MEMBERS PRESENT:
Brian W. Kruse
Mark Santo
Jeffrey Beals
Ryne Bessmer, Alternate

MEMBERS NOT PRESENT:
David C. Levy, Chairman
Ann O’Connor, Vice Chair

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

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Motion by Mr. Beal to ELECT Mr. Kruse as Acting-Chair. Mr. Santo Seconded the motion.

AYES: Bessmer, Beals, Santo

ABSTAIN: Kruse

Motion carried: 3-0-1

ROLL CALL:

Mr. Kruse 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. 17-07-069
   Alison Ingunza
   HDR
   8404 Indian Hills Drive
   Omaha NE 68114
   REQUEST: Appeal Public Works Department denial of driveway permit
   (RE: 84th Street & West Dodge Road, Children’s Hospital)

Troy Meyerson, Children’s Hospital, and Ryan Haas, Public Works Department, appeared before the board.

Mr. Haas recalled that the site had been granted waivers at the March 2016 meeting of the board. The current request pertained to the parking garage associated with the Children’s Hospital expansion project. The original plan for the parking garage integrated a new bank facility on the first floor of the proposed garage. That plan had changed and the bank facility was no longer part of the project. As a result, the parking garage would be smaller than previously proposed. No additional changes were made to the site plan. He requested that the board recommend approval with the following conditions: 1) driveway #7, as shown on Exhibit 2, be restricted to right-in only, and 2) Children’s Hospital must partner with the City of Omaha for improvements to the North 84th Street and Indian Hills Drive intersection, per the previously submitted letter agreement dated March 20, 2017 (Exhibit 3).
Mr. Meyerson stated that the applicant was seeking the same approvals that were granted at the March 2019 board meeting, with the exception of the removal of the bank. He was in agreement with the conditions as set for by the Public Works Department.

Motion by Mr. Beals to APPROVE subject to 1) driveway #7, as shown on Exhibit 2, be restricted to right-in/ingress only from West Dodge Road, and 2) Children’s Hospital partnering with the City of Omaha for improvements to the North 84th Street and Indian Hills Drive intersection, per the previously submitted letter agreement dated March 20, 2017 (Exhibit 3). Second by Mr. Santo.

AYES: Bessmer, Beals, Santo, Kruse

Motion carried 4-0.

2. 17-07-070
Jasmine R. Lee
6625 Evans Street
Omaha NE 68104

REQUEST: Appeal Police Department denial of firearm registration

Jasmine Lee appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board.

Lt. Sedlacek stated that the applicant was denied a firearm registration on June 28, 2017 due to a Destruction of Property conviction from April 10, 2012 for which she received 3 days in jail. On March 2, 2012 the applicant was arrested for keying her husband’s vehicle. She was denied because a firearm cannot be registered to an individual charged with domestic violence. Lt. Sedlacek added that on June 13, 2017, officers were called to the applicant’s home to check on her well-being. Ms. Lee made statements about harming herself and, in the presence of officers, attempted to grab a knife.

Ms. Lee stated that she wanted a firearm because she is a single-mother who wants to protect her family. She explained that she would never kill herself because of the effects that it would have on her children. She indicated that she received medical attention and was released after 1 ½ days and was able to again care for her children. In response to Mr. Beals, Ms. Lee stated that she was upset from some information she received from her doctor. The doctor then contacted the police to check on her well-being. Ms. Lee stated that she and her ex-husband do not live together, but that they are now on good terms.

Lt. Sedlacek explained that Ms. Lee was charged with domestic violence but not convicted. The ordinance states that even is a person is charged they cannot register a firearm.

At the applicant’s request, Mr. Kruse read the letter from Ms. Lee to the board. There was some discussion about whether the board could request a letter from the applicant’s physician as a condition of approval. Lt. Sedlacek stated that the recent incident could not be used against the applicant and that he mentioned it because he believed that the incident needed to be taken into consideration.

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

AYES: Bessmer, Beals, Santo, Kruse

Motion carried 4-0.
Amber Lee Jann appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board.

Lt. Sedlacek stated that the applicant was denied a gun registration on July 4, 2017 because of a Carrying a Concealed Weapon conviction from March 24, 2015 for which she was fined $100. She was also denied because of a misdemeanor child neglect conviction from July 1, 2016 for which she received 6 months’ probation. The 2015 conviction was the result of a traffic stop where a gun in a locked case was under Ms. Jann’s seat. He noted that the applicant’s husband is a known gang member.

