



BOARD OF ADJUSTMENT AND APPEALS AGENDA
Thursday, February 2, 2012
6:30 p.m.
Coon Rapids City Center
Council Chambers

Memo Re: Consideration of Appeals from David Brodie, Assistant City Attorney

Call to Order

Roll Call

Adopt Agenda

Approval of Minutes

Approval of Minutes of Previous Meeting - December 1, 2011

New Business

1. 12-01V - Scott Nellis, 10320 Grouse St, Appeal Order of Chief Building Official

Other Business

Adjourn



Board of Adjustment and Appeals - Regular Session

Meeting Date: 02/02/2012

Subject: Memo Re: Consideration of Appeals from David Brodie, Assistant City Attorney

From: David Brodie, Assistant City Attorney

INFORMATION:

One of the Board's functions under City Code Sections 3-208 and 11-336 is to consider and decide appeals from decisions made by the Zoning Administrator and other City staff. In those cases, the Board shall "interpret, construe, and decide meanings of the zoning and building codes; but the Board shall not determine the validity of any such provision of the code." Code Section 3-208. A two-thirds (2/3) vote of all Board members is required to overrule a City staff decision. Code Section 11-337. An aggrieved party may appeal the Board's decision to the City Council within ten (10) days of notice of this decision. Code Section 11-334.

The appeal hearing, while conducted during the Board's regular meeting, is not a public hearing that requires an opportunity for public comment. The Board may conduct the hearing as it sees fit. Staff suggests that City staff present its position first with the appellant following. The Board would be able to ask questions of either party as it sees fit. Staff requests that the Board execute the Order found on the bottom of appellant's original notice of appeal.



Board of Adjustment and Appeals - Regular Session

Meeting Date: 02/02/2012

SUBJECT: Approval of Minutes of Previous Meeting - December 1, 2011

Attachments

12/1/2012 Minutes

COON RAPIDS BOARD OF ADJUSTMENT AND APPEALS MEETING MINUTES OF DECEMBER 1, 2011

The regular meeting of the Coon Rapids Board of Adjustment and Appeals was called to order by Chairman Wessling at 6:37 p.m. on Thursday, December 1, 2011, in Conference Room 3.

Members Present: Chairman Gary Wessling, Commissioners Teri Spano-Madden, and Aaron Vande Linde.

Members Absent: Commissioners Jeanette Rosand and Trish Thorup.

Staff Present: Housing and Zoning Coordinator Cheryl Bennett, and City Manager Matt Fulton.

CALL TO ORDER

Chairman Wessling called the meeting to order at 6:37 p.m.

APPROVAL OF THE NOVEMBER 3, 2011, MEETING MINUTES

MOTION BY COMMISSIONER VANDE LINDE, SECOND BY COMMISSIONER SPANO-MADDEN, TO APPROVE THE NOVEMBER 3, 2011, MEETING MINUTES AS PRESENTED. THE MOTION PASSED UNANIMOUSLY.

1. STRATEGIC PLANNING

City Manager Fulton thanked the Board of Adjustments and Appeals for their work and taking on new responsibilities over the last year. He explained that the City Council is appreciative of their work as well.

Chairman Wessling stated that the only issue with the new workload regarding the assessment hearings on the administrative citation program is that people do not call or write in about their citation. He commented that the cover of the administrative citation program brochure does not inform the recipient that this is their opportunity for an extension or appeal. This is only stated on the back of the form. He stated that people do not read through it and find this out.

Commissioner Spano-Madden stated that it appears to be a generic pamphlet and is not read thoroughly.

