MINUTES
Administrative Board of Appeals
January 27, 2020

MEMBERS PRESENT:
David C. Levy, Chairman
Ann O’Connor, Vice Chair
Brian W. Kruse
Ronald Bucher, Alternate
Blake Peterson, Alternate

MEMBERS NOT PRESENT:
Ryne Bessmer
Ryan Kuehl

STAFF PRESENT:
Mike Wilwerding, Planning Department
Tim Himes, Law Department
Clinette Ingram, Recording Secretary

Mr. Levy called the meeting to order at 1:00 pm. The Board received as Exhibit 1 the contents of the City's file on each case.

CASES:

1. 20-01-001
Justin Insinger, EI
JEO Consulting Group, Inc.
142 W. 11th St.
P.O. Box 207
Waterloo, NE 68066

(Re: Mancuso Dental – 7337 Farnam Street)

At the Administrative Board of Appeals meeting held on January 27, 2020, Kyle Crouch appeared before the board. Ryan Haas appeared on behalf of the Public Works Department.

Mr. Haas stated that the owners were proposing to remove and replace the existing pavement which triggered the application of the driveway regulations. The Farnam Street access was relocated farther away from 74th Street. The two waivers that were being requested were: 1) the addition of a one-way out driveway at the southwest portion of the site onto 74th Street, and 2) a reduction of the minimum radius from 10' to 3'. Public Works had no objections to the requests, noting that the right-of-way stub where the 74th Street access tied into was basically a dead-end street and the one-way access would be for exiting traffic only.

Mr. Krouch stated that one of the driveways had been removed from Farnam Street and the trash had been relocated to the back of the building.

Mr. Bucher moved to GRANT the appeal. Mr. Kruse seconded the motion.

AYES; Bucher, Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal granted.
At the Administrative Board of Appeals meeting held on January 27, 2020, Trever R. Banse appeared before the board. Officer Jason Bosiljevac appeared on behalf of the Omaha Police Department.

Officer Bosiljevac stated that the applicant attempted to register a firearm but was denied due to a 2006 conviction for Carrying a Concealed Weapon. The weapon was not a gun and the incident occurred on school grounds. Since that time, the applicant had nothing else on his record that would prohibit him from owning a firearm.

Mr. Banse stated that he didn’t want the incident from when he was in high school to prevent him from owing and registering a firearm. He added that he had stayed out of trouble since that incident.

Mr. Kruse moved to GRANT the appeal. Mr. Peterson seconded the motion.

AYES; Bucher, Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal granted.

At the Administrative Board of Appeals meeting held on January 27, 2020, Trever R. Banse appeared before the board. Officer Jason Bosiljevac appeared on behalf of the Omaha Police Department.

Officer Bosiljevac stated that the applicant attempted to register a firearm but was denied due to a marijuana less than one ounce conviction from April 2017.

Ms. Reeve stated that she wanted the incident expunged from her record and she indicated that she wanted to be a police officer in the future. She stated that since that time she had become a manager at her job and she occasionally had the responsibility of caring for her nephew. She had been on her job at Bronco’s for about 7 years. In response to Mr. Bucher, Ms. Reeve stated that she did not disclose her conviction on her application because she assumed that the question was in reference to felony charges. She explained that she was in the process of figuring out the paperwork to have the charges expunged from her record.

Mr. Kruse noted that there had been only 3 years since the conviction. He added that the board usually would grant an appeal if more than 5 years had passed. Mr. Bucher believed the offense to be a minor one and stated that he could support granting the appeal. In response to Mr. Levy, she discussed the circumstances surrounding the conviction. She admitted to occasionally using marijuana at that time.

Mr. Bucher moved to GRANT the appeal. Mr. Peterson seconded the motion.

AYES: Bucher, Peterson, Levy

NAYES: Kruse, O’Connor

MOTION CARRIED: 3-2. Appeal granted.
At the Administrative Board of Appeals meeting held on January 27, 2020, Nestor Hesiquio failed to appear before the board. Officer James Stokes appeared on behalf of the Omaha Police Department. Ms. Ingram stated that she had spoken with the applicant who indicated that he would be at the meeting. The case was put at the end of the agenda so that the board could review the minutes from the November 25, 2019 meeting for this case. After reviewing the minutes, it was determined that the applicant was to come back to the January meeting to prove that he had begun the process of combining the lots and resolving other issues with the site.

Officer Stokes stated that he visited the property the day of the meeting and he witnessed construction work being done on the property. He was not aware as to whether Mr. Hesiquio had obtained a permit for that work. Mr. Wilwerding confirmed that the applicant had obtained a building permit in 2019 and that a footing inspection was scheduled for January 28, 2020.

