

MINUTES
Administrative Board of Appeals
October 27, 2014

MEMBERS PRESENT:

Ann M. O'Connor, Chair
David C. Levy, Vice Chair
Jim Weaver
Jose Lopez-Nuno
John R. Barrett, Alternate

MEMBERS NOT PRESENT:

Bode M. A. Labode
Marty Conboy, Alternate

STAFF PRESENT:

Timothy Himes, Jr., Law Department
Kevin Denker, Planning Department
Rikki Flott, Recording Secretary

ROLL CALL:

Ms. O'Connor called the meeting to order at 1:00 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.

14-9-067 From 9/29/2014

Nathan Frink
19605 Decatur Street
Omaha, NE 68022

REQUEST: Appeal Police Department Revocation of
Firearm Registration

Nathan Frink was not present at the meeting. Lt. David Sedlacek, Omaha Police Department, stated that on August 25, 2014 a protection order against Mr. Frink resulted in revocation of his firearm registration. He then explained that the protection order was dismissed on October 9, 2014 and the firearm registration was reinstated by the Police Department. Lt. Sedlacek stated that he was in favor of granting the appeal.

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

AYES: Barrett, Lopez-Nuno, Weaver, Levy, O'Connor

Motion carried 5-0. Appeal granted.

2.

14-10-069

Andre M. Woods
7724 Fillmore Street
Omaha, NE 68122

REQUEST: Appeal Police Department denial of firearm
registration

Andre Woods appeared before the Board. Lt. David Sedlacek, Omaha Police Department, stated that Mr. Woods applied to register a firearm on September 12, 2014 and was denied due to a drug paraphernalia possession conviction on April 4, 2008.

Mr. Woods stated that in July 2014 he purchase a home outside city limits and the reason for his appeal was to register his firearm within city limits.

In response to Mr. Barrett, Lt. Sedlacek stated that because Mr. Woods resided outside city limits he was not required to register his firearm within city limits; but if the weapon was brought within city limits, registration was required. In response to Mr. Weaver, he then stated the only other items on Mr. Woods' record were traffic violations.

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

AYES: Barrett, Lopez-Nuno, Weaver, Levy, O'Connor

Motion carried 5-0. Appeal granted.

3.

14-10-070

David D. Johnson
4505 Spring Street
Omaha, NE 68106

REQUEST: Appeal Police Department denial of firearm registration

David Johnson appeared before the Board. Lt. David Sedlacek, Omaha Police Department, stated that Mr. Johnson applied to register a firearm on September 24, 2014 and was denied due to a marijuana less than an ounce conviction on September 16, 2008.

Mr. Johnson stated that the reason for his appeal was that he was applying for a security job. He explained that the conviction was due to a substance left in his store that did not belong to him and that since he was the only person present, he received the conviction.

In response to Mr. Levy, Lt. Sedlacek stated that Mr. Johnson had no other convictions on his record.

Motion to APPROVE by Mr. Levy. Second by Mr. Barret.

AYES: Barrett, Lopez-Nuno, Weaver, Levy, O'Connor

Motion carried 5-0. Appeal granted.

4.

14-10-071

Torrey G. Ward
2045 North 67th Street
Omaha, NE 68104

REQUEST: Appeal Police Department denial of firearm registration

Torrey Ward appeared before the Board. Lt. David Sedlacek, Omaha Police Department, stated that Mr. Ward applied to register a firearm on September 26, 2014 and was denied due to 2 carry concealed weapon convictions on April 4, 1993 and December 29, 1994.

Mr. Ward stated that the reason for his appeal was to register his firearm the proper way.

Lt. Sedlacek stated that Mr. Ward had no other convictions on his record.

Motion to APPROVE by Mr. Levy. Second by Mr. Weaver.

AYES: Barrett, Lopez-Nuno, Weaver, Levy, O'Connor

Motion carried 5-0. Appeal granted.

9.

14-10-076

Ryan Ferguson
1621 North 75th Street
Omaha, NE 68114

REQUEST: Appeal denial of Third Year Apprentice
Plumber status

Ryan Ferguson appeared before the Board. Jim Wonder, Planning Department, stated that because the Omaha Plumbing Board did not have authority to waive licensing requirements, the applicant appealed his denial by the Plumbing Board. Mr. Wonder then stated that Mr. Ferguson explained to the Plumbing Board that he worked for Dave Janke Plumbing as a registered apprentice from May of 2007 to June 2011 and submitted employment records to the Plumbing Board at the meeting, not allowing the Board members time to review the documents. He then explained that licensing requirements were employment for 4 consecutive years with 7000 hours total and a minimum of 300 hours in any of those 4 years, along with 4 years of schooling. He added that because the Plumbing Board only had documentation of 1 year of continuous hours with his present employer as an unregistered plumbing apprentice, Mr. Ferguson's 3 years of completed school and 1 year of consecutive hours were accepted, qualifying him as a Second Year Plumbing Apprentice. Mr. Wonder added that if Mr. Ferguson submitted proof of continuous work from May 2007 to June 2011, the consecutive time requirement would be met.

Mr. Ferguson stated that he was laid off from Dave Janke Plumbing and was unable to find work in the plumbing industry for 2 1/2 years. He then explained that he had proof of 3 years of consecutive time and 3 years of schooling, but that the Plumbing Board did not review the submitted documentation. In response to the Board, he added that he completed 3 years of schooling; failing the second semester of the 3rd year and that the Plumbing Board only allowed him a First Year apprentice status.

