

MEMO

TO: CITY PLANNER, SCOTT TEMPEL  
NORTHFIELD ZONING BOARD OF APPEALS

FROM: SCOTT AND MELODY BIERMAN  
520 PRAIRIE ST.  
NORTHFIELD, MN 55057

DATE: SEPTEMBER 27, 2016

RE: "912 EAST 5<sup>TH</sup> STREET VARIANCE"

The northeast portion of our property at 520 Prairie St. is adjacent to the two small houses at the rear of the lot which is the subject of this variance application. These houses are our immediate neighbors. We have owned our property since 1982 (34 years). When we bought our property we were told that the two houses that are literally *in the backyard* of this neighboring lot were nonconforming uses which were built soon after World War II to meet an urgent housing need, but that they were temporary and there would be limited opportunities for renovation and no opportunity for expansion of the houses. These houses have always been and continue to be out of character with the surrounding neighborhood (no other lot has additional houses in its backyard, nor would this be allowed), and they should not be granted unfettered legal status, by a variance and minor subdivision, which would make them even more permanent than they already are *and* would allow this nonconforming use to be expanded and intensified.

We have examined applicable sections of the Northfield Comprehensive Plan and the Land Development Code (LDC) and we are convinced that this application should be denied under the law. The purpose of this memo is to provide findings we think are appropriate under the applicable regulations, to support denial of this application. We appreciate your consideration.

**Proposed Findings to Support Denial of Variance Application**

**I. Use variances are not permitted. LDC 8.5.16 (A). The zoning board of appeals may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's property is located. Minn. Stat. §462.357, Subd. 6(2).**

**Finding: This variance application is a use variance which is not allowed by State or local law.**

This variance application would eliminate the minor subdivision requirement that the proposed lots to the rear of the property must have frontage on a public street. The variance would allow, as a *permanent use*, two single family dwellings, located off-street behind a primary single family dwelling, in a neighborhood where such uses are not allowed, where such uses do not otherwise

exist, and where such uses are therefore incompatible with the surrounding neighborhood.

This is a use variance. It is not an “area variance” (a variance which pertains to lot restrictions such as area, height, setback and parking requirements). It purports to eliminate a street frontage requirement which might be argued to be an “area variance,” but the purpose of the variance is to facilitate a minor subdivision in order to allow multiple single family *uses* on what is essentially a single lot. As a use variance, it is not allowed by State or local law.

Nonconforming *uses* may not be extended, expanded, enlarged or increased in intensity. LDC 2.12.3 (B)(2). If this variance and minor subdivision are granted, the use will no longer be nonconforming and the small houses in the back yard of this property may be extended, expanded and enlarged, intensifying the actual nonconformity with the neighborhood. This is entirely contrary to the purpose and intent of State and local zoning laws.

One of the reasons for the property owner’s application for a minor subdivision of this property has been stated to be to facilitate sale of three separate lots. The separate lots might continue to be used as rental properties, though *subdivision is not needed for continued rental*. More likely the subdivision will lead to owner-occupancy, and without the restrictions of the LDC on expansion, enlargement and increase in intensity of a nonconforming use, future owners of the two separate lots in the back yard of this property will be able to massively increase the footprint of the nonconforming uses, as long as they stay within legal setbacks. This will negatively impact the surrounding neighborhood even more than do the existing nonconforming uses.

**II. The zoning board of appeals may only grant applications for variances where *practical difficulties* in complying with the LDC exist and each of the following criteria are satisfied. LCC 8.5.16 (C)(1):**

**Criterion 1 – The variance is in harmony with the general purposes and intent of the LDC. LDC 8.5.16 (C)(1)(a).**

**Finding: Criterion 1 is not satisfied, based on the following:**

- A. One of the primary purposes of the LDC is to ensure compatibility between different types of development and land uses. LDC 1.1.15.