City Manager Fulton explained that the City Council is implementing a long range strategic planning effort for the future of Coon Rapids. Input is being sought from all municipal advisory commissions. He explained that he will be asking a series of questions. He asked where there are opportunities for the community. He explained that the strategic planning process involves a 20 to 30 year window. He asked if there are areas the Council needs to think about. He stated he will ask if the Board members are getting what they need out of their time serving on the Board. He explained that in February he will convene a meeting with Board, other commission members and Council to discuss the results. He stated that there will be a series of neighborhood meetings after the first of the year. He commented that there will be a community survey. This will determine if residents are happy with the services they receive. He stated that there will be a focus on the park system. There are 42 parks. He stated that \$300-\$500,000 a year has been put into park improvement but noted that the renovation of Sand Creek Park is an \$8 million project. He explained that other large park projects

also need funding. He reported that the city is fully developed and there are no longer park dedication fees generated. He proposed that funding a project like this would be posed to the community and become a bond issue. He stated that as homes are sold and neighborhoods turn over, parks are a selling point. He explained that transportation, community development, public safety and excellence in government are areas that will be included in this effort. He indicated that they will ask residents and business owners for their input on how the community is working. This will result in determining community values and the strategic plan focus. This will be a topic of consideration at the City's management retreat in February or March of next year.

City Manager Fulton asked the Board members to identify opportunities. Commissioner Vande Linde asked how accessible and easy information is to obtain by residents. He asked how many people check the city website for this information.

Commissioner Spano-Madden stated that she agrees that information is not always well communicated. She stated that the website has detailed information.

Commissioner Vande Linde recommended having some preventative action plan. He stated there are opportunities for advising residents why there are particular standards and codes and for how these are communicated to the public. He stated that there are should be frequently asked questions and teaching moments. He explained that there are questions about code enforcement and why there are differing amounts and rules.

Housing and Zoning Coordinator Bennett stated that there has been an effort to make the process efficient and this can sometimes create issues.

City Manager Fulton asked how these opportunities can make their job better. Commissioner Spano-Madden stated that there are a lot of rules and she sometimes does not know the difference. She explained that staff does a good job of explaining and making it clear.

Chairman Wessling stated that there is a need to bring more business into town. He asked on the information side if all is being done to attract business. He commented that business is the life of the city which brings about employment. Commissioner Spano-Madden stated there needs to be a business friendly environment.

Commissioner Vande Linde stated that there are a number of businesses along Coon Rapids Boulevard that could use a boost and he asked what is being done to revitalize those. City Manager Fulton stated that behind the McDonalds and the Sleep Clinic it will become noticeable that there is a vast area of land to be developed. He explained that the area will change drastically over the next five years. He asked if there are areas to improve on for the Board's work or if there are areas they should be dealing with more.

Commissioner Spano-Madden stated that she misses dealing with the variance work they used to have before them regularly. She stated that they are glad to have the work they are doing.

City Manager Fulton stated that the Board has done a good job in making decisions and forwarding them to Council. He asked if, when the hearings are completed, does it seem like their job is done. Commissioner Spano-Madden stated that there are times when they wonder if their decision will stand.

Chairman Wessling asked if Council looks over each case they review. City Manager Fulton stated the precedent has been that Council accepts the Board's rulings. He explained that there are times when a petitioner makes a call to Council members to appeal the Board's recommendation. He explained that it is understood that the petitioner can go to court and Council does not hear their cases.

Chairman Wessling asked if Council has any concerns with decisions that have been made. City Manager Fulton stated that there have been no concerns expressed.

Commissioner Vande Linde stated that if there is a case where their decision is overturned by Council he would like feedback as to why the decision was made. He commented that there was an earlier appeal case where a decision was overturned. Any action was delayed in that case until all of the driveways citywide were in compliance. He explained that having this feedback would keep them all on the same page.

City Manager Fulton listed this as "alignment with Council" under number item five. He asked if there is enough feedback from Council. Chairman Wessling asked if Council has minutes that can be obtained to review. He confirmed that he would like to understand why Council overturns a decision.

City Manager Fulton asked about question two regarding community enhancements. Commissioner Vande Linde commented that parks and trails equal quality of life. He suggested obtaining leverage grants and partnerships to complete the parks process. He reviewed that baby boomers and, therefore, neighborhoods are turning over in the community. He explained that there is revitalization done in Anoka where it abuts Coon Rapids. He stated that he sees elderly people out using these areas. He stated that there is not a good trail system along the river in Coon Rapids to make extended use of the area.

