

MINUTES
Administrative Board of Appeals
March 31, 2014

MEMBERS PRESENT:

Ann M. O'Connor, Chair
Jim Weaver
Jose Lopez-Nuno
Bode M. A. Labode
Marty Conboy, Alternate

MEMBERS ABSENT:

David C. Levy, Vice Chair
John R. Barrett, Alternate

OTHERS PRESENT:

Timothy Himes, Jr., Law Department
Kevin Denker, Planning Department
Todd Shearer, Planning Department
Todd Pfitzer, Public Works Department
Murthy Koti, Public Works Department
Ryan Haas, Public Works Department
Rikki Flott, Recording Secretary

ROLL CALL:

Ms. O'Connor called the meeting to order at 1:04 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.

14-2-011 *from 2/24/14*

Theodore C. Carter
2617 Blondo Street
Omaha NE 68111

REQUEST: Appeal Police Department denial of firearm registration

Theodore Carter appeared before the Board. Lt. Sedlacek, Omaha Police Department, stated that Mr. Carter's application was denied due to past criminal history; carrying concealed weapon conviction dated October 6, 1992.

Mr. Carter stated that his record was clean since the weapon charge in 1995. He then stated that he was married with three children, worked two jobs, attended church regularly and volunteered in his neighborhood. In response to questions by the Board, Lt. Sedlacek confirmed that the Mr. Carter's 1995 incident was unlawful transportation of a weapon and that the 1992 conviction was for carry concealed weapon. In response to Mr. Conboy, Mr. Carter stated that he served in the military from 1985 to 1986 and now had his CDL license. He also mentioned that his wife was in a wheelchair and that his daughter away at college and two children resided at his home.

Motion to approve by Mr. Labode. Second by Mr. Lopez-Nuno. Mr. Conboy suggested Mr. Carter use a gunlock to ensure the safety of his children.

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

Motion carried 5-0. Appeal granted.

2.

14-3-014

Matthew A. Russell
3404 North 105th Plaza #1509
Omaha NE 68134

REQUEST: Appeal Police Department denial of firearm registration

Matthew Russell appeared before the Board. Lt. Sedlacek, Omaha Police Department, stated that Mr. Russell's application was denied due to past criminal history; marijuana less than one ounce conviction dated May14, 2010.

Mr. Russell stated that he was young at the time of his conviction and was now a father of two children, employed and engaged to be married. He also mentioned that he worked out of town often and that his fiancé could also use the gun for protection. In response to Mr. Labode, Mr. Russell stated that his fiancé did not have firearm training and that he would train her in the use of firearms.

Mr. Conboy moved to grant the appeal. Motion died for lack of a second.

Mr. Weaver noted that the conviction was recent.

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

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

NAYS: Conboy

Motion carried 4-1. Appeal denied.

3.

14-3-015

Nicholas Fueston
12110 Stonegate Drive, Apt. 301
Omaha NE 68164

REQUEST: Appeal Police Department denial of firearm registration

Nicholas Fueston appeared before the Board. Lt. Sedlacek, Omaha Police Department, stated that Mr. Fueston's application was denied due to past criminal history; fugitive from justice in Douglas County with a warrant for arrest in Dodge County. He also stated that Mr. Fueston had resolved the incident.

Mr. Fueston stated that he was on property a friend claimed to own, was unaware he had crossed property lines and was cited for trespassing in Dodge County in 2012. He then stated he did not pay his fine on time and a bench warrant was issued; but the incident was now rectified.

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

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

Motion carried 5-0. Appeal granted.

4.

14-3-016

Kerrick S. Jakes
5026 Himebaugh Avenue
Omaha NE 68111

REQUEST: Appeal Police Department denial of firearm registration

Kerrick Jakes appeared before the Board. Lt. Sedlacek, Omaha Police Department, stated that Mr. Jakes' application was denied due to past criminal history; two marijuana less than 1 ounce convictions dated April 27, 2009 and April 24, 2013.

