

Date: 1/28/2021  
House Bill No. 1222

COMMITTEE: Political Subdivisions  
CHAIRMAN: Representative Dockter  
FROM: Kevin Ternes, CAE, ND CG-2003, Licensed Real Estate Appraiser

Subject: House Bill 1222 concerning those residential buildings that are non-conforming as it relates to the zoning district, they are in.

Chairman Dockter and Honorable Representatives: Thank you for allowing me to present testimony on this bill. As a former city assessor, current private real estate appraiser, homeowner and fellow taxpayer, I would offer some concerns and questions about the bill.

I do understand the goal here of protecting a homeowner's property rights, but also share concern for other members of the neighborhood also. Hopefully a good zoning ordinance protects the rights and enjoyment of those property rights of *all* the residents of a particular neighborhood.

Below is a portion of a residential appraisal form lenders require that I suspect is where the issue is coming from:

Dimensions		Area		Shape		View					
Specific Zoning Classification		Zoning Description									
Zoning Compliance		<input type="checkbox"/> Legal <input type="checkbox"/> Legal Nonconforming (Grandfathered Use) <input type="checkbox"/> No Zoning <input type="checkbox"/> Illegal (describe)									
Is the highest and best use of subject property as improved (or as proposed per plans and specifications) the present use?		<input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe									
Utilities		Public		Other (describe)		Off-site Improvements - Type		Public		Private	
Electricity	<input type="checkbox"/>	<input type="checkbox"/>	Water	<input type="checkbox"/>	<input type="checkbox"/>	Street		<input type="checkbox"/>	<input type="checkbox"/>		
Gas	<input type="checkbox"/>	<input type="checkbox"/>	Sanitary Sewer	<input type="checkbox"/>	<input type="checkbox"/>	Alley		<input type="checkbox"/>	<input type="checkbox"/>		
FEMA Special Flood Hazard Area		<input type="checkbox"/> Yes <input type="checkbox"/> No		FEMA Flood Zone		FEMA Map #		FEMA Map Date			
Are the utilities and off-site improvements typical for the market area?		<input type="checkbox"/> Yes <input type="checkbox"/> No If No, describe									

If I could, I would offer the following for the committee to ponder:

1. I do not recall a time in 29 years of city service where this had been an issue that couldn't be handled with local solutions. Small towns especially would welcome new and safe construction.
2. If the reason for this bill is to satisfy banking and underwriting rules, regarding that I have visited with 2 long time lenders in Minot who have told me they each have seen this issue come up only once, and there were other remedies including local lenders.
3. Would the state be inserting itself in an issue that local boards who understand all the issues, characteristics of the particular neighborhood and past issues with a particular property be more suitable for addressing with a zone change if there is a financing issue or might there be considerable reasons why a zone change or allowing a re-build is not productive for the rest of the neighbors and their property values?
4. Regarding part 6) in each of the 3 Sections, if I received an insurance payment for my loss, and am denied by zoning in hiring a contractor to come and rebuild the structure to another non-conforming use, won't I be paid twice for the same building?

Thank you for your consideration and the opportunity to testify.