City Manager Fulton asked if a property in Coon Rapids was listed for sale, would it list trails and parks as a selling point. Commissioner Vande Linde stated that he would include golf courses, trails, parks and accessibility. He explained that he rides the bus to St. Paul regularly.

Chairman Wessling stated that there are a lot of transit options in Coon Rapids, which is a selling point for the community. Commissioner Spano-Madden commented that Coon Rapids is active and forward-looking in trying to improve itself as a community. She stated that she supports taking older houses and making them look modernized. She supported the idea of community meetings.

City Manager Fulton stated that under question two, Homes for Generations continues to be important. Commissioner Spano-Madden commented that having viable housing is important for the community.

City Manager Fulton stated that he obtained statistics regarding how much of community lives within a half mile of Coon Raids Boulevard. He stated that 46 percent of the residents live within this area and that many people who have lived in town for over 30 years live in this area. He commented that there has been discussion about creating a trolley run that would connect light rail to Coon Rapids Boulevard, Riverdale, Anoka and the Northtown area. This would be useful for businesses and employers along Coon Rapids Boulevard. It would run every 30 to 45 minutes.

Commissioner Spano-Madden suggested considering a plan to help businesses improve their store fronts as part of their incentive to stay.

City Manager Fulton stated that Coon Rapids is a leader in retail. Commissioner Vande Linde stated that he grew up in the south and people make fun of the name Coon Rapids.

Commissioner Spano-Madden requested making house numbers visible on the homes or curbs. She commented that street maintenance is a selling point for the community.

City Manager Fulton asked each Board member if they were given \$100 to spend, how they would divide it among several categories, including public safety, public works, general government and community development. He compiled their numbers and listed the actual numbers for comparison.

City Manager Fulton asked how the Board members can get value out of their role on the Board. He asked if they have enough information to do their job and if they adequate access to staff. He asked if the meeting time and location are working out. Commissioner Spano-Madden stated that the time is right. She suggested that they could be given more responsibilities. She stated that staff has been responsive in communicating with the Commission.

Commissioner Vande Linde stated that he had asked in years past for more training and a training session was held soon after to address his concerns. He stated that they had a training session a few months ago on the appeal process. City Manager Fulton asked about providing a city-wide training process with all of the commission heads to learn about what each commission does. He stated that the City has long held a police academy and that it is starting a citizen's academy next spring where each department will explain its function. He asked what else Board members like about their community, asking them to identify highlights of the community.

Commissioner Spano-Madden stated that when looking at Parade of Homes she likes looking in Eden Prairie because the homes are more contemporary and not older houses. Commissioner Vande Linde stated that he was attracted to Coon Rapids because of its moderate lot sizes and the mature trees.

Chairman Wessling stated that Coon Rapids is a clean community. Housing and Zoning Coordinator Bennett stated that good landscaping and architecturally designed homes can make a difference. She asked if anyone had previously suggested engaging community education. This is a strong point for the community.

Commissioner Spano-Madden stated that she appreciates the library and the city newsletter.

City Manager Fulton thanked the Commission for their time and input.

MOTION BY COMMISSIONER SPANO-MADDEN, SECOND BY COMMISSIONER VANDE LINDE, TO ADJOURN THE MEETING AT 7:48 P.M. THE MOTION PASSED UNANIMOUSLY.

Respectfully submitted,
Beth Bostrom
Board of Adjustment and Appeals Secretary



Board of Adjustment and Appeals - Regular Session

1.