This variance would make permanent an anomalous residential development in which two single family dwellings are located off-street, to the rear of a primary single family dwelling (basically in its back yard), in a neighborhood where such uses are not allowed, where such uses do not otherwise exist, and where such uses are incompatible with the surrounding neighborhood. The development is incompatible with the development and land uses in this district and therefore is not in harmony with the general purposes and intent of the LDC. A variance from the street frontage requirements of the LDC will not make the development and use of this lot harmonious with the general purposes and intent of the LDC or with the surrounding neighborhood.

- B. The LDC specifically requires that all lots shall abut and have direct access to an improved street, except for developments within manufactured home parks. Each proposed parcel must have frontage on a public street equal to the minimum lot width of the zoning district. LDC 5.2.2. (C) and (D).

The LDC similarly requires, for approval of a minor subdivision, that:

All parcels resulting from the minor subdivision or lot consolidation shall have frontage and access on an existing improved street and shall not require the construction of any new street. LDC 8.5.11 (A)(2).

Frontage on a public street is required for obvious reasons including to facilitate access to the property for emergency purposes, to enhance connectivity for pedestrian and vehicular traffic, and to maintain consistency in layout, design and density of the neighborhood. Granting a variance from the frontage requirement violates the purpose and intent of the LDC.

- C. The LDC provides, among the approval criteria for a minor subdivision, that the resulting parcels shall generally conform with the shape, character, and area of existing or anticipated land subdivisions in the surrounding area. LDC 8.5.11 (C)(4).

The proposed minor subdivision which this variance will facilitate does not conform with the shape or character of existing land subdivisions in the surrounding area.

- D. Development in the R1 district is subject to the Neighborhood Compatibility Standards of LDC 3.4. The purpose of the neighborhood compatibility standards is to protect the character of existing residential neighborhoods in instances where there is a proposed infill development, redevelopment project, or building expansion. The primary focus of these compatibility standards is to ensure that new infill development, redevelopment, or building expansion relates to the massing and scale of the surrounding structures. LDC 3.4.1.

The existence of three separate dwellings on a single lot, two without frontage on a public street, is incompatible with the surrounding neighborhood in terms of site layout, access, design and density. A variance will not make the development and the use of this property compatible with the surrounding neighborhood but rather it is likely to lead to an increase and intensification of the incompatibility.

**Criterion 2 – The variance is consistent with the Comprehensive Plan. LDC 8.5.16 (C)(1)(b).**

**Finding: Criterion 2 is not satisfied, based on the following:**

The applicable land use principle enunciated in the Comprehensive Plan is that “[n]ew and redeveloped residential communities (areas) will have strong neighborhood qualities.” Comprehensive Plan, p. 1.7, Principles, #4. Except for this anomalous property, it is a universal quality of this R1 neighborhood to have one dwelling per lot with frontage on a public street. This is an essential part of the “strong neighborhood qualities” of this part of the City. The two single family dwellings which were allowed to be built at the back of this property are inconsistent with the “strong neighborhood qualities” of the neighborhood. Subdividing the lot to create three new lots, two of them still essentially located in the back yard and being without street frontage, will not make them consistent with the neighborhood. It will only make permanent the inconsistency and incompatibility of the property and will in fact allow the incompatible use to be expanded and intensified.

**Criterion 3 – The property owner proposes to use the property in a reasonable manner not permitted by the LDC. LDC 8.5.16 (C)(1)(c).**

**Findings: Criterion 3 is not satisfied, based on the following:**

The fact that two houses were allowed to be built at the rear of a single lot, without frontage on a public street, does not make the use reasonable, when the use was and remains inconsistent and incompatible with the surrounding neighborhood. No other single family home in the surrounding neighborhood has two separate homes, or even one separate home, in its back yard, nor would this be allowed on any other lot.

Frontage on a public street is required for important reasons including to facilitate access to the property for emergency purposes, to enhance connectivity for pedestrian and vehicular traffic, and to maintain consistency in layout, design and density of the neighborhood. Granting a variance from the frontage requirement violates these purposes and is not reasonable.

