MINUTES
Administrative Board of Appeals
April 24, 2017

MEMBERS PRESENT:
David C. Levy, Chairman
Ann O’Connor, Vice Chair
Brian W. Kruse
Mark Santo
Jeffrey Beals

MEMBERS NOT PRESENT:
Ryne Bessmer, Alternate

STAFF PRESENT:
Timothy Himes, Law Department
Jay Davis, Planning Department
Rikki Flott, Recording Secretary

ROLL CALL:

Mr. Levy 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:

1. 17-04-033
Richard Madson
Thompson Dreessen & Dorner Inc.
10836 Old Mill Road
Omaha NE 68154
REQUEST: Appeal Public Works Department denial of driveway permit
(Re: 3119 North 186th Plaza, Antler View Apartments)

Richard Madson, Thompson Dreessen & Dorner, Inc., appeared before the Board. Ryan Haas, Public Works Department, appeared before the Board. Mr. Haas stated that the non-compliance issue was the request for 2 driveway accesses for one site. He added that with the number of apartment units proposed, a second driveway was justified and that Bedford Avenue was a low volume street.

Mr. Madson stated that the site was landlocked with limited access for the 384 apartment units and requested a waiver for a second driveway access.

Motion to APPROVE by Mr. Santo. Second by Mr. Kruse.

AYES: Santo, Kruse, O’Connor, Levy

ABSENT: Beals

Motion carried 4-0-1.
2.  
17-04-034  
Peter Nagel  
The Redmond Company  
W228 N745 Westmound Drive  
Waukesha WI 53186  

REQUEST:  Appeal Public Works Department denial of driveway permit  
(RE: 144th & Arbor Streets, Veridian Credit Union)  

Dan Dolezal, Ehrhart Griffin, appeared before the Board on behalf of the applicant. Ryan Haas, Public Works Department, appeared before the Board. Mr. Haas stated that the site plan for the new credit union facility met the ATM stacking requirement, but did not meet the 200 feet per lane drive-through stacking requirement. He explained that a traffic engineering study was completed and noted that stacking requirements would be updated to a 100 feet drive-through stacking requirement.  

Mr. Dolezal stated that he agreed with Mr. Haas’ comments and that cross easements were previously agreed upon with adjacent subdivisions.  

Motion to APPROVE by Mr. Kruse. Second by Mr. Santo.  
AYES: Santo, Kruse, O’Connor, Levy  
ABSENT: Beals  
Motion carried 4-0-1.  

3.  
17-04-035  
Erin Froschheiser  
Leo A Daly  
8600 Indian Hills Drive  
Omaha NE 68114  

REQUEST:  Appeal Public Works Department denial of driveway permit  
(RE: 204th & West Maple Road, First National Bank)  

Erin Froschheiser, Leo A Daly, appeared before the Board. Ryan Haas, Public Works Department, appeared before the Board. Mr. Haas stated that the bank site met the ATM stacking requirement, but that the drive-through stacking was non-compliant with the minimum 200 feet per lane stacking requirement. He explained that a traffic engineering study was completed and noted that the site met future 100 feet per lane stacking requirements.  

Ms. Froschheiser stated that the site plan included five drive-through lanes with an average of 111 feet stacking proposed for each lane.  

Motion to APPROVE by Mr. Kruse. Second by Mr. Santo.  
AYES: Santo, Kruse, O’Connor, Levy  
ABSENT: Beals  
Motion carried 4-0-1.
4.  
17-04-036  
Joe Zadina  
Lamp Rynearson & Associates Inc.  
14710 West Dodge Road, Suite 100  
Omaha NE 68154  

REQUEST: Appeal Public Works Department denial of driveway permit  
(RE: 128th & N Streets, MPS Central Middle School)  

Joe Zadina, Lamp Rynearson & Associates, Inc., appeared before the Board. Ryan Haas, Public Works Department, appeared before the Board. Mr. Haas stated that the proposed plan included a building addition and modification of an existing middle school site with multiple, related uses. He explained that the non-compliance issue was retention of 4 existing driveways for one site and added that one of the driveways would be relocated within the site.

Mr. Zadina explained that the 21-acres site housed a middle school, a Boys and Girls Club, a young adult program for special needs students, and transportation facility for the special needs use. He further explained that an addition was planned for the Boys and Girls Club and requested approval for 4 driveway accesses on the site. He stated that the access along the L Street frontage road was used by buses and visitors, and that 3 driveways along N Street provided access to 3 separate uses on the site.