Meeting Date: 02/02/2012

Subject: 12-01V - Scott Nellis, 10320 Grouse St, Appeal Order of Chief Building Official

From: Doug Whitney, Chief Building Official

INTRODUCTION

The property owner, Scott Nellis, is appealing the “unfit for human habitation” posting of the property at 10320 Grouse Street by the Chief Building Official. The subject property is a split entry house with a two-car attached garage located in area zoned Low Density Residential-2. On October 26, 2011, the property was inspected by City staff. Based on that inspection, the subject property was posted as unfit for human habitation under City Code 12-313 because of the excessive number of snakes, mice, rats and lizards, and the unsanitary and unhealthy condition of the dwelling. A copy of the property owner’s appeal is attached.

BACKGROUND & CONSIDERATIONS

On October 11, 2011, Leya Drabczak, Coon Rapids Housing Inspector, inspected the backyard of the subject property because a report had been received that a large pile of wood shavings used for animal bedding was being disposed of in the back yard and that a foul smell was coming from the pile. During the inspection, Drabczak observed the same in the backyard of the subject property. An internet search by Drabczak found a website operated by subject property owner listing his snake breeding business. This complaint and inspection led to a request for an administrative search warrant to inspect the interior of the subject premises.

On October 26, 2011, pursuant to the administrative search warrant, the subject premises was inspected by: Leya Drabczak, Housing Inspector; Coon Rapids Police Department members Mike Plankers; Brad Johnson, Greg Koss and Desiree Toninato; Coon Rapids Fire Department members Nick House and Shannon Moen; and State Humane Society Officer Keith Streff.

Upon entering the dwelling and throughout the search, inspectors detected a very strong smell of ammonia. Inspectors’ eyes and throats were burning due to the high level of ammonia and it became necessary for inspectors to wear masks for the remainder of the inspection.

Inspectors located a room on the main level near the front door that housed approximately 80 snakes of various sizes and species. (See attached pictures.) Cages had glass fronts with sliding doors and were stacked on top of one another from floor to ceiling. Cages were located around the perimeter of the room and an island of cages stacked from floor to ceiling was made in the center of the room. The walkways between the columns of cages were less than three feet in width. The animals were very active and would strike at the glass as inspectors walked by. The room was dark and the light and ceiling fan could not be turned on because the cages were touching the fixture. Inspectors needed to use flashlights to see what snakes were in the cages. The animals would strike at the glass when lights were shined into their cages. The floor in this room and most floors throughout the dwelling were carpeted.

In the upper level living room, inspectors found three large aquariums with lizards in them. The smell in the upper level of the dwelling was as strong as in the lower and main levels of the dwelling.

The lower level of the dwelling housed two separate areas of snakes and rats. One room had approximately 120 snakes in it of various species and sizes. There were various animals located in this room including hissing

cockroaches, meal worms and various lizards. The cages were located around the perimeter of the room and stacked vertically from floor to ceiling.

A second room the lower level housed various large snakes and mice and rats in cages. The cages were stacked on top of one another from floor to ceiling. The mice and rats were housed on one side of the room and the snakes and reptiles along the other. Inspectors estimated that there were approximately 300 snakes and 400 rats and mice combined in the property as shown in the pictures.

Staff estimated the approximate number of snakes totaled 300 and feeder mice and rats totaled 400. Photographs were taken on site, some of which are included in this report. The property owner did not have a current inventory list. He stated that there are too many animals to keep track of because he buys, sells and breeds continually. The City does not have the resources required to catalog each animal found on site. In the photographs, each of the plastic bins stacked on top of one another houses snakes. Not all of the snakes are visible in the plastic containers in the photographs.

Coon Rapids Fire Department conducted an inspection of the air quality in the subject dwelling. The dwelling contained a strong smell of urine and feces and a member of the North Metro Chemical Assessment Team was called to bring NH₃/Ammonia detectors to the scene. The doors of the dwelling had been left open in order to air out the air in the dwelling. Fire Department staff entered the dwelling with half face respirators. The reported levels of ammonia gas were elevated and higher than what is normally found in the habitable space of a typical dwelling. The report describes ammonia as a colorless gas with a strong, suffocating odor. Prolonged exposure to high levels of ammonia may contribute to health issues of the occupants of the subject premises.