Granting a variance is also unreasonable because it will make the existing nonconformity permanent and will probably lead to expansion, enlargement and greater intensity.

**Criterion 4 – The plight of the property owner is due to circumstances unique to the property not created by the landowner. LDC 8.5.16 (C)(1)(d).**

**Finding: Criterion 4 is not satisfied, based on the following:**

This requirement assumes there is a plight or detriment to the property owner if the variance is not granted. In this case, there is no plight or detriment other than possible economic considerations, which alone do not constitute practical difficulties (see below). LDC 8.5.16 (C)(2). The property owner has owned the property and successfully and continuously rented it out for decades without a variance and without a minor subdivision. Clearly it can continue to be used as it has been used, for decades to come. The property owner has stated that one reason for the requested variance and minor subdivision is to facilitate allocation of property taxes among tenants in the three houses on the property (apparently they have questioned the fairness of the

division of taxes on the one lot among the three houses). He has also stated that the minor subdivision will facilitate future sale of the property as separate legal lots. Both reasons are economic in nature, only, and therefore are not sufficient to grant the requested variance.

**Criterion 5 – The variance, if granted, will not alter the essential character of the locality. LDC 8.5.16 (C)(1)(e).**

**Finding: Criterion 5 is not satisfied, based on the following:**

The two nonconforming dwellings on this lot have existed in the neighborhood for many years, but they have been and they remain out of character with the surrounding neighborhood and should not be made permanent, or more permanent, nor be allowed to expand or be intensified, by the granting of a variance and minor subdivision.

**Related Criterion – Economic considerations alone do not constitute practical difficulties. LDC 8.5.16 (C)(2).**

**Finding: This related criterion is not satisfied; the only rationale for the requested variance and minor subdivision is economic.**

The property owner has stated that the reasons for the requested variance and minor subdivision are to facilitate allocation of property taxes among tenants and to facilitate future sale of the property as separate legal lots. Both reasons are economic in nature, only, and therefore do not constitute “practical difficulties.”

The City has no obligation to facilitate the determination of rents among tenants, nor to facilitate the sale of property which was purchased with full awareness of the nonconforming uses on the property and which has been and continues to be consistently used for its intended purpose.

### **III. Protections afforded Nonconforming Uses, and Surrounding Properties, under the LDC.**

Even without a variance or minor subdivision, the property owner has the broad ability to *continue the present nonconforming use* so long as it remains otherwise lawful; to undertake normal maintenance and incidental repair or replacement; to install or relocate non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing; and to repair, replace, restore and reconstruct, and to use, a damaged or destroyed nonconforming use, provided that such repair or reconstruction is commenced and completed within 12 months of the date of damage or destruction, and provided that if a building permit is not applied for within 180 days of when the property was damaged, the City may impose reasonable conditions on a zoning or building permit in order to mitigate any newly created impact on an adjacent property. LDC 2.12.2 (A) and (C); LDC 2.12.3 (E). That is, the property owner has substantial authority to continue, preserve and improve the property as a nonconforming use.

At the same time, nonconforming uses may not be extended, expanded, enlarged or increased in intensity. LDC 2.12.3 (B). These are not onerous restrictions on the continued use of a nonconforming property, and they are meant for the protection of the surrounding neighborhood as is appropriate under the Comprehensive Plan and the LDC. These protections of surrounding properties should not be abrogated by the approval of a variance and minor subdivision.

**Conclusion:**

These proposed findings are submitted in opposition to any action that would remove the protections of the surrounding neighborhood which are provided by the continued nonconforming status of the subject property. We respectfully ask the Zoning Board of Appeals to deny this application.

