Minutes
Administrative Board of Appeals
June 28, 2010

MEMBERS PRESENT: Ann O’Connor, Chair
David Levy, Vice Chair
Jim Weaver
Jose Lopez
Bode LaBode

MEMBERS ABSENT: Steve Simmonds, Alternate
Jama Samiev, Alternate

OTHERS PRESENT: RoseMarie Horvath, Law Department
Kevin Denker, Planning Department
Debbie Hightower, Recording Secretary

I. Roll Call
Ms. O’Connor called the meeting to order at 1:30 pm.

Mr. Denker asked that the board receive as Exhibit 1 in each of this meeting's cases the contents of the City's file on each case.

Ms. O’Connor acknowledged the contents of the City's file as Exhibit 1 in each case.

II. Cases

10-6-38
Appeal Omaha Police Department denial of firearm registration: Christopher Ptacek, 5117 S 98th Plaza #2  68127

Christopher Ptacek appeared before the Board. Mr. Ptacek stated he would like to own a handgun for protection of his home and family. He stated he has worked at a job for three years and is a good citizen.

Sgt. Mark Hanner, Omaha Police Department, stated that Mr. Ptacek was denied a handgun registration because of a prior conviction for juvenile shoplifting and a suicide attempt on December 23, 2001. Mr. Ptacek received juvenile diversion for the juvenile shoplifting charge. There was no board of commitment for the suicide attempt. Mr. Ptacek has no other criminal charges.

Mr. Levy made a motion to grant the appeal. Second by Mr. Weaver.

AYES: Lopez, Levy, LaBode, O’Connor

NAYS: Weaver

Motion carried 4-1. Appeal granted.

10-6-45
Appeal Omaha Police Department denial of firearm registration: Shawn Lanier, 215 East Main Street, Murray, NE  68409
Shawn Lanier appeared before the Board. Mr. Lanier showed a permit to purchase and stated he would like to own a handgun for protection while working in Omaha. He stated he was charged with a misdemeanor assault charge in August 2005.

Sgt. Mark Hanner, Omaha Police Department, stated that Mr. Lanier was denied a handgun registration because of a prior conviction for misdemeanor assault in Colorado and was charged in 2006.

Mr. Weaver made a motion to grant the appeal. Second by Mr. Levy.

AYES: Levy, Weaver, LaBode, Lopez, O’Connor

Motion carried 5-0. Appeal granted.

10-6-48
Appeal Omaha Police Department denial of firearm registration: Harry McCullough, III, 6404 Maple Street #4 68104

Harry James McCullough, III appeared before the Board. Mr. McCullough stated that on May 15, 1997 he was convicted of CCW that was inside a vehicle. Mr. McCullough submitted documentation that the CCW conviction was set aside by Marty Conboy (Exhibit 2). He stated he has a firearm purchase permit and possesses an identification card from the City of Omaha to possess and carry a loaded firearm at all times.

Sgt. Mark Hanner, Omaha Police Department, stated that Mr. McCullough was denied a handgun registration because of a prior conviction for CCW in 1997. Another charge for CCW that occurred on April 26, 2010 was declined on May 5, 2010 by the City Prosecutor’s office.

Mr. Levy made a motion to grant the appeal. Second by Mr. LaBode.

AYES: Weaver, LaBode, Lopez, Levy, O’Connor

Motion carried 5-0. Appeal granted.

10-6-51
Appeal Omaha Police Department denial of firearm registration: Emanuel J. Rodriguez, 4708 Laurel Avenue 68104

Emanuel J. Rodriguez appeared before the Board. Mr. Rodriguez stated he would like to register his firearm because he is an Omaha Police candidate. He stated he has lived in Omaha for approximately twelve years.

Sgt. Mark Hanner, Omaha Police Department, stated that Mr. Rodriguez was denied a handgun registration because of a prior misdemeanor conviction on November 20, 1996 in California for carrying a loaded firearm in a public place. Mr. Rodriguez received 36 months probation and jail time but in 1997 there was a violation of probation. Mr. Rodriguez has no other criminal charges. Sgt. Hanner stated he could not confirm that Mr. Rodriguez is a police candidate.

Mr. Rodriguez stated a loaded weapon was in the trunk of his vehicle after a traffic stop.

Mr. Weaver made a motion to grant the appeal. Second by Mr. Levy.

AYES: LaBode, Lopez, Levy, Weaver, O’Connor

Motion carried 5-0. Appeal granted.
10-6-39
Appeal Omaha Police Department notice of nuisance: Art Woodcook, 3003 S 9th Street 68108

No one appeared before the Board.

