MINUTES
Administrative Board of Appeals
September 30, 2013

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

MEMBERS ABSENT:

OTHERS PRESENT:
RoseMarie Lee, Law Department
Kevin Denker, Planning Department
Todd Shearer, Planning Department
Yvonne Barna, Planning Department
Ryan Haas, Public Works Department
Debbie Hightower, 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:

13-7-52 From 7/29/2013
Dennis Kosmicki
8704 Boyd Street
Omaha NE 68134
REQUEST: Appeal Omaha Police Department notice of nuisance

7/29/2013:
Dennis Kosmicki appeared before the Board. Kevin Denker, City Planning Department, stated that this property is zoned DR, or development reserve. He discussed the various vehicles currently on site, and stated that it is possible that gravel parking surface on this property has grandfather rights. He asked the Board to lay this case over to their next meeting in order to allow him to research this matter further.

Motion to hold this case over to the August 26, 2013 meeting by Mr. Levy. Second by Mr. Labode.

AYES: Levy, Lopez, Labode, O'Connor

Motion carried 4-0. Case held over to August 26, 2013.
**8/26/2013:**

Mr. Kosmicki was not present. The Board Secretary stated that as of today’s date, Mr. Kosmicki has not picked up his certified notice to appear from the post office. Scott Benson, City Planning Department explained grandfather rights to the Board in regards to parking areas. Mr. Benson stated that the applicant could keep his parking area if he can prove that this area had been in place, been maintained, and had not been expanded or enlarged since 1977. Mr. Benson concluded by stating that the tractors parked on this property would have to be moved onto a gravel surface, as they cannot remain parked on the grass.

After some discussion, the Board decided that more time was needed in order to allow Mr. Kosmicki a chance to appear before the Board and to get further information regarding how this property has changed since 1977 from Kevin Denker of the City Planning Department.

Motion to hold this case over to the September 30, 2013 meeting by Mr. Levy. Second by Mr. Weaver.

AYES: Levy, Weaver, Lopez, O’Connor

Motion carried 4-0. Case held over to September 30, 2013.

**9/30/2013:**

Dennis Kosmicki appeared before the Board. Kevin Denker, City Planning Department, stated that the gravel driveway in the current location and current position has grandfather rights as long as Mr. Kosmicki maintains the driveway by adding rocks each year and not enlarging or modifying the area.

In response to Mr. Levy, Mr. Denker verified that the equipment was in compliance.

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

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

Motion carried 5-0. Appeal granted.

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**REQUEST:** Appeal Omaha Police Department denial of firearm registration.

**13-8-54**

Corey Luetticke
1736 South 10 Street
Omaha NE 68108

**8/26/2013:**

Corey Luetticke appeared before the Board. Lt. David Sedlacek, Omaha Police Department, reported that Mr. Luetticke’s application was denied due to a conviction for marijuana less than one ounce dating from September 26, 2007. Mr. Luetticke was fined $100.00 for this offense.

Mr. Luetticke stated that he would like to have a firearm for hunting and for self-protection. He also stated concerns about crime in his area. In response to Mr. Levy’s question, Lt. Sedlacek confirmed that there was nothing else of concern on the applicant’s record which would prevent him from registering a firearm in the City of Omaha. In response to Mr. Weaver’s question, Mr. Luetticke stated that he no longer uses marijuana, adding that his job performs drug testing.

Motion to approve by Mr. Weaver. Second by Mr. Levy.
AYES: Levy, Weaver
NAYS: Lopez, O’Connor
Motion failed 2-2.

Motion to hold this case over to the September 30, 2013 meeting by Mr. Levy. Second by Mr. Weaver.

AYES: Levy, Weaver, Lopez
NAYS: O’Connor
Motion carried 3-1. Case held over to September 30, 2013.

9/30/2013:
Mr. Luetticke was not present.

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

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

Motion carried 5-0. Appeal denied.

13-9-59
Luis B. Castro
3509 North 93 Avenue #5
Omaha NE 68134
REQUEST: Appeal Omaha Police Department denial of firearm registration.

Luis Castro appeared before the Board. Lt. David Sedlacek, Omaha Police Department, reported that Mr. Castro’s application was denied due to a conviction for marijuana less than one ounce dating from March 3, 2009. Mr. Castro was fined $50.00 for this offense.

