Minutes
Administrative Board of Appeals
January 25, 2010

MEMBERS PRESENT: Chris Jerram, Acting Chair
Jay Incontro
Jim Weaver

MEMBERS ABSENT: Ann O’Connor
David Levy

OTHERS PRESENT: RoseMarie Horvath, Law Department
Kevin Denker, Planning Department

I. Roll Call

Mr. Jerram called the meeting to order at 1:30 pm.

Motion made by Mr. Weaver to nominate Mr. Jerram to serve as temporary chair. Seconded by Mr. Incontro.

Mr. Denker asked that the board receive as Exhibit 1 in each of this meeting's cases the contents of the City's file on each case.

Mr. Jerram acknowledged the contents of the City's file as Exhibit 1 in each case.

II. Cases

9-11-89 (over from 11/30/09)
Appeal Police Department denial of firearm registration: Michael Lynn Smith, 2122 Ave K, Council Bluffs, IA 51501

Michael Smith reappeared before the Board. Mr. Smith submitted a folder with several documents (Exhibit 2). The documents include: 1) letter from the Clerk of the District Court in Sarpy County, 2) letter from Sarpy County Court, 3) criminal case sheet, 4) Department of Defense DD Form 214, 5) Air Force form indicating awareness of any possible charges, 6) letter from attorney to military Commander, and 7) letter from Nebraska State Probation.

Mr. Smith stated the Clerk of the District Court showed no records on file under his name as indicated in document one. The second document from Sarpy County Court indicates that requested records are no longer available and records are destroyed after five years if a defendant is found not guilty. He stated that the third document, dated April 18, 2007, is a document that he has used continuously to obtain a hunting license. The fourth document is the DD Form 214 received upon retirement from the military and indicates an honorable discharge. An honorable discharge cannot be obtained if an individual has a felony conviction. The fifth document is an Air Force Form 2098 and indicates a change of status whereas the military knew there was an absence from September 1 to September 4, 1992 and states, “Member was released from civil confinement and returned to military duty with no charges being filed at this time.” Document six is a letter dated September 22 1992, and states, “The purpose of this letter is to advise you that the Sarpy County Attorney is not pressing criminal charges at this time” and, “The County Attorney has elected to dismiss those citations, preferring instead to have the matter handled in the Juvenile Court.” Lastly, document seven is a signed letter by Jodi York, Chief Probation Officer for the Second Probation District and states, “I am unable to locate any record of Michael L. Smith (DOB 5/23/57) in our database indicating he was ever convicted of a crime and placed on probation in Sarpy County.”
Sgt. John Bahle of the Omaha Police Department stated that he verified with Sarpy County that there is nothing in Mr. Smith’s history that would prevent him from registering a handgun in the City of Omaha.

Motion to grant appeal by Mr. Incontro. Second by Mr. Weaver.

AYES: Incontro, Weaver, Jerram

Motion carried 3-0. Appeal granted.

10-1-01
Appeal Police Department denial of firearm registration: Stephen Davis, 3211 N 14 Avenue  68110

Richard McGowan, attorney representing Stephen Davis, requested that the case be continued.

Motion to lay this case over until the February 2010 meeting by Mr. Weaver. Seconded by Mr. Incontro.

AYES: Weaver, Incontro, Jerram

Motion passed 3-0. Appeal laid over to February 2010 meeting.

9-12-91
Appeal denial of engineering license; Jeff Belling; 2222 S 43 Street  68105

Jeff Belling appeared before the Board. Mr. Belling submitted two letters of reference (Exhibit 2 and Exhibit 3). He stated that in December 2009 he was made aware that he had not renewed his 2009 engineering license. He has been an engineer for Holy Ghost Church and School for the past 10 years and previously was an assistant to another engineer.

Mr. Tom Phipps, City Planning, stated that under the ordinance if a license is not paid by March 1st of the following year then all licensing certificates are void. Permits and inspections do not have any outstanding complaints or have never received a complaint against Mr. Belling’s license. A request is made to reinstate Mr. Belling’s license contingent upon payment of 2009 and 2010 license fees.

Motion to grant appeal Mr. Incontro. Second by Mr. Weaver.

AYES: Incontro, Weaver, Jerram

Motion carried 3-0

9-11-87(over from 11/30/09)
Appeal Police Department notice of nuisance: Richard M. Henn, 8147 Burdette Street  68134

Richard Henn reappeared before the Board. Mr. Henn stated that he does not believe his tractor is a nuisance.

Kevin Denker stated that RoseMarie Horvath suggested that this request would come under Section 55-770, Outdoor Storage. Outdoor storage is not permitted in any zoning districts except General Industrial (GI) and Heavy Industrial (HI) or where incidental to and for the primary uses associated with certain use types. There is no residential use type outlined in Section 55-770. Section 55-740(e)(1) and 55-742(a) and (b) relate to personal vehicles. Personal vehicles are passenger cars, vans, pickup trucks, recreational vehicles, trailers, boats, etc. The tractor does not fall under the description of a personal vehicle and personal vehicles are the only vehicles that can be parked in a residential neighborhood.
Mr. Jerram stated that he would have to recuse himself from voting on this case therefore there is no quorum to vote on the case.

Motion to lay this case over until the February 2010 meeting by Mr. Incontro. Seconded by Mr. Weaver.

AYES: Weaver, Incontro, Jerram

Motion passed 3-0. Appeal laid over to February 2010 meeting.

III. Approval of Minutes from November 30, 2009

Motion to approve minutes from the November 30, 2009 meeting by Mr. Weaver. Seconded by Mr. Incontro.

AYES: Incontro, Weaver, Jerram

Motion carried 3-0

IV. Adjournment

Motion to adjourn by Mr. Incontro. Seconded by Mr. Weaver.

AYES: Incontro, Weaver, Jerram

Motion carried 3-0

Meeting adjourned at 2:00 PM.

Visit the Planning Department’s Site on the Internet at http://co.douglas.ne.us/omaha/planning/boards/administrative-board-of-appeals