

City of Northfield Planning & Zoning Board
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Minutes: December 4, 2008

Notice of this meeting had been given in accordance with Chapter 231 Public Law 1975, otherwise known as the Open Public Meetings Act. Notice of this meeting had been given to The Press, posted on the bulletin board in City Hall, and filed with the City Clerk, stating the date, time and place of the meeting and the agenda to the extent known.

The regular meeting of the Northfield Planning & Zoning Board, held on Thursday, December 4, 2008 in Council Chambers, City Hall, Northfield, was opened by Chairman Richard Levitt at 7:27 p.m. and the following members were present:

Dr. Richard Levitt-Chairman
Clem Scharff-Vice Chairman-absent
Mayor Vincent Mazzeo
Jason O'Grady, Councilman-present for first application and COAH discussion
Chief Robert James
Lou Milone
John Clifford
Ron Roegiers
Henry Notaro
Jim Shippen
Linda Dyrek-absent

Norman Zlotnick, Solicitor
Matt Doran, PE-Engineer

There was one application and a continuance scheduled for this evening. The first application was from Gary & Virginia Wolf of 311 N. Franklin Avenue, Block 133, Lot 1.02 in the R-2 Zone. Mr. Wolf was present and represented himself. He stated that the fence is a 5 ft. high fence (it was noted that the plan shows a 6 ft. fence) and he constructed it for security and for safety reasons for neighborhood children since he has a fish pond. The house is on Franklin Avenue and the side street is Ireland Avenue. There is no fence for 25 ft. on the Ireland Avenue side. There is a gate and the fence runs 75 ft. down Ireland Avenue to the back end of the property. The fence provides a buffer and also provides safety for his 94 year old father who will likely come to live with him and who could wander off. The fence replaces a wood picket fence that was not in good repair. Chairman Levitt asked what the height of the old fence was and Mr. Wolfe answered 3 to 4 ft. Dr. Levitt said that technically the area is a front yard since it is a corner property and a 3 ft. fence is allowed and Mr. Wolfe is requesting a 2 ft. variance.

Mr. Doran said Mr. Wolfe had addressed some of the positive criteria necessary and the fence is not in the sight triangle and the area is clear at the corner. He said this was a straightforward application.

Chairman Levitt asked about the building permit. Mr. Wolfe said he applied for it after the fence was built and that the contractor who constructed the fence did not get a permit as required and never said anything to him about it.

Chairman Levitt opened the public session. There was no one present who wished to speak. He closed the session. There was no Board discussion.

Mr. Clifford made the motion for the "C" variance to allow for the construction of the fence which is already in place. Mr. Notaro seconded the motion. A roll call vote of all members present was unanimous in favor of granting the variance.

The second application of the evening, which is a continuance of the Roger B. Hansen application, was not set to begin until 8:00 p.m. at the request of the applicant's Attorney, Sal Perillo, who had another meeting to attend. Since the time was only 7:36 p.m., it was decided to memorialize the resolution for 2605 Shore Road, LLC, Block 78, Lot 14. Abstentions were Chief James, Ms. Dyrek and Mr. Shippen. Mr. Roegiers made the motion and Mr. O'Grady seconded. All other present members voted in favor by voice vote.

Mr. O'Grady gave an update on the COAH situation and read a memo from Tiffany CuvIELLO, PP, LLC, the city's COAH consultant. Ms. CuvIELLO outlined the findings related to COAH and is looking into a few other alternates for the City. The round 2 obligation (the largest) is 190 units. Dr. Levitt asked if she has completed the survey and Mr. O'Grady said no, but she is working closely with the Tax Office. Round three obligations are at 103 units and the total of the three rounds is approximately 309 units. Mr. O'Grady said a unit is considered a dwelling for one individual. There are three rounds and the total obligation is 309 units. They look at the growth share every year by way of building permits, new construction and additions and this adds on to the obligation, but this can be appealed. Also, anything constructed before 2004 is exempt and won't qualify. The growth from 2004 to 2008 alone creates 28 units, but he added that demolition takes away from the obligation. He added that Ms. CuvIELLO would like to come before the Board and give an update of her findings.

