

**MINUTES OF THE ZONING COMMITTEE**  
**Thursday, October 9, 2014 - 3:30 p.m.**  
**City Council Chambers, 3rd Floor**  
**City Hall and Court House**  
**15 West Kellogg Boulevard**

PRESENT: Edgerton, Makarios, Merrigan, Padilla, Reveal, Wencl, and Wickiser  
EXCUSED: Nelson  
STAFF: Bill Dermody, Samantha Langer, Allan Torstenson, and Peter Warner

The meeting was chaired by Commissioner Padilla.

**Forrest Heating Inc. - 14-324-859 - Establishment of nonconforming use as a heating service business, 995 Burns Ave, NE corner at Clermont**

Bill Dermody presented the staff report with a recommendation of denial for the establishment of nonconforming use permit. He stated District 4 made no recommendation, and there were no letters in support or opposition.

Upon questions from the Commissioners, Mr. Dermody confirmed that one employee of the business is a resident at the home. He also stated it would be within the Committee's purview if the application were approved to consider a condition to remove paving on the property in order to satisfy finding 5(e).

Commissioner Wencl disclosed that she is long-time friends of the applicants, but there is no financial interest and no financial gain with the business.

At questions from the Commissioners regarding the amount of paving at the property, Mr. Dermody explained that the maximum amount of paving for a two family dwelling home is 15% of the lot area. This site is clearly over 15%. However, that requirement was not enacted until 2009 and the site's paving was in place before that time – it is a grandfathered situation and not illegal. The staff finding is that regardless of whether they are over a maximum amount of paving, this is not residential in nature. Mr. Dermody explained that this business was not allowed more than 10 years ago, and has been operating illegally by the zoning code for at least 10 years. Mr. Dermody said that the zoning code states that home occupation cannot use a garage or an accessory structure for business uses. It does not state anything specifically about vehicles. His belief is that the intent is to prohibit storage other than vehicles in a garage. There was an inspection of the duplex in 2011 that made no notation about the business. No business licenses have ever been issued according to City records.

Charles Forrest, 995 Burns Avenue, Saint Paul, explained that he runs the business for his father, and he lives at the property. The business was started at this location in 1936 by his grandfather and has remained at this site since that time. They have a small office in the basement for bookkeeping. They do not use it as retail space and do not have customers come to this location. Their business is done on site at different locations. The garage space is only used for tools. They do not store furnaces or air conditioners at their property.

Upon questions from the Commissioners, Mr. Forrest stated that the space located in the basement behind the office space is personal space. It is used for hobbies and woodworking. He stated that the paving on side was added for off-street parking for residents that live in the duplex. He is not sure about the other paving added or if it was put in specifically for the

business. He stores one service van at the site. He stated he would be comfortable if conditions were placed on the permit stating that only one service van could be at the property, and that the garage could be used for storage of tools only, and no equipment would be stored at the property. He confirmed that no customers come to the office. He stated that there have never been any complaints made by neighbors.

Mr. Dermody confirmed that there have been no complaints registered with the City regarding this business.

Stan Wandersee, 979 Burns Avenue, Saint Paul, stated he has lived at this address and has known the applicants for 53 years. He was shocked when he received the zoning notice in the mail regarding Forrest Heating for establishment of a contractor shop. A shop is where you receive services, repair or sell products on site. This is not a shop, they don't repair furnaces on site, they have no customers that come to the property, and there is no retail or wholesale at the location. He doesn't see why they should be restricted to having a home office. He doesn't understand why there needs to be a change.

Candance DeRoos, 991 Burns Avenue, Saint Paul, stated she has lived there for 23 years and they have been the best neighbors. She has never had any problems with them and they have let her use the paved area by the duplex for off-street parking.

Richard Plume, 995 Burns Avenue, Saint Paul, lives next door in the duplex. He has known the applicants his entire life. There is nothing to indicate that there is a business going on at the property, and they have never had any problems. They have been good neighbors.

No one spoke in opposition. The public hearing was closed.

Commissioner Padilla questioned why this application has come before the Zoning Committee, and who made the determination that this is somehow something other than a home occupation.

Mr. Dermody stated that the Department of Safety and Inspections (DSI) has been inspecting rental residential units, and this was a routine inspection of the rental portion. The business was discovered at that point and referred to Planning and Economic Development (PED) to make application. He has been unable to find out why it was determined to be something other than a home occupation because the DSI staff member who interacted with the applicant no longer works with the City.

Peter Warner, City Attorney, recommended that the Zoning Committee lay this application over. He would like to meet with DSI to discuss this application further and refer back to the Zoning Committee. Based on testimony that has been introduced today, he does not believe that there is a nonconforming use at the property, but would like to meet with DSI staff to find out why they have determined something different.

Commissioner Padilla stated that there has been testimony showing that this is a home occupation only. The Committee needs clarification on what the issues are that DSI has determined. The next Zoning Committee meeting is in four weeks and there will be no

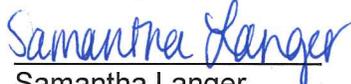
enforcement issue that the applicant needs to be concerned with during that time. Depending on the results of the discussion with DSI, the applicant may or may not need to appear again before the Zoning Committee, and they will be contacted by City staff. At this point it is not appropriate to take action.

Commissioner Elizabeth Reveal moved lay over the establishment of nonconforming use permit to November 6, 2014, to allow time for discussion with DSI staff to determine if this is a home occupation or a nonconforming use. Commissioner Barbara Wencil seconded the motion.

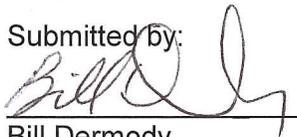
The motion passed by a vote of 7-0-0.

Adopted                      Yeas - 7              Nays - 0              Abstained - 0

Drafted by:

  
Samantha Langer  
Recording Secretary

Submitted by:

  
Bill Dermody  
Zoning Section

Approved by:

  
Gaius Nelson  
Chair