MINUTES
Administrative Board of Appeals
March 28, 2016

MEMBERS PRESENT:
Brian Kruse
Mark Santo
John R. Barrett, Alternate

MEMBERS NOT PRESENT:
David C. Levy, Chair
Ann M. O’Connor, Vice Chair
Marty Conboy, Alternate

STAFF PRESENT:
Timothy Himes, Jr., Law Department
Kevin Denker, Planning Department
Rikki Flott, Recording Secretary

ROLL CALL:
Mr. Kruse 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.

Mr. Barrett moved to elect Mr. Kruse as acting chairman for the meeting. Second by Mr. Santo.

AYES: Barrett, Santo, Kruse

ABSTAIN: Kruse

Motion carried 2-0-1.

Cases:

1. 16-03-008
Dan Dolezal
Ehrhart Griffin & Associates
3552 Farnam Street
Omaha NE 68131

REQUEST: Appeal Public Works Department denial of
driveway permit
(RE: 5722 Center Street, Intertech Collision)

Dan Dolezal, Ehrhart Griffin & Associates, appeared before the Board. Ryan Haas, Public Works
Department, appeared before the Board.

Mr. Haas explained that site is an expansion of the west side of the existing building. There were some
courses about the existing driveway due to the location of a neighboring fence and the curve of Center
Street. Public Works was concerned about sight-distance when exiting the driveway. The applicant agreed
to use the eastern driveway as a one-way entrance onto the property. The driveway to the west would be a
full driveway. He explained that, as proposed, the site would have 1 ½ driveways.

Mr. Dolezal stated that the applicant worked extensively with the Planning and Public Works
Departments to make a decision that was agreeable with all parties involved. He felt that the driveways
were located in the best possible way so as to keep traffic out of the adjacent residential neighborhood.
Mr.

Motion to APPROVE by Mr. Santo. Second by Mr. Barret.

AYES: Barrett, Santo, Kruse

Motion carried 3-0. Appeal granted.

2.

16-03-009
Jeff Elliott
Woodsonia Real Estate Inc.
13131 West Dodge Road, Suite 200
Omaha NE 68154

REQUEST: Appeal Public Works Department denial of driveway permit
(RE: 787 North 204th Avenue, Starbucks)

Jeff Elliott appeared before the Board. Ryan Haas, Public Works Department, appeared before the Board. Mr. Haas stated that the proposed site plans met the driveway regulations for access. He explained that the required on-site stacking for a drive-through is 275'; however, the site plan as proposed showed 260'. He noted that historically Public Works has been opposed to situation where the drive-through is short 25' of the requirements; in this case the shortage is 15' so Public Works was not necessarily opposed to the request.

Mr. Elliott was in agreement with the findings of the Public Works Department. He stated that the drive-through was, in fact, 275' from the curb line.

Mr. Santo noted that the lot was irregularly shaped and believed that the applicant was doing the best that could be done given the situation.

Motion to APPROVE by Mr. Barrett. Second by Mr. Santo.

AYES: Barrett, Santo, Kruse

Motion carried 3-0. Appeal granted.

Cases 16-03-010 & 16-03-011 were heard together but were voted on separately.

3.

16-03-010
Trisha Sieh
Kimley-Horn
2550 University Ave West, Suite 238N
St. Paul MN 55114

REQUEST: Appeal Public Works Department denial of driveway permit
(RE: 14548 West Center Road, Raising Canes)

Trisha Sieh and Paul Shipman (Raising Cane’s) appeared before the Board. Ryan Haas, Public Works Department, also appeared before the Board. Mr. Haas stated that the site plan for the site was compliant, with the exception of drive-through stacking which was too short in relation to the property line. The parking spilled onto a shared parking area.

Ms. Sieh stated that the 300’ drive-through stacking would spill out onto the property to the east about 20’, or one car length. She explained that the shopping center has cross-access easements and agreements in place that allow parking and driving on adjacent properties. She added that the plans had been approved by the owner of the shopping center.
Motion to APPROVE by Mr. Santo. Second by Mr. Barrett.

AYES: Barrett, Santo, Kruse

Motion carried 3-0. Appeal granted.

4. 16-03-011
Trisha Sieh
Kimley-Horn
2550 University Ave West, Suite 238N
St. Paul MN 55114

REQUEST: Appeal Public Works Department denial of driveway permit
(RE: 10808 Q Street, Raising Canes)

Trisha Sieh and Paul Shipman (Raising Cane’s) appeared before the Board. Ryan Haas, Public Works Department, also appeared before the Board. Mr. Haas stated that this case was similar to the 14548 West Center Road location. The drive-through que for this location would also spill out onto the adjacent parking area.

Ms. Sieh explained that there was approximately 250’ of drive-through stacking before it would spill over onto the adjacent property. There were cross-access agreements that were in place that allows the parking and driving onto adjacent properties. She noted that there will be a significant amount of signage that would direct people to enter the drive-through from the south side of the building instead of from the north where the turn would be too tight. She added that if the property were entered from the south, there would be more than 300’ for drive-through stacking.

Motion to APPROVE by Mr. Barrett. Second by Mr. Santo.

AYES: Barrett, Santo, Kruse

Motion carried 3-0. Appeal granted.

5. 16-03-012
Joshua A. Altic
1201 Blane Street
Omaha NE 68107

REQUEST: Appeal Police Department denial of firearm registration

Joshua Altic appeared before the Board. Lt. David Sedlacek, Omaha Police Department, also appeared before the Board. Lt. Sedlacek stated that the applicant applied to register a handgun on February 11, 2016, but was denied due to a possession of marijuana less than one ounce conviction on May 13, 2013. He was fined $300. The only other items on the applicant’s record were traffic-related.