It is my determination that a residence like the subject dwelling is not designed to be used in the manner the property owner is currently using it as none of the rooms that housed the snakes and other animals had either adequate sanitation or ventilation. For example, the floors were not made of a smooth, hard, nonabsorbent surface that extends upward onto the walls at least 6 inches. The walls adjacent to the cages also did not consist of a smooth, hard, nonabsorbent surface to the top of the cages.

It is also my determination that the structural framing in a typical residential dwelling is not designed to support the many rows of cages that the subject dwelling contains. Residential occupancies are designed for a live load of 30 pounds per square foot in bedrooms and live load of 40 pounds per square foot in all other rooms. Storage areas shall be designed for a minimum 125 pounds per square foot for light (weight) storage. Homes in general are designed as a place where one lives - a residence. A dwelling is defined by the International Building Code as a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. A single family dwelling is not designed to support the loads associated with the keeping of snakes or other animals as found in the subject dwelling.

Additionally, I find that there were an insufficient number of electrical receptacles (outlets) to serve the dwelling as evidenced by the extensive use of extension cords in the dwelling.

As additional information, the property owner received Administrative Citation # 45839-19955 for the debris in the backyard, including animal feces and bedding. A separate Administrative Citation # 45839-19945 was issued for the removal of the prohibited snakes. A compliance date of 11/06/2011 was given.

Dwelling unfit for human habitation determination

Subpart 1, Purpose, of Part 1300.0030 of the Minnesota State Building Code reads:

The purpose of this code is to establish minimum requirements to safeguard the public health, safety, and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

Part 1300.0180, Unsafe Buildings or Structures, of the same code, provides the following:

The building official may order any building or portion of a building to be vacated if continued use is dangerous to life, health, or safety of the occupants. The order shall be in writing and state the reasons for the action. All unsafe buildings, structures, or appendages are public nuisances and must be abated by repair, rehabilitation, demolition, or removal according to Minnesota Statutes, Sections 463.15 to 463.26.

This provision is not only for the health and safety of building occupants but for safety to fire fighters and emergency responders during emergency operations as well. Homes are not designed or equipped to accommodate the number of snakes, mice, rats and lizards present in the subject dwelling.

The conditions of the subject structure that led to the determination of the building being classified as Unfit for Human Habitation (City Code Section 12-313), and an Unsafe Building or Structure (Part 1300.0180 of the Minnesota State Building Code) and the issuance of the Compliance Order (City Code Section 12-315) include:

- Dwelling is not structurally designed to support the many rows of cages as present in the structure.
- Dwelling is not provided with the mechanical and ventilation systems needed to keep and care for the numerous snakes, lizards, rodents and insects present in the structure.
- The air quality is well above any acceptable limits.
- The wall and floors are not of smooth, hard, nonabsorbent surfaces needed to provide sanitary conditions.
- There is no sanitary method of storing food or disposing of waste.
- The overall excessive storage present in the structure creates a hazard for fire fighters and emergency responders during emergency operations.
- The use of extension cords is a noncompliant condition and whether energized or not, is proximately dangerous to human life and property.
- Section 301.14 of the 2006 International Fuel Gas Code requires all buildings or structures and the walls enclosing habitable or occupiable rooms and spaces in which persons live, sleep or work, or in which feed, food or foodstuffs are stored, prepared, processed, served or sold, shall be constructed to protect against rodents in accordance with the Building Code.

The Compliance Order, dated November 30, 2011, ordered the property owner to correct the conditions within 45 days by:

- Completely remove all the snakes, lizards, rodents and insects from the property.
- Remove all items related to the keeping of the snakes, lizards, rodents and insects, and waste and debris.
- Provide a satisfactory air quality report.

Staff did not post the dwelling as uninhabitable as no children or vulnerable adults reside in the dwelling. Staff concluded it was in the best interest of the animals to have a caretaker on site. Coon Rapids Fire Department placed this address on the Anoka County Dispatch list to use special care upon entering this home in the event of a fire or medical emergency.

