

City of Northfield Planning Board
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Minutes: August 4, 2016

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, filed with the City Clerk, and posted on the City website, stating the date, time and place of the meeting and the agenda to the extent known.

This REGULAR meeting of the Northfield Planning Board, held on Thursday, August 4, 2016 in Council Chambers, City Hall, Northfield, was opened by Chairman Richard Levitt at 7:00 p.m. and the following members were present or absent as noted:

Timothy Anderson
Mark Bruno-absent
Mayor Erland Chau
Jim Leeds
Dr. Richard Levitt
Lou Milone
Chief Paul Newman
Henry Notaro-absent
Councilman Frank Perri
Ron Roegiers
Derek Rowe-absent
Clem Scharff-absent
Jim Shippen-absent

Matthew Doran, Professional Engineer
Norman Zlotnick, Solicitor

There was one application on the agenda for this evening. James D. Price was sworn in by Dr. Levitt. The property is located in the R-2 zone at 311 Booye Terrace, Block 132, Lot 30. The applicant is seeking "C" Variance relief for front and side setbacks and existing non-conformities for construction of a second story addition.

Mr. Price testified that the current structure is a small one bedroom, one bathroom that is not in livable condition. The heating system has been red-flagged, the roof is leaking, and there is a problem with the chimney. The house is in desperate need of renovation, but it is not viable to only renovate the existing structure. Mr. Price would like to increase the size to accommodate two additional bedrooms and one and ½ bathrooms. He wants to improve the property with a quality single family home and be in compliance with other improved homes on the street. The neighborhood will be better off.

Dr. Levitt asked if the house was in foreclosure. Mr. Price said it was bank owned when he purchased it. Mr. Price said he has bought, improved, and sold houses before and he does more than simply flipping them in the market. He likes to think of the homes as one his children might like to own. Dr. Levitt mentioned that Booye Terrace is a cul-de-sac and is a lovely little street. He drove through the area and agreed the home needs refurbishing and is the worst home in that area. Dr. Levitt confirmed that noticing was properly completed.

Mr. Doran addressed his report and discussed the variances. There are four non-conformities:

Lot Area	7,500 sf required	5,600 proposed
Lot Width	70 ft. required	56 ft. proposed
Accessory structure:		
Side setback	10 ft. required	1.5 ft. proposed
Rear	5 ft. required	3.3 ft. proposed

Mr. Doran said they will remain existing non-conformities. Since he is building upward, the existing non-conformities are expanding.

There are two variances Mr. Price wants to expand upon:

Front Setback	25 ft. required	13.5 ft. existing/13.5 ft. proposed
Side Setback	10 ft. required	2.3 ft. existing/2.3 ft. proposed

Mr. Doran said either the C1 or C2 criteria works. The benefits outweigh the detriments for the C(2) variance and he is expanding existing non-conformities for the C(1) variance.

Mr. Doran said there are no curbs and sidewalks shown on the plan and they will need to be discussed as well as trees and on-site parking. Dr. Levitt asked about the garage. Mr. Price said it will remain and there is a driveway to the garage which can fit two to three stacked cars. Dr. Levitt said the garage counts as parking also. Mr. Price said there is a clear drive aisle straight to the garage. His intent is to keep the exact same footprint of the property and he plans to build up vertically. The street is very narrow and there is no room for on-street parking and he intends to maintain the driveway. Mr. Doran noted that a driveway used for off-street parking needs to be safe and passable and requires some type of stones or surface. It can't be just a dirt driveway. Mr. Price agreed.

Dr. Levitt noted that there is no sidewalk in this area and there is only one house past this property where it dead ends and he sees no reason to require the installation of sidewalks. He noted that there are also plenty of trees in the area. Mayor Chau suggested the installation of just curbing to maintain the integrity of the street. Dr. Levitt said there is no curbing on the street. Mr. Price agreed and said it would create an awkward situation in this neighborhood. Mayor Chau asked him to elaborate. Mr. Price said there could be a problem for two passing motorists who could suddenly come into contact with a road abutment or curb. Mr. Leeds agreed and said he travelled down the street and it is very narrow. He said the driveway should be maintained as there is no room for street parking.

