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. 19-11-080

Donald O. Heine, P.E.
Thompson, Dreessen & Dorner, Inc.
10836 Old Mill Road
Omaha, NE 68154

REQUEST: Appeal of the Public Works Department denial of a site plan dated November 6, 2019.
(re: McGill Restoration – 1411 N. 72nd St.)

At the Administrative Board of Appeals meeting held on November 25, 2019, Donald Heine appeared before the board. Ryan Haas appeared on behalf of the Public Works Department.

Mr. Haas stated that this site was challenging because it was constrained. The applicant requested two waivers: 1) to allow a second driveway for the site, and 2) to allow the distance from the southern access to 72nd Street (57’ instead of 60’). He stated that Charles and Hamilton Streets were both low-volume/low-speed streets and that Public Works had no other objections with regards to the safety of the site.

Mr. Heine stated that the owner decided to repair the deteriorated parking lot as part of the renovations of the site. He noted that there were always two accesses in about the same locations that were being proposed.

In response to Mr. Levy, Mr. Heine stated that the building would be used as community based resource for individuals that need assistance with legal, banking and mental-health issues. Also in response to Mr. Levy, Mr. Haas explained that the width of the southern access had been expanded and that both accesses were essentially in the same location.

Mr. Kruse moved to GRANT the request. Ms. O’Connor seconded the motion.

AYES: Kuehl, Bessmer, Kruse, O’Connor, Levy
MOTION CARRIED: 5-0. Appeal granted.

2.

19-11-081
Joel E. Jackson, P.E.
Bishop Engineering Company, Inc.
3501 104th Street
Des Moines, IA 50322

REQUEST: Appeal of the Public Works Department denial of a site plan dated November 8, 2019.
(re: McDonald’s – 1525 N. 205th St.)

At the Administrative Board of Appeals meeting held on November 25, 2019, Joel Jackson appeared before the board. Ryan Haas appeared on behalf of the Public Works Department.

Mr. Haas stated that applicant was requesting two waivers: 1) to allow a second driveway on 205th Street for the site, and 2) to allow 18’ of full height curb (instead of the required 40’) between the proposed access and the existing access to the south. He stated that 205th Street was a low-volume/low-speed street and added that there were no other non-conformities that would cause safety concerns.

Mr. Jackson stated that the waivers would help with site circulation for both delivery and customer vehicles.

Mr. Kruse moved to GRANT the request. Ms. O’Connor seconded the motion.

AYES: Kuehl, Bessmer, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal granted.

3.

19-11-082
Jerry L. Agee
6025 Hartman Avenue
#302
Omaha, NE 68104

REQUEST: Appeal of the Omaha Police Department’s denial of a firearm registration dated October 21, 2019.

At the Administrative Board of Appeals meeting held on November 25, 2019, Jerry L. Agee appeared before the board. Sgt. Angie Diehm appeared on behalf of the Omaha Police Department.

Sgt. Diehm stated that Mr. Agee was not allowed to register his firearm due to a CCW conviction from August of 1988. The most recent incident that would affect his ability to register a firearm occurred in 2000.

Mr. Agee stated that the gun charge stemmed from an incident where he was trying to defend himself. He indicated that since that time he had worked in the nursing field and was currently employed with Douglas County hospital. He further stated tha he hadn’t drank alcohol for 11 years and that was a deacon in the church he had been attending for 6 years. He explained that he wanted the gun for protection.

Mr. Kuehl moved to GRANT the appeal. Mr. Bessmer seconded the motion.

AYES: Kuehl, Bessmer, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal granted.
4.  
19-11-083  
Marquiz D. Franklin-Miller  
2885 Read Street  
Omaha, NE 68112  
REQUEST: Appeal of the Omaha Police Department’s denial of a firearm registration dated October 28, 2019.

At the Administrative Board of Appeals meeting held on November 25, 2019, Marquiz D. Franklin-Miller appeared before the board. Sgt. Angie Diehm appeared on behalf of the Omaha Police Department.

Sgt. Diehm stated that Mr. Franklin-Miller had a marijuana conviction from November 2013.

Mr. Franklin-Miller stated that he appealed so that he could own a handgun to protect himself and his family. He also explained the reason for the vehicle related warrants on his record.

Mr. Kruse moved to GRANT the request. Ms. O’Connor seconded the motion.

AYES: Kuehl, Bessmer, Kruse, O’Connor, Levy
MOTION CARRIED: 5-0. Appeal granted.

