MINUTES
Administrative Board of Appeals
April 29th, 2013

MEMBERS PRESENT:
Ann O’Connor, Chair
Jose Lopez
Jim Weaver
Bode Labode

MEMBERS ABSENT:
David Levy, Vice Chair
Jama Samiev, Alternate
Steve Simmonds, Alternate

OTHERS PRESENT:
RoseMarie Horvath, Law Department
Kevin Denker, Planning Department
Andrea Wisniewski, Recording Secretary

ROLL CALL:
Ms. O’Connor 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:
13-3-13  From 3/25/2013
Turrell A Partee
6052 Park Lane Dr
Omaha NE 68104

REQUEST: Appeal Omaha Police Department denial of firearm registration

3/25/2013:
Mr. Partee was not present. The Board Secretary stated that Mr. Partee had been sent notice to appear at today’s hearing; upon checking with the Postal Service, she discovered that he had not picked up the notice.

Motion to hold this case over to the April 29, 2013 meeting by Mr. Levy. Second by Mr. Weaver.

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

Motion carried 5-0. Case held over to April 29, 2013

4/29/2013:
Mr. Partee was not present.

Motion to deny by Mr. Weaver. Second by Mr. Labode. Lt. David Sedlacek, Omaha Police Department, stated that Mr. Partee’s application was denied due to a conviction for marijuana less than one ounce dating from April 26, 2010. He was fined $300.00 for this offense.

Motion to deny by Mr. Weaver. Second by Mr. Labode.

AYES: Weaver, Lopez, Labode, O’Connor.

Motion carried 4-0. Appeal denied.
Michael S Brookins
5001 N 24th St
Omaha NE 68111

REQUEST: Appeal Omaha Police Department denial of firearm registration

Mr. Brookins was not present. Lt. David Sedlacek, Omaha Police Department, stated that Mr. Brookins’ application was denied due to a conviction for marijuana less than one ounce dating from September 12, 2006. He was fined $100.00 for this offense.

Motion to deny by Mr. Labode. Second by Mr. Weaver.

AYES: Lopez, Labode, Weaver, O’Connor.

Motion carried 4-0. Appeal denied.

Jimmy Lewis
4536 Spencer
Omaha NE 68105

REQUEST: Appeal Omaha Police Department denial of firearm registration

Jimmy Lewis appeared before the Board. Lt. David Sedlacek, Omaha Police Department, stated that Mr. Lewis’ application was denied due to convictions for marijuana less than one ounce dating from May 27, 2008 and June 25th, 2008. He was fined $100.00 for each offense.

Mr. Lewis stated that he would like to have a handgun for home protection, adding that he had recently obtained custody of his daughter. Lt. Sedlacek confirmed that there were no other items of concern on Mr. Lewis’ record. Mr. Labode expressed concern in regards to the recentness of Mr. Lewis’ convictions, and the fact that they occurred so closely together.

Motion to deny by Mr. Labode. Second by Mr. Lopez.

AYES: Labode, Weaver, Lopez, O’Connor

Motion carried 4-0. Appeal denied.

Nathaniel Ross
3302 N 54th St
Omaha NE 68104

REQUEST: Appeal Omaha Police Department denial of firearm registration

Nathaniel Ross appeared before the Board. Lt. David Sedlacek, Omaha Police Department, stated that Mr. Ross’ application was denied due to a concealed weapon conviction dating from January 15, 1996. He was fined $10.00 for this offense.

Mr. Ross stated that he would like to have a firearm for home protection. He explained that he was working for a packing house at the time of this conviction, and the weapon in question was his work knife. Mr. Ross had been forced to take this knife home when his company fumigated the locker room. Lt. Sedlacek confirmed that there were no other items of concern on Mr. Ross’ record.

Motion to approve by Mr. Weaver. Second by Mr. Lopez.

AYES: Weaver, Lopez, Labode, O’Connor

Motion carried 4-0. Appeal granted.
13-4-24
Gary A Alvoid
3161 Ida St
Omaha NE 68112

REQUEST: Appeal Omaha Police Department denial of firearm registration

Gary A Alvoid appeared before the Board. Lt. David Sedlacek, Omaha Police Department, stated that Mr. Alvoid’s application was denied due to a concealed weapon conviction dating from November 9, 1986. He received a $50.00 fine for this offense.

Mr. Alvoid stated that he would like a firearm for business and home protection. In regards to the concealed weapon conviction, Mr. Alvoid stated that the knife in question was found in the garbage. An outdoorsman, Mr. Alvoid intended to take this rusty old knife home, clean it up, and use it for hunting and fishing. At the time of his arrest, the knife was laying on the floor mat of his vehicle, in plain sight of the officer. Lt. Sedlacek confirmed that there were no other items of concern on Mr. Alvoid’s record.

Motion to approve by Mr. Labode. Second by Mr. Weaver.

