MINUTES
Administrative Board of Appeals
July 27, 2015

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

MEMBERS NOT PRESENT:
John R. Barrett, Alternate
Marty Conboy, Alternate

STAFF PRESENT:
Timothy Himes, Law Department
Kevin Denker, Planning Department
Rikki Flott, 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:

1. 15-07-048
   James A. Giles
   4308 Miami Street
   Omaha NE 68111
   REQUEST: Appeal Police Department denial of firearm registration

James Giles was not present when his case was called. The Secretary stated that she tried to contact Mr. Giles by phone and that his girlfriend stated she would give Mr. Giles the message regarding the meeting. Lt. David Sedlacek, Omaha Police Department, stated that Mr. Giles applied to register a firearm on June 25, 2015 and was denied due to a carry concealed weapon conviction dated April 28, 2005, one marijuana less than 1 ounce conviction and one marijuana more than 1 ounce conviction both dated January 25, 2006.

Mr. Labode motioned to move the case to the end of the meeting. Second by Mr. Weaver.

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

Motion carried 5-0. Case moved to the end of the meeting.

Mr. Giles was not present when his case was called a second time. In response to the Board, Lt. Sedlacek explained that one of Mr. Giles’ convictions exceeded the ordinance limitation by next month, but that the carry concealed weapon charge remained in effect with no limitation.

Motion to HOLDOVER the case until the August 31, 2015 meeting by Mr. Weaver. Second by Mr. Levy.
AYES: Labode, Lopez-Nuno, Weaver, Levy
NAYS: O’Connor

Motion carried 4-1. Case held over until the August 31, 2015 meeting.

2.
15-07-050
Alena Lee Mitchell
3321 Ruggles Street
Omaha NE 68111

REQUEST: Appeal Police Department denial of firearm registration

Alena Mitchell appeared before the Board. Lt. David Sedlacek, Omaha Police Department, stated that Ms. Mitchell applied to register a firearm on June 30, 2015 and was denied due to a marijuana less than 1 ounce conviction dated August 18, 2008. He added that the only other items on Ms. Mitchell’s record were minor traffic offenses.

Ms. Mitchell stated that the conviction was several years ago and that she was now employed, had children and no longer used drugs.

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

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

Motion carried 5-0. Appeal granted.

3.
15-07-051
Nathaniel L. Rold
4917 Maple Street
Omaha NE 68104

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

Nathaniel Rold appeared before the Board. Lt. David Sedlacek, Omaha Police Department, stated that Mr. Rold applied to register a firearm on June 26, 2015 and was denied due to a carry concealed weapon conviction dated November 21, 2007. He added that Mr. Rold had other items on his record prior to 2006.

Mr. Rold stated that he was young at the time of the conviction, had no issues since 2007 and now wanted protection for his family.

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

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

Motion carried 5-0. Appeal granted.

4.
15-07-052
Abdirahman S. Ahmed
3321 North 56th Street
Omaha NE 68104

REQUEST: Appeal Police Department denial of firearm registration

Abdirahman Ahmed appeared before the Board. Lt. David Sedlacek, Omaha Police Department, stated that Mr. Ahmed applied to register a firearm on July 6, 2015 and was denied due to a carry concealed
weapon conviction dated June 10, 2011. He added that Mr. Ahmed was granted a firearm registration appeal in 2010 for a separate case.

Mr. Ahmed stated that his neighborhood was not safe, he had previous break-ins at his home and he wanted protection from his family.

In response to the Board, Lt. Sedlacek stated that there was not a limitation for carry concealed weapon convictions and explained that Mr. Ahmed’s conviction involved a gun found in the vehicle and that gang officers were involved. He added that the firearm was licensed. In response to the Board, Mr. Ahmed stated that he was moving from his residence at the time of the conviction and no longer resided in the area where the incident occurred.

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

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

Motion carried 5-0. Appeal granted.

5.
15-07-049
Lonnie Fentress
504 North Logan Avenue
Oakland NE 68045
REQUEST: Appeal Police Department denial of firearm registration

Lonnie Fentress appeared before the Board. Lt. David Sedlacek, Omaha Police Department, stated that Mr. Fentress applied to renew an open-carry permit to carry an unconcealed, loaded weapon in the city, but an active protection order expiring on April 23, 2016 prevented the renewal.