5.  
19-11-084  
Thomas M. Hearst  
3909 Spencer Street  
Omaha, NE 68111  
REQUEST: Appeal of the Omaha Police Department’s denial of a firearm registration dated October 22, 2019.

At the Administrative Board of Appeals meeting held on November 25, 2019, Thomas Hearst appeared before the board. Sgt. Angie Diehm appeared on behalf of the Omaha Police Department.

Sgt. Diehm stated that the applicant’s registration was denied due to a controlled substance violation in Pottawattamie County from 2011, a violation of his probation due to a DUI conviction from 2019 and other items that were on his record. The 3rd Offense DUI conviction was from 2018.

Mr. Hearst explained the reasons for the convictions and the violation of his probation. He wanted to own a firearm because of his right as an American. The details of his record were discussed and clarified.

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

AYES: Kuehl, Bessmer, Kruse, O’Connor
NAYES: Levy
MOTION CARRIED: 4-1. Appeal denied.
6.  
19-11-085  
Grindell Price, Jr.  
5704 North 49th Avenue  
Omaha, NE 68104  
REQUEST: Appeal of the Omaha Police Department’s denial of a firearm registration dated October 25, 2019.

At the Administrative Board of Appeals meeting held on November 25, 2019, Grindell Price, Jr. appeared before the board. Sgt. Angie Diehm appeared on behalf of the Omaha Police Department.

Sgt. Diehm stated that the applicant’s registration was denied due to a marijuana conviction form 2016, a controlled substance conviction from 2014 along with marijuana convictions from 2003 and 2006.

Mr. Price stated that he wanted the firearm for hunting and protection, especially for when he leaves work late at night from his job as a barber.

Mr. Levy noted the recent nature of the marijuana conviction and advised the applicant that he may need to wait a couple more years before the board would consider granting an appeal.

Mr. Kruse moved to DENY the appeal. Mr. Bessmer seconded the motion.

AYES: Kuehl, Bessmer, Kruse, O’Connor, Levy  
MOTION CARRIED: 5-0. Appeal denied.

7.  
19-11-086  
Timothy J. Crouchorn  
8014 Nina Street  
Omaha, NE 68124  
REQUEST: Appeal of the Omaha Police Department’s denial of a Taxicab Driver's Permit dated October 15, 2019.

At the Administrative Board of Appeals meeting held on November 25, 2019, Timothy J. Crouchorn appeared before the board. Sgt. Angie Diehm appeared on behalf of the Omaha Police Department.

Sgt. Diehm stated that in 1991 the applicant was charged with First Degree sexual assault of a minor.

Mr. Crouchorn stated that he regretted, and took full responsibility for, his actions. He indicated that since that time he has raised two daughters who both had college degrees. He added that he has had no type of offenses since that time. In response to Mr. Levy, he stated that he had a pending job offer with a cab company if the appeal was granted. He noted that the operations manager (Ron Hug) was present in his behalf. He was currently employed at that time. He noted that he received probation for the offense.

Mr. Kruse moved to GRANT the appeal. Motion died for lack of a second.

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

AYES: Bessmer, O’Connor, Levy  
NAYES: Kuehl, Kruse  
MOTION CARRIED: 3-2. Appeal denied.
8. 
19-11-087
Patricia L. Turner
2878 Titus Avenue
Omaha, NE 68112


This request was withdrawn at the request of the applicant.

9. 
19-11-088
Nestor Hesiquio
4371 Patterson Street
Omaha, NE 68107

REQUEST: Appeal of the Omaha Police Department’s Notice of Nuisance dated October 17, 2019.

At the Administrative Board of Appeals meeting held on November 25, 2019, Nestor Hesiquio appeared before the board. Roger Carroll (Housing Inspector) appeared on behalf of the Planning Department’s Permits and Inspections division.

Mr. Carroll stated that a Notice of Nuisance was issued to the applicant for parking a number of commercial vehicles on an unpaved surface. He explained that the applicant lives at 4383 Patterson and owns the three vacant lots to the east (4371, 4375 and 4379) that are adjacent to his residence. After the Notice of Nuisance was issued, Mr. Hesiquio submitted a plan for a detached garage. The plans were put on hold by Permits and Inspections because they were not fully legible and because the garage and driveway must be on the same site. The applicant was advised that he could do a lot split and join the lots into one. The applicant could not park commercial vehicles on the site until he obtained a valid building permit. Mr. Carroll submitted pictures he had taken of the site dated November 25, 2019 (Exhibit B).

Mr. Hesiquio stated that when he bought the home the gravel lots were already there and he noticed that his neighbors parked their vehicles on the grass. He wanted to clean up his yard and improve the look of his home. He requested about a year to make things right.