Mr. O'Grady said that Four Seasons has 120 units and they are considered market rate units. Homeowners would have to deed restrict these units. They would not qualify as credits since they are selling above the income qualifications that COAH would approve. Mr. O'Grady summarized her report with a five point summary and he will forward this to all the members. Impact fees, the housing element and the fair share plan were discussed. Mr. Zlotnick added that there may be re-zoning necessary to carry out the plan and all else is subject to market factor. Everything depends on the recommendation mix and the results of the survey.

Mr. O'Grady said that the COAH topic was an important issue at the League of Municipalities and there were many sessions on the topic and government officials are very concerned.

Chairman Levitt thanked Mr. O'Grady for all the information and said he is doing a very good job with the project. Mr. O'Grady left the meeting at this time since he cannot vote on the Hansen application due to technical problems with a recording from a missed meeting.

The Hansen application resumed at 7:55 p.m.

Chairman Levitt gave a brief review of the previous meeting concerning the vote. He said the Board previously voted to decide whether the internal roadway was a private drive or a roadway. The vote was in favor of a roadway and this meant there were design waivers which did not conform to RSIS. Also, there were variances that needed to be considered for lot frontage.

Mr. Zlotnick reviewed his memo which he compiled for the Board to explain what the issues are that the Board needs to consider for the rest of the vote. He said at the last meeting, the Board voted on one item. He then asked Mr. Perillo and Mr. Galletta to display Exhibit A-1. Mr. Zlotnick said this is the proposed plan. He then quoted from RSIS and said the number of lots was the trigger and the RSIS definition governed the vote. It was determined that the easement area was part of the roadway and therefore, since 5 lots is one more than the four required by definition, this constituted an internal roadway system. This meant that RSIS applied to this roadway. Mr. Zlotnick referred to Mr. Doran's review, specifically paragraph #3 on page 3, sub-sections a-h. He said to ignore letter "a" referring to average daily traffic. Sections b-h are implicated by the vote at the last meeting. "WR" means that a waiver is required and that anything not diminutive is a waiver.

Mr. Zlotnick continued saying that the second vote refers to the waivers in Mr. Doran's report on page 3 and he read through these waivers labeled b-h for travel way, number of parking lanes, parking lane width, cart way width, curbs and shoulders, sidewalks and graded areas and the right-of-way. He then discussed the variances for each lot:

Lot 38-100 ft. frontage required on a public street-50 ft. is proposed

Lot 38.02-100 ft. frontage on a public street-0 ft. is proposed

Lot 38.03 is the same as 38.02; located at the top, northern end of the subdivision

Lot 38.04 100 ft. frontage required on a public street-75 ft. is proposed

He said the 0 ft. frontage lots are technical variances since they front on an internal street and the technicality is that they do not front on a public street. Lot 38.05 needs no variances. He added that the applicant said he will build a turnaround at the end of Argo Lane as per Mr. Doran's recommendations. Mr. Doran added that Argo Lane will be an approved street all the way down. Mr. Galletta said there is an angle point on Argo Lane involving the frontage for Lot 38.04 and there is a 38 ft. dimension missing on the plan and that when both distances to the angle point are added together, it does equal 100 ft. Mr. Zlotnick added that there is still a lack of frontage along an approved street. Mr. Galletta agreed, but said it changes the nature of the variance.

Dr. Gove asked for a definition of frontage on a public street and asked how far back the improvement can be from the street and still call it frontage. The Chairman reminded that the meeting was not in public session. Mr. Doran offered an explanation of the ordinance to say property to be improved has to be fronting on an improved municipal street, but he doubts it defines what percentage has to be improved. Mr. Zlotnick added that Dr. Gove is asking how far back from the street can a house be and Dr. Levitt said there is a minimum of 25 ft., but there is not a maximum.

Mr. Zlotnick said the Board is dealing with C2 variances which are flexible provisions under the Municipal Land Use Act and Mr. Doran listed the criteria in his report. It is basically a weighing process where benefits must outweigh detriments and what detriments to the zoning ordinance and the public good may exist due to the project.