Kenton Duncan, Inspector, City of Omaha, stated two of the three vehicles are plated but the minivan is not in running condition and sitting in the yard (Exhibit 2). Mr. Duncan stated that Mr. Woodcook asked for additional time.

Mr. Levy made a motion to deny with 15 days to comply. Second by Weaver.

AYES: Lopez, Levy, Weaver, LaBode, O’Connor

Motion carried 5-0. Appeal denied.

10-6-40
Appeal Omaha Police Department notice of nuisance: Lynda Driscoll (Art Woodcook, representative), 3124 S 4th Street 68108

No one appeared before the Board.

Kenton Duncan, Inspector, City of Omaha, talked to Mr. Woodcook, representative, and he stated that this is an estate situation. Both vehicles were parked on gravel, not in running condition and only one vehicle is plated.

Mr. Levy made a motion to deny. Second by Weaver.

AYES: Levy, Weaver, LaBode, Lopez, O’Connor

Motion carried 5-0. Appeal denied.

10-6-41
Appeal Omaha Police Department notice of nuisance: Pamela Ayala, 3036 S 134th Street 68144

No one appeared before the Board.

Kenton Duncan, Inspector, City of Omaha, stated that the vehicle is still parked in the driveway and is not registered.

Mr. Levy made a motion to deny. Second by Lopez.

AYES: Weaver, LaBode, Lopez, Levy, O’Connor

Motion carried 5-0. Appeal denied.

10-6-42
Appeal Omaha Police Department notice of nuisance: Kemal Causevic, 3535 S 120th Street 68144

No one appeared before the Board.

Kenton Duncan, Inspector, City of Omaha, stated that all vehicles are gone.

Mr. Weaver made a motion to deny. Second by Levy.

AYES: LaBode, Lopez, Levy, Weaver, O’Connor

Motion carried 5-0. Appeal denied.
Appeal Omaha Police Department notice of nuisance: Layhla Aslani, 11355 Evans Street #5 68164
No one appeared before the Board.
Scott Benson, Inspector, City of Omaha, stated that he contacted Ms. Aslani and she still has an apartment in Omaha but is driving her parent’s vehicle that has Iowa license plates.
Mr. Levy made a motion to deny. Second by LaBode.
AYES: Lopez, Levy, Weaver, LaBode, O’Connor
Motion carried 5-0. Appeal denied.

Appeal Omaha Police Department notice of nuisance: Alyssa M. Grengs, 3506 N 113th Plaza #4 68164
No one appeared before the Board.
Scott Benson, Inspector, City of Omaha, stated that he contacted Ms. Grengs and she has relocated to Denver, Colorado.
Mr. Levy made a motion to deny. Second by Weaver.
AYES: Levy, Weaver, LaBode, Lopez, O’Connor
Motion carried 5-0. Appeal denied.

Appeal Omaha Police Department notice of nuisance: Carolyn S. Toyne, 3704 N 113th Plaza 68164
Carolyn S. Toyne appeared before the Board. Ms. Toyne submitted proof that she has plated her vehicle.
Scott Benson, Inspector, City of Omaha, confirmed that Ms. Toyne’s vehicle is properly plated (Exhibit 2).
Mr. Weaver made a motion to grant. Second by LaBode.
AYES: Weaver, LaBode, Lopez, O’Connor
NAYS: Levy
Motion carried 4-1. Appeal granted.

Appeal notice of violation at 1909 S 11 Street issued by Parks Maintenance Department on May 21, 2010; Roland C. Heyer, 3626 R Street 68107
Roland C. Heyer appeared before the Board. Mr. Heyer stated that he believes the elm tree is not on his property.
Josh Frey, Parks Maintenance Department, City of Omaha, stated that on September 13, 2007 the elm tree in question was found to be hazardous and a notice was sent to both property owners. Mr. Frey suggested that both property owners obtain a full survey to determine the owner of the tree. Photos were submitted of the elm tree in question (Exhibit 2). The adjacent property owner has been informed that the tree is a shared tree.
Mr. Heyer does not agree that he should be responsible for half of the cost of the removal of the tree.

Mr. Weaver stated the tree is a nuisance and appears to be a civil matter.

Mr. Weaver made a motion to deny. Second by Levy.

AYES: LaBode, Lopez, Levy, Weaver, O’Connor

Motion carried 5-0. Appeal denied.

10-6-49
Appeal Order to Abate Nuisance issued by City of Omaha: Brian Newman, 4414 N 30 Street 68111

RoseMarie Horvath, Law Department, City of Omaha, stated that the Police Department has requested that the case be laid over for 30 days to work out an agreement.