In response to Mr. Bucher, Ms. Ingram stated that she had spoken with the applicant on January 21, 2020 to remind him about the meeting and he stated that he would be in attendance. The board decided to lay the case over to give the applicant the opportunity to update the board.

Mr. Peterson moved to LAYOVER until the February 24, 2020 meeting. Mr. Kruse seconded the motion.

AYES: Bucher, Peterson, Kruse, O’Connor, Levy                     MOTION CARRIED: 5-0.

At the Administrative Board of Appeals meeting held on January 27, 2020, Alvin L. Moore and Elizabeth Moore appeared before the board. Officer James Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that the notice was issued as a result of a complaint that was called into the Mayor’s Hotline regarding two vehicles parked at the applicant’s address for over 30 days without Nebraska plates.

Mr. Moore explained that he had some medical, financial and title issues that prevented him from registering his vehicles. He indicated that he would take care of the issues with the cars after he filed his taxes.

Mr. Bucher moved to DENY the appeal with 90 days to comply. Mr. Peterson seconded the motion.

Mr. Kruse preferred that the applicant be given 60 days considering the length of time that they had been non-compliant.

Mr. Bucher amended his motion to DENY the appeal with 60 days to comply. Mr. Peterson seconded the amended motion.

AYES: Bucher, Peterson, Kruse, O’Connor, Levy                     MOTION CARRIED: 5-0. Appeal denied.
6.  
20-01-005  
Francisco Torres  
3603 N. 29th St.  
Omaha, NE 68111
REQUEST: Appeal of the Omaha Police Department’s Notice of Nuisance dated 12/30/2019.

At the Administrative Board of Appeals meeting held on January 27, 2020, Francisco Torres appeared before the board. Officer James Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that the notice was issued as a result of a complaint that was called into the Mayor’s Hotline in September regarding unplated vehicles that were parked off of a paved surface. He mentioned that one of the vehicles (red sedan) was considered to be a safety hazard because it didn’t have wheels and was up on jack stands. He stated that both vehicles were in violation of Section 55-742 (Storage of Vehicles on a Residential Property).

Mr. Torres stated that the vehicles were not in the way. He explained that he kept the property clean and all of his vehicles insured. He wanted time to repair the red vehicle.

In response to Mr. Levy, Mr. Wilwerding stated that the applicant could park behind his home as long as there was a paved access to it. In response to Mr. Kruse, Mr. Torres stated that he would attempt to do something with the red car by the end of the week.

Mr. Kruse moved to DENY the appeal with 72 hours to bring to red sedan into compliance and 60 days to bring all other issues into compliance. Mr. Peterson seconded the motion.

AYES: Bucher, Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal denied.

Mr. Torres asked if he could use old asphalt grindings in his back yard. Mr. Wilwerding stated that the cars needed to be on a hard, impervious surface so that oil and other liquids could not get into the ground.

7.  
20-01-006  
Luis Varela  
5218 S. 19th St.  
Omaha, NE 68107
REQUEST: Appeal of the Omaha Police Department’s Notice of Nuisance dated 1/20/2020.

At the Administrative Board of Appeals meeting held on January 27, 2020, Luis Varela and Gabriela Varela (5160 Ohern Street) appeared before the board. Ms. Varela interpreted on Mr. Varela’s behalf. Officer James Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that the notice was issued as a result of a complaint that was called into the Mayor’s Hotline in November regarding vehicles that were parked on an unpaved surface. There was also a black/white Chevy pickup with no plates. The pictures submitted by Officer Stokes (Exhibit B) showed the vehicles parked on what appeared to be an aggregate surface with no plates.

Ms. Varela stated that the driveway was 6” of crushed concrete with no exposed dirt or grass. She explained that the applicant rented the home and the cars belonged to the current residents. Officer Stokes stated that Mr. Varela was responsible for making sure that his renters were aware that a Notice of Nuisance was issued to him and that they needed to plate their vehicles.

In response to Mr. Bucher, Ms. Varela stated that the applicant was willing to fix the driveway; however, he would need 4 – 5 months to do so.
Mr. Bucher stated that 30 days should be enough time for the vehicles to be licensed and 4 months for the surface to be corrected.

Mr. Bucher moved to DENY the request with 30 days to license vehicles and 4 months to bring the surface into compliance.

AYES: Bucher, Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0.

8.

20-01-007
Michael McCoy
3330 Whitmore St.
Omaha, NE 68112

REQUEST: Appeal of the Omaha Police Department’s Notice of Nuisance dated 12/30/2019.
(Re: 5723 N. 24th St.)

