Mr. Levy called the meeting to order at 1:02 pm. The Board received as Exhibit 1 the contents of the City's file on each case.

Cases:

1. 18-02-007 Laid over from 3/26/18 & 4/23/18
   Merle Rambo
   Rambo Associates, Inc.
   406 South 12th Street, Suite 300
   Omaha, NE 68102

REQUEST: Appeal Park Omaha’s termination notice for a loading zone dated 12/12/17.
(RE: 406 South 12th Street)

At the Administrative Board of Appeals meeting held on May 21, 2018, Merle Rambo appeared before the board. Todd Pfitzer, City Engineer – Public Works Department and Ken Smith, Park Omaha, appeared on behalf of the City.

Mr. Smith explained that the City of Omaha has been in the process of ensuring that the use of loading zones is fair and consistent, particularly in the Old Market area. Referring to a submittal from Park Omaha dated May 18, 2018, he noted that multiple violations had occurred at the subject property. The applicant was eventually mailed a letter informing him that his loading zone permit was being revoked.

Mr. Pfitzer explained that the City was trying to eliminate instances in the Old Market where there are several loading zones in a block that essentially becomes private parking for business owners. He stated that there were numerous pictures in the Park Omaha submittal that showed personal vehicles parked in the loading zone. He asked that the board take into consideration the request to revoke the loading zone permit so that those spaces could be converted to public metered stalls.

Mr. Rambo stated that the loading zone is used by Blue Sushi and other bars in the area. He suggested that as a compromise, 2 or 3 of the 4 stalls could be used for regular parking. He explained that he employees a handicapped person who uses the loading zone stalls since they are safer than the handicapped stall at the end of the block. He requested that one part-time loading zone be allowed.

In response to Mr. Levy, Mr. Smith stated that if the appeal were denied the four stalls would become regular, metered parking spaces. He explained that it would be difficult to make a wheelchair accessible site at the location due to the existing brick pavers that make up the street. He further explained that the
tickets issued in this case were the result of complaints from neighbors who noticed the violations and who also inquired into why an exception was being made in this situation.

There was some discussion about the new hotel that was being constructed across the street that would have a loading zone comprised of three parking spaces. Mr. Smith explained that the current policy allows three parking spaces for the loading zone because of the use of the building. He added that, since the loading zone will be located on a public street, from a legal standpoint it could be used by the general public.

Mr. Pfitzer explained that handicapped stalls are not put in the middle of blocks since it would cause issues with drainage and would create a dangerous mid-block crossing for pedestrians.

Mr. Rambo stated that he could potentially lose a tenant if the loading zone was not allowed to remain.

Mr. Beal moved to DENY the appeal. Ms. O’Connor seconded the motion.

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

MOTION CARRIED: 5-0. Appeal denied.

2.
18-05-034
Farhad Latifi, E.I.
Thompson, Dreessen & Dorner, Inc.
10836 Old Mill Road
Omaha, NE 68154

REQUEST: Appeal Public Works Department denial of a driveway permit dated 4/13/18.
(RE: Tobacco Hut – 62nd Street & Ames Avenue)

At the Administrative Board of Appeals meeting held on May 21, 2018, Farhad Latifi, Michael Kelley (Attorney) and Doug Dreessen appeared before the board. Ryan Haas appeared on behalf of Public Works.

Mr. Haas stated that the applicant was proposing to make the driveway on 62nd Street into a one-way in access. The site had 2 full movement accesses at the time. He explained that the distance from Ames Avenue to the driveway is only 48’ instead of the required 60’. He clarified that two waivers would be necessary: one for the distance requirement and the other for the 1 ½ driveways instead of the required one driveway for the site.

Mr. Kelley explained that there was no room on the east side of the site for traffic to exit and travel east. This results in customer traffic, approximately 70 cars per day, traveling through the church and restaurant lots to the east to travel east. He mentioned that the business was not granted a liquor license since it was determined that it would create even more traffic that would use the church and restaurant properties to access the eastbound traffic lanes. The owner was attempting to redirect the traffic inside of his parking lot so that eastbound traffic would use the western access.