ACTION REQUESTED

In case 12-01V, staff requests the Board of Adjustment and Appeals uphold the Building Unfit for Human Habitation (12-313) and Unsafe Buildings or Structures (1300.0180) Compliance Order (12-315) of the Chief Building Official dated November 30, 2011.

Attachments

Pictures

Compliance Orders

Owner's Appeal

10320 GROUSE ST NW

Pictures

10/26/2011

10320 Grouse St NW Coon Rapids, MN PID # 22-31-24-41-0111

Owner: Scott Nellis



Room on the main level near the front door.



Room on the main level near the front door.

SUBJECT:
DATE: 10/26/2011

10320 Grouse St NW



Room on the main level near the front door.



The lower level of the dwelling with two separate areas of snakes and mice.

SUBJECT:
DATE: 10/26/2011

10320 Grouse St NW



The cages stacked on top of one another from floor to ceiling.



Bins stacked to the ceiling with missing tiles.

SUBJECT:
DATE: 10/26/2011

10320 Grouse St NW



The cages stacked on top of one another from floor to ceiling.



The cages stacked on top of one another from floor to ceiling in the work space.

SUBJECT:
DATE: 10/26/2011

10320 Grouse St NW

Extension cords were used in place of permanent wiring.



There were various animals located in this room including hissing cockroaches, meal worms and various lizards.

11155 Robinson Drive
Coon Rapids MN 55433
Tel 763-755-2880
Fax 763-767-6491
www.coonrapidsmn.gov



**BUILDING UNFIT FOR
HUMAN HABITATION (12-313)
UNSAFE BUILDINGS or
STRUCTURES. (1300.0180)
COMPLIANCE ORDER (12-315)**

November 30, 2011

NELLIS SCOTT C
10320 GROUSE ST NW
COON RAPIDS, MN 55433

Re: Your property at 10320 Grouse ST NW

Dear Mr. Nellis:

Please take **NOTICE** pursuant to City Code §12-313 and Minnesota Rules §1300.0180 that on January 17, 2012 your property at 10320 Grouse ST NW will be posted as unfit for human habitation. Based on the conditions in the home, described in more detail below, I hereby find that continued occupancy poses an immediate threat to health and safety. Please be advised that you have the right to appeal this determination by filing a written appeal within 10 days. An appeal form is attached for your convenience. If you file a written appeal the appeal will be scheduled before the Board of Adjustment and Appeals.

COMPLIANCE ORDER

Pursuant to City Code §12-315(2) I have determined that the home fails to meet the minimum requirements of City Code. The conditions that led to this determination from an inspection of the home on October 26, 2011 are:

- The home is filled with snakes, lizards, rodents and insects.
- The home does not have adequate sanitation facilities for keeping of the snakes, lizards, rodents and insects.
- The home does not have an adequate ventilation system for keeping of the snakes, lizards, rodents and insects.

Based on these conditions you are hereby **ORDERED** to correct the conditions by completing the following within 45 days:

- Completely remove the all the snakes, lizards, rodents and insects from the property.
- Remove all items related to the keeping the snakes, lizards, rodents and insects, and waste and debris.

- Provide a satisfactory air quality report.

The home will continue to be posted as unfit for human habitation unless all of the requirements above have been met. If you believe that this order is based on an erroneous interpretation of City Code, State or Federal law, you may appeal the order by filing a written appeal within ten days. You may use the appeal form attached to this Order.

While this Order is pending you may not transfer ownership of the property unless you provide a copy of this Order to the party to whom the transfer is made and notify the City prior to the transfer.

EXECUTION OF THIS ORDER

If you do not appeal the order, if you do not prevail on appeal, and if you do not comply with the conditions of the Order, the matter will be scheduled for a hearing before the City Council, at which hearing the City Council may remedy the conditions described above by hiring a contractor of the City's choosing and specially assess the costs of all repairs, staff time and administrative costs against the real estate. You will be given at least 10 days notice of the hearing before the City Council.

