

March 17, 2021

Dear Senators of the Political Subdivision committee:

Mistaken Identity — Variance vs. Nonconforming Use

A variance is an exception to the existing zoning, whereas a nonconforming use (also known as a grandfather clause) arises when there is a change to the zoning, but an existing use is still permitted to continue.

I was the Minot City Planner from 2001-2016 and in that time, dealt with non-conforming properties both prior and post flood 2011. I can tell you that in my time employed as the city planner, the zoning ordinances locally attempted to find compromises with these properties in both single family and multi-family housing types. Locally, each jurisdiction can attend to these types of situations and everyone of them is unique and will not fit into a little package with a bow. Let me explain a few experiences.

At the time, Minot's zoning ordinance allowed any property owner and or buyer with approved offer to purchase, to file for a variance whether it be on a setback, lot coverage, or lot size and most often would get granted based on a hardship if there were no other options.

Following the flood of 2011, thousands of properties were out of compliance and the City Council passed a resolution allowing anyone to rebuild within the first two years with a building permit, proper inspections and bringing the properties up to building code standards.

In my time as city planner, I wrote hundreds of letters during the appraisal process informing the bank, mortgage company, insurance company or appraisal office what type of property was being reviewed. At times, I had to inform them that a property was legal non-conforming and that if destroyed greater than 50%, it must be built to the standards at the time of incident. And would include information about the variance process. I was led to believe that an individual property owner could still purchase a non-conforming property but was required to carry additional mortgage insurance until 20% of the loan amount was covered.

These decisions were made locally based on conditions that would not likely occur in other cities in ND. Please vote NO and allow the local jurisdictions to solve the issue in their community.

Best regards,

Donna Bye