

# Department of Community Planning and Economic Development - Planning Division Report

Appeal of the Decision of the Zoning Administrator  
BZZ-2312

**Date:** May 19, 2005

**Appellant:** Mark Koscielski

**Address of Property:** 2926 Chicago Avenue South

**Contact Person and Phone:** Mark Koscielski 612-827-3832

**Planning Staff and Phone:** Jim Voll 612-673-3887

**Date Application Deemed Complete:** April 15, 2005

**End of 60 Day Decision Period:** June 14, 2005

**Ward: 8      Neighborhood Organization:** West Phillips

**Existing Zoning:** C1 Neighborhood Commercial District.

**Appeal of the decision of the Zoning Administrator:** Mark Koscielski has filed an appeal of the decision of the Zoning Administrator that his establishment, Guns and Ammo, is not authorized to sell firearms in the C1 District for property at 2926 Chicago Avenue South.

**525.170. Appeals of decisions of the zoning administrator.** All findings and decisions of the zoning administrator, planning director or other official involved in the administration or the enforcement of this zoning ordinance shall be final subject to appeal to the board of adjustment, except as otherwise provided by this zoning ordinance. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within twenty (20) calendar days of the date of the decision. Timely filing of an appeal shall stay all proceedings in the action appealed, unless the zoning administrator certifies to the board of adjustment, with service of a copy to the applicant, that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed. The board of adjustment shall hold a public hearing on each complete application for an appeal as provided in section 525.150. All findings and decisions of the board of adjustment concerning appeals shall be final, subject to appeal to the city council as specified in section 525.180.

**Background and Analysis:** The subject property is located at 2926 Chicago Avenue South and is zoned C1 Neighborhood Corridor Commercial. The appellant's business, Guns and Ammo, is classified as a firearms dealer under the zoning code. Section 520.160 of the zoning code defines a firearms dealer as "Any person engaged in the sale, lease, trade or other transfer of firearms or ammunition at wholesale or retail. Firearms dealers shall not include any person engaged only in the business of repairing firearms." Firearms dealers are first allowed in the C4 General Commercial District. Firearms dealers are not allowed in the C1 District. On July 10, 2003 the Zoning Enforcement Office notified the appellant that the C1 District does not allow for the operation of a firearms dealer. Enforcement of this order was stayed while a lawsuit regarding this issue was

reviewed by the courts. This lawsuit was dismissed by the court on January 26, 2005. On April 7, 2005 the Zoning Enforcement Office again notified the appellant that a firearms dealer is not allowed in the C1 District (please see attached letter). The appellant has appealed this decision of the Zoning Administrator.

Staff makes the following findings:

- 1) The zoning office has classified this establishment as a firearms dealer based on a site visit, information provided by the applicant, and statements made by the applicant.
- 2) The appellant has provided no information as a part of the appeal to show that his establishment should not be classified as a firearms dealer.
- 3) Firearms dealers are allowed in the C4 and B4C Districts and are not allowed in the C1 District.
- 4) The establishment location at 2926 Chicago Avenue South is zoned C1.

Based on the above findings planning staff agrees that the Zoning Administrator has correctly interpreted the zoning code.

**Recommendation of the Department of Community Planning and Economic Development Planning Division:**

The Department of Community Planning and Economic Development Planning Division recommends **denial** of the appeal of the decision of the Zoning Administrator.

# Board of Adjustment

## HEARING ACTIONS/MINUTES

Thursday, May 19, 2005  
2:00 p.m., Room 220 City Hall

**Board Membership:** Ms. Debra Bloom, Mr. David Fields, Mr. John Finlayson, Mr. Daniel Flo, Mr. Paul Gates, Ms. Marissa Lasky, Mr. Barry Morgan, Mr. Peter Rand

**Board Members Absent:** Ms. Marissa Lasky, Mr. Barry Morgan

The meeting was called to order at 2:02 p.m.

The Minutes were approved: Thursday, May 5, 2005

The Consent Agenda was approved for the following items: 1, 2, 3 and 6

The Board of Adjustment of the City of Minneapolis met at **2:00 p.m.**, on **Thursday, May 19, 2005**, in **Room 220 City Hall**, Minneapolis, Minnesota, and considered requests for the following items:

**11. 2926 Chicago Avenue South (BZZ-2312, Ward 8)**

Mark Koscielski has filed an appeal of the decision of the Zoning Administrator that his establishment, Guns and Ammo, is not authorized to sell firearms in the C1 District and the enforcement of a cease and desist order from the City for property located at 2926 Chicago Avenue South in the C1 District.

Ms. Bloom moved to adopt staff recommendation. Mr. Rand seconded the motion. Motion passed.

The motion **denied** the appeal of the decision of the Zoning Administrator that the establishment, Guns and Ammo, is not authorized to sell firearms in the C1 District and the enforcement of a cease and desist order from the City for property located at 2926 Chicago Avenue South in the C1 District.

**Roll Call Vote:**

Yeas: Bloom, Fields, Finlayson, Flo, Gates, Rand

Nays: None

Recused: None

Absent:: Lasky, Morgan

Due to technical difficulties taping of the Public Hearing was not successful

