

Legislation Text

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To the President and Members of the City Council of Philadelphia:

I am herewith returning to you as disapproved Bill Number 051144-AA, which would amend Title 14 of The Philadelphia Code, entitled 'Zoning and Planning,' by amending Chapter 14-104 entitled "Non-Conforming Structures and Uses," by amending provisions relating to the reconstruction of non-conforming structures.

This Bill amends Section 14-104 of the Zoning Code to allow properties zoned "R-1", "R-1A", "R-2", "R-3", "R-4" or "R-5" in the Tenth Council District to be reconstructed where any structure containing a non-conforming use or being non-conforming as to area, height, floor area or bulk, in whole or in part, is destroyed by fire or an Act of God or is legally condemned. Insofar as the legislation permits non-conforming structures that are destroyed by a fire, act of God or natural disaster to be rebuilt in the same footprint of the original property without a zoning variance, I cannot support this measure for the following reasons.

Until 2003, if a non-conforming property was destroyed or substantially destroyed by fire, upon rebuilding it could no longer be built to its non-conforming specifications; it had to conform to the zoning of the neighborhood. If the property was only partially destroyed, the building was allowed to retain its non-conforming character. In 2003, Council adopted an exception to the foregoing in the Third District whereby properties that were totally or substantially destroyed by fire could be rebuilt to their non-conforming specifications, but only if the block was largely intact (i.e., seventy five percent of the structures in the block are still in place).

Bill No. 051144-A would adopt a similar exception for the Tenth District (though without the limitation that the block needs to be largely intact). Properties destroyed by fire would be allowed to rebuild to their prior non-conforming characteristics, regardless how little or much of the property was destroyed. Although the intent of the legislation is to alleviate the burden of Tenth District residents in seeking zoning variances, the larger public interest in creating a uniform and transparent Zoning Code is of paramount concern to me and would be frustrated by this legislation.

As the City's Chief Executive, I am charged with the duty of ensuring the same opportunity for all citizens who are similarly situated. Insofar as this legislation carves out a different set of rules for residents of the Tenth District that may not be enjoyed by all citizens, I cannot support it.

Therefore, despite the laudable legislative intent, I cannot approve of Bill 051144-AA as enacted.

Sincerely,
John F. Street, Esquire

Mayor - City of Philadelphia