**From:** [Robin Hart Ruthenbeck](#)  
**To:** [Scott Tempel](#)  
**Cc:** [Suzie Nakasian](#); [Jessica Peterson White](#); [Paul Hart Ruthenbeck](#); [David Ludescher](#); [Rhonda Pownell](#); [Erica Zweifel](#); [David DeLong](#); [Dana Graham](#)  
**Subject:** Concern regarding proposed variance on East 5th Street  
**Date:** Friday, September 09, 2016 12:18:15 PM

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Dear Scott, Mayor Graham, and City Council Members,

Unfortunately, because of work schedules, neither of us are able to attend the September 12 City Council meeting, but wanted to be assured that our concerns would be recorded.

As residents and owners of the property at 904 E. Fifth Street, we write to express our concern regarding the proposed Minor Subdivision of 908, 910, and 912 East 5th Street. Our property directly borders the above-referenced parcels, and an easement adjacent to the property provides access 908 and 910.

The two properties that lack frontage on 5th Street E pose our primary concern, as over the course of the past 14 years, we have seen varying types of tenants occupy the rental properties. Some have been good neighbors, others not. Given that there was not frontage on 5th Street E, other neighbors and community members were not as directly exposed to or impacted by the disruptive actions or activities of less-respectful tenants. As a neighbor, it provided some small comfort to know that there was a single point of contact - the landlord and property owner - who could act to assist in addressing negative behaviors, knowing that non-renewal of leases and/or eviction were potential consequences. Division of these parcels for sale to individual owners will minimize our opportunities to address such concerns.

Additionally, we have witnessed several instances of work being done on these properties without permits or inspections by the appropriate agencies/officials. Sheltered as they are from street-view, such work was not consistently observed by the city, placing the us, as the closest neighbors, in the position of either notifying city officials or turning a blind eye.

Please consider what will be best for the surrounding community as you make this decision.

Regards,

Paul and Robin Hart Ruthenbeck

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(She/Her/Hers)

How we spend our days is, of course, how we spend our lives. ~ Annie Dillard

**From:** [Pritchard, Mark](#)  
**To:** [Scott Tempel](#)  
**Subject:** FW: Variance for Minor Subdivision  
**Date:** Wednesday, October 05, 2016 10:13:58 AM

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To: Northfield Zoning Board of Appeals & Scott Tempel

In your upcoming October Meeting, you will be asked to review and consider a Variance Application to allow the non-conforming properties at 908 and 910 East 5<sup>th</sup> Street to become conforming properties.

Our family has lived at the adjacent property of 920 East 5<sup>th</sup> Street for 38 years. We urge you to **Vote “NO”** on this application. At the public information session hosted by City Planner, Scott Tempel on Monday night, Sept 12<sup>th</sup>, Lavern Rippley, the owner of the property making this Variance request stated that he was doing this to achieve “operational efficiency” in managing the properties and that his intention was not to sell these as independent properties in the short-term. There is no belief by the neighbors or ourselves that this is the true intention for the variance request.

At the public meeting, Mr. Tempel detailed the various options related to the Variance request. The only option that the Pritchard family would support is to “do nothing and leave everything as it currently is today”. While the current state on non-conforming rental properties is definitely not optimal, there is at least the assurance that as rental properties they will be inspected on a periodic basis to ensure they meet the requirements of city code. If this variance request is approved and these properties are sold as individual properties, there are no assurances that the houses will be maintained or improved that would result in a positive impact to the neighborhood.

In the absence of a proposal for how this property would be developed that would lead to a better outcome to the neighborhood, we simply cannot support this Variance request. Our family urges you to **Vote “No”** and deny this request for Variance!

Thank you

Mark Pritchard et All  
920 East 5<sup>th</sup> Street



**From:** [Scott Bierman](#)  
**To:** [Scott Tempel](#)  
**Cc:** [Melody Bierman](#)  
**Subject:** Letter about East 5th Street Variance  
**Date:** Monday, September 12, 2016 2:52:52 PM

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September 12, 2016

Dear Mr. Tempel,

This letter concerns Mr. LaVern Rippley's request for a variance titled "912 East 5<sup>th</sup> Street Variance." We have owned our home at 520 Prairie Street since 1982 (34 years). The northeast portion of our property is adjacent to the houses at 910 and 912 East 5<sup>th</sup> street. These houses constitute immediate neighbors to us.