Motion to APPROVE by Mr. Santo. Second by Mr. Kruse.

AYES: Santo, Kruse, O’Connor, Levy  
ABSENT: Beals  

Motion carried 4-0-1.

5.  
17-04-037  
Joe Zadina  
Lamp Rynearson & Associates Inc.  
14710 West Dodge Road, Suite 100  
Omaha NE 68154  

REQUEST: Appeal Public Works Department denial of driveway permit  
(RE: 124th Avenue & Weir Street, MPS Norris Elementary School)  

Joe Zadina, Lamp Rynearson & Associates, Inc., appeared before the Board. Ryan Haas, Public Works Department, appeared before the Board. Mr. Haas stated that the proposed plan involved site work for the existing school and retained two existing accesses along Weir Street. He explained that the eastern driveway was a two-way access and the western driveway was a one-way egress, which exceeded the 1 driveway per site regulation. He further explained that the one-way access exceeded the regulation width of 16 feet, but that a wider access was necessary for bus traffic.

Mr. Zadina stated that traffic operations remained the same and that the project added 8 parking stalls in the staff lot. He commented that sidewalks and landscape screening would be added.

Motion to APPROVE by Mr. Kruse. Second by Mr. Santo.

AYES: Santo, Kruse, O’Connor, Levy  
ABSTAIN: Levy  

Motion carried 4-0-1.
6. 17-04-038
Daniel Dolezal Ehrhart Griffin & Associates
3552 Farnam Street Omaha NE 68131

REQUEST: Appeal Public Works Department denial of driveway permit
(RE: 38th Avenue & Harney Street, Greenslate Apartments)

Dan Dolezal, Ehrhart Griffin & Associates, appeared before the Board. Ryan Haas, Public Works Department, appeared before the Board. Mr. Haas stated that the proposed project was a multi-family building on the corner of 38th and Harney. He explained that although an access along Harney Street met driveway requirements, the Department expressed concern with traffic safety at this location and suggested access along South 38th Avenue was less hazardous. He then stated that non-compliance issues were that the proposed driveway on South 38th was less than the 22 feet required width and was also 41 feet from Harney Street, which did not meet the required 60 feet distance.

Mr. Doelzal stated that he agreed with statements by Mr. Haas and explained that with only 22 stalls for the site parking lot, traffic congestion was not anticipated.

Mr. Santo stated that he owned property adjacent to the site and abstained from the vote. Mr. Levy explained that although Greenslate was a client with his firm, he was not biased in his decision regarding the request.

Motion to APPROVE by Mr. Kruse. Second by Ms. O’Connor.

AYES: Kruse, O’Connor, Levy
ABSTAIN: Santo
ABSENT: Beals

Motion carried 3-0-2.

7. 17-03-029 (heldover from 03/27/17)
Ruben D. Gomez
3801 Frances Street Omaha NE 68105

REQUEST: Appeal Police Department denial of firearm registration

Ruben Gomez appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Gomez applied to register a firearm on February 24, 2017 and was denied for a marijuana less than 1 ounce conviction dated July 29, 2013.

Mr. Gomez stated that the incident occurred during a traffic stop and the officer found a marijuana pipe in his vehicle. He then stated that he attended college at the time of the incident and that he no longer used marijuana. In response to the Board, he explained that he graduated from college and was self-employed in real estate. He also stated that he was now married, owned a home, and wanted the firearm for protection.

Motion to APPROVE by Mr. Kruse. Second by Ms. O’Connor.

AYES: Santo, Kruse, O’Connor, Levy
ABSENT: Beals

Motion carried 4-0-1.
8.  
17-04-039  
Kenneth L. Hulsebus  
2738 Whitmore Street  
Omaha NE 68112  
REQUEST:  Appeal Police Department denial of firearm registration

Kenneth Hulsebus appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Hulsebus applied to register a firearm on March 20, 2017 and was denied for a carry concealed weapon conviction dated January 17, 1983. He noted that he also had other firearm registered with the Department.