Mr. Jakes stated that he completed a drug and alcohol program, served four years in the military, worked for the City of Omaha Parks and Recreation Department for seven years, and was currently employed by Omaha Public Schools for 15 years. In response to Mr. Conboy, Mr. Jakes stated that he had weapons training in the military. Mr. Labode questioned the details of the marijuana charge. Mr. Jakes responded that he was pulled over for failure to signal his vehicle and was ticketed for marijuana residue found in his vehicle.

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

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

Motion carried 5-0. Appeal denied.

5.

14-3-017

Paul G. Ferrin
1803 North 48th Avenue
Omaha NE 68104

REQUEST: Appeal Police Department denial of firearm registration

Paul Ferrin appeared before the Board. Lt. Sedlacek, Omaha Police Department, stated that Mr. Ferrin's application was denied due to past criminal history; possession or use of drug paraphernalia dated April 17, 2010 in Sarpy County.

Mr. Ferrin stated that in 2010 he was a driving friend's car unaware the vehicle had expired registration. He then explained that an outstanding warrant from a skateboarding citation at age 18 led the Sarpy County authority to search the vehicle and drug paraphernalia that belonged to the owner of the vehicle was found. He informed the Board he was unaware of the warrant because he enlisted in the army a few months after the skateboarding citation and served until 2008. Mr. Ferrin stated that although he was innocent, he was unaware of the consequences of a guilty plea. He then explained to the Board that he was a combat infantry veteran and served 15 months in Iraq, completed a CCW (carrying concealed weapon) course and worked at the Department of Veterans Affairs.

Mr. Weaver mentioned that once Mr. Ferrin's CCW certificate and paperwork were submitted and a CCW permit granted by the State Patrol that he was not required to register his firearm within the city limits of Omaha. Mr. Ferrin stated that he was not aware of that process. Lt. Sedlacek stated that he was unaware if the possession charge would affect Mr. Ferrin's permit approval with the State Patrol. Mr. Weaver confirmed with Lt. Sedlacek that no drugs were involved with the conviction, only paraphernalia.

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

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

Motion carried 5-0. Appeal granted.

6.

14-3-018

Jacob P. Turner
11331 Franklin Plaza #1412
Omaha NE 68154

REQUEST: Appeal Police Department denial of firearm registration

Jacob Turner appeared before the Board. Lt. Sedlacek, Omaha Police Department, stated that Mr. Turner's application was denied due to past criminal history; two drug paraphernalia charges and one marijuana less than 1 ounce convictions. He added that the drug paraphernalia convictions were dated August 18, 2008 and October 24, 2008, and the marijuana conviction was dated December 16, 2009.

Mr. Turner stated that he lived in Sarpy County with his parents when he purchased the firearm but now resides in Omaha, has worked at Hy-Vee full-time for five years and has completed hunter education. In response to Mr. Weaver, Mr. Turner stated that he was subject to random drug-testing by his employer. Mr. Conboy and Mr. Turner discussed Mr. Turner's knowledge of Omaha's laws regarding firearms; in further discussion, Mr. Turner stated that he was a hunter and that he planned to take a CCW course after registering his firearm.

Mr. Weaver noted that Mr. Turner remained within less than a five year timeframe from his last conviction.

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

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

Motion carried 5-0. Appeal denied.

7.

14-3-019

Alexander J. Fisher
2517 South 163rd Circle
Omaha NE 68130

REQUEST: Appeal Police Department denial of firearm registration

Alexander Fisher appeared before the Board. Lt. Sedlacek, Omaha Police Department, stated that Mr. Fisher's application was denied due to past criminal history; marijuana less than one ounce conviction dated July 6, 2009.

Mr. Fisher stated that he was fishing after hours at a park with friends; an officer approached them and was allowed to search the tackle box finding marijuana. He explained that he was now a homeowner, currently with the same employer for 12 years and was also subject to drug testing by his employer. Discussed the purchase of his handgun outside city limits and that he was unaware of benefits of completing the CCW course. Girlfriend and two children would like protection of a firearm.

