Mr. Levy called the meeting to order at 1:00 pm. The Board received as Exhibit 1 the contents of the City's file on each case.

Cases:

1)  18-08-062
Jeremy Basham
Ensign Services, Inc.
27101 Puerta Real #450
Mission Viejo, CA 92691

REQUEST:  Appeal Public Works Department denial of a driveway permit dated 7/13/18.  
(RE:  Skyline Retirement Community, 7350 Graceland Drive)

At the Administrative Board of Appeals meeting held on August 27, 2018, Mr. Levy stated that he had received an email from Mr. Basham stating that he would be unable to appear at the meeting, however, he stated he did want the Board to proceed with the appeal. Mr. Chris Faulk appeared on behalf of the Public Works Department.

Mr. Faulk stated that the applicant had submitted a building permit for the Skyline Retirement Community where he is planning to replace part of the parking lot and the drive approach to the public street, which is not in compliance with the City of Omaha requirement for driveways. The requirement only allows one driveway per lot. In this case, as the Community already has a total of seven drive approaches, the City cannot administratively approve the permit with the proposed replacement of the drive approach. Mr. Faulk stated that the Public Works Department does not oppose a waiver because they are replacing the drive approach with a new approach the same size and in the same location as the existing approach. He provided a copy of the site plan for the Board to review, he pointed out that the green area on the plan was the area to be replaced.

Mr. Levy & Mr. Kruse asked for clarification that total number of drive approaches would remain at seven and that the new approach would not be any different from the one it will replace. Mr. Faulk confirmed that this was the case. Mr. Faulk also confirmed that the new drive approach will meet the requirements of the Public Works Department, other than it being over the number allowed without a waiver.

Mr. Beals motioned to GRANT the appeal. Mr. Kruse seconded the motion.
At the Administrative Board of Appeals meeting held on August 27, 2018, James Morton appeared before the board. Lt. David Sedlacek appeared on behalf of the Police Department.

Lt. Sedlacek stated that on July 26, 2018, Mr. Morton applied to register a firearm. He stated that the request was denied due to a conviction on February 3, 2015 for possession of marijuana, less than one ounce. The arrest was on December 28, 2014 in Ralston, Nebraska. Lt. Sedlacek stated that Mr. Morton paid a $300 fine. Due to it being a Ralston arrest, he did not present the arrest report. Lt. Sedlacek stated that the firearm registration was denied under City of Omaha ordinance Section 20-253 which states that “A concealable firearm may not be registered to any person who is a current user of, or addicted to, unlawful controlled substances, or has had a violation of any law of this state relating to controlled substances or any similar laws of another jurisdiction in the ten years preceding the date of application”.

Mr. James Morton stated that he believes that he has matured a lot in the three years since the conviction. He stated that he no longer uses marijuana. He stated that he has a job in which he is drug tested about every three months as well as now having a family to provide for. Mr. Morton states that he is seeking to register a firearm for self/home defense. Mr. Morton states that he does not believe he is now, nor has he ever been, a threat to himself or to anyone else.

Mr. Morton responded to questions from Mr. Beals by stating that he is employed by a subcontractor, who works through Nebraska Furniture Mart, as a carpet layer. He stated that the subcontractor does regular drug testing on the employees, mostly to prevent injuries on the job. Mr. Morton stated that he has worked for this company since shortly after getting out of high school, approximately 3 years.

Mr. Levy confirmed that Mr. Morton was approximately 18 years old and still in high school at the time of the conviction. Mr. Morton said this was correct, he was getting ready to graduate from high school when he made a stupid mistake. In response to a question from Mr. Levy, Mr. Morton stated that he had only a few grams of marijuana on him when he was arrested.

Lt. Sedlacek stated that other than this conviction, Mr. Morton has a clean record.

Mr. Levy explained to Mr. Morton that the ordinance was for 10 years and that if the Board gave him the benefit of the doubt that he has not used since the conviction, it was still only four years ago which is far short of the 10 years required in the statute. However, Mr. Levy stated that the board has granted appeals in the past and his clean record otherwise, and job which requires regular drug testing works in his favor.

Mr. Beals moved to GRANT the appeal. Mr. Levy seconded the motion.

AYES: Beals, Levy

NAYES: Santo, Kruse, O’Connor

MOTION FAILED: 2-3
Mr. Kruse moved to DENY the appeal. Ms. O’Connor seconded the motion.

AYES: Santo, Kruse, O’Connor

NAYES: Beals, Levy

MOTION APPROVED: 3-2. Appeal denied.

Mr. Morton inquired why he was given a permit to purchase the handgun which had included a background check. As a result, he purchased a handgun, now he is wondering why the permit to purchase was granted and what his recourse is now that he is not able to register that handgun.