Mr. Fentress stated that harassment protection order was placed by a former Landlord. He then stated that he worked as a fugitive recovery agent for the state of Iowa and also worked armed security on the weekends and needed firearm protection. He explained that he owed the Landlord money and he and his fiancé were repeatedly harassed by the Landlord. Mr. Fentress then explained that he went to court for the protection order, but the ruling was not in his favor. He stated that he needed the permit to support his family and that he planned to move from the Landlord’s rental residence as soon as financially possible.

Lt. Sedlacek verified that Mr. Fentress’ carry concealed weapon state permit was still in effect and that a harassment protection order differed from a domestic violence protection order. In response to the Board, Mr. Fentress stated that he notified the state of Nebraska about the active harassment protection order and was informed that the state permit was not affected because the protection order was not for domestic violence. He also explained that he had documentation that could be provided to the Board if necessary.

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

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

Motion carried 5-0. Appeal granted.
6.  
15-07-053
James C. Fairley  
4930 South 30th Street, #307  
Omaha NE 68107

REQUEST:  Appeal Police Department denial of taxicab driver's permit

James Fairley appeared before the Board. Lt. David Sedlacek, Omaha Police Department, stated that Mr. Fairley applied for a taxicab driver permit on July 13, 2015 and was denied for a felony assault conviction dated October 7, 2004. He added that in this incident, Mr. Fairley fired a shot at an ex-girlfriend and served 3 years for the conviction. He also stated that Mr. Fairley was denied a taxicab driver permit in 2006.

Mr. Fairley stated that he had a valid taxi permit from 1987 to 1993 and that he needed a taxi permit to supplement his income. Lt. Sedlacek verified that the only other items on Mr. Fairley’s record were minor traffic offenses. In response to the Board, Mr. Fairley explained that on May 9, 2004, following a family dispute and argument with his former girlfriend, his car windows were broken. He further explained that he confronted the family and was threatened, so he fired a shot in the air. He also responded that he lost his job in November 2014 and received Social Security income. He added that currently he was on friendly terms with his former girlfriend.

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

AYES:  Labode, Lopez-Nuno, Weaver, Levy

NAYS:  O’Connor

Motion carried 4-1. Appeal granted.

7.  
15-07-054
Crystal Copeland  
5702 South 159th Avenue  
Omaha NE 68135

REQUEST:  Appeal Nebraska Humane Society Potentially Dangerous Dog designation

Crystal Copeland appeared before the Board. Mark Langan, Nebraska Human Society appeared before the Board. Mr. Langan explained that on May 24, 2015 he received a call regarding two bull-mastiff dogs attacking a yellow lab owned by Bryan and Kelly White, on the property of Mr. and Mrs. White, and that Mr. White was also bitten when trying to help his dog. He then stated that the yellow lab received extensive injuries and required multiple vet visits. Ms. Copeland appealed the Potentially Dangerous Dog designation issued by the Nebraska Humane Society and was denied on June 16, 2015. History in September 2014 an MUD employee was aggressively chased by a Mastiff and Shepherd owned by Ms. Copeland.

Ms. Copeland stated that the MUD employee entered her yard and a “Beware of Dog” sign was in place. She then stated that her dogs were not loose but escaped when a door was opened by a friend. She added that her dog was protective of her litter of puppies, she was a responsible pet owner and had current shots for her pets.

In response to the Board, Mr. Langan explained the potentially dangerous dog designation and that the designation was removed if all requirements were met within the 2-year designation period. Ms. Copeland stated that she would abide by the requirements and that she had no other incidents with her pets. She added that she immediately responded to the incident and was on good terms with Mr. and Mrs. White. Mr. Langan explained to the Board that if the owner failed to abide by the requirements, she received a reckless owner declaration and was not allowed to own animal for a 4-year period.
Motion to DENY by Mr. Weaver. Second by Mr. Labode

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

Motion carried 5-0. Appeal denied.

8.
15-07-055
Erica Young
2449 South 17th Street
Omaha NE 68108

REQUEST: Appeal Nebraska Humane Society Potentially Dangerous Dog designation

Erica Young appeared before the Board. Mark Langan, Nebraska Human Society appeared before the Board. Mr. Langan explained that on May 10, 2015, he received a call regarding 2 pitbull dogs owned by Erica Young and a small terrier-mix dog owned by an unnamed neighbor and that the 2 pitbulls escaped from their yard, with 1 attacking the neighbor’s terrier-mix dog while on a tether. He added that the terrier-mix sustained fatal injuries, but witnesses’ were not able to identify which pitbull attacked the small dog. He then stated that the neighbor also indicated she witnessed incidents of the 2 pitbulls escaping and chasing her, her small dog and a neighbor. Ms. Young appealed the Potentially Dangerous Dog designation issued by the Nebraska Humane Society and was denied on June 22, 2015. Mr. Langan added that in 2008 and 2009 he had reports of pets owned by Ms. Young running loose, but not aggressive.