We are opposed to the approval of this variance. In what follows we will respond to each of the criteria, as we understand them, *all of which must be met for the variance to be granted*. For context, however, we want to point out three aspects of these properties that offer important context for our concerns with the possible approval of this variance:

(1) The houses located at 910 and 912 East 5<sup>th</sup> street have nonconforming use status. The three properties were co-located on *one lot* along with 908 East 5<sup>th</sup> Street between 1945 and 1950. The date is relevant because the decision to allow one lot to contain three separate houses was intended to help with the temporary post-war housing crunch. *These properties were given nonconforming status under the condition that they would be temporary with limited opportunities for renovation and no opportunity for expansion*. The original intent was for this property to return to one structure on one lot once the structures at the rear - *the two houses that do not meet the street frontage requirement* - had lived out their useful temporary life. For whatever reasons, these structures have been given sufficient approvals to have lived 70 years, probably far beyond the original intent. Clearly, short run decision-making trumped the conditions under which these properties were first given the approval to be built. When we purchased our home 34 years ago, we expected that the City of Northfield would make decisions consistent with the unique nonconforming agreement under which these houses were allowed to be built. That has not happened. This variance would codify the City's renegeing on the original decision regarding nonconforming use of these houses and allow for the potential to make the nonconforming use far worse.

(2) It is our expectation that Mr. Rippley, if granted his requested variance, will try to sell the properties. This makes the intention of Mr. Rippley with respect to the future of these structures, beyond their sale, virtually irrelevant. It will be the unknown aspirations of future property owners (probably in the very near future), that matter. But the variance frees future owners to expand these properties, making them even more at odds with the neighborhood.

(3) When Mr. Rippley purchased this property, he did so, we presume, knowing its status and being fully aware that the price he paid for the property at that time reflected the temporary nature of the two houses at the rear of the lot. Since that time, Mr. Rippley has been allowed to make improvements to these rear houses that violated the intent of the nonconforming use. In every instance, we suspect, there was an economic return from these investments that likely exceeded what he could reasonably have expected given their status as temporary structures. Approval of this variance provides Mr. Rippley with a capitalizable asset – yet another profit – from his ownership of this property, which he could not reasonably have expected to accrue when he bought this nonconforming property. There is no economic hardship which he can possibly show if the variance is denied. Quite the opposite. There have

been a sequence of decisions by the city that have likely allowed Mr. Rippley to earn profits beyond expected returns from these structures when he purchased them. Approval of the requested variance, making permanent the nonconforming character of this property, would essentially transfer property value from neighbors, including us, to Mr. Rippley's property.

Now, we turn to the specific criteria for approving a variance, according to Section 5.5.16(C) of the Northfield Land Development Code as identified in your draft memo to members of the zoning board of appeals dated August 18, 2016. As you note, *each of these criteria need to be satisfied for approval to be granted.*

**Criterion 1(a): The variance is in harmony with the general purposes and intent of the Land Development Code (LDC).**

In your "finding" you report that these structures have been in existence for over 70 years and that, basically, they are "in character" with the surrounding neighborhood because they will cause no physical change to the existing neighborhood. The argument is a tautology (it says the same thing twice in different words): the variance will not harm the neighborhood because the houses (the nonconformity) already exist in the neighborhood. Or, the variance is in character with the neighborhood because the existing houses are in character with the neighborhood.

You do not note that the rear houses have actually been *out of character* with the surrounding neighborhood for all of those 70 years, that two small houses were built to the rear on a single lot for reasons unique and specific to the post-war era in which they were built, that they were then and they remain now "nonconforming" with the surrounding neighborhood, and that nonconforming uses are not intended to be permanent. Yet the requested variance will make this nonconformity permanent. This is not in harmony with the general purposes and intent of the LDC.

