Minutes
Administrative Board of Appeals
October 25, 2010

MEMBERS PRESENT:  Ann O’Connor, Chair
                    David Levy, Vice Chair
                    Jim Weaver
                    Bode Labode
                    Jama Samiev, Alternate

MEMBERS ABSENT:    Jose Lopez
                    Steve Simmonds, Alternate

OTHERS PRESENT:    RoseMarie Lee, Law Department
                   Kevin Denker, Planning Department
                   Debbie Hightower, Recording Secretary

I.  Roll Call

Ms. O’Connor called the meeting to order at 1:05 pm.

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.

Ms. O’Connor acknowledged the contents of the City's file as Exhibit 1 in each case.

II.  Cases

10-9-72 (over from 9/27/10)
Appeal Nebraska Humane Society Reckless Owner declaration:  Robin McDowell, 3320 King Street
68112

Joseph Kuehl, 209 South 19th Street Suite 440, attorney for Robin McDowell appeared before the
board.  Mr. Kuehl explained that Ms. McDowell has affirmatively remembered that she was warned to
have her dogs vaccinated when she went to register her dogs in March of 2010.  A letter was
submitted from Jacqueline Marymee regarding dog therapy (Exhibit 2).

Mr. Langan synopsized the Reckless Owner ordinance.

Mr. Samiev asked Ms. McDowell what she would do differently in the future if she is granted her
appeal.  Ms. McDowell answered that one problem dog was surrendered and the dogs usually
receive a three year vaccination.  She indicated that she purchased chains for the dogs and there is
a six-foot fence on her large corner lot.

Mr. Langan also pointed out that besides the three convictions there were 11 other documented calls
of dogs running loose at Ms. McDowell’s address between 2001 and 2009.  All three convictions
were a result of calls received for dog’s running loose.

In response to Mr. Samiev, Ms. McDowell stated she purchased the chains before the last plead of
guilty without representation.  She stated she got rid of the problem dog after the first conviction.  Mr.
Samiev asked Ms. McDowell why there was a problem with dogs running loose after the problem dog
was surrendered.

Mr. Levy questioned if a citation that was issued to Linda McDowell (Robin’s mother) on August 29,
2009 resulted in a conviction.  Mr. Langan answered that Linda McDowell was convicted and
received a $50 fine for improper restraint charge.

Mr. Labode made a motion to grant the appeal.  Second by Mr. Samiev.

AYES:  Labode, Samiev
NAYS: Weaver, Levy, O’Connor

Motion failed 2-3.

Motion to deny appeal by Mr. Weaver. Second by Mr. Levy.

AYES: Weaver, Levy, O’Connor

NAYS: Labode, Samiev

Motion carried 3-2. Appeal denied.

10-10-82
Appeal Omaha Police Department denial of firearm registration: Nicholas Owens, 9562 Louis Drive 68114

Nicholas Owens appeared before the board. Mr. Owens explained that he has another legally obtained firearm that is registered and he does not understand why he was denied this second handgun registration. He stated that when he was a juvenile he received a charge for assault on a family member but was never convicted. Mr. Owens stated he had a shoplifting charge when he was 13 years old and an open container charge was when he was 17 years old.

No one from the Omaha Police Department appeared before the board.

Mr. Weaver made a motion to grant the appeal. Second by Mr. Samiev.

AYES: Levy, Weaver, Labode, Samiev, O’Connor

Motion carried 5-0. Appeal granted.

10-8-63 (over from 8/30/10)
Appeal Omaha Police Department notice of nuisance: Michael Hinkel, 1005 N 83 Street 68114

Michael Hinkel appeared before the Board.

Mr. Denker submitted photos (Exhibit 2) of the subject property located along the Papio Creek where there is a private drive coming off of Western Street. The change related to off street parking occurred in 1977. He stated that Mr. Hinkel’s property was constructed in 1952 when the home was built but he could not verify that the road was added after 1977. The original notice was issued by the Police Department for construction equipment/trailer and other personal vehicles. He stated the street yard setback is not a concern but commercial vehicles are not allowed to be parked in a residential neighborhood.