Ms. Young stated that information regarding the report was conflicting and that she attended a court hearing this morning regarding this particular incident. She explained that the charges of destruction of property and required muzzle were dropped, but that she was charged with unrestrained dogs. She then stated that she was a responsible pet owner and kept her dogs licensed, registered, immunized and carried insurance for them.

Mr. Langan stated that animal control officers attended the court hearing and explained to him that following the hearing, Ms. Young received 6-months probation with no animal control violations and a $200 fine. He also stated that he verified the information on the Douglas County website. Ms. Young explained to the Board that she drove the neighbor and animal to vet, paid the vet bill, but denied her dogs attacked the neighbor’s dog. She admitted her dogs were loose that day but were on her own property. In response to the Board, Mr. Langan explained that Ms. Young’s dogs were licensed. Ms. Young responded that her dogs were in compliance and that she planned to follow terms of the court probation. She added that all fence gates were currently padlocked and fence was in place.

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

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

Motion carried 5-0. Appeal denied.

9.
15-04-029 held over from 04/27/15
Jason Thiellen
E&A Consulting Group Inc.
10909 Mill Valley Road #100
Omaha NE 68154

REQUEST: Appeal Public Works Department denial of driveway permit
(RE: North 24th & Cuming Streets, CHI Academic Clinic)

Paul Gonzales, E&A Consulting Group, appeared before the Board. Ryan Hass and Todd Pfitzer, Public Works Department, appeared before the Board. Mr. Haas explained that the case was previously held
over to resolve easement issues with the adjacent property owner McDonalds and that the Department previously worked with McDonald’s to accommodate stacking and driveway regulations, resulting in shared access by easement. He further explained that the Department worked with the applicant, CHI, and McDonald’s to accommodate access points for both property owners and that McDonald’s issued a letter stating they were not interested in removal of the Cuming Street access. He added that the proposed plan included 1 driveway on the west side of the site, 2 driveways along 24th Street (which included 1 McDonald’s driveway), 1 driveway along Cuming Street and 1 driveway on the north of the site. Mr. Haas stated that the Department was concerned with left turns in and out of the Cuming Street driveway and that the current plan would funnel traffic to this driveway of concern. He added that the Department was not opposed to the waiver for additional access points, but encouraged internal reconfiguration of the site to encourage traffic to the 24th Street and 25th Avenue driveways. Mr. Pfitzer added that with the current configuration, the Cuming Street driveway connected directly to the front door of the CHI facility and he encouraged internal reconfiguration to discourage Cuming Street as the main entrance.

Mr. Gonzales submitted a document that included current configuration of driveways, reconfiguration of driveways as proposed, a memorandum of trips generated to the facility, and documentation from McDonald’s and CHI (Exhibit 3). He explained that the clinic entrance was on the upper level accessible at 24th Street and that the emergency entrance was on the lower level, with ambulance restricted to 25th Avenue. He added that CHI worked to ensure McDonald’s maintained their current driveway configuration.

Mr. Pfitzer briefly discussed the Department’s previous negotiations and approvals for the McDonalds site as exist today and again described concern with the proposed internal configuration of the site. He added that signalizing the full-movement access at Cuming Street was not possible because of the existing signalized intersections at 24th and Cuming Streets and 25th and Cuming Streets. The Board continued to discuss the access points with the Department and Mr. Haas explained that the 25th Avenue driveway was on a local street and met width requirements, which were less than collector street width requirements.

Motion to APPROVE by Mr. Levy, upon the condition of internal reconfiguration to the satisfaction of the applicant and Public Works to discourage the Cuming Street driveway as the main entrance. Second by Mr. Lopez-Nuno

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

NAYS: Weaver

Motion carried 4-1. Appeal granted upon the condition of internal reconfiguration to the satisfaction of the applicant and Public Works to discourage Cuming Street driveway as the main entrance.

10.

