

City of Northfield Planning Board
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Minutes: September 5, 2019

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, September 5, 2019 in Council Chambers, City Hall, Northfield, was opened by Chairman Richard Levitt at 7:04 p.m. with the reading of the Sunshine Law and the following members present or absent as noted:

Mayor Erland Chau-absent
Jim Leeds
Dr. Richard Levitt
Joe Massari-absent
Chief Paul Newman
Henry Notaro
Councilman Frank Perri-absent
Daniel Reardon
Ron Roegiers
Derek Rowe
Clem Scharff
Jim Shippen-absent
Steve Vain-absent

Matthew Doran, PE, PP-Planning Board Engineer

Mark H. Stein, Esq.-Planning Board Solicitor

There was one application on the agenda. Frank John Rich of 6 Cara Court, Block 2, Lot 4 made application to construct a swimming pool, accessory building, and a 6 ft. high fence in the front yard which is a corner lot with two frontages. The zone is R-1A zone. Mr. Reardon left the dais and recused himself from this application since he knows Mr. Rich and felt there could be a conflict. Mr. Rich was sworn in.

Mr. Rich stated that he was denied a permit for a swimming pool, pool house, and 6 ft. fence by the Building Department. Mr. Rich distributed a drawing he produced on his computer and it was labeled Exhibit A-1. Mr. Rich described the drawing and said he wants to extend the fence out 15 ft. There is no stop sign at the corner of the lot, but there is a house nearby and a house on the other side of the 24 ft. wide drainage easement. Dr. Levitt asked if proper noticing was completed and Mr. Rich said it was. Dr. Levitt asked Mr. Rich for criteria and testimony as to why this project would be beneficial and asked him to address any negative criteria.

Mr. Stein assisted with the questioning and asked Mr. Rich if he could place the pool in any other location on the lot. Mr. Rich said there is not another practical placement for the pool and this is why this is a hardship variance. He added that there are no negative criteria as it will be completely fenced in and private and safe for his kids. Dr. Levitt commented that Mr. Rich needs 6 ft. for the pool fence and the Code permits a 4 ft. fence in the front yard. He asked Mr. Doran to refer to his report regarding the variance.

Mr. Doran stated there are three variances noted in the denial permit. The first is for the pool that is not permitted within the front yard. The 6 ft. fence is not permitted in the front yard, and the pool house is also not permitted in the front yard. Mr. Doran said the fence is not permitted within 25 ft. of the street line and it would have to be 50% open if in the front yard, not a solid fence. Dr. Levitt said that the accessory building is beyond the 25 ft. setback and would not require a variance. Mr. Doran included it since it was in Mr. Dattalo's denial and Mr. Rich did the same. Mr. Stein said the positive criteria are that the fence is for safety, and it needs a C2 variance and the Board needs to weigh the benefit for safety. Dr. Levitt said the fence is not consistent with light, air, and open space. A wall of solid fence is not desirable in a neighborhood. This is a unique corner lot and Mr. Doran said the fence is back 10 ft. from the property line. Mr. Rich said he would not want the fence to be on the property line as this would not be safe. Mr. Doran said there is an additional 10 ft. to the curb line. Dr. Levitt said the extra 10 ft. mitigates the variance somewhat with the fence location 20 ft. from the curb. Mr. Leeds said the existing vinyl fence is already 6 ft. Mr. Rich said it transitions down to 4 ft. at the gate near the house. The fence is proposed to be 6 ft. all the way around the pool. Mr. Stein noted that the yellow area on the plan is the variance area. Mr. Rich said there is only one gate by the left side of the house and they won't be changing or adding to that. Mr. Roegiers noted that the pool house dimensions are 8 ft. x 12 ft. and he asked how tall it would be. Mr. Rich wasn't absolutely sure. Mr. Doran said it will have to be regulation height and will most likely be 12 ft. It will need to conform to the Ordinance requirements for an accessory building. Mr. Notaro asked about the size of the pool. Mr. Rich said it will be 16 ft. in width and 30 ft. long. He was unsure of the depth at this time but said it will most like be 8 ft. at the deepest. Mr. Rowe clarified that the vinyl fence will be 84 ft. along Cara Court. Mr. Roegiers asked if there would be any new shrubs added along the fence. Mr. Rich said he wants to have a clean look and at this time wants to have only grass.

Dr. Levitt opened the public session. Mr. Antonio DeLeo of 104 Haviv Drive addressed the Board. Dr. Levitt swore him in. His property is directly behind Mr. Rich. He said the Rich's are great neighbors but he has concerns about the safety of the fence jutting out 15 ft. next to his driveway. He is concerned it will affect vision when pulling cars out of the driveway and that it will be in the site triangle. Mr. Doran said it is not in the site triangle for the road, but it could be if there is a driveway there. The plan doesn't show that. Dr. Levitt said it looks like he lives on the other side of the drainage easement. Dr. Levitt said the deck is fairly wide and he asked Mr. Rich if he could bring the fence in at all. Mr. Rich said each section of fence is 8 ft., and there is another 50 ft. before Mr. DeLeo's driveway starts. He said there is no obstruction whatsoever. Dr. Levitt's concern was distance from the curb. Mr. Doran said the Board has the latitude to discuss it since this is a variance and the Board has to weigh the options of a 6 ft. solid fence closer than 25 ft. from the street. Mr. Roegiers commented that the state requirement for a fence is 4 ft. Mr. Rich said he doesn't want that liability with all the neighbors and children. He would not consider a 4 ft. fence. Dr. Levitt asked if the fence had to be so close to the iron bar shown on the plan. Dr. Levitt asked if Mr. Rich could come back a little bit. Mr. Rich and the Board discussed this further. Mr. Rich wanted to have a clean tie in for the fence. Dr. Levitt asked if he could move it in 2 ft. and Mr. Rich agreed. Mr. Stein said the fence will be 22 ft. from the curb and there will be a clear site line. Mr.