In response to Mr. Levy, Mr. Carroll stated that in this particular zoning district, the applicant could build a stand-alone garage on a lot that was not associated with a home. Mr. Carroll explained that the issue was that there were commercial vehicles being stores on the lots. He suggested that the applicant speak with Permits and Inspects so that he could be advised on how the lot could be joined and how his garage could be built. He added, however, that the applicant would still not be allowed to parked more than one construction vehicle at this location.

Mr. Levy suggested 15 days for the administrative issue of combining the lots to be resolved and 120 days (March 2020 meeting) to resolve the rest of the issues.

Ms. O’Connor moved to LAYOVER the case until the January 27, 2020 meeting. Mr. Bessmer seconded the motion.

AYES: Kuehl, Bessmer, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0.
Tim Himes, Law Department, provided some background information about the following cases where the applicants were requesting to be reimbursed their towing fees from the Omaha Police Department.

10.

19-11-089

David Hughes

16306 Oak Circle

Omaha, NE 68130

REQUEST: Appeal denial of the Omaha Police Department’s request for reimbursement of towing fees dated October 14, 2019.

At the Administrative Board of Appeals meeting held on November 25, 2019, David Hughes appeared before the board. Officer Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that the applicant’s vehicle was tagged for dead storage on October 1, 2019 at 1:50 a.m. It was eventually impounded (Exhibit B).

Mr. Hughes believed that his vehicle was wrongly tagged and towed. He indicated that he had driven his vehicle within 48 hours of it being towed and that he planned to drive it later that day. He claimed that neighbors had repeatedly called 911 and the Mayor’s Hotline because they don’t want his vehicles parked on the side street. He submitted video screen shots of his vehicle which he stated showed that the car had been moved (Exhibit C). He believed that the Omaha Police Department did not follow the proper procedures and he requested that he board reverse OPD’s decision.

Mr. Hughes briefly described how he and his family had continually been harassed by their neighbors. He explained that he would not park his car in his garage because he felt he would be giving in to bullying from his neighbors.

The board reviewed the photos submitted by Mr. Hughes. Officer Stokes stated that the photos basically showed the vehicle parked in the same area. He explained that, per the ordinance, the vehicle needed to be operational and not just moved a few feet forward and backwards. In response, Mr. Hughes stated that he did not believe that the vehicle tires or streets were marked before his car was towed.

Mr. Levy questioned what would happen if the applicant was able to have his citation reversed. He explained that he did not want to deny the applicant’s appeal only to have another party decline the citation. He added that if the citation was declined, Mr. Hughes should then be able to get his money back from the tow. Mr. Himes (Law Department) suggested that the applicant go to the City Prosecutor’s office to see if the citation could be set aside since the Administrative Board of Appeals did not have the authority to do so.

Mr. Kruse moved DENY the appeal, however, if another entity was to set aside the citation the applicant would be reimbursed his tow fees.

After a brief discussion the motion was revised.

Mr. Kruse moved to GRANT the appeal, subject to and contingent upon another government agency dismissing the parking citation within 90 days. Mr. Kuehl seconded the motion.

AYES: Kuehl, Bessmer, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0.

Mr. Hughes advised the applicant that if he did not agree with the board’s decision he could hire a lawyer and appeal to the District Court.
REQUEST: Appeal denial of the Omaha Police Department’s request for reimbursement of towing fees dated October 14, 2019.

At the Administrative Board of Appeals meeting held on November 25, 2019, Mike Hill appeared before the board. Officer Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that the Police Department received a call about a vehicle parked near 3464 Ohio Street with an alarm that had been going off for three consecutive nights. It was determined that the vehicle was not registered and it had fictitious plates. The vehicle was subsequently towed. The applicant registered the vehicle on September 13, 2019.

Mr. Hill stated that the car was having mechanical problems so he parked the car on Ohio Street, a couple of blocks away from his home. He claimed that the car had been sitting for only a day before it was towed. He admitted that the car's alarm system was very sensitive.

After a brief discussion, the applicant readily admitted that the plates on the car that was towed belonged to another car that he owned.

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

AYES: Kuehl, Bessmer, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal denied.

MINUTES:

Mr. Bessmer moved to APPROVE the October 28, 2019 meeting minutes. Ms. O’Connor seconded the motion.

AYES: Kuehl, Bessmer, O’Connor

ABSTAIN: Kruse, Levy

MOTION CARRIED: 3-0-2.

ADJOURN:

It was the consensus of the board the ADJOURN the meeting at 2:38 p.m.