15-07-056
Alison Ingunza
HDR Inc.
8404 Indian Hills Drive
Omaha NE 68114

REQUEST: Appeal Public Works Department denial of driveway permit
(RE: 3612 Cuming Street, Salvation Army)

Alison Ingunza, David Lempke, and Brian Ray, HDR Inc., appeared before the Board. Ryan Hass and Todd Pfitzer, Public Works Department, appeared before the Board. Mr. Haas explained that the proposed site was partial redevelopment of the current Salvation Army site and involved removal of a building, and reconfigured parking and driveways. He then explained that the site had grading issues and stated that although the Department had some concern with the 38th and Lincoln Boulevard driveway, they were not opposed to a waiver for multiple driveways, but objected to the driveway at Cuming Street.
Mr. Lempke explained that the site currently had 6 existing driveways, 3 of which were along Cuming Street and discussed the locations of the drives. He then explained that the driveway to the northwest of the site on 38<sup>th</sup> Street was proposed as a service drive only and that the driveway on the northeast corner of the site at Glenwood Avenue was also a service drive with limited parking and access. He added that the proposed plan eliminated 2 driveways on Cuming Street to the southeast of the site and maintained the driveway in the center of the site along Cuming Street. He also explained the driveway further south along 38<sup>th</sup> Street was a challenge because of an overhang between the buildings on each side of the driveway and narrow 18 feet width of the driveway.

In response to the Board, Mr. Haas explained that non-compliance was more than 1 driveway on the site and that the Department was only opposed to the driveway on Cuming Street. He further explained that driveways onto high-speed, high-volume streets similar to Cuming Street were discouraged. He added that the intersection at 38<sup>th</sup> and Cuming was signalized and the intersection at Glenwood Avenue and Cuming Street was restricted to right-in, right-out only by an existing median on Cuming Street. Mr. Lempke added that the driveway at the center of the site along Cuming also had these same median restrictions. The Board again briefly discussed with Mr. Lempke the limited access at the other driveways.

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

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

Motion carried 5-0. Appeal granted.

11.

15-07-057
Kyle J. Crouch
DLR Group
6457 Frances Street, Suite 200
Omaha NE 68106

REQUEST: Appeal Public Works Department denial of driveway permit
(RE: 20720 Glenn Street, Elkhorn Public Schools Warehouse)

Kyle Crouch, DLR Group, appeared before the Board. Ryan Hass, Public Works Department, appeared before the Board. Mr. Haas explained that 207<sup>th</sup> Street was in the process of being vacated to become a private street for the school and that Glenn Street was a low-volume street. He added that the site was non-compliant because of the request for 2 driveways.

Mr. Crouch explained that the second driveway served as a second access for the existing parking lot of the current site, a baseball field adjacent to the west of the school property. He added that the warehouse on the southeast corner of the site generated minimal traffic and was used for paper storage with 1 to 2 deliveries per year. He added that the building also included a special needs classroom with 1 teacher and 1 to 2 students per day.

In response to the Board, Mr. Haas stated driveway widths were in compliance.

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

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

Motion carried 5-0. Appeal granted.
12.
15-07-058
Matthew Wegener
BVH Architects
1425 Jones Street
Omaha NE 68102
REQUEST: Appeal Public Works Department denial of driveway permit
(RE: 20844 Bonanza Boulevard, Lord of Life Church)

Matthew Wegener and Zach Johnson, BVH Architects, appeared before the Board. Ryan Hass, Public Works Department, appeared before the Board. Mr. Haas explained that the church was constructing a building addition and new parking lot with reconfiguration of the existing driveway to become compliant. He added that non-compliance was 2 driveways for the site.

Mr. Wegener explained that with the new addition, the reconfigured parking lot to the east accommodated circulation of traffic through the lot and noted that the 2 parking lots were separate due to an existing grade drop from west to east. He added that the existing driveway to the east would also become compliant with the proposed plan. He then explained that the new addition opened to the west parking lot for administration offices and to the east for the childcare facility.

In response to the Board, Mr. Wegener explained that the reconfigured east lot was proposed for a one-way directional loop for pick up and drop off of children at the child care facility.

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

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

Motion carried 5-0. Appeal granted.

13.
15-07-059
Matthew Wegener
BVH Architects
1425 Jones Street
Omaha NE 68102
REQUEST: Appeal Public Works Department denial of driveway permit
(RE: 6023 Maple Street, Ted & Wally’s Ice Cream)

Matthew Wegener and Zach Johnson, BVH Architects, appeared before the Board. Ryan Hass, Public Works Department, appeared before the Board. Mr. Haas explained that the proposed use reutilized an existing site along a current City streetscape project. He added that the existing Maple Street and 60th Avenue driveways were non-compliant. He discussed different options a single two-way drive on 60th Avenue or 2 one-way ingress and egress driveways with waivers of driveway widths to accommodate the business.