Rich commented that Mr. DeLeo's driveway is on an angle and is not straight. Dr. Levitt said everyone has the right to apply for a variance and Mr. Stein said this is an unusual condition of a lot due to the corner lot having two front yards. Mr. Rich said he would be happy with an 8 ft. deck. Mr. Notaro and Mr. Roegiers conferred with Mr. Rich about the fence placement but it was felt that Mr. Rich would lose too much of his backyard. Mr. Scharff commented that with the easement, Mr. Rich would have to take down some of his fence if repairs were necessary. Mr. Rich understood this. The Board continued discussing the fence placement. It was decided that the plan submitted was a conceptual plan and an amended plan would have to be submitted to the Board Engineer with all calculations on the plan. The application will be amended to reduce the fence along Cara Court and turn the fence in 2 ft. from the concrete slab around the pool to the existing fence on the property line at a 90 degree angle.

There were two variances to be voted on. The first being the 6 ft. enclosed fence 10 ft. from the property line where 25 ft. is required. The second variance is for the pool being in the front yard setback.

Mr. Roegiers made the motion as outlined by himself, Mr. Notaro, and the Board with modifications on the plan for the Engineer. Mr. Stein added that with regards to escrow, no permits will be pulled until the resolution is adopted and all fees have been paid and this will be included with every resolution. All bills submitted by the Board Engineer and the Planning Board Solicitor must be paid before any permits are issued. Mr. Scharff added the intersecting fence will be 90 degrees perpendicular to the existing back fence on the drainage easement. Mr. Scharff then seconded the motion.

The roll call vote was as follows:

Mayor Chau-absent

Mr. Leeds-yes

Mr. Massari-absent

Chief Newman-yes

Mr. Notaro-yes

Councilman Perri-absent

Mr. Reardon-recused

Mr. Roegiers-yes

Mr. Rowe-yes

Mr. Scharff-yes

Mr. Shippen-absent

Mr. Vain-absent

Chairman Levitt-yes

The motion carries.

The Board discussed several items before closing the meeting. Dr. Levitt discussed Airbnbs. He said the residents don't live in these homes and they exist in Northfield. Airbnbs are not regulated or listed in the Ordinance and he noted that many communities have instituted regulations. Mr. Scharff commented that technically they are really rentals. Mr. Notaro agreed and said the owners are renting their house. Mr. Stein used Ocean City as an example. He stated that there are many duplexes located in Ocean City and they are not really duplexes, they are really hotels and they are a fact of life. All through the summer, it can be noticed that traffic is very busy especially Saturday afternoons at noontime. This is the rental changeover time when people obtain keys from realtors and go to the rental units. They are not Airbnbs for the most part. Most duplexes are rented 14 to 15 times over the summer and they are inspected once a year for smoke detectors. The rentals are not Airbnb driven and realtors are making a lot of money. Dr. Levitt asked is there a difference. Mr. Stein said the state is differentiating this and the

difference is with taxes. If you rent from a realtor, there is no tax, if you rent from an Airbnb, you pay a tax. Dr. Levitt said someone complained about the Airbnbs and he said he would bring the issue up before the Board. Chief Newman said he only became aware of this as an issue 3 or 4 days ago. The Police found a person sleeping in their car and the individual told the officer he was looking for an Airbnb. The Chief said this is the only incident he is aware of. Mr. Stein said the Ordinance could limit the terms of the rental. Dr. Levitt said one night turnovers are not in the City's best interest. Mr. Stein suggested limiting rentals to a week or two weeks or possibly six months. Dr. Levitt and Mr. Scharff agreed this is something for City Council to address.

Mr. Scharff asked Dr. Levitt about the Ordinance concerning the prohibition of the sale of ice. Dr. Levitt referred to 215-157 for the C-B zone and read that miscellaneous retail is allowed excluding the sale of fuel and ice, meaning gas stations and ice house dealers. Mr. Scharff said this would not include the retail sale of bags of ice. Dr. Levitt said this is another example of a transliteration issue when the sic codes were converted to zones. Dr. Levitt asked the Board to look at the Ordinance on some snowy night and make sure they make sense. Dr. Levitt stated that the Master Plan will not have to be revisited until 2022 since it was revised in 2012.

The other discussion involved medical marijuana. Mr. Stein said the city will deal with that after the state makes a decision by statute. Mr. Scharff said a licensed dispensary for medical use is currently allowed. Mr. Stein said retail use is prohibited in the state.

Mr. Leeds noted that he felt the Rich application presented this evening was incomplete and it was decided that any surveys or hand drawn plans will need to be submitted to Mr. Doran and Mr. Stein to review for completeness.

Mr. Roegiers made the motion to close the meeting and Mr. Scharff seconded. Dr. Levitt closed the meeting at 8:07 p.m.

Respectfully submitted,

Robin Atlas, Secretary to the Board