At the Administrative Board of Appeals meeting held on January 27, 2020, Michael McCoy appeared before the board. Officer James Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that the notice was issued as a result of a complaint that was called into the Mayor’s Hotline in October regarding an un-plated vehicle that was parked on a commercial property. Officers found an RV with no plates parked in the lot of a business that was closed. Officer Stokes explained that the property was not zoned for vehicle storage.

Mr. McCoy indicated that the building was boarded up because someone had driven through the doors and broken in through the windows. He explained that he bought the RV so that it could block the front door and prevent individuals from breaking in. He further explained that he was having issues obtaining the title for the RV since it was a salvaged title.

There was some discussion as to whether a Certificate of Occupancy was required for the property.

Mr. Bucher moved to DENY with 30 days to comply with regards to the registration of the RV and to determine whether it could be parked on the property. Mr. Levy seconded the motion.

After some discussion, Mr. Levy stated that if the applicant could not park the RV at this location he might need more time to find a place to store it.

The motion was AMENDED to 60 days to comply. Mr. Levy seconded the amendment to the motion.

AYES: Bucher, Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0.
9.
20-01-008
David Duff
4205 S. 62nd St.
Omaha, NE 68117

REQUEST: Appeal of the Omaha Police Department’s Notice of Nuisance dated 1/2/2020.

Mr. Duff was not in attendance when his case was originally called so his case was put at the end of the agenda. He eventually appeared.

At the Administrative Board of Appeals meeting held on January 27, 2020, David Duff appeared before the board. Officer James Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that the notice was issued as a result of a complaint that was called into the Mayor’s Hotline in September regarding a Chevy pickup with Iowa plates that had been in Nebraska for over 30 days without being registered. He submitted a picture of the vehicle (Exhibit B).

Mr. Duff stated that he intended to replace the transmission in the truck. He was waiting on a friend to help him and it had taken longer than expected. In response to Mr. Kruse, Mr. Duff stated that he purchased the vehicle during the summer of 2019. Mr. Duff explained that his wife lost her job which made it difficult for him to come up with the money to fix the truck.

In response to Mr. Kruse, Officer Stokes stated that the vehicle would need to be inspected since it was an out-of-state vehicle which meant that it would need to be in working condition.

Mr. Duff hoped to have the vehicle repaired by the end of February.

Mr. Bucher moved to DENY with 30 days to comply. Mr. Peterson seconded the motion.

AYES: Bucher, Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0.

10.
20-01-009
Jonatan Barraza
5621 S. 21st St.
Omaha, NE 68107

REQUEST: Appeal of the Omaha Police Department’s Notice of Nuisance dated 12/31/2019. (Re: 4317 S. 34th St.)

At the Administrative Board of Appeals meeting held on January 27, 2020, the applicant failed to appear before the board. Officer James Stokes appeared on behalf of the Omaha Police Department.

Ms. Ingram stated that the applicant had called to request a layover of his case until the February 24, 2020 meeting since he could not get off work.

Mr. Bucher moved to LAYOVER the case until the February 24, 2020 meeting. Mr. Peterson seconded the motion.

AYES: Bucher, Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0.
At the Administrative Board of Appeals meeting held on January 27, 2020, Michael R. Scholting appeared before the board. Officer James Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that the notice was issued as a result of a complaint that was called into the Mayor’s Hotline in August regarding a Winnebago camper that was over the 20’ limit (Exhibit B). The camper was measured at 24’ long, which included the hitch.

Mr. Scholting stated that he did not see what the issue was since the camper was licensed and on a hard surface. He indicated that there was nothing in the notice that said that the camper was over 20’. He stated that the camper sat on his property for approximately 3 months out of the year.

In response to Mr. Bucher, Officer Stokes explained that an RV could be parked for 24 hours every 7 days for cleaning, unloading, repairs, etc. If the vehicle could be parked out of the setback then it could be longer than 20’.

Mr. Scholting indicated that the RV was parked on the side of the home. Mr. Wilwerding explained that there were varying setbacks for sideyards depending on the zoning of the property. Mr. Levey suggested that a layover might be appropriate so that it could be determined whether the camper was appropriately parked.

Mr. Bucher moved to LAYOVER until the February 24, 2020 meeting to give the applicant time to work with the Planning Department. Mr. Kruse seconded the motion.

AYES: Bucher, Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0.

At the Administrative Board of Appeals meeting held on January 27, 2020, James T. Boler appeared before the board. Officer James Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that the appeal was the result of a radio call to the area of 72nd and Poppleton on March 19, 2019. Officers found a vehicle that was eventually towed to the City Impound Lot for blocking the eastbound turn lane.

