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. 18-11-081
   Matthew C. Zipperlen, PE
   Leo A. Daly
   8600 Indian Hills Drive
   Omaha, NE 68114-4039
   REQUEST: Appeal Public Works Department denial of a driveway permit dated 10/30/18.
   (RE: Blackstone Hotel – 36th and Farnam Streets)

At the Administrative Board of Appeals meeting held on November 26, 2018, Matthew Zipperlen and Gary Ryba with Leo A. Daly appeared before the Board. Ryan Haas appeared on behalf of the Public Works Department.

Mr. Haas explained that the project included the renovation of an existing building with an annex that will be constructed on the west end of the site. The existing hotel has two driveways on 36th Street: one access that loops under an overhang in the front of the building and the other is a two-way access that leads to a small parking area on the south side of the building. There were also plans for a curb cut on the north side of the site along Farnam Street that would be used for garbage pick-up, deliveries and utilities. The applicant had indicated that it would not be used for backing out onto Farnam Street. The other proposed access would be a 16’ wide driveway on Harney Street that would be used occasionally for maintenance activities. The waiver would be for the number of accesses, since only one is permitted and for the two driveways that are less than the minimum width required for a driveway. Public Works did not want to modify the existing building due to its historic nature. Public Works supported the request as long as there were no backing maneuvers onto Farnam Street and the internal connection on Harney Street is used for utilities only.

Mr. Zipperlen confirmed that the access on Harney Street would be used to service the mechanical building when necessary and for Omaha Public Power District access behind the annex building. He explained that the access would be gated from both sides to prevent access for all other vehicles. Mr. Ryba explained that the existing access on Farnam Street will be marked and used for deliveries that will be walked into the building.
Mr. Kruse moved to GRANT the request subject to no backing maneuvers onto Farnam Street and the internal connection on Harney Street to be used for utilities only. Mr. Beals seconded the motion.

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

MOTION CARRIED: 5-0. Appeal granted.

2. 18-10-073 (Layover from 10/22/18)

Michael A. Perkins
9030 Raven Oaks Dr.
Omaha, NE 68152

REQUEST: Appeal of the Omaha Police Department denial of a firearm registration dated 9/4/18.

Ms. Ingram stated that she had spoken with the applicant and that he wished to withdraw his request.

3. 18-11-082

Ian McKenzie
9755 Mockingbird Drive
Omaha, NE 68127

REQUEST: Appeal of the Omaha Police Department Notice of Nuisance dated 10/10/18.

Ms. Ingram stated that she had spoken with the applicant and that he requested a layover. The applicant had indicated that he would be out of town for the holidays.

Mr. Beals moved to LAYOVER until the December 17, 2018 meeting. Mr. Santo seconded the motion.

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

MOTION CARRIED: 5-0.

4. 18-11-083

Ashley Versell
926 South 38th Avenue
Omaha, NE 68105

REQUEST: Appeal of the Omaha Police Department Notice of Nuisance dated 10/29/18.

Ms. Ingram stated that she had spoken with the applicant who called at about 9:30 a.m. Ms. Versell explained that she ran into bad weather while traveling through Iowa and was still about 1 ½ hours from Omaha. Ms. Versell’s case was put at the end of the agenda to give her time to make the meeting.

Officer Stokes stated that at the time the notice was issued, the applicant did not have the money to plate the car.

At the end of the meeting, the board decided to vote to layover the case. He did not object to laying the case over until the December meeting.

Mr. Beals moved to LAYOVER until the December 17, 2018 meeting. Mr. Santo seconded the motion.

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

MOTION CARRIED: 5-0.
At the Administrative Board of Appeals meeting held on November 26, 2018, Daniel L. Cannella appeared before the Board. Officer James V. Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that a Mayor’s complaint was received in August about a commercial vehicle over 20’ that was parked in the driveway of a home in a residential neighborhood. He visited the home on November 5 and found the commercial vehicle that measured over 20’. He issued a Notice of Nuisance to the applicant. Officer Stokes stated that he visited the applicant’s home the day of the meeting and noted that the vehicle was still parked in the driveway. He submitted pictures of the vehicle (Exhibit 2) and noted that there was advertising on the side of the truck that advertised a plumbing business, which is not allowed in a residential district.