In 2016, a no-knock search warrant was served on Ms. Jann’s home. Inside the home was a loaded assault rifle on the living room wall and a glass jar containing marijuana. At the time both of the applicant’s children, ages 10 and 11, were home and had easy access to the rifle and the marijuana.

Ms. Jann explained that the 2015 incident occurred after she had practiced shooting in Iowa. She indicated that she forgot that it was in the car. She stated that she was not aware of how to transport a gun. With regards to the 2016 incident, she explained that her children have grown up with guns and they know not to touch them. She admitted that she was caught with marijuana in the house but that her children aren’t around when it is used. She wanted the gun for protection. She also planned to take gun safety classes.

Mr. Kruse noted how recent both convictions were, adding that it was the duty of the board to make exceptions in exceptional cases. Mr. Santo agreed.

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

AYES: Bessmer, Beals, Santo, Kruse

Motion carried 4-0.

David Puhl appeared before the board. Officer Stokes appeared before the board. Mr. Puhl submitted photos and a statement to the board (Exhibit 2). He indicated that the photos were taken June 7, 2017.

Officer Stokes stated that on May 5, 2017 a complaint was received through the Mayor’s Hotline about an oversized trailer in a driveway. On June 6, 2017 an officer observed the trailer and issued a Notice of Nuisance to the resident. A re-inspection was performed the morning of July 24, 2017 and it was noted that the trailer continues to sit in the front yard setback. Other outdoor storage violations were noted.

Mr. Puhl stated that the trailer has sat on his property since he purchased it in 2011. He indicated that, before he purchased the trailer he contacted the police for information on the rules for owning it. He expanded the southern portion of his driveway and made other changes to accommodate the trailer. He stated that the trailer is parked on cement, licensed and is in road-worthy condition. He acknowledged that the trailer is in violation because of its length, which is 22’; the code restricts the length to 20’. He stated that he did not possess the funds that would allow him to make the necessary changes to park the trailer at the rear of the home. He was also hesitant to store the trailer at the facility because of security and cost concerns.
Mr. Puhl further stated that his home has a significant setback from 96th Street, adding that the trailer is 60’ from the street and does not interfere with traffic. He stated that there is an eave height obstruction on the south side of his home and grade change obstructions on the north and south sides which made it impossible to move the trailer to the rear. The home is 10’ from the lot line on the sides and the trailer is 8’ wide.

In response to Mr. Kruse, Officer Stokes stated that the main issue with the trailer was that it was in the setback. If it was parked in the front of the home, it must be within the 20’ limit. Jay Davis, Assistant Director – Permits and Inspections, stated the street is zoned R3 with a 35’ setback. Officer Stokes explained that the residential setback is 35’ with an additional 20’ in accordance with the ordinance. The trailer was currently 3’ into the required 60’ for the street. It was determined that if the trailer was moved back 4’ right up against an existing fence, it would then be in compliance. Officer Stokes stated that an officer would come back to the home for measurements to ensure that the trailer was in compliance.

Motion to DENY with 30 days to comply by Mr. Santo. Second by Mr. Beals.

AYES: Bessmer, Beals, Santo, Kruse

Motion carried 4-0.

5.
17-07-073
Brian Munchrath REQUEST: Appeal Planning Department Notice of
1317 South 165th Avenue Nuisance (RE: 1317 South 165th Avenue)
Omaha NE 68130

Brian Munchrath appeared before the board. Yvonne Barna, Housing Inspector – Code Enforcement, and Officer Stokes – Omaha Police Department, appeared before the board.

Ms. Barna stated that the applicant had satisfied everything on the notice, with the exception of a dump truck that was parked in the driveway of the home. The applicant indicated that he used the dump truck as a private vehicle. Officer Stokes explained that, per city ordinance, any vehicle over 5 tons is considered to be a commercial vehicle. The dump truck is licensed at 6 tons. Commercial vehicles are allowed in residential areas if they are making or picking up a delivery.

Mr. Munchrath stated that he used the truck for transportation. He requested that an exception be made in his case.

Motion to DENY by Mr. Beals. Second by Mr. Bessmer.

AYES: Bessmer, Beals, Santo, Kruse

Motion carried 4-0.