Lt. Sedlacek stated that the permit to purchase is issued by the County which has different ordinances and requirements than the City which is who the handgun must be registered with. He advised Mr. Morton to go back to Sol’s, where he purchased the gun, and discuss it with them.

At the Administrative Board of Appeals meeting held on August 27, 2018, Mr. Gary Roth appeared before the board. Officer James Stokes appeared on behalf of the Police Department.

Officer Stokes stated that the Department received a complaint from the Mayor’s hotline regarding an RV parked on the grass at 5911 Orchard Avenue. Officer Stokes stated that he went back to the location and took photos on August 27, 2018 which clearly show that the RV is in violation of 55-742 which prohibits parking a vehicle on an unpaved surface.

Mr. Gary Roth, 5911 Orchard Avenue, stated that he understands that there is a code, but he believes that due to the cost of concrete and asphalt, there should be some flexibility regarding the paved surface. Mr. Roth provided photos which he explained were taken in his neighborhood, within two blocks of his residence, which he says are just the tip of the iceberg as far as how people are parking within his neighborhood. Mr. Roth states that he has lived in the neighborhood for over 47 years and has always kept his property in “top notch” condition. He states that his neighbors are just as upset has he is over this matter, they cannot understand why it is a problem as it does not bother them at all. Mr. Roth would like to be able to put down gravel rather than concrete or asphalt to park his RV on next to the garage. He states that he has already invested a lot of money into his home which he will never get back out of it due to the deterioration of the neighborhood.

Mr. Levy inquired of Officer Stokes and Mr. Wilwerding as to what materials besides concrete and asphalt would be acceptable. Pavers would be acceptable, crushed rock would not be acceptable. The pavers do not have to be a completely filled in pad, they can be two rows which support the tires, the idea being that the tires of the vehicle are on a hard surface at all times.

Officer Stokes confirmed that the vehicle is parked behind the front setback, so in that part, Mr. Roth is fine, if it is moved to the driveway, he would be in violation.

Mr. Levy explained to Mr. Roth that if they granted the appeal it would be giving him permission to park on the grass, which they can’t do. However, they can deny the appeal and give him a certain amount of time to comply with the ordinance. Mr. Roth stated that he believes he can have something done within 90 days.
Mr. Kruse moved to DENY the appeal and allow Mr. Roth 90 days to comply. Mr. Santo seconded the motion.

AYES: Beals, Santo, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal denied with 90 days to comply.

4) 18-08-065
Kevin D. Heger, Sr. REQUEST: Appeal Police Department’s Notice of
4527 Larimore Avenue Nuisance dated 7/19/18. (RE: 4527
Omaha NE 68114 Larimore Avenue)

At the Administrative Board of Appeals meeting held on August 27, 2018, Mr. Kevin Heger, 4527 Larimore Avenue, appeared before the board. Officer James Stokes appeared on behalf of the Police Department.

Officer Stokes reported that the Police Department had received two Mayor’s complaints regarding this location involving non-operational, non-registered vehicles. Officer Stokes went to the location on August 27 to speak with Mr. Heger and took photos as well, which were provided to the board. Officer Stokes stated that he spoke with Mr. Heger regarding what he needed to get cleaned up, what he could and could not have at the residence. Officer Stokes stated that he observed, and photographed, several other items which need to be cleaned up and/or removed other than the vehicles as well during his visit.

Mr. Heger explained to the board that he is starting his own business. He stated that he has a lot of money in the trucks, he acknowledge that the trucks are not currently running, but stated that he is working on getting them going. Mr. Heger stated that the trucks are sitting on concrete and he would appreciate being given time to get them running, he stated that if it is the ruling of the board, he can have them repaired or removed from the yard within 90 days. In response to a question from the board, Mr. Heger stated that the trucks are registered.

Mr. Levy stated that the titter in the yard needs to be cleaned up in less than 90 days. Mr. Heger stated that the dog kennel is in use and the swimming pool is going to be set up. Mr. Levy stated that though some of the stuff in the yard may be considered junk by some people, he considers it to be treasure. Mr. Levy stated that he has nothing against the stuff, whether it is junk or treasure, but according to the ordinance, it needs to be stored somewhere besides in the yard. Mr. Levy stated he believes the trucks could be given more time, but the other stuff is going to need to be cleaned up sooner. Mr. Levy stated that he understood and would do whatever the board decided.

Mr. Kruse asked Mr. Levy if 30 days would be enough time to get the stuff cleaned up and 90 for the trucks. Mr. Heger stated that those time frames would work.

Mr. Kruse moved to DENY the appeal with 30 days to comply, with an allowance of 90 days to comply for the trucks only. Mr. Beals seconded the motion.

