

COON RAPIDS BOARD OF ADJUSTMENT AND APPEALS MEETING MINUTES OF FEBRUARY 2, 2012

The regular meeting of the Coon Rapids Board of Adjustment and Appeals was called to order by Chairman Wessling at 6:30 p.m. on Thursday, February 2, 2012, in the Council Chambers.

Members Present: Chairman Gary Wessling, Commissioners Jeanette Rosand, Teri Spano-Madden, and Trish Thorup

Members Absent: Commissioner Vande Linde

Staff Present: Housing and Zoning Coordinator Cheryl Bennett, Assistant City Attorney David Brodie, Chief Building Official Doug Whitney, Housing Inspector Leya Drabczak, Fire Inspector Nick House, Patrol Officer Interna Kim

1. CALL TO ORDER

Chairman Wessling called the meeting to order at 6:30 p.m.

2. APPROVE FEBRUARY 2, 2012 AGENDA

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER SPANO-MADDEN, TO ADOPT THE FEBRUARY 2, 2012, AGENDA AS PRESENTED. THE MOTION PASSED UNANIMOUSLY.

3. APPROVE DECEMBER 1, 2011, MEETING MINUTES

Commissioner Thorup requested the following corrections:

Page 3, last paragraph: "within a half mile of Coon Raids Rapids Boulevard."

Page 4, fifth paragraph: "...if they have adequate access..."

MOTION BY COMMISSIONER SPANO-MADDEN, SECOND BY COMMISSIONER THORUP, TO APPROVE THE DECEMBER 1, 2011, MEETING MINUTES AS AMENDED. THE MOTION PASSED UNANIMOUSLY.

4. CASE 12-01V – SCOTT NELLIS – 10320 GROUSE STREET – APPEAL ORDER OF CHIEF BUILDING OFFICIAL

Chairman Wessling reviewed the background on the case. He asked staff for comments.

Chief Building Official Whitney had no additional comments and offered to answer questions. Chairman Wessling confirmed that the property is zoned for residential use. He asked if it is licensed for business and if it could legally be operating as a business. Chief Building Official Whitney stated that this is a home occupation that is not currently legal.

Housing and Zoning Coordinator Bennett added that there are certain types of home businesses that can operate without a separate city license or permit. She explained that one determining

factor for operating a home business is that the residential character of the property must be maintained.

Chairman Wessling asked Mr. Nellis to address his concerns.

Scott Nellis, 10320 Grouse Street, provided a written statement to the Board. He explained that this is a rebuttal.

Chairman Wessling advised Mr. Nellis that he had five minutes to address the Board.

Mr. Nellis stated that he has reviewed the city code regarding home businesses. He noted that he does not have customers coming to the house. He explained that most of his business is done out-of-state at business expos and through some internet sales. He stated that his house does not appear different from the neighbors from the outside. Chairman Wessling stated that a neighbor complained which is why there is an issue.

Mr. Nellis stated that the complaint came about because of odor from cedar shavings from rat cages that was being used as garden fertilizer. He reviewed that this is allowed by code and is considered manure. He commented that his neighbors know about his business and have otherwise not had any complaints. He reported that he has reduced the number of rodents on hand and increased the frequency of cleanings on the property. He noted that he now uses his trash for waste. He added that the odor has been reduced. He explained that ammonia levels have been reduced. He reported that he does not have equipment to test the odor.

Chairman Wessling asked what standards Mr. Nellis is going by to determine that the odor is reduced. Mr. Nellis asked that if his air quality is to be monitored, would the homes of smokers also be monitored. He stated that in this situation he would be considered to be singled out.

Chairman Wessling stated that there is a fire safety issue due to the rows of cages. Mr. Nellis stated that a majority of the cages are located in the basement. He explained that no one resides in the basement. He reported that he weighed the cages which do not exceed the 40 pounds per square foot limit that Chief Building Official Whitney detailed for him. He stated that he uses industry-approved cages. He stated that a refrigerator would weigh more than his cages. He stated that a fish tank would weigh more in a smaller footprint. He stated that as far as doing illegal activity in his house, it should only be his concern as to what happens in the privacy of his home. He added that there are privacy laws.