Mr. Hinkel stated he does not park commercial vehicles or trailers in the rear of his residence. They are parked at Liberty Concrete at 8010 Blondo Street.

Mr. Denker stated that the paved driveway access is the rocked/paved drive that has grandfather rights. He stated there is no violation if the commercial vehicles are gone.

Mr. Weaver made a motion to grant the appeal. Second by Mr. Labode.

AYES: Labode, Samiev, Weaver, O’Connor

NAYS: Levy

Motion carried 4-1. Appeal granted.
10-9-73 (over from 9/27/10)
Appeal Omaha Police Department notice of nuisance: Nancy Ann McGee, 4306 S 61 Street 68117

No one appeared before the board.

Kevin Denker, Planning Department, stated the length of the boat with the trailer did encroach into the right-of-way by a couple of feet. The owners were advised to move a portion of the fence so that the boat is parked behind the front yard setback (Exhibit 2). He stated that the owners are in compliance as long as the boat remains in the current location.

Mr. Labode made a motion to grant the appeal. Second by Mr. Weaver.

AYES: Samiev, Weaver, Labode, O’Connor

NAYS: Levy

Motion carried 4-1. Appeal granted.

10-9-74 (over from 9/27/10)
Appeal Omaha Police Department notice of nuisance: Justin M. Novak, 6065 G Street 68117

Justin M. Novak appeared before the board. Mr. Novak stated the one lane driveway is located on a slope and therefore the boat is parked off the driveway and next to the shed. He stated that the snowmobile trailer was moved but requested to leave the boat at the end of the driveway.

Kevin Denker, Planning Department, submitted photos (Exhibit 2) and stated that the boat is required to be parked on a paved surface such as asphalt, concrete or pavers. Mr. Denker suggested installing a couple of rows of paving stones to park the boat.

Mr. Levy made a motion to deny the appeal with 30 days to comply. Second by Mr. Weaver.

AYES: Levy, Weaver, Labode, Samiev, O’Connor

Motion carried 5-0. Appeal denied with 30 days to comply.

10-9-75 (over from 9/27/10)
Appeal Omaha Police Department notice of nuisance: Rebecca Christiansen, 12923 Crown Point Avenue 68164

Kevin Denker, Planning Department, submitted photos (Exhibit 2) showing vehicles that are still located in the driveway.

Rebecca Christiansen appeared before the board. Ms. Christiansen stated she is attempting to remove the items from her driveway. She stated that her father came from Idaho to start a business but the building fell through. Ms. Christiansen stated that her father is in the hospital with recent heart problems and therefore he cannot move the vehicles back to Idaho. The larger trailer with the tarp and the two vehicles on it has been moved.

Mr. Levy asked Ms. Christiansen when her father would be out of the hospital. Ms. Christiansen stated she is not sure but she had a yard sale over the past weekend and sold some of the items.

Officer James V. Stokes, Omaha Police Department, stated a mayor’s hotline complaint dates back to July 29, 2010 but an anonymous caller stated the vehicles have been located at the property for over two years. He stated that one of the trucks with Idaho plates is parked over the sidewalk and is in violation and can be towed immediately.

Mr. Labode asked Ms. Christiansen if she has an alternative plan. Ms. Christiansen stated she does not have anywhere else to put her father’s vehicles, does not have the ability to move the vehicles to Idaho and cannot afford to put the vehicles in storage.

Officer Stokes stated he has received a complaint on a weekly basis.
Mr. Levy made a motion to deny the appeal with 30 days to comply. Second by Mr. Labode.

AYES: Weaver, Labode, Samiev, Levy, O’Connor

Motion carried 5-0. Appeal denied with 30 days to comply.

10-9-79 (over from 9/27/10)
Appeal Omaha Police Department notice of nuisance: Robert E. Fleming, 4530 S 62 Street 68117

Kevin Denker, Planning Department, submitted photos (Exhibit 2) and indicated that the boat is in compliance. The front of Mr. Fleming’s home is the setback and technically the notice should not have been issued.

