

HB 1422

Chairman Larsen and members of the Industry & Business Committee, my name is Dennis Huber. Thank you for granting me the opportunity to provide testimony on this important topic.

As an appraiser that has covered the eastern 1/3rd of the State for the past 30 years, I have been concerned about the number of homeowners that have no idea that their house is legally non-conforming nor are they aware of the potential financial and personal hazards they may face.

I believe it is important to address many of the misconceptions, if not outright misleading statements and testimony in previous sessions on this subject.

*The largest number of these non-conforming houses did not become non-conforming on purpose. These neighborhoods, or specific houses, weren't selected by the authorities for such treatment. It simply happened because upon updating the regulations and the classifications, they either didn't fit the new model designed for new growth, or in many cases were simply misclassified. I shall demonstrate a recent case later in this presentation.

*The zoning documents only sets forth the minimum requirements. That is often stated within the code. All other laws and regulations that are stricter apply. Building codes, Fire and Health safety, flood zones, etc. all must be met before a building permit is issued. The right to repair or rebuild in this bill does not affect this subordinate role.

* The additional amendments proposed by the ND Planners Association are not needed. Those items and many of the amendments within the bill are already covered by local ordinances and these other regulations.

*The use of the non-conforming clauses to attempt to change neighborhoods has never worked. Zoning authorities have other means at their disposal to promote or force change. They simply don't need this archaic provision.

*The public, and even the elected commissioners, lack adequate knowledge and information to understand the effects of changes to zoning regulations when they are happening.

A recent real-world example of how things work:

According to public records a woman purchased a single family detached home built in 1977 at 5xx 3rd Ave NW in West Fargo for \$126,000 in August of 2018. She was represented by a Realtor who was obligated to represent her best interests. The property was appraised, and mortgages totaling \$125,250 by a local bank and ND bonds.

In 2020 a fire damaged the garage, the 3-season porch and the house. She obtained a damage estimate from the insurance company and requested a building permit. She was turned down because her house was legally non-conforming and the cost to repair exceeded the 50% rule. She attempted to apply for a variance but was turned down without a hearing because the terms of allowing a variance approval in this case could not be met. The City's regulations prevented it because it was not physically unusual, as there are about 27 other properties in the same situation in her neighborhood. This same requirement is in nearly every zoning document I've ever read.

This issue with this neighborhood is that it was developed in the mid 70's as a way to provide affordable housing, thus smaller lots and houses closer together than typical. However, these 960 sf ramblers with double garages and a private yard serve a good purpose and have been largely problem free for 50 years. Whereas today we would attach 2-6 of these structures and create a higher density neighborhood, this early attempt was a very good solution for the times.

When updating the zoning classifications in very recent times, none of the classifications that have a minimum depth or rear setback fit this development. So, it appears that rather than create one for this neighborhood, they were thrown into the legal non-conforming status. This is how the state has wound up with thousands of non-conforming residential properties.

I respectfully request you reject any further amendments or attempts to delay this bill. The opponents have been on notice for years to clean up the conflicting classifications creating a hardship to the citizens of North Dakota. The solution in this bill has been present in many locations, such as Bismarck, Fargo, and the state of Minnesota. If it created a problem, wouldn't the opponents have enlisted them to oppose this needed legislation. This isn't taking away local control; it is necessary because they failed to work in the best interests of their citizens.

I urge you to support and vote in favor of this bill.

Dennis Huber

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The Rest of the Story: How was the above case resolved?

Due to time constraints, this part may not be part of the oral testimony.

Options on the table:

Sue the Realtor for inadequate representation.

Sue the appraiser, a proper appraisal would have prevented the approval of the loan.

Sue the insurance company seeking the face amount instead of the cost to repair.

Sue the City of West Fargo, claiming a "taking of the property".

Walk away, let the foreclosure happen, the property condemned, and returned to the city for back taxes.

Get a contractor's estimate that magically showed the damage at 49%.

Often, the path taken isn't the most honest, it's the path of least resistance.