Mr. Levy made a motion to hold this case over for 30 days until the next meeting on July 26, 2010. Second by Mr. LaBode.

AYES: Lopez, Levy, Weaver, LaBode, O’Connor

Motion carried 5-0. Appeal laid over.

10-5-36 (over from 5/24/10)
Appeal denial of driveway permit by Public Works Department at University of Nebraska Omaha, Scott Village II Residence Halls, 6510 Pine Street: R. Jeffery Lake, P.E., Olsson Associates, 2111 S 67 Street, Suite 200 68106

R. Jeffery Lake, Olsson Associates, appeared before the Board on behalf of the University of Nebraska Omaha. Mr. Lake stated the project is a proposed residence hall for UNO which could be considered residential by nature. The trash pickup on the property consists of two large combined compactor/recyclers (Exhibit 2). The trash pickup will be every four to six weeks and the recyclable material will be picked up once every six to eight weeks. The equipment is approximately 36 feet in length with the extension being at a maximum of 25 feet and is located approximately 37 feet away from the curb. During pickup, the majority of the time when the equipment is backing, the equipment will not be in the street. Additionally, 64th Street is a five-lane road therefore there will be minimal impact to traffic. It would be difficult to redesign the site and move the compactor/recyclers with respect to the parking requirements.

Mike Paukert, Public Works, City of Omaha, stated the reason for denial of the driveway was that driveway regulations prohibit backing maneuvers other than in residential areas. Research was completed on the site and adjacent streets with relatively low traffic volumes and no accident history. Due to the frequency of pickups, the city believes there is minimal concern.

Mr. Weaver made a motion to grant. Second by Levy.

AYES: Levy, Weaver, LaBode, Lopez, O’Connor

Motion carried 5-0. Appeal granted.

10-6-47
Appeal denial of driveway location by Public Works Department located at 17324 “F” Street: Douglas E. Kellner, Thompson, Dreessen & Dorner, Inc., 10836 Old Mill Road 68154 on behalf of Jeff and Diane Moore

Mike Paukert, Public Works, City of Omaha, stated the proposed site is a single-family residential site located on “F” Street and east of 180th Street. The street is a collector street in the area. The
original proposal was to include a driveway on “F” Street that was slightly offset on 173rd Street. The policy is to have the street line up or at a minimum of 100 feet offset that would require the driveway to be moved east on the site. Due to the volume on the road and the lack of accident history, the department is not opposed to the proposed location of the driveway.

Mr. Levy questioned the length between the street and the driveway. Mr. Paukert stated it would be approximately 75 feet.

Steve Huber, Curt Hofer Construction, 2332 Bob Boozer Drive, appeared before the Board to represent the property owners, Jeff and Diane Moore. The property was purchased with an existing home that was eventually moved. The proposed home was designed with a courtyard-like feel and to make the best use of the property, the proposed driveway will be located 100 feet from the existing driveway.

Doug Kellner, Thompson Dreessen & Dorner, Inc., 10836 Old Mill Road, indicated the location of the proposed driveway on the site plan.

Mr. Levy made a motion to grant. Second by Lopez.

Mr. LaBode questioned the measurement and location of the driveway. Mr. Huber confirmed that the proposed driveway would be 100 feet from where the existing driveway was located which was across from 174th Street. The property will include a single-family home with two residents therefore there will be minimal traffic onto “F” Street which is not a thru street.

Mr. Weaver questioned if construction has started. Mr. Huber explained that construction has begun on the home but not the driveway.

Mr. Paukert explained that a driveway is required to line up directly across from a street or be offset a minimum of 100 feet. The minimum spacing is to minimize left turn conflicts.

AYES: Lopez, Levy, O’Connor

NAYS: Weaver, LaBode

Motion carried 3-2. Appeal granted.

III. Approval of Minutes from April 26, 2010 and May 24, 2010

Mr. Levy made a motion to approve the minutes from the April 26, 2010 meeting. Second by Mr. Lopez.

AYES: Lopez, Levy, Weaver, O’Connor

Motion carried 4-0.

The minutes from the May 24, 2010 meeting were laid over to the next meeting on July 26, 2010 due to lack of quorum.

IV. Adjournment

Motion to adjourn meeting by Mr. LaBode. Second by Mr. Levy.

AYES: Levy, Weaver, LaBode, Lopez, O’Connor

Motion carried 5-0. Meeting adjourned at 2:50 PM.
Debbie Hightower, Planning Department
Recording Secretary

Visit the Planning Department’s Site on the Internet at
http://co.douglas.ne.us/omaha/planning/boards/administrative-board-of-appeals