

## **PUBLIC COMMENT**

### **Regarding Non-Conforming Use Re-establishment Petition Process.**

April 22, 2012

In July of 2006, we purchased a property in St. Paul with the intent to rehabilitate the building and use it commercially. Our own residence was a couple miles away near St. Thomas.

The property is a typical neighborhood commercial building that is built to the sidewalk with a zero-lot line on the street, corner entry, storefront, flat roof, and parking in the back off of the alley. There is a similar commercial building across the street on Hamline Avenue and a church across the side street.

The building was built in 1913 as a community dance hall with some living space on the second floor. Starting in the 40s until 1989 the building was used as a grocery on the main level and a residence on the second floor. To our understanding, the building was occupied on the second level for many of the years and the first level was occupied sporadically by a few small businesses until we purchased it in 2006. We replaced all the windows, the siding and the entire roof. We updated all of the utilities in the building and updated the interior finishes. We also removed a two story back porch, wobbly stairs and old garage that were unsafe and unusable.

We worked with city planners to determine what kind of occupancy we could have on the property and determined that the building had defaulted to a residential occupancy because it had sat vacant and we would need to go through the non-conforming use re-establishment process which would require a signed petition from 2/3 of our neighbors.

City planners also sent us a letter, which agreed with us that this is a commercial property that would typically be zoned with a TN-1 neighborhood occupancy.

We used the TN-1 occupancy as a basis for the non-conforming use petition since it was not possible to secure a commercial tenant with only the hope of getting 2/3rds of the neighbor's approval of the tenant after months of canvassing.

Undeterred, we knocked on our neighbor's doors to discuss our plans and found the process to be enlightening, frustrating, humiliating and sometimes hostile as many of them were strangers to us and seemed to have drawn their own conclusions about us. Here are a few typical responses:

1. "I'm not signing that, why did you paint it that horrible color"
2. "We want it to be a residence so we don't have more traffic on Hamline."
3. "I'm not signing that, these other people across the street from you had a business and they had trucks parked in front of my house. Besides that, the former owners of your property were terrible."

4. “I will sign it if you only allow what *I* want (a photographer, professional office, a *mystery book store*, etc.) on that list.” (This was the most typical answer)

It was difficult to approach each of the 14 neighbors, greet them for the first time, explain our case and articulate the specific city zoning codes, then immediately solicit their signature on a rather complicated and potentially controversial issue.

Ultimately, after nearly 6 months of trying to get ahold of everyone and allowing people to review the issue before deciding we were able to get the 2/3rds majority approval on our petition for three particular uses as well as approval from the MGCC HLU. Then we faced a group of people at a public hearing who had their own interpretation on our situation. At that hearing, one man said that he heard that we were seeking approval for a *tattoo parlor*. Others spoke of their own ideas about how the property should be used.

The property was approved for mixed use. Limited to business office, photography and photocopying. We had several different parties interested in renting or purchasing the property to rent or as a live/work space. We also had several purchase offers that were contingent on getting city approval including:

- Chiropractor office
- Small locally owned neighborhood coffee shop
- Artist who designed and made bike messenger bags
- Psychologist office
- Hair stylist group

All of these potential uses ultimately were denied along with several other proposals to rent the first floor, due to the current city zoning process.

We believe many of the people who wanted to rent or purchase this property had good intentions for the use of the commercial space and wanted to bring a profitable business to this community in a responsible way.

We have since sold our residence near St. Thomas and moved into this building along with our three young children. While it feels very awkward and even quite unsafe to have a residence with windows and a front door that open directly to the sidewalks and Hamline avenue (i.e. we often get strangers standing, legally, inches away from our kitchen and living room window at all hours of the day and night. We also have had people try to open our door thinking it is a business.), we have made the best of it because we had no alternative as the property cannot be sold or rented for its highest and best use.

We have also had difficulty financing the property as a residence so we currently hold a commercial mortgage, commercial insurance and have paid commercial taxes. All of which are very costly because it presumes the property will generate income. We’ve also been told that the property has a particularly low resale value due to the narrow buyers market as it is not designed to be used as a residence.

**In the end it was eight people who live adjacent to us that decided the use of our property. It was not based on a community plan, the professional opinion of city planners, the inherent design of the building, or even the historical use of the property. Rather, it was based on our neighbor's various personal opinions.**

We believe that community council review and city planning review would be the appropriate place for neighbors and concerned public to air personal (and professional) opinions and comments.

We urge the city of St. Paul to consider a more objective, studied and professionally based process for zoning and eliminate the neighborhood petition process as a determining factor.

Thank you for your consideration,

Jack Wilcox