We assume the city would not look favorably on a requested variance from us to add two housing structures on our lot, though we have the square footage to do this *if we did not have to meet the street frontage requirement.* Nor should the city approve this. Why then should the city approve this variance?

Your finding does not speak to the criterion. It simply says "the neighborhood has put up with this for a long time, so why not make this permanent." Subdividing one lot into three so that two nonconforming houses can permanently continue to exist without frontage on a public street is not consistent with the LDC.

**Criterion 1(b): The variance is consistent with the Comprehensive Plan.**

In your "finding" you write, "These existing homes are a long-standing part of the community fabric and have strong neighborhood qualities." Again, this finding is based on the assumption that simply because the rear houses on this lot have existed for a long time in the neighborhood, they "have strong neighborhood qualities." And again, this is a tautological argument: houses belong there because they are there.

But three structures on one lot, two of them without street frontage, do not have strong neighborhood qualities. Quite the opposite. In response to questions about other examples of similar subdividing of R1 properties in Northfield, the response has been that there are no other obvious examples. This situation is enormously at odds with the rest of the neighborhood. That is why the structures were intended to be temporary in the first place.

**Criterion 1(c): Property Owner proposes to use the property in a reasonable manner not permitted by the LDC.**

Subdividing one lot into three lots, with two of them not having street frontage, is not allowed by the LDC because the city officials who approved the LDC understood that allowing lots without street frontage was not reasonable. Your finding notes that current regulations do not allow for more than one individual home on a single lot and granting this variance will correct the current nonconformity, but the variance allows another nonconformity with current regulations by allowing lots without street frontage. We do not see how it is reasonable to cure one nonconformity by allowing another.

We are informed that the current property owner expects to sell these lots, so his proposed use of the three new lots is irrelevant. It is a reasonable expectation that future owners of the three lots would replace or significantly enlarge the houses that currently exist on the rear of the property, making the nonconformity with the neighborhood even greater.

**Criteria 1(d): The plight of the landowner is due to circumstances unique to the property not created by the landowner.**

The landowner has no "plight." He bought the property knowing that it was nonconforming and could only be used as a nonconforming use may be used. He bought it, he used it, and he no doubt could sell it and it could continue to be used in its nonconforming status until its anticipated useful life expires. The *only* benefit to this variance is that the current owner could sell the property at a higher price as three separate lots than as one nonconforming lot. But Minnesota law provides that variances cannot be granted for economic reasons alone. We can see no other justification for this variance in this instance. And again, there is no unreasonable or unexpected economic hardship resulting from denial of the variance. The property owner has consistently found renters for these properties over all 34 years of our time as neighbors. There is no reason to think that would change if the variance is denied, except that the nonconformity will eventually pass away, as was expected when it was originally allowed and as any purchaser of the property should reasonably expect.

**Criteria 1(e): The variance, if granted, will not alter the essential character of the locality.**

Your finding reads, "These three homes have been a part of the neighborhood for over 70 years. They are in character with the surrounding area. Subdividing the lot will cause no physical change to the neighborhood and will not alter its essential character." Again, this is a tautological argument that simply repeats your earlier findings. If this variance were approved, the city would allow Mr. Rippley to sell to another owner three distinct properties. How those owners would choose to use these properties is unknown, but they would each be allowed the protection of all applicable zoning opportunities to expand. If future owners were to take advantage of these opportunities, the character of the neighborhood would, in fact, change significantly. That is why there is a frontage requirement in the first place!