Mr. Castro stated that he would like to purchase and own a firearm legally for protection. In response to Mr. Levy’s question, Lt. Sedlacek confirmed that there was nothing else of concern on the applicant’s record which would prevent him from registering a firearm in the City of Omaha. In response to Mr. Weaver’s question, Mr. Castro stated that he no longer uses marijuana, adding that he works at Target as a Protection Specialist since March 2013. He stated that he previously resided in Alabama and worked as a server in a restaurant.

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

AYES: Levy, Weaver, Labode, O’Connor
NAYS: Lopez-Nuno
Motion carried 4-1. Appeal granted.
REQUEST: Appeal Omaha Police Department denial of firearm registration.

Devon Miller appeared before the Board. Lt. David Sedlacek, Omaha Police Department, reported that Mr. Miller’s application was denied due to a drug paraphernalia conviction, a marijuana-type pipe that tested positive for THC dating from March 15, 2011. Mr. Miller was fined $50.00 for this offense.

Mr. Miller stated he would like to retrieve his firearm back for self-defense and home defense. In response to Mr. Levy’s question, Lt. Sedlacek confirmed that Mr. Miller would be able to register other firearms if his appeal is granted.

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

AYES: Weaver, Labode, O’Connor

NAYS: Levy, Lopez-Nuno

Motion carried 3-2. Appeal granted.

Olanders Nelson appeared before the Board. Lt. David Sedlacek, Omaha Police Department, reported that Mr. Nelson’s application was denied due to an unlawful possession and transportation of a concealable firearm conviction dating from December 28, 2010. Mr. Nelson was fined $100.00 for his offense.

Mr. Nelson stated that he believes his conviction was unfounded because the gun was not readily accessible to himself or any other passengers in the car. Lt. Sedlacek confirmed that the firearm was in the trunk but was not stored in a proper gun case. Mr. Nelson verified that the gun was registered to him. Lt. Sedlacek stated that the vehicle was searched due to the fact that Mr. Nelson had a warrant. In response to Mr. Levy’s question, Lt. Sedlacek confirmed that there was nothing else of concern on the applicant’s record which would prevent him from registering a firearm in the City of Omaha.

Motion to approve by Mr. Levy. Second by Mr. Lopez-Nuno.

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

Motion carried 5-0. Appeal granted.
13-9-62
Michael G. Kershisnik
2227 Howard Street #3
Omaha NE  68102
REQUEST:  Appeal Omaha Police Department denial of firearm registration.

Michael Kershisnik appeared before the Board.  Lt. David Sedlacek, Omaha Police Department, reported that Mr. Kershisnik’s application was denied due to a CCW charge in 1996.  The weapon was a butterfly knife, located in Mr. Kershisnik’s back pocket during a traffic stop.

Mr. Kershisnik stated he would like to register his firearm because his original handgun was recently stolen and he works part-time as an armed guard.  In response to Mr. Weaver’s question, Lt. Sedlacek confirmed that there was nothing else of concern on the applicant’s record which would prevent him from registering a firearm in the City of Omaha.

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

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

Motion carried 5-0. Appeal granted.

13-9-63
Michael Devers
4012 North 101 Street
Omaha NE  68134
REQUEST:  Appeal Omaha Police Department denial of firearm registration and revocation of firearm registration.

Michael Devers appeared before the Board.  Lt. David Sedlacek, Omaha Police Department, reported that Mr. Dever’s application was denied due to two CCW convictions.  The first CCW conviction was on March 8, 1989 and Mr. Devers was fined $100 fine with six months’ probation.  The second CCW offense was on February 15, 1991 when Mr. Devers received jail time.  Mr. Devers was sent a handgun revocation letter for a handgun that is presently registered to Mr. Devers.

Mr. Devers stated that his convictions were over 25 years ago and he has not been in any trouble since that time.  In response to Mr. Levy’s question, Lt. Sedlacek confirmed that there was nothing else of concern on the applicant’s record which would prevent him from registering a firearm in the City of Omaha.

Motion to approve by Mr. Labode.  Second by Mr. Lopez-Nuno.

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

Motion carried 5-0. Appeal granted.
13-9-67
William G. Moore
6018 Evans Street
Omaha NE 68104

REQUEST: Appeal Omaha Police Department denial of firearm registration.

Mr. Moore was not present. Lt. David Sedlacek, Omaha Police Department, reported that Mr. Moore’s application was denied for two marijuana convictions of less than an ounce, July 25, 2005 and July 8, 2008 and two CCW convictions on August 30, 2008 and then again on January 22, 2012 for which he received jail time.

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

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

Motion carried 5-0. Appeal denied.