AYES: Lopez, Labode, Weaver, O’Connor

Motion carried 4-0. Appeal granted.

13-4-25
Shannon Getzschman
1008 Miller St
Omaha NE 68107

REQUEST: Appeal Omaha Police Department denial of taxicab drivers permit

Shannon Getzschman appeared before the Board. Lt. David Sedlacek, Omaha Police Department, stated that Mr. Getzschman’s application was denied due to a conviction for sexual assault dating from February 26, 1993. This was a Class IV felony, and Mr. Getzschman received one day in jail for his offense.

In regards to his conviction, Mr. Getzschman stated that he was seventeen at the time of the incident. He was eighteen at the time of his arrest, and nineteen by the time this trial concluded. His public defender at that time convinced him to plead no contest to the charges.

Lt. Sedlacek confirmed that there were no other items of concern on Mr. Alvoid’s record. Mr. expressed concern at the nature of Mr. Getzschman’s offense, stating that the felony status of this conviction is such that public safety must be considered.

Motion to deny by Mr. Weaver. Second by Mr. Labode.

AYES: Labode, Weaver, Lopez, O’Connor

Motion carried 4-0. Appeal denied.
Lyle Theisen appeared before the Board. Lt. David Sedlacek, Omaha Police Department, Mr. Theisen’s application was denied due to multiple issues. These issues include two Board of Mental Health (BMH) orders dating from February 5, 1998 and March 13, 2003. Mr. Theisen also has a felony conviction for use of a weapon to commit a robbery dating from December 23, 1981 and three Driving Under the Influence (DUI) convictions from November 8, 1984, January 16, 1991 and March 5, 1992.

Motion to deny by Mr. Weaver. Second by Mr. Lopez.

AYES: Weaver, Lopez, Labode, O’Connor.

Motion carried 4-0. Appeal granted.

Brad Weckerlin of EAD Engineering appeared before the Board with Jerry Slusky of Smith, Gardner, Slusky Law and Shawn Bouwens and Jay Baker. Ryan Haas, Public Works Department stated that coffee kiosks such as the proposed Scooter’s location are somewhat difficult to evaluate against current stacking requirements due to their modular nature. The proposed Scooter’s coffee kiosk will be located in the middle of a parking lot. This provides additional opportunity for relief if traffic to the kiosk’s two windows is heavy. Mr. Haas stated that the current building design is approximately twenty feet short of stacking requirements at each window. He concluded by stating that the Public Works Department does not oppose this waiver request due to the fact that the applicant is close to meeting the stacking requirements and the site in question offers relief of any possible accumulation of traffic without being forced out onto the public roadways.

Mr. Slusky, legal representation for the shopping center where this business is to be located, presented a drawing of the property, pointing out the multiple entrances and exits to the shopping center from various sides of the complex. Mr. Baker stated that this location would seldom have more than four cars in queue at any one time, due to the double service windows and the speed at which employees are able to handle customers. Mr. Haas pointed out that stacking requirements are sorted by use type; not by the developer involved. He suggested that the Board consider more the distances provided for stacking of traffic rather than the expected patronage, as that number can change depending upon who is operating a business at a location.

After some discussion, Mr. Labode made a motion to approve the request. Second by Mr. Lopez.

AYES: Lopez, Labode, Weaver, O’Connor.

Motion carried 4-0. Appeal granted.
13-4-27
Joseph E O’Donnell
5223 S 104th Av
Omaha NE 68127
REQUEST: Appeal expiration of Third Grade Stationary Engineer’s license

Joseph E O’Donnell appeared before the Board. Thomas Phipps, City Planning Department stated that in reviewing Mr. O’Donnell’s record, he found no complaints regarding this contractor from either the public or previous employers. Mr. Phipps stated that the Permits and Inspections Division was not opposed to Mr. O’Donnell’s request for reinstatement.

Mr. O’Donnell stated that his invoice for license renewal was initially sent to the wrong address; his later payment for renewal was not received by the Permits and Inspections Division.

Motion to approve by Mr. Weaver. Second by Mr. Lopez.

AYES: Labode, Weaver, Lopez, O’Connor

Motion carried 4-0. Appeal granted.

13-4-30
Daniel P Murphy
506 South 85th St
Omaha NE 68114
REQUEST: Appeal expiration of Third Grade Stationary Engineer’s license

Daniel P Murphy appeared before the Board. Thomas Phipps, City Planning Department stated that in reviewing Mr. Murphy’s record, he found no complaints regarding this contractor from either the public or previous employers. Mr. Phipps stated that the Permits and Inspections Division was not opposed to Mr. Murphy’s request for reinstatement, noting that this case differs from that of Mr. O’Donnell (see above) in that Mr. Murphy’s license has not been renewed since 2011. He asked that Mr. Murphy be required to pay for both his 2012 and 2013 licenses if approved by the Board today.