Mr. Hulsebus stated that he wanted the firearm for protection. He then stated that at the time of the incident in 1983, he was unaware of firearm transportation laws and placed his firearm in the glovebox of his vehicle. He explained that the concealed weapon was revealed when he opened his glovebox to provide his vehicle registration to an officer during a traffic stop.

Motion to APPROVE by Mr. Santo. Second by Mr. Kruse.

AYES: Santo, Kruse, O’Connor, Levy

ABSTAIN: Beals

Motion carried 4-0-1.

9.  
17-04-040  
Aaron K. Fellows  
3202 Madison Street  
Omaha NE 68107  
REQUEST:  Appeal Police Department denial of firearm registration

Aaron Fellows appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Fellow applied to register a firearm on March 24, 2017 and was denied for a marijuana less than one ounce conviction dated February 18, 2015.

Mr. Fellows stated that he wanted a firearm for protection and for hunting. In response to the Board, he explained that he first wanted to visit a gun range to practice shooting to obtain a carry concealed weapon permit, and eventually learn to hunt. He also responded that he was employed full-time by McDonald’s and was not required to undergo random drug tests.

Mr. Kruse expressed concern that the conviction was approximately two years prior and noted to the 10-year requirement of the City Ordinance.

Motion to DENY by Mr. Kruse. Second by Mr. Santo.

AYES: Beals, Santo, Kruse, O’Connor, Levy

Motion carried 5-0.
REQUEST: Appeal Police Department denial of firearm registration

Bryan Miller appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Miller applied to register a firearm on March 3, 2017 and was denied for a carry concealed weapon conviction dated August 29, 2003. He noted that the weapon was not a gun.

Mr. Miller stated that he wanted the firearm for family protection and shooting at the gun range. He explained that at the time of the conviction, he was pulled over for a routine traffic stop in front of his home. He then explained that he was previously robbed in front of his home and placed a kitchen knife in the CD holder of his vehicle as protection. He added that during the traffic stop, he informed the officer where the knife was located.

Motion to APPROVE by Mr. Kruse. Second by Mr. Beals.

AYES: Beals, Santo, Kruse, O’Connor, Levy

Motion carried 5-0.

REQUEST: Appeal Police Department denial of Taxicab Driver’s Permit

Jose Chavez appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Chavez applied for a Taxicab Driver’s Permit on April 3, 2017 and was denied for a soliciting prostitution conviction dated June 26, 2003.

Mr. Chavez stated that the incident was approximately 13 years ago, he was young and made a mistake. He also stated that he recently quit his job and wanted to drive a cab for employment. In response to the Board, he explained that he had a job opportunity with Happy Cab.

Motion to APPROVE by Mr. Kruse. Second by Mr. Santo.

AYES: Beals, Santo, Kruse, O’Connor, Levy

Motion carried 5-0.

APPROVAL OF MINUTES:

Motion by Mr. Kruse to approve the minutes from December 19, 2016. Second by Mr. Beals.

AYES: Beals, Santo, Kruse, O’Connor, Levy

Motion carried 5-0.
DISCUSSION:
The Board discussed proposed changes to the Carry Concealed Weapon (CCW) regulation of the Omaha Municipal Ordinance 20-253 be presented and discussed with City Council and Chief of Police. The Board expressed removing the lifetime statute of limitation for a CCW conviction and instead implementing a 10-year statute of limitation for a CCW conviction in the ordinance. Mr. Levy noted that the CCW regulation within the ordinance was a lifetime punishment for a misdemeanor. Lt. Sedlacek explained that prior to 2011 and the current ordinance, the CCW limitation was 10 years. The Board then discussed changes to the marijuana less than one ounce convictions as regulated in the ordinance. Tim Himes, City Law Department, mentioned that rather than continually changing the ordinance, the ordinance allowed the Board to grant or deny those appeals after review of each case. The Board agreed. Upon discussion of State legislation regarding eliminating gun control, Mr. Levy noted that if passed, recent legislation exempted cities of the metropolitan primary class. Lt. Sedlacek stated that he would approach the Chief of Police regarding changes to the CCW limitations in the ordinance and Mr. Levy stated that if the Chief was in agreement with the changes, he would then approach City Council.

ADJOURN:
Motion to adjourn by Mr. Kruse. Second by Mr. Beals.

AYES: Beals, Santo, Kruse, O’Connor, Levy

Motion carried 5-0. Meeting adjourned at 1:58 pm.