13-9-68
William J. Blair
9418 V Plaza #5
Omaha NE 68127

REQUEST: Appeal Omaha Police Department denial of firearm registration.

Mr. Blair was not present. Lt. David Sedlacek, Omaha Police Department, reported that Mr. Blair’s application was denied for an explosive device conviction on November 29, 2010 and was fined $100. Mr. Blair was cleaning his handgun and it went off in his apartment and went into another apartment that was occupied but no one was hit.

Motion to deny by Mr. Levy. Second by Mr. Lopez-Nuno.

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

Motion carried 5-0. Appeal denied.

13-9-69
Jeffrey Harkert
2101 Mullen Road
Omaha NE 68124

REQUEST: Appeal Omaha Police Department denial of firearm registration and revocation of firearm registration.

Jeffrey Harkert appeared before the Board. Lt. David Sedlacek, Omaha Police Department, reported that Mr. Harkert’s application was denied due to a CCW weapon conviction for brass knuckles on September 28, 1990 and was fined $20. Mr. Harkert was also given a handgun revocation letter for a registered handgun.

Mr. Harkert stated that he has hunted all his life and would like to register his firearm to target shoot with his friends. In response to Mr. Levy’s question, Lt. Sedlacek confirmed that there was nothing else of concern on the applicant’s record which would prevent him from registering a firearm in the City of Omaha.
Motion to approve by Mr. Levy. Second by Mr. Labode.

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

Motion carried 5-0. Appeal granted.

13-9-70
John Chris Thirtle, Jr.
3701 McKinley Street
Omaha NE 68112

REQUEST: Appeal Omaha Police Department denial of firearm.

John Chris Thirtle, Jr. appeared before the Board. Lt. David Sedlacek, Omaha Police Department, reported that Mr. Thirtle’s application was denied due to an unlawful possession/transportation of a concealable handgun on October 12, 2001 and was fined $50.

Mr. Thirtle stated that he would like to have his gun rights back. In response to Mr. Weaver, Mr. Thirtle stated that he would like to be able to shoot his gun with his family. In response to Mr. Weaver’s question, Lt. Sedlacek confirmed that there was nothing else of concern on the applicant’s record which would prevent him from registering a firearm in the City of Omaha.

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

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

Motion carried 5-0. Appeal granted.

13-8-56 From 8/26/2013
Todd E. Sundermeier
1502 South 90 Street
Omaha NE 68124

REQUEST: Appeal Public Works Department denial of driveway permit.

8/26/2013:
Todd Sundermeier and Daniele Sundermeier, property owners appeared before the Board with Donald Sundermeier and John Main. Mike Gaughen, Public Works Department, stated that he had denied the Sundermeier’s request for a driveway curb cut permit due to the fact that the applicants wished to install a forty-five foot wide driveway on their property. City regulations limit driveway throat width to thirty feet. Mr. Gaughen stated that several factors, such as on-street parking and gutter line water displacement, could be affected if everyone were allowed to have such a large driveway. This accounts for the thirty foot width limit on driveways.

Mr. Sundermeier submitted additional photos (Exhibit 2) of the property in question. He cited safety concerns as being his reason behind installing a wider driveway on his property. Mr. Sundermeier stated that there is no parking on his side of the street; parking is limited on the opposite side of the street. Street angles and conditions in the area make parking on the street dangerous for himself and his family members, several of whom have handicapped parking tags. Mr. Sundermeier stated that the width of his driveway was calculated by the total number of cars that would need to be parked at his home during family functions, and to provide handicapped-accessibility for his father, mother and grandfather. He
added that the street is considered to be a Class B street; there are no sidewalks, curbs or sewers running beneath the ground in this area. Mr. Sundermeier stated that he had petitioned his neighbors to get their opinions on his driveway; he submitted a list of over 100 signatures (Exhibit 3) from people living in his neighborhood who approve of his driveway and several letters from residents in the neighborhood who are pleased with the Sundermeier’s new driveway (Exhibit 4). He again stressed that safety was the main factor behind the sizing of his driveway.

Mr. Levy asked Mr. Gaughen whether the applicant would have the same problem if his driveway was thirty feet wide at the area where it meets the street, but widened out into a larger parking area. Mr. Gaughen stated that if such were the case, he would most likely not have denied their curb cut permit, although impervious coverage requirements would still have to be met. Scott Benson, City Planning Department, stated that the Sundermeiers had made an application for a driveway permit; however, the width of the driveway, caught during plan review, prevented the issuance of the permit. Mr. Sundermeier stated that his house sits close to the street on the driveway side – there would not have been enough depth to install his new driveway in the way suggested by Mr. Levy. This lack of space contributed to the width of the finished driveway.