Mr. Cannella stated that he is a licensed plumber in the City of Omaha and that he has had a plumbing van in his driveway for approximately 20 years. He submitted statements of support from his neighbors along with photos (Exhibit 3). Mr. Cannella stated that he could remove the name off the side of the truck. He added his truck did not bring down the value of any of the homes in the neighborhood or block the view of traffic.

In response to Mr. Levy, Officer Stokes explained that the 25’ truck could not be parked in the driveway behind the front setback of the home because it is a commercial vehicle. For it to be on the property it would need to be in an approved closed structure like a garage or outbuilding. Mr. Cannella stated that it would be difficult to build a garage because the backyard of his property slopes downward. He indicated that if he was not allowed to park his truck in his driveway it would put him out of business.

Officer Stokes explained the reason behind the ordinance. He stated that the utility companies are allowed by their insurance companies to move vehicles that are less than 20’ for emergency purposes; anything over 20’ is considered hazardous.

Mr. Levy stated that he could not find an extraordinary circumstance in this case to support an appeal. There was some discussion about other options. Mr. Cannella stated that if his truck were parked off of his property, the chances were that it would be broken into and his tools and inventory would be stolen. It would also be an added cost and would take more time to retrieve and stock his truck with supplies.

Mr. Kruse suggested giving the applicant some time, possibly 60 days, to explore his options. Mr. Levy stated that he could support giving the applicant up to 6 months to comply. He added that if he chose to go before the Zoning Board of Appeals and it happened to be approaching the end of the 6 months, he could re-appear before the board to explain his circumstances. Mr. Santo stated that he was concerned about the precedent that would be set if the applicant was allowed to park his commercial vehicle in the driveway.

Mr. Kruse moved to DENY the appeal but was given until June 1, 2019 to comply. Mr. Santo seconded the motion.

AYES: Beals, Santo, Kruse, Levy

NAYES: O’Connor

MOTION CARRIED: 4-1. Appeal denied.
**POTENTIAL RECONSIDERATION:**

6.
18-10-076
Joseph C. Vanhoose
4001 North 212th Street
Elkhorn, NE 68022

REQUEST: Appeal Police Department Notice of
Nuisance dated 9/6/18. (RE: 4001 North
212th Street)

At the Administrative Board of Appeals meeting held on November 26, 2018, Joseph Vanhoose appeared before the board. Officer James V. Stokes appeared on behalf of the Omaha Police Department.

Mr. Vanhoose stated that at the time of the October meeting, he had a work accident that left him unable to attend the meeting. In response to Mr. Levy, Ms. Ingram stated that the applicant had given her sufficient notice that he would not be able to attend the meeting.

Mr. Kruse moved to reopen and RECONSIDER the case. Ms. O’Connor seconded the motion.

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

MOTION CARRIED: 5-0.

7.
18-10-076
Joseph C. Vanhoose
4001 North 212th Street
Elkhorn, NE 68022

REQUEST: Appeal Police Department Notice of
Nuisance dated 9/6/18. (RE: 4001 North
212th Street)

At the Administrative Board of Appeals meeting held on November 26, 2018, Joseph Vanhoose appeared before the board. Officer James V. Stokes appeared on behalf of the Omaha Police Department.

Officer Stokes stated that a complaint was received through the Mayor’s office in July for vehicles that were not drivable being parked in the driveway and a van that was not drivable that was parked the wrong way on the street. When an officer visited the home, she also found a camper that was parked in the front yard setback. A Notice of Nuisance was issued to the applicant. When Officer Stokes visited the home the day of the meeting, he found the 21’ camper still in the front setback. He submitted photos (Exhibit 3) of the site including the backyard where there was a boat, a box trailer and a flatbed trailer that were not parked on a paved surface.

Mr. Vanhoose explained why the vehicles were still parked at his home and his plans for his property.

In response to Mr. Levy, Officer Stokes stated that if the items in the backyard were parked on a paved surface they would be in compliance. Mr. Vanhoose stated that he could store the camper although he was opposed to the added expense. He indicated that he could have the camper moved by January 1, 2019 and stated that he would inform his friend that the boat needed to be removed. It was determined that the two trailers in the backyard could be parked in the driveway since they were both under 20’.