Mr. Dreessen stated that the goal was to make adjustments to the site to make it as difficult as possible for cars to exit the site from the eastern driveway.

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

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

MOTION CARRIED: 5-0. Appeal granted.
3. 18-05-035
Rob Vanderveen, E.I.
Lamp, Rynearson & Associates
14710 West Dodge Road
Omaha, NE 68154


At the Administrative Board of Appeals meeting held on May 21, 2018, Joe Zadina appeared before the board. Ryan Haas appeared on behalf of Public Works.

Mr. Haas stated that an existing driveway on Hartman Avenue fed into the parking lot. There is also a separate one-way loop off that driveway that circles around the front of the school and exits onto 66th Street. He explained that during the school day, 66th Street is one-way southbound. The proposed plan would add more on-site stacking by removing the ingress from 66th Street and putting it further west into the parking lot. School bus parking would still remain in the fenced, on-street parking area on 66th Street. He stated that the non-conformities with the site were the 1 ½ accesses instead of the required one access and the 35’ width of the egress onto 66th Street instead of the required 16’.

Mr. Zadina indicated that the applicant had recently been granted a waiver from the Zoning Board of Appeals for the encroachment into the landscaping depth.

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

AYES: Bessmer, Beals, Kruse, O'Connor, Levy

MOTION CARRIED: 5-0. Appeal granted.

4. 18-05-036
Lana J. Bayless, P.E.
DLR Group
6457 Frances Street, Suite 200
Omaha, NE 68106

REQUEST: Appeal Public Works Department denial of a driveway permit dated 5/3/18. (RE: Intercultural Senior Center – 5545 Center Street)

At the Administrative Board of Appeals meeting held on May 21, 2018, Lana Bayless appeared before the board. Ryan Haas appeared on behalf of Public Works.

Mr. Haas explained that the proposed use of the existing building would generate less traffic than the convenience store that was proposed a couple of years ago. He indicated that an existing driveway would be shared with the building to the west (5555 Center Street). There is also a second, right-out access on the north side of the site that is in close proximity to the signal at 55th and Center. The building owner agreed to add a vehicular access gate at the eastern access and make it a right-out only. He stated that Public Works was not opposed to the request.

Ms. Bayless noted that the center would provide transportation for its patrons which would reduce the traffic load for the site. Mr. Levy stated that he would be abstaining from this case since his firm is working on the project.

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

AYES: Bessmer, Beals, Kruse, O’Connor

ABSTAIN: Levy

MOTION CARRIED: 4-0-1. Appeal granted.
5.  
18-05-037  
Joe Zadina, P.E.  
Lamp, Rynearson & Associates, Inc.  
14710 West Dodge Road, Suite 100  
Omaha, NE 68154  
(RE: Westside Westbrook Elementary – Robertson Drive & Western Avenue)

At the Administrative Board of Appeals meeting held on May 21, 2018, Joe Zadina appeared before the board. Ryan Haas appeared on behalf of Public Works.

Mr. Haas explained that an expansion was planned in conjunction with the Boys & Girls Club that would affect student drop-off and pick-up. A second one-way loop was being proposed for Robertson Drive. In addition, the four curb cuts would exceed the maximum throat widths of 16’ for the accesses on Robertson Drive and 20’ for Western Avenue. He explained that the extra width would allow buses to access the site. He stated that there were no spacing or safety concerns with the plans and that Public Works was not opposed to the request.

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

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

MOTION CARRIED: 5-0. Appeal granted.

6.  
18-04-025 (Laid over from 4/23/18/)  
Thomas Grogan  
4625 North 81st Street  
Omaha NE 68134  
REQUEST: Appeal of the Police Department’s denial of a firearm registration dated 3/6/18.

At the Administrative Board of Appeals meeting held on May 21, 2018, the applicant failed to appear before the board. Lt. Sedlacek appeared on behalf of the Omaha Police Department. In response to Mr. Levy, Ms. Ingram stated that the applicant was notified on May 14, 2018 by certified and regular mail. A voicemail message was also left with Mr. Grogan.