Chairman Wessling stated several items were listed as concerns.

Mr. Nellis stated that this is his hobby which should not be a concern. He stated that many people have hobbies that take up a lot of space in their homes. He stated that he does not have a garbage house. He explained that he has a friend who lives with him and they have duplicates of some appliances and that there are some boxes around the house. He noted that in three to four months he will be moving items into his storage unit to alleviate some of the crowding. He stated that the animals are kept around the perimeter of the rooms and not throughout the floor area. He noted that the room off the entry has two aisles formed by cages but that it is not a walk-through room. He noted that he keeps the door closed to this room.

Commissioner Spano-Madden asked how the non-smooth surfaces of the Building Officials report have been addressed. Mr. Nellis stated that the two rooms where the reptiles are kept have carpet in them. They have painted wallboard and "popcorn" ceilings. He explained that the reptiles are caged and do not get out to defecate on the carpet. He explained that people with dogs have issues with them defecating on the carpet which is a worse situation than he is dealing with. He noted that when cleaning the cages he moves the reptiles to another container. He reported that his home is not a public place and customers are not coming into it. He stated that it is his residence and he should not be required to conform to commercial codes.

Chairman Wessling stated that businesses need to be licensed and have permits. Mr. Nellis stated that he checked with the state in 2007 on the codes. He added that he is registered and licensed with the state. He stated that has a sales tax number. He reported he is paying sales taxes and income taxes related to the business.

Commissioner Rosand asked how long Mr. Nellis has had his business. Mr. Nellis stated that in 2007 he decided to expand his hobby into a business. He explained that at that time he checked on city codes and filed with the state.

Commissioner Rosand asked how many reptiles were on the property in October of 2011. Mr. Nellis stated that the friend who lives with him had owned 45 reptiles and sold them off at a significant loss because she was scared about the city's inquiry. He stated that he had 390 reptiles with the majority of them being under two feet in length.

Commissioner Rosand stated that the city requires a license for cats and dogs over a quantity of three per household. Mr. Nellis stated that he checked on this and that a license is not required for reptiles. He added that he would apply for a license for this but one is not available.

Chairman Wessling asked about the structural findings. Chief Building Official Whitney stated that a certain amount of open space is expected within a home. He stated that the issue is not hoarding but that typical household items like a couch, coffee tables, or TV are not found there. He stated that an expectation is that fire crews would be able to get in and out of the house.

Fire Inspector House stated that there is open space downstairs but on the mid-floor level, where there are a lot of cages, the windows are blocked limiting access to an exit. He stated that in the basement and mid-floor levels the plastic containers increase the normal fire load per occupancy which would make it more dangerous to do a search in case of a fire. He explained that if the house was full of smoke, the firefighters would not be able to crawl through it and find their way in their bulky gear.

Chairman Wessling confirmed that some windows are blocked with cages. Fire Inspector House stated that there are cages blocking windows and the outer perimeter in the main room. He explained that there are cages in the middle of this room which is blocking egress out of the room.

Chairman Wessling confirmed that the cages would be a fire hazard. Fire Inspector House stated that annual inspections which are performed for businesses would find the cages to be a hazard. He explained that there are extensive use of extension cords and additional heaters creating

further hazards. He reviewed that half-mask face respirators needed to be worn when they initially inspected the property. He commented that in the past they have found that the odor permeates the carpet and surroundings.

Chairman Wessling asked if the fumes are flammable. Fire Inspector House stated that he is not a hazmat expert. He explained that ammonia levels are regulated for a nine-to-five job site, which is what they were measuring on the basement and middle floors. He reviewed that the hazmat team did an inspection and found the odor at the threshold of the daily allowable limit. He stated that the average person should likely not be living in this environment 24 hours a day.

Chairman Wessling asked if there is special air ventilation. Fire Inspector House stated that they did not find a separate air quality system.

Chairman Wessling asked if owning snakes is against code. Chief Building Official Whitney stated that the issue is whether there are items found typically in a house or business. He explained that the Humane Society and others that keep animals have an environment that is designed by architects and engineers so that ventilation, proper outlets, smooth cleanable surfaces and sinks are provided. He stated that ventilation is set up so that air is not recirculating. He explained that waste disposal and storage cabinets are typically built in. He stated that extra heaters, electric cords and limited air circulation are at issue.

