



## Legislation Text

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**File #:** ZBA Res. 2016-002, **Version:** 1

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**Date:** October 20, 2016

**To:** Members of the Zoning Board of Appeals

**From:** Scott Tempel, City Planner

Resolution - 912 East 5<sup>th</sup> Street Variance

**Action Requested:**

The Zoning Board of Appeals (ZBA) is asked to consider a variance request from standards requiring each proposed parcel in a subdivision to have frontage on a public street equal to the required minimum lot width of the zone district for a project involving 908, 910 and 912 East 5<sup>th</sup> Street.

**Summary Report:**

This project involves subdividing three existing homes on one lot into three separate lots. The homes were built between 1945 and 1950. Mr. Rippley has owned the property since the late 1970's. Each home has a current rental license and inspection record. There is no recent history of zoning violations or complaints against the property. A similar request to subdivide the property was considered by the Zoning Board of Appeals (ZBA) in 1983 and denied on the grounds that there was not a sufficient hardship to grant the requested variances.

The current variance request has been found to meet all variance criteria from the Land Development Code that must be considered prior to approval. The variance criteria are based on practical difficulties including unique circumstances associated with the odd shape of the current lot, the building placement, and that granting the variance will not change the character of the neighborhood. According to the current Land Development Code Table 2.7-1 Permitted Principal Uses; Single-Family, Two-Family, & Three-Family dwellings are allowed in the R1 zone as a use by right. The existing homes are therefore considered a conforming use.

Use Definitions in Section 2.8.3 Household Living Use Category define Two- and Three-Family dwelling units as units separated by a wall or ceiling and single-family as housing located on individual lots. Therefore three dwellings on a lot are permitted if they are attached. Single-family dwellings require individual lots, so the property has two non-conforming structures. According to LDC section 2.12.4 Nonconforming Structures, any nonconforming structure may be enlarged, maintained, repaired or altered provided, however, that no such enlargement, maintenance, repair or alteration shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part of such structure.

The owner wishes to divide the lot to achieve better operational efficiency for the properties now and to allow for individual ownership in the future. 908 and 910 E 5th, the rear properties, meet the R1 minimum lot width requirement, but have no street frontage. The Northfield Land Development Code (LDC) Section 5.2.2 Lot and Block Design, (D) Street Frontage Required requires each proposed parcel in a subdivision have frontage on a public street equal to the required minimum lot width of the zone district.

Notification of the proposal was published and sent to neighboring property owners. The Community Development Department has received six letters in opposition to the project from neighbors, which are attached to this staff report. A neighborhood meeting was held by staff at City Hall on September 12, 2016, to provide an opportunity for dialogue on the proposal. The nine neighbors in attendance were all opposed to the variance and the meeting was tense. Statements of opposition included:

- The homes were originally intended to be temporary, they should go away
- If the lot is subdivided the three lots would be available for redevelopment, this out of character with the neighborhood
- There is no practical difficulty demonstrated for a variance
- We shouldn't fix a non-conforming situation with a variance
- Would prefer status quo of non-conforming rental units

While neighborhood opinion is certainly important, neighborhood opposition alone is not grounds for denying a variance. The proposal must be judged based on the variance approval criteria.

**The criteria for approving a variance, according to Section 5.5.16(C), are as follows:**

(1) Pursuant to Minn. Stat. §462.357, Subd 6, as it may be amended from time to time, the zoning board of appeals may only grant applications for variances where practical difficulties in complying with this LDC exist and each of the following criteria are satisfied:

- (a) The variance is in harmony with the general purposes and intent of this LDC; and,
- (b) The variance is consistent with the Comprehensive Plan; and
- (c) The property owner proposes to use the property in a reasonable manner not permitted by this LDC; and
- (d) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- (e) The variance, if granted, will not alter the essential character of the locality.

**Variance:** A variance, from Section 5.2.2 Lot and Block Design, (D) Street Frontage Required to allow a subdivision where two proposed parcels do not have frontage on a public street equal to the required minimum lot width of the zone district.

**Criterion 1 - The variance is in harmony with the general purposes and intent of the LDC.**

1.1 Purpose of the Land Development Code (LDC)

The City of Northfield carries out the policies of the comprehensive plan by classifying and regulating the uses of land and structures within the city. This Land Development Code is adopted to protect and promote the public health, safety, morals, and general welfare of the city. More specifically, the purpose of these regulations is to:

- 1.1.1 Maintain and enhance the community's distinct small town character.
- 1.1.2 Preserve and protect the area's natural, historic, and cultural resources while providing for improved methods of integrating these resources in the community.
- 1.1.3 Encourage growth in infill locations as the desired location of development with expansion on the edge of the city a secondary priority.
- 1.1.4 Create residential community areas with strong neighborhood qualities including pedestrian-friendly streets, community gathering spaces, and basic commercial needs within walking distance.
- 1.1.5 Encourage the development of neighborhoods that incorporate a variety of housing types to serve the needs of a diverse population.
- 1.1.6 Allow for places with a mixture of uses that are distinctive and contribute to the city's overall

vitality.