Lt. Sedlacek stated that the applicant had been denied a firearm registration on March 6, 2018 due to marijuana conviction from September 18, 2016 for which he was fined $315 and served 2 days in jail. He noted that the incident occurred in Iowa so he was not able to obtain a police report.

Mr. Kruse moved to DENY the appeal. Mr. Beals seconded the motion.

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

MOTION CARRIED: 5-0. Appeal denied.
At the Administrative Board of Appeals meeting held on May 21, 2018, Ian McKizia appeared before the board. Lt. Sedlacek appeared on behalf of the Omaha Police Department.

Lt. Sedlacek stated that that on April 13, 2018 the applicant was denied a firearm registration as a result of 2 marijuana less than one ounce convictions. The first was from April 2010 for which he was fined $300 and the second from April 2012 for which he was fined another $300. The first conviction was the result of a traffic stop and the other was because the applicant’s vehicle was parked in a handicapped parking stall.

Mr. McKizia stated that since the convictions he has been a law-abiding citizen. He added that since that time he is close to obtaining a business degree, has always held a minimum of 3 jobs and has worked to help youths. He stated that he has 3 children and tries to set a good example for them. He indicated that the firearm would be beneficial when he is working security jobs.

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

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

MOTION CARRIED: 5-0. Appeal granted.

At the Administrative Board of Appeals meeting held on May 21, 2018, Julian Archibald appeared before the board. Lt. Sedlacek appeared on behalf of the Omaha Police Department.

Lt. Sedlacek stated that that on April 17, 2018 the applicant was denied a firearm registration as a result of 2 marijuana less than one ounce convictions. The first was from April 2012 for which he was fined $300 and the second from March 2014 for which he was fined another $300. The 2012 incident was due to police being called to the UNO campus for a drug possession incident. The 2014 incident was the result of a traffic stop.

Mr. Archibald stated that he was employed with American Fence Company since October 2017 and was required to undergo random drug-testing. He indicated that he was studying for his CDL and planned to drive for his employer.

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

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

MOTION CARRIED: 5-0. Appeal granted.
9.
18-05-040
Justin N. Rashad
4331 Emmet Street
Omaha, NE 68111
REQUEST: Appeal of the Police Department’s denial of a firearm registration dated 4/18/18.

At the Administrative Board of Appeals meeting held on May 21, 2018, Justin Rashad appeared before the board. Lt. Sedlacek appeared on behalf of the Omaha Police Department.

Lt. Sedlacek stated that that on April 18, 2018 the applicant was denied a firearm registration due to a marijuana less than one ounce conviction from March 23, 2015 for which he was fined $300. The conviction was the result of a traffic stop.

Mr. Rashad stated that since those convictions he has had 3 children. He indicated that when he turned 20 years of age, he saved up to obtain his Class “A” CDL license and had been a driver for U.S. Express for about 1 ½ years. He explained that his truck is stopped and weighed several times a day and that he can be drug tested during any of those stops.

Mr. Levy mentioned the recent nature of the conviction.

Mr. Kruse moved to DENY the appeal. Mr. Bessmer seconded the motion.

AYES: Bessmer, Kruse
NAYES: Beals, O’Connor, Levy

MOTION FAILED: 3-2

Mr. Beals moved to GRANT the appeal. Ms. O’Connor seconded the motion.

AYES: Beals, O’Connor, Levy
NAYES: Bessmer, Kruse

MOTION CARRIED: 3-2. Appeal granted.

10.
18-05-041
Emanuel Padron
1519 Berry Avenue
Omaha, NE 68107
REQUEST: Appeal of the Police Department’s denial of a firearm registration dated 4/26/18.

At the Administrative Board of Appeals meeting held on May 21, 2018, Emanuel Padron appeared before the board. Lt. Sedlacek appeared on behalf of the Omaha Police Department.

Lt. Sedlacek stated that that on April 26, 2018 the applicant was denied a firearm registration as a result of a Carrying a Concealed Weapon conviction from August 1, 2009 for which he received 60 days in jail and 36 months of probation. The incident occurred in the state of California.