Donald Sundermeier, father of Todd Sundermeier, stated that the new driveway includes a new walkway from the driveway to the front door of the house. This new driveway makes it much easier for him, his wife, who will soon be using a walker, and his 89-year-old father, who uses a walker currently and will soon be transitioning to a wheelchair to get in and out of the house safely. He stated that there have been several accidents in the area of his son’s house, citing it as sitting on a dangerous intersection.

Mr. Levy asked how this matter was first drawn to the attention of the City. Mr. Benson stated that the Codes and Violations Division received a complaint May 31, 2013. The complaint stated that a commercial lawn care business was being run at the address. The complaint also alleged that a new driveway had been poured at the site without a permit. Yvonne Barna of the Codes and Violations Division inspected the address. She found that the permit for the driveway was pending and observed a truck on site with a lawn care business logo on the side, which was determined to be a personal vehicle. No action was taken. Mr. Sundermeier stated that his truck is his personal vehicle and therefore comes home with him; however, his equipment is maintained off site.

The Board Secretary received a complaint from a neighbor who lives across the street from the Sundermeiers; this complaint was distributed to the Board and the applicant (see file for more information). In response to Mr. Levy’s question, Mr. Sundermeier stated that he has plans to install further landscaping around the new driveway, including mulch, grass and bushes, pending the Board’s decision today.

After some additional discussion, Mr. Levy made a motion to grant the appeal. Second by Mr. Lopez.

AYES: Levy, Lopez

NAYS: Weaver, O’Connor

Motion failed 2-2.

9/30/13:
Todd and Daniele Sundermeier, property owners, and several neighbors appeared before the Board. Kevin Denker mentioned a letter that was submitted by a neighbor and was passed around (see file for
more information). Ryan Haas, Public Works, appeared before the board in place of Mike Gaughen and offered to answer any questions.

Mr. Sundermeier stated that the exception to the driveway is requested due to safety concerns. There have been more improvements including landscaping and brick walls.

In response to Ms. O’Connor, Mr. Haas stated that the driveway was installed prior to getting a permit. Mr. Sundermeier stated that he attempted to apply for a permit after the installation of the driveway because he was not aware that a permit was needed. The entrance for the driveway is 45’ but the code is 30’. He stated that the reason for the width of the driveway is because of the short depth of the driveway between the street and the garage therefore the extra square footage was needed to safely park several vehicles in the driveway. He submitted photos of the additional improvements (Exhibit 2).

In response to Mr. Levy, Mr. Haas expressed that the only concern is the throat width of the driveway.

Mr. Sundermeier indicated that there is no drainage or sewers and did not realize there would be an issue. He stated that the back angle of the driveway approach was brought up so the handicapped members of his family could easily access the house. Mr. Sundermeier stated that several neighbors are present and would like to speak regarding the safety of the driveway.

In response to Mr. Levy, Mr. Sundermeier stated that he hired a concrete contractor and there was no conversation regarding a permit. Mr. Denker stated that a building permit and a plan review with Public Works is required if a driveway is being enlarged over 200 square feet. In response to Mr. Levy, Mr. Sundermeier stated the permit was brought to his attention when the neighbor asked if he had a permit.

Charles Liakos, 1303 South 91 Avenue; Jane Pinhero, 801 South 92 Street; Daniel Marburg, 9126 Woolworth Avenue; Donald Sundermeier, 1322 South 95 Street; Bob Waltermire, 1314 South 93 Street appeared before the board in favor of the request and expressed the advantage of parking vehicles in the driveway versus vehicles being parked on the street.

In response to Mr. Levy, Mr. Sundermeier stated he has one lawn truck and leases two storage spaces totaling 460 square feet (Exhibit 4).

Mr. Haas stated that the neighbor’s feedback is valuable and obviously there was a deficiency but there are processes and regulations that need to be followed. The reasons for access management and driveway width limits are to minimize conflict points.

Mr. Sundermeier responded that visibility on his street improved since the area was opened up.

In response to Mr. Weaver, Mr. Denker stated that commercial equipment is not allowed in a residential district. Mr. Sundermeier responded to Mr. Levy that seven vehicles could now park in the driveway.