Mr. Conboy discussed the process of having Mr. Fisher's charge set aside by a judge and Mr. Fisher responded that he would consider that option to be compliant. Mr. Weaver explained and discussed with Mr. Fisher that the firearm confiscated by the Police Department could be transferred to an authorized permit holder such as his father.

Mr. Weaver noted that the date of the offense had reached a five year timeframe from his conviction.

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

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

Motion carried 5-0. Appeal granted.

8.

14-3-020

Thomas E. Kujawa
2208 D Street
Omaha NE 68107

REQUEST: Appeal Police Department Notice of
Nuisance
(RE: 2208 D Street)

Thomas Kujawa appeared before the Board. Joe Adriano, City Inspector, Planning Department, submitted several photos (Exhibit 2) and stated that an unregistered RV vehicle was parked in front of Mr. Kujawa's home. He explained that Mr. Kujawa's home was destroyed by fire and that the RV parked in front of the home was hooked up to the neighbor's property; he also noted this was the second or third time the home was destroyed by fire. He then explained that Mr. Kujawa tried living at this residence, was informed by Mr. Adriano that he was not allowed to live in the unsafe environment and was then found to be living in the RV parked in front of his home.

Mr. Kujawa stated that he did not stay overnight in the unsafe home and that a friend would help him register the RV vehicle. He also stated that he had insurance and a title for the RV vehicle and would acquire registration within a day or two. He explained that he kept expensive tools in the vehicle and was concerned these items would be stolen, but has since secured those items. He then mentioned he had a generator he used for his job as a welder and could use that to provide power to the RV vehicle. Mr. Conboy discussed with Mr. Kujawa that he could not use the generator as a means of living in the RV because it was against regulation; Mr. Kujawa responded that he lived in an apartment on South 24th Street. Mr. Kujawa further explained that he removed some debris from the residence but still had more to remove.

In response to Mr. Conboy, Mr. Adriano explained that the house was not condemned but was tagged as unsafe. Mr. Denker, Planning Department, explained that the parked RV vehicle violated setback and parking regulations but if moved could become compliant. He also noted that the vehicle must have current registration and that regulations allowed living in an RV vehicle for a limited time.

In response to Mr. Labode, Mr. Kujawa stated that he would register his RV vehicle in approximately three days and move the RV Vehicle to comply with regulations. Mr. Adriano reminded the Board that the home was deemed unsafe. The Board noted that the citation in question was in regards to the RV Vehicle.

Mr. Conboy moved to hold the case over for 60 days. Second by Mr. Lopez-Nuno.

Mr. Labode stated that 60 days was an excessive amount of time.

Mr. Conboy amended his motion to hold the case over until the April 28, 2014 meeting. Second by Mr. Lopez-Nuno.

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

Motion carried 5-0. Case held over until the April 28, 2014 meeting.

9.

14-3-021

John L. Brunner
6314 North 47th Street
Omaha NE 68104

REQUEST: Appeal Police Department Notice of
Nuisance
(RE: 6314 North 47th Street)

John Brunner was not present. Kevin Denker, Planning Department, submitted photos of the property (Exhibit 2) and explained that vehicles and an unlicensed trailer were parked on the dirt. He mentioned that Mr. Brunner called the Secretary and requested to hold the case over because he was having a medical procedure the following week.

Motion to hold this case over until the April 28, 2014 meeting by Mr. Weaver. Second by Mr. Conboy.

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

Motion carried 5-0. Case held over until the April 28, 2014 meeting.

ELECTION OF OFFICER

Motion to hold over the Election of Officers until the April 28, 2014 meeting by Mr. Weaver. Second by Mr. Labode.

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

Motion carried 5-0. Election of Officers held over until the April 28, 2014 meeting.

APPROVAL OF MINUTES:

Motion by Mr. Weaver to approve the minutes from January 27, 2014. Second by Mr. Lopez-Nuno.

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

Motion carried 5-0.

ADJOURN:

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

AYES: Laobde, Lopez-Nuno, Weaver, Conboy, O'Connor

Motion carried 5-0. Meeting adjourned at 1:58 pm.