As of this moment, the only real argument in support of approving this variance is that the structures on this property have been part of the neighborhood for 70 years, the structures are not a blight on the neighborhood, and the neighbors have gotten used to them. While the first argument is true, the last are not. But, no matter what, these arguments do not fully address the criteria for approval of the variance, all of which must be fully addressed for approval. The bottom line is that it is simply out of character for the neighborhood to have three structures on one lot, or two lots without street frontage. If you actually use the criteria for approval for the variance you have to confront this essential fact. *Instead of eliminating the nonconforming qualities of these properties, approval of this variance ensures the perpetuity of a nonconforming quality, and, in fact, provides the serious potential for the nonconforming aspects of these structures to get worse.*

Thank you for your care and attention to this important decision.

Sincerely,

Melody and Scott Bierman

520 Prairie Street, Northfield, MN.

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Scott Bierman  
President  
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**From:** [Brian KenKnight](#)  
**To:** [Scott Tempel](#)  
**Subject:** Ripley parcel division  
**Date:** Thursday, September 15, 2016 10:25:38 PM

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Thank you for meeting with neighborhood residents to clarify our options. I found the meeting very helpful.

I strongly favor denying the request to divide this lot which contains three houses. Since the owner has no present intention to sell this property, it makes the most sense not to act now. The two houses without street frontage should never have been built, but since they do exist I believe that it is best to maintain the status quo.

If a variance is granted, the city will have significantly less control over any future expansion or rebuilding of these structures. This seems very undesirable to me. The city should keep as much control as it can. Thank you.

Brian KenKnight  
902 5th Street E.

Anne Maple & Scott Carpenter  
602 Prairie St.  
Northfield, MN 55057  
612-968-3807  
[scarpent@carleton.edu](mailto:scarpent@carleton.edu)

September 22, 2016

Scott Tempel  
City Planner  
Northfield City Hall  
Northfield, MN

Dear Mr. Tempel,

We wanted to follow up with you regarding the variance requested by LaVern Rippley—the same variance that was discussed in detail at the session you hosted at City Hall on September 12. We would appreciate it if you'd include this letter in materials sent to the Zoning Appeals Board/Planning Commission.

You'll recall that there was considerable consternation during the meeting about just what the grounds for a variance would be. The homeowner's request was described in the original staff letter to the Planning Commission thus: "The current owner wishes to divide the lot to put each rental property up for sale for ownership." This introduces a problem: variance requests are to be made, according to State statute, to address "practical difficulties." One might imagine, for instance, a person who is unable to lay down a driveway because it would lie too close to a lot line, or – to take the example the state gives – someone who wishes to install solar panels in a way that doesn't fit with a community's established land development code. Those are practical difficulties that a variance could remedy.

However, in the current situation there is no practical difficulty; the owner can continue to use the property as it is without encumbrance. Indeed, the desire to subdivide the land for sale is not a practical difficulty, but due to an economic consideration. On this topic, Sec. 2 of Minnesota Statutes 2010, section 462.357, subdivision 6 seems unambiguous, stating that, "Economic considerations alone shall not constitute practical difficulties." (During the meeting, Mr. Rippley revised his motivation, indicating that he wished to be able to attribute property taxes for each property in order to do true triple-net leases; however, that too is a purely economic consideration.)

From the outset, then, it would appear that the variance application should be denied: it does not apply to his case.

There are, however, additional reasons for concern. It is true that the subdivision of the land would not produce any immediate change in the properties. However, if the variance were granted, it would make them each fully conforming properties, and this opens the door to highly

unpredictable future development. As you indicated during the meeting, it could lead (eventually) to a full “scrape and replace”—leaving us in a situation where full-sized R1 homes are located without any frontage on the road. As there are no other examples of such development in Northfield, it is hard for us to see how such development would be consistent with the strong neighborhood qualities we currently have. (Even with conditions imposed, it is hard to see how this would be a benefit for the neighborhood.)

We are sensitive to the need for higher density housing within Northfield, and we agree that some housing is not affordable enough. However, we believe the current rental properties address those goals better than what is currently proposed. Furthermore, we think it would be inappropriate to try to address one problem (the presence of a non-conforming property) by the creation of another (a conforming property burdened with variances and easements, and even possible conditions). Moreover, the project seems designed for the financial gain of one homeowner (who, of course, knew the limitations on the property when he purchased it), to the possible financial detriment (in terms of property value) of others.

