

LICENSE HEARING MINUTES
Farrell's St. Paul, 477 Selby Avenue
Monday, January 27, 2020, 10:00 a.m.
Room 330 City Hall, 15 Kellogg Boulevard West
Nhia Vang, Deputy Legislative Hearing Officer

The hearing was called to order at 10:05 a.m.

Staff Present: Jeff Fischbach, Department of Safety and Inspections (DSI)

Licensee: Ed McNamara, Casey Bloemke, Applicants/Co-Owners

License Application: Health/Sport Club

Other(s) Present: Charlie Neimeyer, property owner

Legislative Hearing Officer Nhia Vang made introductory comments about the hearing process: This is an informal legislative hearing for a license application. This license application required a Class N notification to inform neighbors and the District Council about the application and provide them with an opportunity to submit comments. The City received correspondence of concern/objection, which triggered this hearing.

The hearing will proceed as follows: DSI staff will explain their review of the application, and state their recommendation. The applicant will be asked to discuss their business plan. Members of the community will be invited to testify as to whether they object to or support the license application. At the end of the hearing, the Legislative Hearing Officer will develop a recommendation for the City Council to consider. The recommendation will come before the City Council as a resolution on the Consent Agenda; the City Council is the final authority on whether the license is approved or denied.

There are three possible results from this hearing: 1) a recommendation that the City Council issue this license without any conditions; 2) a recommendation that the City Council issue this license with agreed upon conditions; or 3) a recommendation that the City Council not issue this license but refer it to the city attorney to take an adverse action on the application, which could involve review by an administrative law judge.

Ms. Vang noted from the application that Mr. McNamara and Mr. Bloemke were co-owners, but only Mr. Bloemke would be operating the establishment.

Jeff Fischbach, Department of Safety and Inspections (DSI) gave a staff report. He said DSI had recommended one license condition, which was a standard condition for Health/Sport Club, and straight from the ordinance addressing staffing. Building was in process; they were adding showers and other improvements to the facility. Environmental Health was in process, License recommended approval with conditions, Zoning was approved. Zoning had asked him to let the applicant know they had received complaints about A-frame signage around the neighborhood.

Mr. Fischbach said they were not allowed to place those off the premises away from the business. DSI recommended approval of the license with conditions.

Ms. Vang asked if this was a change in ownership. Mr. Fischbach said this was an existing business, but they did not use equipment that brought them to the level which would require a Health/Sport Club license. The addition of the showers was changing that.

Ms. Vang asked how many showers were being added. Mr. McNamara said they were adding three showers for females, and two for males. They had been operating since July as a self-improvement club with classes six days a week. Adding showers would make it easier for morning participants, and open it up for them to add lunch-time classes. Ms. Vang asked if there were lockers. Mr. McNamara said they had cubbies, and had talked to DSI about what they would have to do to add lockers.

Ms. Vang asked how far along they were. Mr. McNamara said they hadn’t started. Upon approval of the license they would start the showers.

Ms. Vang confirmed with Mr. Fischbach that the license wouldn’t be issued until they had finished and gotten all of the inspection approvals. Ms. Vang asked whether they would close during construction. Mr. McNamara said they would continue to operate.

Ms. Vang asked about the number of classes and hours of operation. Mr. McNamara said classes were at 5:00 a.m., 6:00 a.m., 7:00 a.m. and 9:00 a.m., and 4:00 p.m., 5:00 p.m., and 6:00 p.m. They were open a half hour on either side of those class times, from 4:30 a.m. to 10:00 a.m. in the morning and 3:30 p.m. to 7:00 p.m. at night.

Ms. Vang asked about the types of classes. Mr. Bloemke said they were 45-minute group fitness classes with just one 2,000 ft² area where all classes were held. Ms. Vang asked if there was one or multiple instructors. Mr. Bloemke said one instructor at a time.

Ms. Vang asked if there was additional staff. Mr. Bloemke said there was always one manager on duty and one instructor.

Ms. Vang asked about class size. Mr. Bloemke said they ranged from eight to 28 people.

Ms. Vang asked whether membership had grown since they opened. Mr. McNamara said they had grown substantially, and had gained over 200 members since July.

Ms. Vang asked about parking. Mr. McNamara said their building had off-street parking.

Ms. Vang asked whether there’d been any complaints from the community or from the City. Mr. McNamara said they’d had one complaint from someone in the condos across the parking lot about early-morning noise. Mr. Bloemke said they had a robust and adjustable sound system. He said he had monitored the sound outside after the complaint and made adjustments to the bass level and the instructor volume. They had also added sound mitigation under the doors. As far as he could tell, the problem had been mitigated and sound was no longer audible outside. The

complaint was in November and they hadn’t heard anything else. He said they wanted to obtain the license to have showers to improve their business, but first and foremost wanted to be good neighbors.

Ms. Vang asked whether they had shared their contact information with that neighbor. Mr. McNamara said yes, the neighbor had reached out to him, and he hadn’t heard anything else. He said he hadn’t heard directly from the neighbors who had submitted written opposition.

Mr. Neimeyer (landlord) said he lived on the 400 block of Portland for 40 years and purchased the building two years ago. Most of the neighbors knew him as the owner, and he hadn’t heard anything at all. He said he knew the neighbors who had submitted written opposition, and they had not reached out to him.

Ms. Vang encouraged them to reach out to the neighbors and explore additional mitigating factors or solutions that could be found.

Ms. Vang asked whether the doors were propped open in the summer. Mr. Bloemke said absolutely not. Mr. McNamara said there was construction noise in June and July. He said it was highly unlikely that the neighbor who lived behind them still heard noise.

Ms. Vang read the correspondence of objection into the record. The first was from Michelle Hotzler, who lived behind the business and expressed concerns about noise. Mr. Bloemke said the concerns were valid, and they wouldn’t overlook it. Their number one priority was to be a good neighbor and benefit the neighborhood and not be a detriment. He said they would solve this. Ms. Vang read the letter from Gregory and Susan Hotzler at 193 Mackubin, also expressing concerns about noise. She noted that additional emails had been received the previous day from both parties indicating they couldn’t attend the hearing but still strongly opposed the license. Ms. Vang said the concerns were previously discussed at the beginning of the hearing; she asked if the applicants had any additional response. Mr. McNamara said they had offered their position and had nothing further to add.

Ms. Vang again encouraged the applicants to reach out to the neighbors to see if there were other issues they might have missed. She said she felt they were doing a good job of trying to alleviate the noise concerns and encouraged them to continue to find other solutions that may help with future noise concerns.

Mr. McNamara said they had talked to the sister of the man who submitted the complaint. She lived in the neighboring building, and visited the business, and had never said anything about noise.

Ms. Vang asked Mr. Fischbach whether there had been any enforcement action against the business since they opened. Mr. Fischbach said no.

Ms. Vang said she didn’t see anything in the record other than graffiti, and she was sure they addressed that as soon as possible. Mr. McNamara said they did.

Ms. Vang asked about trash pick-up. Mr. Neimeyer said each business arranged their own. Ms. Vang confirmed that they had not had problems with illegal dumping. Mr. Bloemke said they had minimal trash. Mr. McNamara said they had two small garbage cans like everyone else. Ms. Vang said she had no additional questions. She said it sounded like they were being responsible business owners by taking concerns seriously and trying to address them as soon as possible. She encouraged them to continue to work with the neighbors who had issues. She said she would recommend approval of the license with just the one condition.

The hearing was adjourned at 10:24 a.m.

The conditions affidavit was signed and submitted on January 27, 2020.