If you cannot afford to remedy the conditions described and wish to take care of the matter as soon as possible you may agree to have the City contract for the work and assess the costs against the real estate as a special assessment. If you choose to do so, a written agreement will be prepared for your signature. Please contact me if you wish to enter into such an agreement.

Lastly, please be advised that failing to comply with this Order or appeal within the time prescribed may be charged as a misdemeanor criminal offense.

We have received your appeal and this Order is pending.

Respectfully,



Douglas K. Whitney, P.E.
Chief Building Official, City of Coon Rapids

1300.0030 PURPOSE AND APPLICATION.

Subpart 1. **Purpose.** The purpose of this code is to establish minimum requirements to safeguard the public health, safety, and general welfare through structural strength, means of egress facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the built environment and to provide safety to fire fighters and emergency responders during emergency operations.

1300.0180 UNSAFE BUILDINGS OR STRUCTURES.

A building or structure regulated by the code is unsafe, for purposes of this part, if it is structurally unsafe, not provided with adequate egress, a fire hazard, or otherwise dangerous to human life.

Building service equipment that is regulated by the code is unsafe, for purposes of this part, if it is a fire, electrical, or health hazard; an unsanitary condition; or otherwise dangerous to human life. Use of a building, structure, or building service equipment constituting a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage, or abandonment is, for the purposes of this part, an unsafe use. Parapet walls, cornices, spires, towers, tanks, statuary, and other appendages or structural members that are supported by, attached to, or a part of a building and that are in deteriorated condition or otherwise unable to sustain the design loads that are specified in the code are unsafe building appendages.

The building official may order any building or portion of a building to be vacated if continued use is dangerous to life, health, or safety of the occupants. The order shall be in writing and state the reasons for the action. All unsafe buildings, structures, or appendages are public nuisances and must be abated by repair, rehabilitation, demolition, or removal according to Minnesota Statutes, sections 463.15 to 463.26.

APPLICATION FOR APPEAL TO BOARD OF ADJUSTMENT AND APPEALS

FOR INTERNAL USE ONLY:

CASE NUMBER _____
DATE FILED _____
APPEAL SET FOR _____

This form must be received at City Hall by 4:30 on 12.10.2011 for this appeal to be considered. (Being postmarked by this date is not adequate.)

~~NO~~ NO DATE FILLED IN!!

APPLICANT SCOTT NELLIS
ADDRESS 10320 GROUSE ST. NW
CITY/ST/ZIP COON RAPIDS, MN 55433 PHONE 763-757-9766

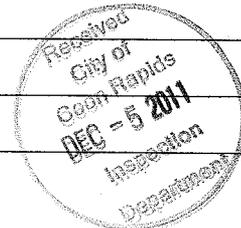
I/We hereby appeal the interpretation of the Compliance Official concerning:

BUILDING UNFIT FOR HUMAN HABITATION (12-313) AND ALSO CITATIONS

45839-19945 AND # 45839-19955 FOR WHICH I HAVE ALREADY FILED APPEALS

The grounds for filing this appeal are specified below (attach additional pages as necessary):

SEE ATTACHED PAGES



Signature _____

Date 12.5.2011

December 5, 2011

Appeal to letter dated November 30, 2011 concerning "Building unfit for human habitation (12-313)" code and compliance.

I would like to appeal this decision by the City of Coon Rapids point by point.