Mr. Boler indicated that his daughter hit a large pot hole that destroyed her tire. He noted that there were two, left-hand turn lanes at that intersection and that his daughter parked as far back from the actual turning point that she could. He stated that his daughter called her towing service immediately and that they eventually left the vehicle, assuming that the tow company would show up to tow the vehicle. He explained that when the towing company arrived, the police were already there with a tow truck and the vehicle was impounded. Mr. Boler stated that on March 26th, within 7 days of the incident, he filed a tort
claim, the City agreed that the pot hole should have been repaired and the damages to her vehicle were reimbursed. However, the tow fees were not reimbursed even though they were part of the claim.

Officer Stokes indicated that the vehicle had been sitting for approximately 2 hours. He explained that vehicles could be left on the median for up to 12 hours in cases of emergency.

Mr. Bucher noted that the applicant had filed with the City in a timely manner and the City had taken partial liability for the pothole.

Mr. Bucher moved to GRANT the appeal. Mr. Levy seconded the motion.

AYES: Bucher, Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal granted.

13.
20-01-012
Vicky Wright
4684 Kansas Ave.
Omaha, NE 68104

REQUEST: Appeal of the Omaha Police Department’s denial of a fee reimbursement dated 12/24/2019.

At the Administrative Board of Appeals meeting held on January 27, 2020, the applicant failed to appear before the board. Officer James Stokes appeared on behalf of the Omaha Police Department.

Ms. Ingram stated that Ms. Wright had called and requested that her case be laid over for medical reasons.

Mr. Kruse moved to LAYOVER the request until the February 24, 2020 meeting. Mr. Peterson seconded the motion.

AYES: Bucher, Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0.
At the Administrative Board of Appeals meeting held on January 27, 2020, Michael J. Elliot appeared before the board. David Austin, Chief Building Inspector (Parks Department – 1523 South 24th Street) appeared on behalf of the Omaha Police Department.

Mr. Austin stated that a complaint was received November 2019 through the City Sourced mobile app about the property in question. The complaint stated that the house and yard looked like a junkyard and it was mentioned that the City had cleaned up the property in the past. When an inspector visited the home, some violations were found (construction debris, tools, furniture, non-compliant vehicles, etc.) A Notice of Violation was issued. Mr. Austin submitted pictures of the property (Exhibit B).

Mr. Elliot produced a warrant from a previous occasion when the City cleaned the property. He did not believe the warrant to be legitimate. He believed that he was being threatened to comply and he believed that what was being done to him was illegal. Mr. Bucher responded that the board did not have the authority to question the legality of the ordinance or the warrants that were issued.

Mr. Austin stated that his department usually works things out with individuals who have been issued notices. In this instance, he stated that the department had a history with Mr. Elliot and that the only time notices were issued to the applicant was when a complaint was filed from neighbors who wanted the debris and other items removed.

Mr. Elliot stated that some of the items on the property had been there for several years, adding that he was the third generation in his family that lived on the property.

Mr. Levy supported giving the applicant time to clean up the property, but not more than 15 days given the applicant’s history with Code Enforcement.

Mr. Kruse moved to DENY the appeal. Ms. O’Connor seconded the motion.

AYES: Bucher, Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal denied.
15.
20-01-014
Jillian Korisko
4109 S. 147th Plz.
Apt. #304
Omaha, NE 68137

REQUEST: Appeal denial of Third Grade Stationary Engineer certificate dated 12/6/19.

At the Administrative Board of Appeals meeting held on January 27, 2020, Jillian Korisko appeared before the board. Thomas Phipps, Chief Mechanical Inspector, appeared on behalf of Permits & Inspections.

Mr. Phipps stated that Ms. Korisko attempted to renew her engineer’s license but was denied because she had not paid the license fees for 2018 and 2019. He explained that if she wanted her license re-instated she would need to pay for 2018, 2019 and 2020 (a total of $105).

Mr. Levy noted that Mr. Phipps had submitted a letter to the board which stated that Permits and Inspections had not received any complaints against Ms. Korisko from the general public or any employers.

Ms. Korisko stated that she had been traveling two years for work and did not have a permanent address. She indicated that she had provided the address of her family but the mail was rejected since she did not live there. She stated that she was willing to pay the fees for the previous years. She also stated that she currently had a permanent address.

Mr. Bucher moved to GRANT the appeal subject to the applicant paying the fees for 2018, 2019 and 2020. Mr. Peterson seconded the motion.

AYES: Bucher, Peterson, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal granted.

MINUTES:

Ms. O’Connor moved to APPROVE the December 16, 2019 meeting minutes. Mr. Kruse seconded the motion.

AYES: Kruse, O’Connor, Levy

ABSTAIN: Bucher, Peterson

MOTION CARRIED: 3-0-2.

ADJOURN:

It was the consensus of the board the ADJOURN the meeting at 3:01 p.m.