Mr. Murphy stated that he had been working out of state at the time when his license expired. While he was away, Mr. Murphy’s daughter was living in his home. She had been directed to forward his mail; however, the renewal notice for his Third Grade Stationary Engineer’s license did not make it to him. He discovered that his license was no longer active upon contacting the Permits and Inspections Division.

Motion to approve by Mr. Weaver. Second by Mr. Labode.

AYES: Weaver, Lopez, Labode, O’Connor

Motion carried 4-0. Appeal granted.
13-4-28
Jasbir S Kang & Prabhjot K Kang
1648 Blackburn Hts Dr
Sewickley PA 15143
REQUEST: Appeal Omaha Police Department notice of
nuisance (re: 2211 S 8th St, 68108)

The applicants were not present when called. Chris Matt, caretaker at 2211 S 8th St, appeared before the Board. Yvonne Barna, City Planning Department, stated that she had inspected this property on April 26. She commented that Mr. Matt has taken care of all violations identified on the notice of nuisance with the exception of an old bus still remaining on the property.

Mr. Matt stated that he is currently in the process of having the bus repaired. He has a potential buyer for the vehicle if he can get it running; however, Mr. Matt stated that he was willing to sell the bus for scrap if he was not able to sell it. He asked the Board to give him a couple of weeks to complete repairs and sell this vehicle.

Motion to deny with 15 calendar days to comply by Mr. Weaver. Second by Mr. Labode.

AYES: Lopez, Labode, Weaver, O'Connor

Motion carried 4-0. Appeal denied with 15 calendar days to comply.

13-4-29
PJ Morgan Real Estate
7801 Wakeley Plaza
Omaha NE 68114
REQUEST: Appeal Omaha Police Department notice of
nuisance (re: 6243 Binney St, 68104)

Zoe Baumel and Ryan Ellis of PJ Morgan Real Estate appeared before the Board. Scott Benson, City Planning Department, submitted photos of the site in question. He stated that his department had received a complaint about this property, which has been used as a dirt parking lot for the past forty years. According to Mr. Benson, the property managers have been very compliant with the order to shut this parking lot. They would like the Board to grant them some additional time to decide how best to utilize this property, whether it be to continue its use as a parking lot (albeit with repairs and beautification) or to develop the site for another use. Mr. Benson stated that the process of making improvements to this site, including conditional use permits and zoning approvals, will take approximately six months to complete.

Ms. Baumel stated that her organization would like to develop this site as a parking area. She cited the high volume of development currently happening in Benson, and submitted bids for proposed improvements, which includes landscaping, entry gates and asphalt. She stated that they have been in contact with the Benson Improvement District, and funds may be available to assist in the conversion of this property. Ms. Baumel stated that there are a number of businesses in Benson who rely on this space for parking; following improvements, the new parking lot will provide free parking for all in the Benson business district.

Mr. Weaver asked Mr. Benson if he was aware of a solution that would be agreeable to all parties. Mr. Benson replied that he had been informed that the Planning Department would like to see this property become a parking area for Benson; however, this would require a conditional use permit. The parking lot would also be required to conform to design standards. No matter the solution agreed upon, it will take time to bring this area into compliance. Mr. Weaver proposed laying this case over in order to allow time for PJ Morgan Real Estate to work with the Benson Improvement District and the City Planning Department. They could then report back to the Board on their progress.

After some additional discussion, Mr. Weaver made a motion to hold this case over to the June 24, 2013 meeting. Second by Mr. Labode.

AYES: Labode, Weaver, Lopez, O'Connor

Motion carried 4-0. Case held over to 6/24/2013.
APPROVAL OF MINUTES:

Motion to approve the minutes from March 25, 2013 by Mr. Lopez. Second by Mr. Weaver.

AYES: Weaver, Lopez, Labode, O’Connor

Motion carried 4-0.

ADJOURN:

Motion to adjourn by Mr. Weaver. Second by Mr. Labode.

AYES: Lopez, Labode, Weaver, O’Connor

Motion carried 4-0. Meeting adjourned at 2:16 pm.

The Administrative Board of Appeals agenda and other information regarding the Administrative Board of Appeals and the Planning Department are available on the Internet at http://www.ci.omaha.ne.us/planning. The agendas available on the Internet are subject to change and are for convenience purposes only. The agenda may be altered no later than 24 hours before the scheduled commencement of the meeting. A copy of the official agenda, kept continually current, shall be available for public inspection at the City of Omaha Planning Department, 1819 Farnam Street, Suite 1100, Omaha, Nebraska, during normal business hours.

Prior to the hearing, the applicant may schedule a time to review the City’s case file during normal business hours by contacting the Board Secretary at (402) 444-5203. If an alternative (audio version) to this agenda is necessary, please notify the Board Secretary at (402) 444-5203, 72 hours in advance.

CERTIFICATION OF PUBLICATION

The Secretary to the Administrative Board of Appeals certifies publication in The Daily Record, the official newspaper of the City of Omaha, on April 15th, 2013.