- 1) "The home is filled with snakes, lizards, rodents and insects." Yes, it is. And every one of those snakes, lizards, rodents and insects are caged in industry designed and approved caging with proper heat, water and humidity levels appropriate to the species. The rodents are raised as feed animals for the snakes and the insects are raised as feed for the lizards. The insects are NOT classified as pest insects and are very commonly raised as food items for reptiles. There are NO free ranging animals in my house (except for 2 cats) and my house is NOT infested with any type of insects or animals. An infestation would imply pests that are free roaming throughout the house. This is NOT the case here.
- 2) "The home does not have adequate sanitation facilities for the keeping of the snakes, lizards, rodents and insects." On the contrary, it does. There is a working bathroom downstairs with a flush toilet for feces and I DO have an approved garbage hauler to haul away soiled litter.
- 3) "The home does not have an adequate ventilation system for keeping of the snakes, lizards, rodents and insects." It is of my opinion that the ventilation IS adequate. This house was built in 1975 and as such, it is not sealed tightly like new homes built today. Snakes, lizards and insects actually do poorly in over ventilated areas because of temperature variances and possible drafts. I do agree that rodents fare better with increased ventilation to a point. They also need a constant temperature to thrive. This issue is addressed further down in my appeal.

I would also like to appeal the compliance ORDERS given to me in the letter from The City of Coon Rapids as follows...

- 1) "Completely remove all the snakes, lizards, rodents and insects from the property." First, I have NOWHERE to move them to. Moving them would be an extreme financial and emotional hardship on me. Moving the reptiles during Winter WILL be harmful to them and could result in their deaths. NO city codes are being broken by my keeping of reptiles, rodents and insects (except for the definition of non-domestic animals given to some harmless species of snakes....to which I have previously appealed).
- 2) "Remove all items related to the keeping the snakes, lizards, rodents and insects, and waste and debris." Excuse me, but how are keeping inanimate objects and supplies breaking ANY city codes anywhere in the nation? This is just plain ludicrous. I have several thousand dollars tied up in equipment and supplies. Also, waste and debris ARE removed on a weekly basis with my garbage hauler. No problem there.
- 3) "Provide a satisfactory air quality report." Okay, I believe that this is the sole reason for the compliance order and I have several points to make about it.

- A) On October 26, 2011 when my house was raided, an air quality test was done inside. I was escorted outside while this test was done. I have NO idea how or where the air sample was tested. For all I know, they could have stuck the testing device inside a soiled caged to garner a higher pollutant reading. I was NOT present for the testing procedure.
- B) In the month of October I was on the road for three weekends vending at reptile expos in Omaha Nebraska (Oct 1-2), Chicago Illinois (Oct 7-9), and Plymouth Minnesota (Oct 23). Consequently, I didn't keep up with my regular cleaning schedule with the rodents. Part of this was from time constraints of doing the reptile expos, and admittedly, just plain laziness on my part. That's why on October 26, you probably got a bad air quality report.
- C) Since October 26, 2011 I have redoubled my cleaning efforts and am proud to say that there are NO air quality issues in my house at this time.
- D) Any issues with indoor air quality at my house can be almost exclusively attributed to the keeping of rodents. Snakes, lizards and insects are for the most part, odorless. Snake feces do have an offensive smell, but they only defecate on average, once a week and I spot clean the cages on a regular basis with a total cage cleaning when necessary.
- E) I don't know what pollutants your air quality test found, but I would suspect it was ammonia. Ammonia is an irritant, but NOT a carcinogen like tobacco smoke. I have to ask myself, why aren't you testing the indoor air quality of smokers? I would think that the levels of harmful chemicals in the air would warrant their houses uninhabitable also. As such, I believe I'm being unfairly singled out for what is a TEMPORARY problem. As I stated in paragraph C, the air quality issues at my house have been fixed.

My proposed solution to this compliance order is as follows...I will keep up on the maintenance and cleaning of all my reptile, rodents, and insects to keep air quality issues at safe levels. If that is unacceptable, I can possibly reduce the number of rats I keep as they are the main culprit of air quality issues.

If my proposals are unacceptable to the City, then I have no recourse other than to take the matter up in a Minnesota court of law. This entire action brought on by the City of Coon Rapids has caused me untold stress and anguish. I've lost weight and lost sleep stressing out over the possible loss of my hobby/business that I am passionate about. The United States Constitution guarantees us "...life, liberty, and the PURSUIT OF HAPPINESS..." Raising reptiles is MY pursuit of happiness.

Scott Nellis



December 5, 2011