6.
17-07-074
John Holzapfel REQUEST: Appeal Police Department Notice of
4177 L Street Nuisance (RE: 4112 Q Street)
Omaha NE 68107

John Holzapfel appeared before the board. Todd Shearer, Housing Inspector – Code Enforcement, and Officer Stokes – Omaha Police Department, appeared before the board. Mr. Shearer submitted photos of the property dated July 24, 2017 (Exhibit 2).
Mr. Shearer stated that the applicant was fixing cars at the home for his auto dealership. In addition, vehicles with license plates were parked on gravel and trailers were being stored on the concrete areas. After speaking with the Chief Housing Inspector, it was determined that the property would need a Certificate of Occupancy (CO) for Auto Repair. He noted that a CO was applied for in 2013; however, it did not pass. The property is zoned Community Commercial (CC). Automobile repair would be allowed if the applicant obtained a Conditional Use Permit. He added that storing vehicles without plates would still not be allowed.

Mr. Holzapfel stated that the CO was applied for by the previous owners of the building. He explained that since he is a licensed and bonded car dealer in Nebraska, he is not required to license his inventory at all times. He indicated that he has dealer plates for transporting vehicles. He stated that he cleans cars at his home since the car lot he owns at 42nd and “L” is too small. He presented the titles for some of the vehicles on the property that he claimed were repossessions. He explained that he was required to hold repossessed vehicles for 20 days and could not put in-transits or any other plates on those vehicles. He added that there were issues with dealer plates being stolen from off his vehicles and vehicles that were stolen from the site.

Jay Davis, Assistant Director – Permits and Inspections, stated that the applicant would need to apply for a Conditional Use Permit to allow auto washing, repair and outdoor parking. He would then need to appear before the Planning Board and the Zoning Board of Appeals.

Motion by Mr. Santo to DENY with 60 days for compliance.

Mr. Davis stated that 60 days would not give the applicant enough time to appear before the Planning Board since the process could take up to 6 months. Mr. Beals recalled that a complaint was received about the property and that the situation has been ongoing for 2 years.

Mr. Davis suggested laying the case over, with conditions, to give the applicant the opportunity to begin the process. The conditions could include restricting the number of vehicles on the site and stipulating that those vehicles must be parked on concrete.

Mr. Santo withdrew his earlier motion.

There was lengthy discussion on the repercussions of granting or denying the request.

Mr. Kruse stated that he was hesitant to lay the case over because he was not comfortable picking which parts of the ordinance the applicant must comply with. He stated that if the request was denied, Mr. Holzapfel would be required to remove everything that is outside of the building. He could then begin the previously mentioned process with the Planning Department. However, if the request was approved, the applicant would be allowed to continue to operate as he was.

Motion by Mr. Beals to DENY. Motion died for lack of a second.

Motion by Mr. Santo to LAYOVER until the August 28, 2017 meeting. Second by Mr. Bessmer.

AYES: Bessmer, Santo

NAYES: Beals, Kruse

Timothy Himes, City Law Department, stated that if the board could not come to an agreement and the case was not laid over, the appeal is ultimately denied.

Mr. Kruse encouraged Mr. Holzapfel to comply with the ordinance, use the property for its intended purpose and go through the process so that he could use the property for what he wants. He stated that the appeal had been denied for lack of a motion.
7.  
17-06-067 (held over from 06/26/17 meeting) 
William S. Kowal  
5715 South 160th Street  
Omaha NE 68135  
REQUEST: Appeal denial of Third Grade Stationary Engineer certificate

William Kowal appeared before the board. Thomas Phipps, Chief Mechanical Inspector, appeared on behalf of the city.

Mr. Phipps stated that on May 11, 2017, the applicant submitted a request to Permits and Inspections stating that he had not received his new license in the mail. Permits and Inspections had not received his new address prior to the March 1, 2017 deadline for renewal. The license expires on December 31st of each year with 60 days to renew. Ordinance 40-197 indicates that Permits and Inspections cannot renew an invalid license.

Mr. Kowal explained that the matter resulted from an oversight on his part. He stated that he has carried a license for over 35 years. In response to Mr. Kruse, Mr. Phipps stated that there had been no complaints against the applicant by an employer or the general public.

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

AYES: Bessmer, Beals, Santo, Kruse

Motion carried 4-0.

ADJOURN:

Motion to adjourn by Mr. Beals. Second by Mr. Bessmer.

AYES: Bessmer, Beals, Santo, Kruse

Motion carried 4-0.