Mr. Altic explained that he had no negative contact with the police since his last conviction in 2013. He stated that he was employed full-time and wanted to legally own a firearm.

Motion to APPROVE by Mr. Barrett. Motion died for lack of a second.

In response to Mr. Santo, Kevin Denker (Planning Department) explained that the Board would be more prone to approve an appeal when the conviction was closer to 10 years old.

Motion by Mr. Santo to DENY the appeal. Mr. Barrett seconded the motion.
AYES: Santo, Kruse

NAYES: Barrett

Motion carried 2-1. Appeal denied.

6.

16-03-013
Brandon M. Garvis
5720 Fowler Avenue
Omaha NE 68104

REQUEST: Appeal Police Department denial of firearm registration

Brandon Garvis appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Garvis applied to register a firearm on February 17, 2016, but was denied because of a drug paraphernalia conviction on May 25, 2012. He was fined $100.

Mr. Garvis stated that since the time of the conviction he moved out of town and began working for an electrical contractor and was accepted into the local union apprenticeship program. He mentioned that union companies perform drug tests and that he has been clean for the 2 years that he has been in the program. He wanted the firearm for protection of himself and his family.

The board noted that the conviction was fairly recent.

Motion to DENY by Mr. Santo. Second by Mr. Barrett.

AYES: Santo, Kruse

NAYES: Barrett

Motion carried 2-1.

7.

16-03-014
Allan Kerr
12529 Martha Street
Omaha NE 68144

REQUEST: Appeal Police Department denial of firearm registration

The Board Secretary informed the Board that the applicant stated that he would be out of town.

Motion to LAYOVER by Mr. Barrett. Second by Mr. Santo.

AYES: Barrett, Santo, Kruse

Motion carried 3-0. The case was held over until the April 25, 2016 meeting.

8.

16-03-015
Eric J. Miller
2307 F Street
Omaha NE 68107

REQUEST: Appeal Police Department denial of firearm registration
Eric Miller appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Miller applied to register a firearm on February 24, 2016 but was denied for a marijuana less than one ounce conviction on March 19, 2012. The applicant was fined $300. The only other convictions on his record were traffic-related.

Mr. Miller explained that he wanted the firearm to protect his family. He was employed full-time as a truck driver.

Motion to DENY by Mr. Santo. Second by Mr. Barrett.

AYES: Santo, Kruse

NAYES: Barrett

Motion carried 2-1.

9.
16-03-016
Robert J. Brisby III
4320 Parker Street
Omaha NE 68111

REQUEST: Appeal Police Department denial of firearm registration

Robert Brisby appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Brisby applied to register a firearm on March 4, 2016 and was denied for a possession of marijuana less than one ounce conviction on April 9, 2013. The applicant was fined $300.

Mr. Brisby wanted the firearm for protection. He stated that he was employed as a welder where he undergoes random drug testing from time to time. He mentioned that the only other offenses on his record were traffic-related.

Motion to DENY by Mr. Santo. Second by Mr. Barrett.

AYES: Santo, Kruse

NAYES: Barrett

Motion carried 2-1.

10.
16-03-017
Jimmie A Thomas
5125 Fort Street
Omaha NE 68104

REQUEST: Appeal Police Department denial of firearm registration

Jimmie Thomas appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Thomas applied to register a firearm on March 7, 2016 but was denied for a possession of marijuana less than one ounce conviction on April 9, 2012. The applicant was fined $300.

Mr. Thomas stated that he wanted to legally own a firearm to protect his family. He was employed full-time.
Motion to DENY by Mr. Santo. Second by Mr. Barrett.

AYES: Santo, Kruse

NAYES: Barrett

Motion carried 2-1.

11.
16-03-018
Jason Cleaver
12711 Larimore Avenue
Omaha NE 68164

REQUEST: Appeal Police Department denial of firearm registration

Jason Cleaver appeared before the Board. Lt. David Sedlacek, Omaha Police Department, appeared before the Board. Lt. Sedlacek stated that Mr. Cleaver applied to register a firearm on March 7, 2016 but was denied because of a drug paraphernalia conviction on January 28, 2009. He was fined $50. The only other offenses on his record were traffic-related.

Mr. Cleaver wanted the gun to protect his family. Mr. Barrett noted that the conviction was several years ago.

Motion to APPROVE by Mr. Barrett. Second by Mr. Santo.

AYES: Barrett, Santo, Kruse

Motion carried 3-0. Appeal

Kevin Denker, Board Administrator, stated that it was requested that Cases 12 and 13 be laid over until the April 25, 2016 meeting due to time constraints of the board members.

12.
16-03-019
Wolford Baker
8411 Hamilton Street
Omaha NE 68114

REQUEST: Appeal Police Department Notice of Nuisance (RE: 8411 & 8421 Hamilton Street)

13.
16-03-020
Elton Foster
3959 N 40th Avenue
Omaha NE 68114

REQUEST: Appeal Parks, Recreation & Public Property Department Notice of Nuisance (RE: 3601 North 24th Street)

Motion to LAYOVER by Mr. Santo. Second by Mr. Barrett.

AYES: Barrett, Santo, Kruse

Motion carried 3-0.
APPROVAL OF MINUTES:

Motion by Mr. Barrett to approve the minutes from November 30, 2015. Second by Mr. Santo.

AYES: Barrett, Santo, Kruse

Motion carried 3-0.

ADJOURN:

Motion to adjourn by Mr. Barrett. Second by Santo.

AYES: Barrett, Santo, Kruse.

Motion carried 3-0. Meeting adjourned at 1:46 pm.