Mr. Kruse moved to DENY the appeal with a deadline date of December 31, 2018 to comply. Mr. Beals seconded the motion.

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

MOTION CARRIED: 5-0.
8.
18-11-085
Jessica Flores
18663 West Center Road
#904
Omaha, NE 68130

REQUEST: Appeal of the Nebraska Humane Society Potentially Dangerous Dog declaration effective 10/19/18.

At the Administrative Board of Appeals meeting held on November 26, 2018, Jessica Flores (20815 Clark Street) appeared before the board. Mark Langan appeared on behalf of the Nebraska Humane Society (NHS).

Mr. Langan stated that on September 18, 2018 a woman named Malorie Walter contacted NHS about an incident that occurred on September 13, 2018. She stated that she was walking her dog by 18663 Wright Street when a dog later identified as Zoey got loose, charged at and attacked her dog. Ms. Walter indicated that a woman came out of the home, grabbed Zoey and took her inside. Ms. Walter stated that she immediately took her dog to the vet for injuries to his neck. Mr. Langan referred to photos of the injuries that had been provided to the board. Based on the incident, NHS cited the applicant for Improper Restraint, Pet Damaging Property and issued a Potentially Dangerous Dog declaration. Ms. Flores appealed to NHS on October 8, 2018 but was denied. NHS believed that the two year probationary period should remain in place for public safety.

Ms. Flores stated that she was not prepared for Zoey’s energy levels after adopting her from the Humane Society. She explained that Zoey was prescribed medication for separation anxiety, likely from being abandoned in the past. Zoey was also enrolled in a class at NHS. Ms. Flores stated that on the date of the attack, Zoey was tethered outside while she was cooking dinner which caused the dog some stress and anxiety. She stated that the neighbor’s dog Etsy began barking and lunging in Zoey’s direction which caused Zoey to react by pulling her tether out of the ground and pin Etsy down. She indicated that she exchanged numbers with Ms. Walter and maintained contact with her in the days following the incident. Ms. Flores submitted a copy of text messages that were exchanged between her and Ms. Walter that indicated that Etsy would eventually make a full recovery (Exhibit 2). Ms. Flores stated that the incident was reported to the Humane Society only after she informed Ms. Walter that she would not be able to pay the vet bill in full but would need to pay it in two installments. She claimed that that was the reason between the date the incident occurred and when it was reported to NHS.

Ms. Flores stated that Zoey attends a dog day care 2 – 3 times a week where she plays with up to 30 other dogs without incident. She was told by the landlord that she would have to give up Zoey; however, she chose to purchase a home with a fenced in backyard for Zoey. She believed that Zoey’s separation anxiety had improved. She further stated that Zoey had completed the basic training classes provided by NHS and planned to continue her training. She did not believe that her dog was aggressive to people or animals and explained that she had taken the necessary precautions to ensure that the situation does not occur again. She requested that her dog be removed from the Potentially Dangerous Dog list. She indicated that Zoey had been microchipped and spayed and that insurance had been purchased. In response to Mr. Levy, Ms. Flores stated that she would have no problems harnessing or muzzling her dog when she was not at home. She stated that her main concern was that her dog would be put down.

In response to Ms. Flores’ statements, Mr. Langan stated that there was no evidence that showed that Zoey was provoked. He stated that NHS denied her appeal because she did not accept any responsibility for the incident. He believed that the two year requirements should stay in place. He also stated that there was no reason to talk about putting the dog down.

Mr. Kruse believed that Ms. Flores actions showed that she was a responsible dog owner. Mr. Levy agreed, adding that the five criteria that go along with the Potentially Dangerous Dog declaration benefitted everyone involved including her dog especially since Zoey did attack another dog.
Mr. Beals moved to DENY the appeal. Ms. O’Connor seconded the motion.

AYES: Beals, Santo, O’Connor, Levy

NAYES: Kruse

MOTION CARRIED: 4-1.

MINUTES:

Mr. Beals moved to APPROVE the minutes for the October 22, 2018 meeting. Ms. O’Connor seconded the motion.

AYES: Beals, Kruse, O’Connor, Levy

ABSTAIN: Santo

MOTION CARRIED: 4-0-1.

ADJOURN:

It was the consensus of the board the ADJOURN the meeting at 2:06 p.m.