AYES: Beals, Santo, Kruse, O’Conner, Levy

MOTION CARRIED: 5-0. Appeal denied with 30 days to comply, with an allowance of 90 days to comply for the trucks only.
At the Administrative Board of Appeals meeting held on August 27, 2018, Mr. Rodney Kring, 7933 Grove Street appeared before the board. Officer James Stokes appeared on behalf of the Police Department.

Officer Stokes stated that the complaint had come from Southwest and he believed that they had gotten it from the Mayor’s office. He stated that he had Roger Carroll, a Housing Inspector with Omaha Code Enforcement Department, go to the location with him to look at it also. He reports that it appears that the property has changed hands and the new owner has done a curb cut and added graveled parking area which had not been there previously. In addition, there is a large truck box, which even though it has a foundation under it, is considered a car part, there are also trailers and other items on a graveled area that are not allowed to be stored there. Mr. Carroll checked aerial photos and discovered that neither the curb cut nor the graveled area were there in 1977, therefore they are not in compliance with 55-742, which is the City ordinance which requires that all vehicles be parked on a hard, paved surface.

Mr. Rodney Kring stated he purchased the property at 6040 Q Street approximately 2 years ago and that his son lives there now. Mr. Kring states that the curb cut was there prior to his purchase, likely to allow them to back out onto Wier Street rather than onto Q Street. He stated that he has put down additional gravel to fill holes which were holding pockets of water. Mr. Kring stated that the property is in a mixed Commercial and Residential area. He stated that there are a roofing company, a day care center and soccer fields on that block. He stated that Weir Street on the north side of the property is a gravel road and the soccer field parking lot and access road is also gravel. Mr. Kring stated that when he purchased the property his intention was to get the zoning changed to Commercial use and put up a building for his lawn care business. He stated that he has tried to contact the Planning Department about this and just “keeps getting the run around” because it is in a floodplain and has different rules. Mr. Kring provided photos to show the gravel area and where he would have to back into Q Street. He stated that he spoke with a couple of people about getting asphalt put down there and got some bids, but everyone he spoke with stated that they could not do it until after the first of the year (2019) because they are just too busy.

Mr. Kring stated that the area looks presentable, but since it is in a floodplain, they want the water to soak into the ground, they do not want it to have concrete which would leave no place for the water to absorb into the soil. Mr. Kring stated that he can show photos to the board which show there is a business across the street from him as well as the soccer fields and another business up the street. In addition, he provided photos showing all of the gravel roads and parking lots near his property.

Mr. Kring stated that he spoke with someone at the City who advised that if he put a foundation down and a roof up, the truck box would be fine, however, that is time consuming.

The board inquired and was informed that Mr. Kring’s property is zoned as residential. He pointed out again that there is a business across the street as well as two others on the block.

In response to a question from Mr. Kruse, Mr. Kring stated that the curb was cut prior to his purchase of the property. He stated that he did add gravel to that which was already there, to fill in holes which were holding water. Mr. Kring stated that he would like to be able to leave the vehicles parked on the gravel because it is a flood plain, he stated that he would be willing to lay down tracks of pavers to park the vehicles on.
The board reminded Mr. Krings that wherever the vehicles are parked they have to be registered and in running order. Mr. Stokes advised that any vehicles, including agricultural equipment, must be parked behind the setback. In this case, Mr. Krings has a tractor parked behind the garage, which is ok.

Mr. Stokes stated that there was other outdoor storage violations at that location. Mr. Krings stated that has all been taken care of/cleaned up. Mr. Krings also stated that all of the vehicles are registered except for the 1966 Ford pick-up which he plans to put in the garage and work on fixing it up. In response to the board, he stated that he cannot put the Ford in the garage at this time, but he can cover it with a large tarp. The board advised that covering it with a tarp would not resolve the issue.

Mr. Levy asked whether a curb cut would have to be approved and permitted. Mr. Stokes stated that the applicant would have had to apply for the curb cut. He stated that after the inspection, a search was conducted and no permit was found within the last 4 years. As of now it is an unapproved curb cut.

Mr. Krings stated that his neighbor had told the inspector that the curb cut was done approximately 4 years ago, which is 2 years prior to his purchase of the property. Mr. Levy asked about photos from 2014 show that there was no gravel and no curb cut at that time. Mr. Krings stated that he purchased the property in November, 2016.

Mr. Krings stated that he could get the truck registered and park it on pavers as well.

Officer Stokes stated that the pavers need to be connected to the asphalt. Mr. Wilwerding stated that the pavers can’t go out to the street. They have to be connected to a legal, concrete or asphalt approach. He stated that in order for the drive off 61st Street to be legal, Mr. Krings will have to apply and be approved for the curb cut, which he is doubtful will be approved. If the curb cut is not approved, Mr. Krings will need to restore the fence line.

Mr. Levy stated that the gravel parking area is out of view of Q Street. Mr. Stokes agreed. Mr. Krings stated that he could build another 2 car garage but he does not know how the flood plain states.

