case held over to August 26, 2013.

**APPROVAL OF MINUTES:**

Motion by Mr. Labode to approve the minutes from April 29, 2013. Second by Mr. Lopez.

AYES: Lopez, Labode, O'Connor

ABSTAIN: Levy

Motion carried 3-0-1.

Not enough members were present who could vote to approve the minutes from May 20<sup>th</sup>, 2013. These minutes will be approved at the August 26<sup>th</sup>, 2013 meeting.

Motion by Mr. Levy to approve the minutes from June 24<sup>th</sup>, 2013. Second by Mr. Lopez.

AYES: Lopez, Labode, Levy

ABSTAIN: O'Connor

Motion carried 3-0-1.

**ADJOURN:**

Motion to adjourn by Mr. Labode. Second by Mr. Lopez.

AYES: Labode, Levy, Lopez

Motion carried 4-0. Meeting adjourned at 1:59 pm.

---

The Administrative Board of Appeals agenda and other information regarding the Administrative Board of Appeals and the Planning Department are available on the Internet at <http://www.ci.omaha.ne.us/planning>. The agendas available on the Internet are subject to change and are for convenience purposes only. The agenda may be altered no later than 24 hours before the scheduled commencement of the meeting. A copy of the official agenda, kept continually current, shall be available for public inspection at the City of Omaha Planning Department, 1819 Farnam Street, Suite 1100, Omaha, Nebraska, during normal business hours.

Prior to the hearing, the applicant may schedule a time to review the City's case file during normal business hours by contacting the Board Secretary at (402) 444-5203. If an alternative (audio version) to this agenda is necessary, please notify the Board Secretary at (402) 444-5203, 72 hours in advance.

---

**CERTIFICATION OF PUBLICATION**

The Secretary to the Administrative Board of Appeals certifies publication in The Daily Record, the official newspaper of the City of Omaha, on July 22<sup>nd</sup>, 2013.