Mr. Johnson explained that after discussion with the Public Works Department, the proposed plan was angled parking for vehicles entering from Maple Street and exiting at 60th Avenue, with additional parking in the rear of the business. In response to the Board, Mr. Johnson explained the retail use was ice cream and sandwiches.

In response to the Board, Mr. Haas explained that the Department preferred a one-way ingress from Maple Street with driveway widths at a minimum for pedestrian safety. He further explained that if the driveway width at Maple Street was narrowed to 20 feet and driveway width at 60th Avenue was narrowed to 16 feet with a one-way ingress and egress, the driveways met regulation and the only waivers required were distance of the driveways from the signalized intersection at 60th and Maple Street. Mr. Johnson explained to the Board that the 24 feet width was necessary to accommodate access for the first stall in the parking lot and that moving the parking slightly to the east was possible. He also explained
that the increased width at 60th Street was necessary to accommodate visibility for exiting traffic and that he was not opposed to one-way in and out of the site.

Motion to APPROVE by Mr. Levy upon the condition Maple Street is one-way ingress with a 20 foot wide driveway and North 60th Avenue is one-way egress with a 20 foot wide driveway. Second by Mr. Weaver

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

Motion carried 5-0. Appeal granted upon the condition Maple Street is one-way ingress with a 20 foot wide driveway and North 60th Avenue is one-way egress with a 20 foot wide driveway.

14.
15-07-060
Larry Jobeun
Fullenkamp Doyle & Jobeun
11440 West Center Road
Omaha NE 68144

REQUEST: Appeal Public Works Department denial of driveway permit (RE: 72nd & Hickory Streets, QuikTrip)

Larry Jobeun, Fullenkamp Doyle & Jobeun, appeared before the Board. Ryan Hass, Public Works Department, appeared before the Board. Mr. Haas explained that the proposed project was removal of the existing QuikTrip facility and former Arby’s restaurant to the south and combination of the 2 sites for the construction a new QuikTrip facility. He added that non-compliance issues were the request for 2 driveways and driveway spacing from the adjacent site to the south. He then explained that shared access for adjacent properties was encouraged by the Department and that the plan proposed a future mutual access drive for later development of the site to the south.

Mr. Jobeun explained that the proposed plan increased the distance from the both driveways to the signalized intersection at 72nd and Hickory Street, reduced the number of existing driveways from 4 to 2, and provided joint access for future development. He added that the owner of Arbys, Jim Lang, was present and in support of the request.

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

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

Motion carried 5-0. Appeal granted.

15.
15-07-061
Ken Hahn
Kenneth Hahn Architects
1343 South 75th St
Omaha NE 68124

REQUEST: Appeal Public Works Department denial of driveway permit (RE: 6523 Western Avenue, Western Hills Elementary)

Ken Hahn, Kenneth Hahn Architects, Matt Kruse, Lamp Rynearson, and Mark Warneke, Omaha Public Schools, appeared before the Board. Ryan Hass, Public Works Department, appeared before the Board. Mr. Haas stated that the project at this site was removal and replacement of the existing school and that the applicant worked extensively with the Department to meet the needs of the school, parents, students, neighbors and the Department. Mr. Haas explained that the proposed plan was for a 2-way access on the south end of 66th Street to serve delivery trucks and student buses, and a one-way ingress to the north on 66th Street exiting at the Western Avenue one-way egress access. He stated that noncompliance issues were the width along Western Avenue at 25 feet to accommodate 2 lanes of high-volume traffic, the
radius for the two-way access necessary to accommodate delivery trucks and busses, and a second access point for the site.

Mr. Hahn explained that the site sloped downward from the south to the north and that the new school was 2 levels with access to the upper level from the south and access to the lower level from the north. He then explained that the bus drive along 66th Street to the south eliminated the need for on-street parking of the busses. He added that fire truck access was also needed on the south side of the school and that the school director requested bus traffic be separated from the passenger car traffic.

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

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

ABSTAIN: Levy

Motion carried 4-0-1. Appeal granted.

APPROVAL OF MINUTES:

Motion by Mr. Labode to approve the minutes from May 18, 2015. Second by Mr. Lopez-Nuno.

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

Motion carried 5-0.

ADJOURN:

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

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

Motion carried 5-0. Meeting adjourned at 3:13 pm.