Mayor Chau asked Mr. Price about his commitment to complete the project and asked about a timeline. He doesn't want to see the project started and not completed and

then abandoned due to economics. He doesn't want to see the property vandalized. Mr. Price said he has an engineer and contractor who will start right away and he will finish the project and put the house on the market when complete.

Dr. Levitt opened the public session. Mr. Daniel David Jones of 314 Booye Terrace, Block 132, Lot 27 addressed the Board and said his home is the last house on the other side of the street. He was sworn in by Dr. Levitt. Mr. Jones said he is very much in favor of this application. There are a few vacant houses on the street and it is a little scary, but it is the economic times. He does have concerns about this house remaining empty. He is thrilled Mr. Price bought the house and wants to renovate it. He knows the family personally from church and said they are good people who will do what they say they will do. No one else wished to speak. Dr. Levitt closed the public session.

Dr. Levitt asked for a motion. Mr. Leeds had one additional comment. He said he is aware of a City violation for grass maintenance. Mr. Price said a contractor will begin there after approval and there was a postponement on the grass cutting due to preparations for this hearing and involvement with a major church project. Dr. Levitt asked if he would agree to start the project within one month and to cut the grass. Mr. Price absolutely agreed.

Mr. Leeds made the motion to grant the necessary variances as outlined by Mr. Doran. Mayor Chau seconded the motion.

The roll call vote was as follows:

Mr. Anderson-yes, Mr. Bruno-absent, Mayor Chau-yes, Mr. Leeds-yes, Mr. Milone-yes, Chief Newman-yes, Mr. Notaro-absent, Councilman Perri-yes, Mr. Roegiers-yes, Mr. Rowe-absent, Mr. Scharff-absent, Mr. Shippen-absent, Chairman Levitt-yes. The motion to approve the "C" (2) variances carries.

There was one resolution to memorialize for Louis A. and Jessica Pepper who were granted approval July 7, 2016 for a residential addition at 116 Surrey Avenue, Block 165, Lots 17 & 18. The voice vote was all in favor.

There were two other orders of business to discuss. The first involves a Street Vacation Application for a partial vacation of Helen Drive East which has come before City Council for approval. In a letter dated July 25, 2016 from City Clerk, Mary Canesi to Brian J. Callaghan, the Attorney for the owners of the property at 2527 Helen Drive West, Block 33, Lot 42, the City of Northfield Planning Board was asked to give an opinion on the application as it relates to the City's Master Plan. The applicant's parents built an in-ground swimming pool in the early 1980's. The swimming pool, surrounding pavers, and fence are encroaching into the City's right-of-way by 7.9 ft. No development plans are proposed other than removing the existing encroachment.

Mr. Doran said the City will vacate a small piece of property on Helen Drive East. Dr. Levitt said the Board needs to give an opinion to City Council stating whether or not the vacation will violate the Master Plan. Mr. Doran gave a brief summary stating that the site backs up to Jenny Lyn Drive and a pool is built in the right-of-way of the street. The person renting the house wants to purchase it, but cannot get clear title without

the vacation of this area of land. Mr. Doran said the street leads nowhere and will take about 10 ft. from a 50 ft. right of way. Dr. Levitt asked if the land would be paid for. Mr. Doran said escrow fees have been put up for Engineer reviews. Dr. Levitt commented that this street vacation will clean up an existing problem. He added that he felt it did not conflict with the Master Plan. Mr. Leeds commented that he wondered how they were able to obtain a permit originally. Mr. Doran said this projected predated his professional service involvement and Mr. Perri said it is not known.