Mr. Padron stated that he had recently completed a Concealed Carry course and he presented documentation to support his claim. He indicated that he had not been to jail since the 2009 incident. In response to Mr. Beals, Mr. Padron explained that he got a ride from some individuals after a party. The car was stopped by police, a gun was found and he was charged along with the driver of the vehicle.
Mr. Kruse moved to GRANT the appeal. Mr. Beals seconded the motion.

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

MOTION CARRIED: 5-0. Appeal granted.

11. 18-05-042
Lee Lorenz
4805 South 91st Avenue Circle
Omaha, NE 68127

REQUEST: Appeal Police Department’s Notice of Nuisance dated 4/2/18.
(RE: 4805 South 91st Avenue Circle)

At the Administrative Board of Appeals meeting held on May 21, 2018, the applicant did not initially appear before the board. Mr. Lorenz appeared later in the meeting but was advised that his case had been laid over.

Mr. Kruse moved to LAYOVER until the June 25, 2018 meeting. Mr. Beals seconded the motion.

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

MOTION CARRIED: 5-0.

12. 18-05-043
Robert Pulte
8709 Decatur Street
Omaha, NE 68114

REQUEST: Appeal Police Department’s Notice of Nuisance dated 4/18/18.
(RE: 8709 Decatur Street)

At the Administrative Board of Appeals meeting held on May 21, 2018, Robert Pulte appeared before the board. Officer Stokes was not in attendance. Jay Davis, Permits & Inspections Director, appeared on behalf of the City.

Mr. Pulte presented a current picture of his home. He explained that he uses a van for his mobile marine repair business. He indicated that he had removed the items that were being stored on his driveway. He requested that he be able to park his van in his driveway during the work season.

Mr. Davis stated that Mr. Pulte was not in violation of city ordinance since he operated a home business with no employees and parks his vehicle at his home but performed his work elsewhere.

Mr. Levy suggested that the commercial vehicle and outdoor storage issues be voted on separately.

Mr. Beals moved to DENY the request to allow outdoor storage. Mr. Kruse seconded the motion.

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

MOTION CARRIED: 5-0. Appeal denied.

Mr. Beals moved to GRANT the request to allow a commercial vehicle to be parked in a residential district. Mr. Kruse seconded the motion.

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

MOTION CARRIED: 5-0. Appeal granted.
At the Administrative Board of Appeals meeting held on May 21, 2018, Joseph O’Connell appeared before the board. Tom Phipps, Chief Mechanical Inspector, appeared on behalf of the City.

Mr. Phipps stated that the applicant had failed to pay for his 2017 license and as a result, he did not receive an invoice to renew his 2018 license. He mentioned that Permits and Inspections had not received any complaints or violations against the applicant’s license by the general public or an employer. He suggested that the Mr. O’Connell be required to pay the renewal fees for 2017 and 2018.

M. O’Connell stated that he had renewed his license for 2017. It was determined that Mr. O’Connell had paid for his 2017 license and would only need to renew for 2018 if his request was approved by the board.

Mr. Kruse moved to GRANT the request subject to the applicant paying license fees for 2018. Mr. Beals seconded the motion.

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

MOTION CARRIED: 5-0.

At the Administrative Board of Appeals meeting held on May 21, 2018, Todd Nelson appeared before the board. Tom Phipps, Chief Mechanical Inspector, appeared on behalf of the City.

Mr. Phipps stated that the applicant failed to pay for his 2017 license and as a result he did not receive an invoice to renew his 2018 license.

Mr. Nelson stated that he did not recall receiving a renewal for 2017. Mr. Davis stated that the problem could have resulted from some issues with the computer system being used by Permits and Inspections during that time.

Mr. Kruse moved to GRANT the request subject to the applicant paying license fees for 2017 and 2018. Mr. Beals seconded the motion.

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

MOTION CARRIED: 5-0.
At the Administrative Board of Appeals meeting held on May 21, 2018, the applicant failed to appear before the board. Tom Phipps, Chief Mechanical Inspector, appeared on behalf of the City. The board secretary confirmed that Mr. Davis had been sent an agenda via certified mail.