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

AYES: Weaver, Lopez-Nuno, Labode

NAYS: Levy, O’Connor

Motion carried 3-2. Appeal granted.
REQUEST: Appeal Public Works Department denial of driveway permit (RE: Dunkin Donuts, 48 & L Street)

Dave Seip, ASD Stanley J How Architects, and Bryce Barrs, property owner, appeared before the board. Mr. Seip asked that the stacking requirement also be heard at this time. The stacking requirement cannot be heard because it has not been advertised.

Ryan Haas, Public Works, stated that the site plan, as proposed, was denied because the site plan shows a driveway on 48th Street that is too close to the signalized intersection of 48th and L Street for the driveway regulations.

Mr. Seip stated that 47th Street is residential and the main access should be off of 48th Street and is located as far south as possible. Mr. Seip pointed out that an auto repair shop is presently on the lot and the proposed project would be a great improvement to the site. Mr. Haas answered that the driveway regulations are due to the change in use. In response to Mr. Weaver, Mr. Haas answered that the minimum required dimension from the driveway to the L Street curbline is 230’ based on the characteristics of 48th Street. Mr. Seip indicated that the lot is zoned commercial and everything to the south is residential. In response to Ms. O’Connor, Mr. Haas answered that the request is for 90’ according to the site plan as opposed to the 230’ minimum requirement.

Mr. Barrs pointed out that the L Street entrance will be closed therefore there would be no access if the 48th Street entrance was also closed off. In response, Mr. Haas answered that access would be granted off 47th Street as shown. Mr. Barrs stated that the project would not go through if the motion is denied.

In response to Mr. Weaver, Mr. Haas stated that the restrictions overlap from 47th to 48th Street and there is no compliant place along L Street which has significantly more traffic and higher speeds. In response to Mr. Weaver, Mr. Haas stated that, as shown, there can be a compliant access off 47th Street. Mr. Barr stated that a left turn off L Street is not permissible onto 47th Street therefore the project is not viable without an access on 48th Street.

Mr. Levy pointed out that the stacking issue is a big concern therefore the 48th Street access would be the most used and would also double the stacking distance.

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

AYES: Levy, Weaver, Lopez-Nuno

NAYS: Labode, O’Connor

Motion carried 3-2. Appeal granted.
REQUEST: Appeal Public Works Department denial of driveway permit
(RE: Premier Bank, 43 Avenue & Dodge Street)

Dave Seip, ASD Stanley J How Architects, appeared before the board.

Ryan Haas, Public Works, stated that the site plan, as proposed, on the northeast corner of 43rd Avenue and Dodge Street, was denied due to the deficient width of the driveway. Mr. Haas stated that the site plan showed an egress one-way out driveway at a width of 24’ but the maximum width is 16’ as per the driveway regulations.

Mr. Seip stated that the proposed in-fill project will be a new larger branch bank. He stated that both lots are commercial and the owner of the lot to the north agreed to sell but the Planning Department did not recommend that the north lot be changed to commercial because it was not within the Master Plan. The minimum stacking space required the drive-through to be next to the bank which puts the south drive to 43rd Street at an exit only. The north drive is a two-way drive and will be used for both entering and exiting and will be used for stacking space for the drive-through tellers. The request is to keep both throat widths of both drives at 24’ in lieu of 16’.

Mr. Haas pointed out that the driveway is a one-way driveway. He stated that if the driveway is 24’ it will be fifty percent more for a pedestrian to cross. In this scenario, if the driveway is at 24’ and is a one-way out, there is a high probability that the drive will not be used as a one-way out therefore it causes a safety concern for pedestrians; a narrow driveway better gives a cue that it is a one-way driveway. Mr. Seip responded that there would be signage such as “no entrance” and/or “exit only”.

Mr. Haas agreed that signage is helpful and oftentimes followed but not foolproof. He submitted two drawings (Exhibit 2) illustrating other possibilities for driveways. He agreed with the applicant that in-fill development poses challenges but the City attempts to work to the extent that is practical with the current regulations. Mr. Seip suggested that the 24’ driveway width, which exits the drive-through window, will be much more fluent as opposed to almost making a U-turn.

Mr. Weaver suggested that the board lay over the request to allow the applicant more time to work with the City on additional options. Mr. Seip stated that many options have already been evaluated. Mr. Haas stated he cannot administratively approve any driveway width more than 16’.

Motion to deny appeal of south driveway but north driveway to be 20’ by Mr. Levy. Motion dies for lack of a second.