The board stated that they are trying to find a way to make it easier for Mr. Krings to bring the property to compliance. They stated that adding three pairs of rows of pavers is not going to look good. Mr. Krings agreed that it would not look good. Mr. Levy verified that putting asphalt down in that large area was going to be $4500 according to the single estimate Mr. Krings had gotten. Mr. Wilwerding stated that there will not be an issue with 50% impervious cover, due to the size of the lot.

Mr. Krings reiterated that when he purchased the property, since there was a fence company right across the street, he had planned to use part of the property for his seasonal lawn care business with a large building, similar to the one at the fencing company.

In response to the board, Officer Stokes stated that Southwest Precinct had been contacted following a complaint to the Mayor’s office by a neighbor, in May, 2018. One of the Sergeants at Southwest Precinct contacted Officer Stokes and the complaint was made on June 7, 2018.

Members of the board verified their understanding that Mr. Krings would ultimately like to get the property rezoned and set up his lawn care business there. Mr. Krings agreed with Mr. Kruse. Mr. Krings stated that he has not tried to get it rezoned because he has been told that the floodplain issue is handled by one division and the building would have to be approved by another division. He stated that he understands that he would need to hire an architect, which he can’t afford. But the pavers are not going to look good, and the board agreed that it would not be a long term solution to the problem.
Mr. Levy stated that he believes that he could approve 30 days to get everything cleaned up, with the exception of the gravel parking/curb cut. He stated that he thinks 9 months would not be unreasonable to get the driveway/curb cut issue dealt with.

Mr. Krings advised that prior to hiring an architect, he should go to the Planning Department on the 11th Floor and speak with someone there who could help him determine what could be approved at that property. Mr. Krings stated that he has tried to do that, however, each time he has gone to the Planning Department, no one has been there to help him. Mr. Krings was advised to call and make an appointment to speak with someone at a time that would work for him, he could schedule a pre-application meeting. If he plans to put a business on the property, Mr. Krings was reminded that he would need to apply to have it rezoned, which would have to go through Planning. Mr. Krings was provided with contact information for Debbie Hightower in the Planning Department to schedule a pre-application meeting for a possible rezoning from residential to commercial, and mention the possible floodplain issue as well. Once the meeting is scheduled, the Planning Department will get all the people who need to be involved in one place so all the questions can be answered at that meeting, he will also receive a letter after the meeting outlining what was discussed and recommendations.

The board stated that they wanted to be sure Mr. Krings understood that they were discussing giving him 30 days to get everything done, except a resolution to the issue of the gravel & curb cut. In that 30 days, he would need to get any unregistered, inoperable vehicles registered and moved, and any other outside storage which was out of compliance would have to be brought into compliance. Mr. Wilwerding stated that the box, which Mr. Krings described as being a 20 x 8, watertight box he used for storage, would have to be placed on a foundation to use it as a shed. Until such time as the box is on a foundation, it is out of compliance, which would be included in the 30 day limit. Mr. Krings was instructed to contact Mr. Robert Laroco at the Planning Department regarding putting the foundation down since it is in a floodplain. Mr. Krings stated that he understood the recommendations of the board.

Mr. Beals moved to DENY the appeal, giving the applicant 60 days to bring everything except the gravel driveway into compliance, and 9 months to resolve the gravel driveway and curb cut issues. Mr. Kruse seconded the motion.

AYES: Beals, Santo, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal denied with 60 days to comply, with an allowance of nine months to comply for gravel driveway only.

6) 18-07-058 (held over from 7/23/18 meeting)
Dustin and Hollie Hopkins
18111 Howe Cir.
Omaha, NE 68130
REQUEST: Appeal Nebraska Humane Society
Potentially Dangerous Dog designation effective 6/5/18.

At the Administrative Board of Appeals meeting held on August 27, 2018, no one appeared before the board on behalf of the applicant or on behalf of the Nebraska Humane Society.

Mr. Levy stated that he had a discussion with Mr. Himes, who indicated that the attorney for the applicants and the Nebraska Humane Society were amenable to laying the case over to the next meeting, which would be in September.

Mr. Himes stated that the applicants have moved to Gretna, the closing date on their home is September 1, 2018.

Mr. Beals moved to LAYOVER until the September 24, 2018 meeting. Mr. Santo seconded the motion.
AYES: Beals, Santo, Kruse, O’Connor, Levy

MOTION CARRIED: 5-0. Appeal laid over until the September 24, 2018 meeting.

**ADJOURN:**

Mr. Beals moved to ADJOURN the meeting. Mr. Santo seconded the motion.

AYES: Beals, Santo, Kruse, O’Connor, Levy

It was the consensus of the board the ADJOURN the meeting at 1:53p.m.