Mr. Weaver made a motion to grant the appeal. Second by Mr. Labode.

AYES: Labode, Samiev, Levy, Weaver, O’Connor

Motion carried 5-0. Appeal granted.

10-10-83
Appeal Omaha Police Department notice of nuisance: Jose Gonzalez, 4509 S 60 Avenue 68117

Jose Gonzalez appeared before the board.

Kevin Denker, Planning Department, submitted photos (Exhibit 2) that indicate the vehicles are plated but one vehicle was parked on the grass next to the driveway. Mr. Denker stated that the pickup truck in the driveway needs to get operational. Mr. Gonzalez stated he has put the motor into the vehicle but needs more time to put in the transmission because he has been out of work for two months.

Mr. Denker stated that only minor repairs or routine maintenance i.e. oil change, rotation of tires, etc. are allowed on the driveway in a residential neighborhood. Mr. Denker told Mr. Gonzalez that he cannot drop a motor or replace a transmission in his driveway.

Mr. Weaver made a motion to deny the appeal with 30 days to comply. Second by Mr. Levy.

AYES: Samiev, Levy, Weaver, Labode, O’Connor

Motion carried 5-0. Appeal denied with 30 days to comply.

10-10-84
Appeal notice of violation issued by Parks Maintenance Department at 4720 North 17th Street on September 20, 2010; George Gillespie, 5112 N 4th Avenue 68110

George Gillespie appeared before the board. Mr. Gillespie was unable to speak due to throat cancer.

Josh Frey, City of Omaha Code Enforcement Division appeared before the Board. Mr. Frey stated that the complaint was for litter and debris to be removed which is located along the alley right-of-way as indicated by the photos submitted (Exhibits 2 and 3).

Mr. Levy asked if the alley is city right-of-way or a vacated right-of-way. Mr. Frey stated the alley is not vacated but is abutting Mr. Gillespie’s property.

Mr. Gillespie wrote, “I understand what is on my property is my responsibility to remove. The property needs to be disposed of. I no longer have the ability to deal with such issues.”

Mr. Labode questioned if the city has the right to go onto the property if the owner cannot take care of the violations. Mr. Frey answered that the city will abate the problem and the property owner can go before the Board of Equalization and protest the bill for the cost of clean-up.
Mr. Weaver asked if it appears to be illegal dumping. Mr. Frey stated that some of the debris appears to be illegal but there are some bricks and pallets that look like they were placed there. The house has been vacant for a long time.

Mr. Gillespie wrote, “The bricks are mine.”

Mr. Weaver asked if there are any provisions made by the city for property owner assistance for illegal dumping. Mr. Frey stated that at this point the property owners are responsible unless the suspects are caught in the act.

Mr. Levy questioned that even though a property owner or person in control of the property does not own the alley, is he in control of the alley. Mr. Frey stated Mr. Gillespie is responsible for maintaining and controlling litter or weeds in half of the alley and the street that is abutting his property.

Mr. Gillespie wrote, “Construction stopped when cancer took over.”

Mr. Frey suggested that the city could possibly help with the tree limbs if the remainder of the litter is cleaned up.

Mr. Weaver made a motion to deny the appeal with 60 days to comply and the City will assist with tree limb removal in the alley. Second by Mr. Labode.

AYES: Levy, Weaver, Labode, Samiev, O’Connor

Motion carried 5-0. Appeal denied with 60 days to comply and the City will assist with tree limb removal in the alley.

III. Approval of Minutes from September 27, 2010

Motion to approve the minutes from the September 27, 2010 meeting by Mr. Levy. Second by Mr. Weaver.

AYES: Weaver, Labode, Levy, O’Connor

ABSTAIN: Samiev

Motion carried 4-0.

IV. Adjournment

Motion to adjourn meeting by Mr. Weaver. Second by Mr. Labode.

AYES: Labode, Samiev, Levy, Weaver, O’Connor

Motion carried 5-0. Meeting adjourned at 2:25 PM.

Debbie Hightower, Planning Department
Recording Secretary