Mr. Phipps stated that the applicant’s renewal was received on March 8, several days after the March 1 deadline date. Mr. Phipps indicated that he informed Mr. Davis that he would need to file an appeal to possibly have his license reinstated. In response to Mr. Kruse, Mr. Phipps stated that Permits and Inspections had not received any complaints or violations against Mr. Davis’ license by the general public or an employer.

After some discussion the board decided to vote on a layover of this case.

Mr. Kruse moved to LAYOVER until the June 25, 2018 meeting. Mr. Bessmer seconded the motion.

AYES: Bessmer, Kruse, O’Connor, Levy

NAYES: Beals

MOTION CARRIED: 4-1.

At the Administrative Board of Appeals meeting held on May 21, 2018, Jason Amato and Davis Watermeier, Attorney, appeared before the board. Don Gerjevic, Chief Electrical Inspector, appeared on behalf of Permits and Inspections.

Mr. Gerjevic stated that on November 29, 2017 the applicant was sent a letter that requested that he appear at the January 2018 Electrical Board meeting. The request was made as a result of Mr. Amato’s electrical inspection rejection rate, the conditions of his electrical installations and situations left by his company that were dangerous to persons and property. On February 16, 2018 Mr. Amato appeared before the Electrical board and he was given time to rectify his previously rejected inspections so that they complied with the Omaha Municipal code. The case was laid over until the March 16, 2018 meeting. At that meeting, the Electrical Board decided to give the applicant 30 days to bring his rejection rate to no more than 6 rejections from the past year. The case was laid over until the April 20, 2018 meeting. At the April meeting, the board listened to testimony from a homeowner and found that the applicant had failed to comply with its directives. Mr. Gerjevic recommended that Mr. Amato’s registration be revoked in compliance with Section 44-6(e) 3 and 4 of the Omaha Municipal Code. Mr. Gerjevic believed that the applicant was not being responsible to his customers who were mainly in the south Omaha area. Mr. Amato’s registration for the City of Omaha was revoked.

In response to Mr. Levy, Mr. Gerjevic explained that Mr. Amato held a State of Nebraska electrical license that allowed him to hold a City of Omaha electrical contractor registration. The registration allows him to practice in commercial/industrial and residential settings. Since the registration was revoked, Mr. Amato was not able to practice in the city’s jurisdictional boundaries.
Mr. Watermeier explained that Mr. Amato’s business primarily provided service calls to customers who contacted him for a specific problem. Mr. Amato or another employee would visit the sites that were located mainly in the southern and eastern parts of the city, and provide an estimate for the job. He indicated that in most cases there were other existing issues outside of what the customer called about. The homeowner would be advised of any issues and would decide whether to fix any additional problems. When Mr. Amato called for an inspection of the work, in most cases the work done by Power Crew was acceptable; however, work performed by other parties was not acceptable and resulted in the work performed by Power Crew failing inspection. Mr. Watermeier indicated that in some cases, the homeowner would not allow Power Crew back in the home to complete work or would not pay for work that had been completed. Mr. Watermeier stated that he had spoken with Mr. Gerjevic about what his client should do when a customer would not allow Power Crew back in the home. He indicated that he never received a response and believed that his client should not be penalized in those instances. He contended that the City’s calculations of the rejection rate were not totally accurate since they did not reflect the times when an inspector could not enter the home to check the work.

Mr. Watermeier believed that the revocation of Mr. Amato’s registration was harsh since it affected not just the applicant, but the four employees who worked for him. It was his opinion that a suspension was more appropriate. He indicated that Mr. Amato has been licensed in the State of Nebraska for 21 years and had been in business for 13 years with no prior problems. He indicated that although his client had made significant progress at the Electrical Board’s request, he was not given credit for any progress and still had his registration revoked.