Mr. Levy questioned Mr. Wonder regarding the un-reviewed documentation by the Plumbing Board. Mr. Wonder explained that the Board reviewed the documents and found proof employment from 2007 to 2011 but that completed hours were not reviewed.

In response to Ms. O'Connor, Mr. Ferguson confirmed he was requesting Third Year Apprentice status to receive a pay increase with his employer and was aware that he needed to finish schooling.

There was repeated discussion regarding license requirements and Mr. Ferguson's schooling and employment hours.

Tim Himes, City Law, commented that interpretation of the code was allowable by the Administrative Board of Appeals. Mr. Himes and the Board agreed multiple issues regarding Mr. Ferguson's status needed to be considered.

Mr. Levy commented that Mr. Ferguson's case was unique; he had documented experience in the field and was continuing his schooling.

Motion to remand the case to Plumbing Board for reconsideration by Mr. Weaver. Second by Mr. Barrett.

AYES: Barrett, Lopez-Nuno, Weaver, Levy, O'Connor

Motion carried 5-0. Appeal remanded to Plumbing Board for reconsideration.

6.

14-10-073

Mark J. Smith
3718 Summit Street
Omaha, NE 68112

REQUEST: Appeal Police Department Notice of
Nuisance
(RE: 3718 Summit Street)

Mark Smith appeared before the Board. Officer James Stokes, Omaha Police Department, stated that following a citizen complaint received on September 17, 2014, Mr. Smith received a Notice of Nuisance for a vehicle parked on an unpaved surface. Kurt Holmstrom, City Planning, stated that off-street parking and parking in the yard at this particular residence was against regulations.

Mr. Smith stated that the reason for his appeal was his children parked their vehicles at his residence also and that parking on the grass eliminated the need to move their vehicles around when he left for his job late at night. He then stated that limited parking was an issue along his street and that he was not aware parking on the lawn was a code violation. He inquired if was able to purchase a permit to park on his lawn.

In response to Mr. Barrett, Officer Stokes stated that approximately 10 complaints were received in the area and Mr. Holstrom commented that violations were only investigated upon a citizen complaint. Mr. Smith mentioned that many residences in his neighborhood had the same violation but were not given notices. In response to Mr. Weaver, Mr. Denker explained that to become compliant Mr. Smith had the option, with proper permits, to pave the area next to his driveway with asphalt, concrete or pavers. He added that permits were not needed for an area under 200 square feet and if curb cuts were not necessary.

Motion to DENY, with 60 days to comply, by Mr. Weaver. Second by Mr. Levy.

AYES: Barrett, Lopez-Nuno, Weaver, Levy, O'Connor

Motion carried 5-0. Appeal granted.

7.

14-10-074

Forrest D. Brown
10324 "W" Street
Omaha, NE 68127

REQUEST: Appeal Police Department Notice of
Nuisance
(RE: 10327 "W" Street)

Forrest Brown was not present at the meeting. Todd Shearer, City Planning stated that the applicant requested the case be held over and that the violation was regarding a 35 foot trailer in his front driveway. Mr. Shearer commented that the applicant's letter to the Board explained the trailer would be gone from approximately November 15, 2014 until April 15, 2015 and that the trailer would once again be in violation upon returning. Officer Stokes stated that he informed Mr. Brown of the appeals process and that Mr. Brown commented he was unable to find storage for his trailer during this time.

Mr. Barrett moved to deny the appeal and then amended his motion to DENY, with 30 days to comply. Second by Mr. Levy.

AYES: Barrett, Lopez-Nuno, Weaver, Levy, O'Connor

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

8.

14-10-075

Juana Garcia-Ramos
3923 South 24th Street
Omaha, NE 68107

REQUEST: Appeal Police Department Notice of
Nuisance
(RE: 3923 South 24th Street)

Juana Garcia-Ramos was not present at the meeting. Joe Adriano, City Planning, stated that when inspected, the vehicle in violation was removed. Kevin Denker, City Planning commented that the applicant's letter to the Board explained the vehicle would be removed. Officer James Stokes, Omaha Police Department, mentioned that the applicant complied and may not have needed to appeal.

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

AYES: Barrett, Lopez-Nuno, Weaver, Levy, O'Connor

Motion carried 5-0. Appeal denied.

5.

14-10-072

Mitchell T. Anderson
12120 Stonegate Drive #311
Omaha, NE 68164

REQUEST: Appeal Police Department denial of firearm
registration

Mitchell Anderson was not present when his case was called. The Board Secretary stated that she received return confirmation of the notice sent to Mr. Anderson by certified mail. The item was set aside until the end of the meeting.

Mitchell Anderson was not present when his case was called a second time. Lt. David Sedlacek stated that the Police Department was not in possession of the firearm and then explained that a licensed dealer would not issue a firearm until approval by the Police Department.

Motion to hold over the case until the November 24, 2014 meeting by Mr. Levy. Second by Mr. Lopez-Nuno.

AYES: Barrett, Lopez-Nuno, Levy, O'Connor

NAYS: Weaver

Motion carried 4-1. Appeal held over to the November 24, 2014 meeting.

APPROVAL OF MINUTES:

Motion by Mr. Weaver to approve the minutes from July 28, 2014. Second by Mr. Lopez-Nuno.

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

ABSTAIN: Barrett

Motion carried 4-0-1.

ADJOURN:

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

AYES: Barrett, Lopez-Nuno, Weaver, Levy, O'Connor

Motion carried 5-0. Meeting adjourned at 2:30 pm.