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

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

Motion carried 5-0. Appeal denied.
Cheri Minshall and Walter Castro, tenants, appeared before the board. Todd Shearer, City Planning, stated a zoning notice was mailed to the tenant and the owner and was followed up with an inspection at the property on August 27, 2013. Photos from September 30, 2013 (Exhibit 2), September 27, 2013 (Exhibit 3), and August 27, 2013 (Exhibit 4) were submitted. He stated that the notice sent to the owner of the property was returned as unclaimed. There has been no change since the original inspection. Mr. Shearer stated the definition of “outside storage” is anything stored outside. In response to Ms. O’Connor, Mr. Shearer stated that the non-code shed is another issue and that he is only dealing with the trailers and outside storage items which includes a snowplow blade stored behind the garage and covered with a tarp, truck/camper on sawhorses with lawn mowing equipment beneath, trailer with items covered with a tarp, a pallet jack, and a steel cabinet sitting outside. He stated that Ms. Minshall is uncooperative and will not allow a full inspection of the property.

Ms. Minshall stated that this has been an ongoing issue since June 2013 when Parks and Recreation cited the property. She stated that she videotaped Dave Austin, Parks and Recreation, when he approved the structure for storage and stated that the snowplow was fine. She explained that several improvements have been met but the most recent citing was for parking on the grass. All vehicles are licensed and insured and the insurance has never lapsed. She explained that she asked for a copy of the violations and has not yet received them therefore the appeal was filed. At one point, a notice was produced by Mr. Austin but it was dated two weeks prior. She stated that she attempted to file an appeal but was told that she did not file in a timely manner. She does not understand why anyone is on her property. She explained that the steel cabinet is used for storage of gardening items and to keep them away from pets and children. Ms. Minshall asked what she needs to do to be in compliance.

Kevin Denker, Planning Department, explained that Dave Austin is with Parks and Recreation in the weeds and litter division and has no jurisdiction regarding any type of building or parking. A snowblade is considered to be commercial equipment and must be stored in a storage facility or in a garage. Mr. Shearer submitted the code for “outdoor storage” (Exhibit 5).

In response to Mr. Weaver, Mr. Shearer admitted that there were no parking violations and agreed to remove it from the notice.

In response to Mr. Weaver, Ms. Minshall agreed to a 30 day layover in order to be compliant with the City as long as the agreement is concrete and the law states what she needs to get rid of.

In response to Mr. Weaver, RoseMarie Lee, City Law Department, stated that the Planning Department can state what items can be outside or inside of the shed and Ms. Minshall would need to comply within the allotted time as motioned by the board.

Mr. Labode suggested that the city identify the specific requirements. Mr. Levy questioned whether Ms. Minshall is sincere and would allow the inspectors to look under the tarps to determine if everything is compliant. Ms. Minshall stated that she does not allow anyone to look under the tarps when she is not home. Mr. Shearer pointed out that tarps are not allowed in the City.
Mr. Castro submitted additional photos (Exhibit 6). Ms. Minshall submitted the original appeal that was filed from the Parks and Recreation department (Exhibit 7).

Mr. Levy explained that he is tempted to deny the appeal but he would like to lay over the case so both parties can work it out within 30 days.

Motion to hold this case over to the October 28, 2013 meeting by Mr. Levy. Second by Mr. Weaver.

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

Motion carried 5-0. Case held over to October 28, 2013.

Ms. Minshall asked the board for an itemized copy of the items that need to be taken care of. Mr. Levy answered that enforcement is up to the Planning Department. Mr. Shearer stated that he is willing to meet with Ms. Minshall and show her what needs to be removed but the shed is on an IPMC (International Property Maintenance Code) file.

**APPROVAL OF MINUTES:**

Motion by Mr. Labode to approve the minutes from May 20, 2013. Second by Ms. O’Connor.

AYES: Labode, O’Connor

ABSTAIN: Levy, Weaver, Lopez-Nuno

Motion carried 2-0-3.

Motion by Mr. Levy to approve the minutes from August 26, 2013. Second by Mr. Lopez-Nuno.

AYES: Levy, Weaver, Lopez-Nuno, O’Connor

ABSTAIN: Labode

Motion carried 4-0-1.

**ADJOURN:**

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

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

Motion carried 5-0. Meeting adjourned at 3:10 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) 444-5150 Ext. 2005. If an alternative (audio version) to this agenda is necessary, please notify the Board Secretary at (402) 444-5150 Ext. 2005, 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 September 23, 2013.