Mr. Amato stated that in the past his track record for inspections has been very good. He explained that the focus of his business was to update the electrical systems in older homes and bring them to code. He stated that many of his customers could not afford the cost to bring their homes to code, so there were times when his company absorbed the cost for repairs. He added that he had employed additional staff to handle customer service issues before they become major problems. He had also received direction from the state and city on how to improve his business practices.

Mr. Levy inquired as to what the responsibilities of an electrical contractor would be in a situation where they entered a home to do work and found others serious issues. Mr. Gerjevic responded that it was not the contractor’s responsibility to bring the home up to current code. He also confirmed that a contractor could have an inspection rejected for existing situations that he may not have touched. In response to Mr. Beals, Mr. Gerjevic acknowledged that there are times when the contractor will be caught in the middle if an inspector does not know who is responsible for existing conditions in a home. Mr. Beals noted that if the applicant chose to focus his business on aged homes where a large number of homeowners are mid to low income, he could be subject to a greater amount of failed inspections. Mr. Gerjevic stated that he had pictures that showed dangerous situations that were left by the applicant. In response to Mr. Levy, Mr. Gerjevic stated that he could not be sure whether those situations were a result of work that had been done by Mr. Amato or another party.

In response to Mr. Kruse, Mr. Gerjevic stated that an electrical contractor has the option to refuse to do a job if they find that there are other more serious issues with the home’s electrical system. However, he added that if the contractor sees a life-threatening situation, he would have the moral obligation to act. In response to Mr. Beals, Mr. Gerjevic stated that the City had no evidence that any unsafe work was specifically done by Mr. Amato or his employees without watching him do the work. Mr. Gerjevic referred to a picture that showed service wires from OPPD going directly into the top of an electrical panel. He explained that the lugs at the top of the panel are reserved for the service wires only. In the particular case he was referring to, there were smaller red and black wires in the picture that should not have been there that ran directly into the home. In response to Mr. Levy, Mr. Gerjevic stated that he would have loosened the lug and removed the red and black wires since they had the potential to short out and result in the loss of life or property. Mr. Levy responded that if the applicant did that, he would be performing work that the property owner had not authorized which could bring him potential liability. Mr. Gerjevic stated that Mr. Amato could also have called him so that he could pull the meter. In response to
Mr. Kruse, Mr. Gerjevic stated that Mr. Amato had a responsibility to the residents of the home to make dangerous situations safe or to report them to the City.

In response to Mr. Levy, Mr. Davis stated that if the applicant’s appeal was denied, his registration would be revoked for one year unless Mr. Amato chose to appeal to District Court. If the Electrical Board had decided to suspend Mr. Amato’s registration, it would have been up to that board to decide the length of that suspension. Mr. Gergevic stated that he chose to revoke his registration due to his 76% rejection rate and because of the unsafe work conditions that had been left by the applicant.

Mr. Davis stated that he preferred if the case was laid over so that he could go speak with Mr. Gerjevic and discuss some of the issues that had been raised by the board.

There was some discussion about how Power Crew was not able to work in the Omaha. Mr. Amato stated that he and his employees had been working outside of city limits since his registration had been revoked.

Mr. Levy suggested that the board consider staying the revocation until a determination was made about the case.

In response to Mr. Beals, Mr. Amato stated that he doesn’t target the southeastern part of town for business purposes. He explained that the calls that he receives during storms are from homes that are out of power. Those homes are usually 100 year old structures with serious issues that have been existing for decades. He added that these types of calls are 20 – 25% of his business.

Mr. Beals moved to LAYOVER the case until the June 25, 2018 meeting and stay the revocation until that meeting. Mr. Levy seconded the motion.

AYES: Bessmer, Beals, Levy

NAYES: Kruse, O’Connor

MOTION CARRIED: 3-2

**APPROVAL OF MINUTES:**

Mr. Beals moved to APPROVE the April 23, 2018 meeting minutes. Ms. O’Connor seconded the motion.

AYES: Beals, O’Connor, Levy

ABSTAIN: Bessmer, Kruse

MOTION CARRIED: 3-0-2

**ADJOURN:**

It was the consensus of the board the ADJOURN the meeting at 3:39 p.m.