For all these reasons, we respectfully request that you deny the request for a variance while allowing the property to continue to exist in its current state.

Yours,

Scott Carpenter  
Anne Maple

To: Northfield Zoning Board of Appeals

RE: Variance for Minor Subdivision

At your October 2016 Meeting you will be asked to consider a Variance Application to allow the Non-Conforming Properties at 908 and 910 East 5<sup>th</sup> Street to become Conforming Properties by allowing them to exist without public street frontage which is required by the Northfield Land Development Code.

### **I urge you to Vote to Deny this request and here is why:**

For the last 27 years my wife and I have lived at 911 East 5<sup>th</sup> Street which is directly across the street from the above properties. We intend to live in our current home as long as we are able.

Below is the first paragraph of an August 30<sup>th</sup> letter from Mr. Tempel that was sent to neighbors of the properties involved. **Note that the reason given by the applicant for this request is: “The current owner wishes to divide the lot to put each rental property up for sale for ownership”**

Last month you received a letter inviting you to provide public comment and input regarding a variance application resulting from a proposed Minor Subdivision of 908, 910, and 912 East 5<sup>th</sup> Street. The Minor Subdivision process requires all parcels resulting from the subdivision to have frontage on an improved street. The Northfield Land Development Code (LDC) Section 5.2.2 Lot and Block Design requires each proposed parcel in a subdivision have frontage on a public street equal to the required minimum lot width of the zone district. This proposed subdivision involves three existing homes that have been located on one lot since 1945. The current owner wishes to divide the lot to put each rental property up for sale for ownership. 908 and 910 E 5th, the rear properties, can meet the minimum lot width requirement, but have no street frontage.

Below is a paragraph from The League of Minnesota Cities Memo: Land Use Variances: **Note that “economic considerations alone cannot create practical difficulties” which is the basis for considering granting variances. Requesting a Variance in order to sell the property can only be viewed as an “economic consideration” and thus should not be granted.**

“Sometimes landowners insist that they deserve a variance because they have already incurred substantial costs or argue they will not receive expected revenue without the variance. State statute specifically notes that economic considerations alone cannot create practical difficulties”

I first became aware of the term Flag Lot, now referred to as Panhandle lot, when I served on the Planning Commission. Both the 2001 and 2008 Comprehensive Plans conclude that strong neighborhoods are vital to a community. In our Planning Commission discussion it was concluded that Panhandle lots, because of their isolation from the neighborhood, are not desirable and should be discouraged.



By allowing this Variance these lots would become Conforming Properties which would legitimize their existence in this neighborhood basically forever. I submit this is not the intent of the Comprehensive Plan nor the wish of most, if not all, of the neighbors.

In the 27 years we have lived across from these properties they have fallen in to disrepair at times. It could be said that the now rental property would be better taken care of if they were owned. However, this may not be the case as all of us can point out owned properties in our neighborhoods that could be better maintained. At least as rental properties, the properties in question are periodically inspected by the City of Northfield which gives us some assurance that they are maintained.

Last, but not least, the applicant may try to convince you that he really does not intend to subdivide and sell these properties, He put this idea forward at the September 12<sup>th</sup> neighbor meeting hosted by Mr. Tempel. However, if you grant this variance these properties now become conforming and he can “change his mind” at any time.

In conclusion, as neighbors, we are willing to continue with the existing rental property situation rather than face an unknown future as a Minor Subdivision. Most, if not all, the neighbors who attended the September 12<sup>th</sup> neighborhood meeting expressed these same feelings.

**I again urge you to Vote to Deny this request for Variance!!**

Respectfully,

Bruce and Jan Wiese  
911 5<sup>th</sup> Street East

9/19/2016