Commissioner Thorup asked if Mr. Nellis could lease property from an agricultural property owner with an outbuilding that could be used for this purpose and suggested that a hobby farm could be an alternative. She asked if this would provide the setting that is needed and be an option within the statute. Chief Building Official Whitney stated that agriculture buildings are exempt from code enforcement and this would be an alternative.

Chairman Wessling stated that the Commission will discuss the case amongst themselves now.

Mr. Nellis asked if he has an opportunity to give a rebuttal. Chairman Wessling stated that all of the information has been presented already.

Commissioner Thorup stated that homeowners are bound by city ordinances. She explained that Code 6-500 refers to the keeping of nondomestic animals, which includes cobras and boas. She stated that the city is bound by these codes.

Commissioner Rosand stated that the homeowner is saying that the air quality is improved. She requested that an official report of this be presented as the homeowner is living there.

Commissioner Thorup stated that there are fire hazards at the property.

Commissioner Rosand stated that if firefighters are called they expect to be entering a typical home and not a pet store environment.

MOTION BY COMMISSIONER THORUP, SECOND BY COMMISSIONER ROSAND, IN CASE 12-01V, THE BOARD OF ADJUSTMENT AND APPELAS UPHOLDS 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.

THE MOTION PASSED UNANIMOUSLY.

Chairman Wessling stated that staff requirements were being upheld and asked Mr. Nellis to speak with staff if he had any questions.

5. ADJOURNMENT

MOTION BY COMMISSIONER SPANO-MADDEN, SECOND BY COMMISSIONER THORUP, TO ADJOURN THE MEETING AT 7:08 P.M. THE MOTION PASSED UNANIMOUSLY.

Respectfully submitted,
Beth Bostrom
Board of Adjustment and Appeals Secretary

This is in response to the letter from Doug Whitney, Chief Building Official, stating his reasons to pronounce my house "unfit for human habitation". I'll try to address each charge point by point.

The room off the main level contains 20 – 3' cages resting on wire shelves that are secured to two walls by brackets that are hooked into uprights that are hung from a horizontal load bearing bracket that are secured to the wall studs. The uprights are also screwed in the wall studs along their vertical length. None of those cages rests on the floor. Each cage weighs 19.5 lbs with a filled water bowl weighing 9 lbs and the average weight of the snake and bedding being maybe 10 lbs. That's a total of 38.5 lbs/cage on average. One wall has 16 cages, totaling 616 lbs. Add maybe 40 lbs for the wire shelves/brackets and the total is 656 lbs over 12' of wall. That's 54.7 lbs/linear foot on a NON-load bearing wall. The other wall has 4 cages weighing 154 lbs plus maybe 15 lbs of brackets totaling 169 lbs spread over 3' of wall, or 56.3 lbs/linear foot. This is also on a NON-load bearing wall.

The third side of the room has a bank of 24 – 2' PVC cages resting on a platform on the floor. This platform is 96" X 13.5" covering 9 sq ft. Using the load data supplied by Mr. Whitney of 40 lbs/sq ft, the maximum allowable weight of this bank of cages would be 360 lbs. I weighed one cage with snake, bedding and water bowl included and it weighed 11 lbs. So, all 24 cages on that bank would weigh 264 lbs with the platform base weighing maybe another 25 bringing the total up to 289 lbs....WELL within the weight limit.

The center island is 8'6" X 30" covering 21.25 sq ft. On average, each 2' cage there weighs 13.5 lbs with snake, bedding and water bowl included. There are 48 cages on the center island, NOT ALL OF THEM are being used so therefore, would weigh less than 13.5 lbs. At any rate, the 48 cages would weigh 648 lbs with the supporting framework weighing maybe 180 lbs for a total of 828 lbs spread out over 21.25 sq ft. That comes to 39 lbs/sq ft. That is also within code limits

In summary, the room off the entry is NOT in violation of any codes pertaining to weight limitations. My refrigerator (that came with the house when I bought it) covers 5.78 sq ft and shouldn't weigh more than 231 lbs by code. I have no idea what it weighs. How many of you have bookshelves at home. Anyone want to guess what they weigh when loaded with books? Many people have aquariums. A popular 55 gallon model would cover 4.33 sq ft. and weigh over 500 lbs when filled. That's over 115 lbs/sq ft.