Chairman Levitt asked the Board to consider the waivers first and Mr. Doran said the Board should consider all the waivers together and to waive it all or not. They have the right to come back with an alternative plan. The waivers are to include letters B, C, D, E, G, H of Mr. Doran's report. Mr. Perillo interjected with a reference to RSIS and Mr. Plackter said this will cause an argument.

Chairman Levitt continued reading the waiver in Mr. Doran's report while Mr. Zlotnick checked RSIS. Mr. Zlotnick said Mr. Perillo was referring to right-of-way and cart way widths, which has

been discussed in testimony, that may require a width of a new street that is a continuation of an existing street to be at least the same width of the existing street.

Dr. Levitt asked for a motion for approval of the design standard waivers. Mr. Shippen made the motion. Mr. Clifford seconded the motion. Mayor Mazzeo voted in favor of approval and the others members present voted not to approve the design waivers.

The second vote this evening was for the variances for lot frontages and Mr. Shippen made the motion and Mr. Milone seconded the motion. Mayor Mazzeo voted yes and the other members present voted against the variances.

Mr. Zlotnick suggested the Board members who voted no should give reason for the "no" vote for the record. Chairman Levitt suggested some items to consider being positive and negative criteria, light, air, and open space, health & safety, traffic access, Master Plan items, and the historic zone of the County Club.

Chief Robert James-Considering all the testimony given, he had serious doubts and concerns for public safety and for emergency vehicle access on such a small cart way on Argo Lane.

Lou Milone-Shared the Chief's concerns and felt there was a safety issue. The Fire Department testimony weighed heavily on his mind.

John Clifford-Along with the safety issue, he felt he did not hear anything to give way to positive criteria. There were a number of negative criteria expressed that outweighed the positive. There were too many variances needed and there is an approval plan available.

Ron Roegiers- He supports the right to develop the property, but the increase in traffic on Argo Lane concerned him and also the flow of traffic. He was concerned with safety apparatus being able to respond to an event.

Henry Notaro-He had concerns with emergency access to the site and with the narrow roadways.

Jim Shippen-He felt the benefits of this particular plan do not substantially outweigh the deficits to the community particularly in the area of safety to the citizens.

Dr. Richard Levitt-The Chairman felt this was one of the most difficult and complex applications he has heard since serving on the Board for 27 years. He believes in property rights and the right to develop, but for reasons previously stated, including promoting a design of circulation routes which promote the free flow of traffic in appropriate locations while discouraging roadways which result in congestion, blight or depreciating property values, health and safety issues, and in balancing pros and cons, he felt there was more detriment to the Land Use Ordinance and the Master Plan than benefits.

Chairman Levitt announced this is the last meeting for 2008 and asked that the schedule of meetings be brought to the re-organization meeting in January for review of dates and to approve the resolution of the meeting schedule for publication. The meeting dates for January will not be the first and third Thursday as is the norm; the re-organization meeting will be January 8, 2009 and the 2nd meeting of the month will be January 22nd.

Mayor Mazzeo asked Mr. Zlotnick about the status of the city recreation impact fees for new lots and Mr. Zlotnick said the city can no longer collect those fees and that there was a local case in appellate court and it was thrown out.

Chairman Levitt thanked Assistant Chief Lauren Crooks for all his input during the Hansen application.

Mr. Roegiers mentioned that there was discussion at the League of Municipalities concerning time limits on applications so that they do not drag out too long and said he heard that time limits can be set. Chairman Levitt said he felt the Board can't deprive applicants their rights if time should run out and that this could be fraught with litigation. Most applications are not normally this lengthily.

Chairman Levitt and Mayor Mazzeo commented for the record that Mrs. Dyrek, who was present for the first two meetings of the Hansen application, was unable to attend this meeting for the vote due to a fall. The Chairman wished her well, wished everyone a wonderful holiday, and said he will see everyone on January 8th.

The meeting was closed with a motion from Mr. Shippen and a second from Mr. Clifford.

Respectfully submitted,

Robin Atlas, Secretary to the Board