Carolyn Peterson was sworn in by Dr. Levitt and said she is the current tenant. She intends to purchase the property and agreed with the testimony. She cannot settle on the home until the owner's heirs rectify the problem. Mr. Doran said the City is going through the process and has to pass an ordinance at a public hearing. Ms. Peterson said there is a building permit on file from 1980 reflecting the encroachment, but no other record could be found. Dr. Levitt said it doesn't matter at this point whether it was an oversight or incompetence. Mr. Doran agreed saying it occurred more than 36 years ago. Dr. Levitt said it is a situation that needs to be corrected and the only way to resolve it is to approve the street vacation. He said the Board does not need to approve this, but must give an opinion as to whether or not this violates any principles of the Master Plan. He stated that he sees no violation.

Mr. Leeds asked about curbing. Ms. Peterson said curbing exists. Mr. Doran said there is no way to continue the curbing as the vacation goes to the curb line. Mr. Doran added that this encroachment was obviously in anticipation of the street becoming a through street which did not happen. Mr. Leeds expressed concerns about a precedence being set. Dr. Levitt said projections were different in 1980 before current Zoning Laws and things like this can happen periodically and each case is dealt with individually. Mr. Doran said this is just an issue on one side of the property and the Board is not voting on the application.

There were no objections from the Board. A roll call vote was all in favor with the yes vote being in the affirmative that this street vacation does not conflict with the City of Northfield Master Plan.

There was one more order of business for a discussion on the proposed Fee Ordinance changes. City Council has proposed changes to the Northfield Code regarding fees for Land Use and Development applications. Anything that affects the Land Use and Zoning Ordinance and Development Plan of the City has to go through the Planning Board. These changes involve a waiver of fees referring to a very specific situation; the waiver of fees for a disabled person outlined in several areas of the Ordinance. The Ordinance contains a definition of a disabled person and would only apply in connection to an application for development concerning accessibility to one's own living unit. This could involve a wheelchair ramp or a barrier free sidewalk for example. City Council is looking to waive fees for this type of application. Mr. Perri said he agrees with some of this, but had concerns about enforcement and who would

police it. Dr. Levitt felt it would fall under the auspices of the Code Enforcement officer.

The Board agreed that there are issues with enforcement and regulation and felt the proposed changes came about from a specific purpose of which these changes would not fit that purpose. The disabled resident had a fencing issue which does not affect accessibility at all. The Board also commented that use variances should not be included because they also are unrelated to accessibility. The Board considered each of the areas of Section 215 affected.

The Board discussed how this Ordinance change would affect a multiple unit building. Mr. Doran said the key words are “own living unit”. Mr. Perri felt that the Zoning Officer would have to determine criteria as to whether a person is disabled or not and this could create an issue. Dr. Levitt read through the Fee Schedule and what fees would actually be waived. He felt they were very minor and would not involve big money.

The Board continued discussion with concerns including the determination of disability, whether this could be challenged or sued, proof of disability, and who approves or denies it. The Statute specifically refers to one’s own living unit and accessibility to it which would affect the outside of the building to promote accessibility to the building. The inside of the property would not require an application and this will limit the likelihood of the fee waiver occurring. The outside accessibility may include a wheelchair lift or a ramp and the Board did not have a problem if City Council wants to waive the fees for this.

In discussion, some of the members of the Board had concerns about the definition of disability, determining proof of disability, and who would approve or deny the waiver. It was agreed it should be written in the legislation and no use variances should be included. The fee waiver should only apply to residential dwellings and not to commercial properties. It was discussed that there are a few properties which have both a commercial area and a residential dwelling or apartment such as Arnold’s Pet Store and Northfield Deli on Fuae Avenue. It was agreed that the fee waivers would only apply to the resident’s own living unit. An accessibility ramp is technically an accessory structure.

In conclusion, the Board surmised that the following needs to be determined:

- Determine Proof of Disability
- Determine who in the City will approve that disability has been proven
- Fee waivers should not apply to any use variance
- Waivers shall only apply to that individual’s own living unit

An opinion letter will be forwarded to City Council for consideration.

The meeting was closed at 7:49 p.m. by Dr. Levitt with a motion from Mr. Perri and a second from Mr. Roegiers.

Respectfully submitted,

Robin Atlas, Secretary to the Board