The ceiling fan did not work because it is NOT hooked up to the wall switch. It came that way when I bought the house. It turns on by a pull chain. It is also NOT touching the top of the center island of cages. There is at least 2-3" clearance. Because of the room fan, there is no central ceiling light. Lighting is provided by two lamps at opposite ends of the room.

The walkways around the room are 28" wide. The snakes were striking at the cage fronts because OF the flashlights. Shining lights into their faces will startle them and elicit a strike.

Moving downstairs, the load limit of 125 lbs/sq ft. is never exceeded as the footprints of the various rack systems are 2.16, 2.40, 3.00, and 4.25 sq ft, which works out to load limits of 270, 300, 375, and 531 lbs/sq ft. I can move these racks unassisted by hand so I'm pretty sure they aren't close to the maximum allowable weight limits. This is my basement. It has a poured concrete floor.

There are some extension cords in use in my basement simply because there are no outlets in the vicinity of some of the cages. The cords in use are 16 gauge grounded types. I plan on installing addition outlets in the future to address the problem. There are at least 3 unused slots available in my breaker box to do so. It should be noted that all the rack systems are hooked up to high quality proportional thermostats that include internal circuit breakers

and fuses and generally run the heat sources for the snakes at 10-20% power. Each rack system has a maximum draw of 180 watts. When fully functioning, they only draw 20-40 watts to maintain the temperature setting.

As to wall and floor surfaces, all the rooms with reptiles are covered in painted wallboard with carpeting and either a wallboard ceiling or acoustic tile ceilings. That would seem to stand up to the "smooth, hard, non-absorbent surface" requirement for the walls. The floors are carpeted and are vacuumed and spot cleaned (if necessary) on a regular basis.

The rodents are kept on the other side of the basement in an unfinished area. This is WELL away from the upstairs where I live, sleep, eat, etc. The ammonia smell was addressed in one of my appeals. I've taken care of the problem by reducing the rodent numbers and increasing the frequency of cleanings. There is no longer an ammonia problem.

I'd like to comment on a few of the "bullet" points stated in Mr. Whitney's letter to me that I haven't covered yet.

"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." As I stated in my previous appeal, snakes, lizards and insects do NOT fare well in overly ventilated drafty areas. They prefer tight quarters to hole up in as that makes them feel secure. When you see a snake out in the open in the wild, it is only there to hunt. When they have eaten, they will retreat to a den, underground burrow, or other tight secure place to digest their meal. I believe the ventilation in my house is more than adequate.

"There is no sanitary method of storing food or disposing of waste." On the contrary, the only food items stored in the basement are bags of rodent chow to feed the rodents. I don't have more than 10 bags stacked up at any one time and the bags are made in way that includes a plastic layer in between the paper to keep the chow fresh and insects out. ALL waste is disposed of in a timely manner with my garbage hauler. I was using soiled rodent litter as manure in my garden this last summer, but since that's what started this entire complaint, I no longer do so.

"The overall excessive storage present in the structure creates a hazard for fire fighters and emergency responders during emergency operations." Yes, I agree, I do have too much "stuff" in the house. I'm working on that. I have a storage unit that I'm moving some things into, and will also go through the house and do a general cleaning of all spaces in the next 3 months.

I've tried to address all the points made in the complaint and would like to add that this is my private home. It is not a business open to the public. I do business mainly by attending reptile expos and the occasional Internet sale. As a rule, people DO NOT come over to my house to buy reptiles. On occasion, I will have friends over that may buy something, but that is far and few between. This is my house and home that I thought I was free to do anything that is legal. I haven't broken any laws or codes, with the exception of the change to Coon Rapids code concerning "non-domestic" animals that was changed without my knowledge in July 2010...and to which I have filed an appeal. I feel that I'm being singled out because of the general fear and loathing most people have against reptiles. This is America, the land of the free. I should be free to choose what legal hobbies I wish to pursue. I am more than happy to comply with any complaints about sanitation and storage problems, just don't ask me to give up my reptiles.

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