- 1.1.7 Provide standards and guidelines for continuing strategic growth and sustainable development.
- 1.1.8 Provide for the expansion and diversification of the economic base to assure a strong economy.
- 1.1.9 Promote an ethic of sustainability in all activities to ensure that proposed development and redevelopment will, at a minimum, conserve energy and natural resources.
- 1.1.10 Improve and promote connectivity to better serve residents and to improve the function of the overall street network.
- 1.1.11 Ensure that proposed development is of human scale, primarily pedestrian-oriented to the extent appropriate, and designed to create exceptional streetscapes and pedestrian spaces.
- 1.1.12 Minimize vehicle traffic by providing for a mixture of land uses, pedestrian-oriented development, compact community form, safe and effective multi-modal traffic circulation (e.g., pedestrian, bicycle, and vehicular), and adequate on- and off-street parking facilities.
- 1.1.13 Protect the rural character of certain areas of the community as identified in the comprehensive plan.
- 1.1.14 Encourage vibrancy in the downtown core and fringe areas.
- 1.1.15 Ensure compatibility between different types of development and land uses.
- 1.1.16 Create a comprehensive and stable pattern of land uses upon which to plan transportation, water supply, sewerage, energy, and other public facilities and utilities.

The Residential (R1) district generally includes the established neighborhoods surrounding downtown Northfield characterized by traditional urban development qualities such as a grid pattern street network, sidewalks, and a range of single-family, two-family, and some multi-family dwellings on smaller lots. The purpose of the R-1B district is to continue to support single-family, two-family, and three-family attached and detached dwellings within the existing character of the city's older neighborhoods. The essential, existing character of the R1 district should be reinforced with any infill or redevelopment of properties. The primary intent of this zone is to strengthen the character of existing historic neighborhoods within Northfield and to protect and enhance the unique character of those existing neighborhoods, particularly in locations where this character may be most susceptible to change.

**Finding: Criterion 1 satisfied.** Keeping these homes in the neighborhood maintains the city's core density with a variety of housing types that serve the needs of a diverse population. These three homes have been a part of the neighborhood for over 70 years. It can be argued that they help define the neighborhood character. Subdividing the lot will cause no physical change to the neighborhood.

**Criterion 2 - The variance is consistent with the Comprehensive Plan.**

The Comprehensive Plan provides guidance that the Land Use chapter will be consulted for any development proposal based on the Intent, Location, and Character of the project.

**Intent:** Development proposals will reflect the spirit and values expressed in the 12 **Northfield Comprehensive Plan Land Use Principles** (statements of intent) (pages 4.9 to 4.13).

- 1. The small town character will be enhanced.
- 2. The natural environment will be protected, enhanced and better integrated into the community.
- 3. The preference for accommodating future growth is in infill locations, then redevelopment/land intensification

opportunities, and then on the edge of existing developed areas.

4. New and redeveloped residential communities (areas) will have strong neighborhood qualities.
5. Environmentally-sensitive and sustainable practices will be integrated into new developments and redeveloped areas.
6. Places with a mix of uses that are distinctive and contribute to increasing the city's overall vitality are preferred.
7. Neighborhood-serving commercial will be small scale and integrated with the residential context.
8. A wider range of housing choices will be encouraged - in the community as well as in neighborhoods.
9. Rural character of certain areas of the community will be protected.
10. Streets will create an attractive public realm and be exceptional places for people.
11. Places will be better connected, in part to improve the function of the street network and also to better serve neighborhoods.
12. Opportunities will be created to walk and bike throughout the community.

**Analysis:** The existing homes provide much needed affordable housing to serve the needs of a diverse population. Homes that do not front the street do not have strong neighborhood qualities.

**Location:** Development proposals will be consistent with the **Conservation and Development Map** (page 4.18) and location descriptions (pages 4.14 to 4.15).

**Analysis:** The property is in the Neighborhood Conservation district which is designated for neighborhood preservation and continued maintenance of buildings, streets and infrastructure.

**Character:** Development proposals will be consistent with the **Framework Map** (page 4.19) and recommendations and context descriptions (pages 4.15 to 4.17).

**Analysis:** The property is in the Neighborhood Central context consisting of detached single-family homes on smaller lots. The essential, existing character of the zone should be reinforced with future development.

**Finding: Criterion 2 satisfied.** The proposal meets the criteria outlined in the Comprehensive Plan for consistency.

### **Criterion 3 - Property Owner proposes to use the property in a reasonable manner not permitted by the LDC.**

**Finding: Criterion 3 satisfied.** The property owner proposes to continue to use these homes in a reasonable manner. The proposed Minor Subdivision meets all pertinent LDC criteria except for street frontage. It is reasonable for a property owner to subdivide existing property, but this is not permitted by the LDC in this case. Current regulations do not allow for more than one individual home on a single lot. This non-conforming situation will be remedied by the subdivision.

### **Criterion 4 - The plight of the landowner is due to circumstances unique to the property not created by the landowner.**

**Finding: Criterion 4 satisfied.** The existence of three homes on one lot is a preexisting, non-conformity. This unique situation occurred over seventy years ago and was not created by the current landowner. Current LDC subdivision regulations do not allow for more than one individual home on a single lot. This non-conforming situation will be remedied by the subdivision, but cannot occur without a variance from the

street frontage standard.

**Criterion 5 - The variance, if granted, will not alter the essential character of the locality.**

**Finding: Criterion 5 satisfied.** These three homes have been a part of the neighborhood for over 70 years. Subdividing the lot will cause no physical change to the neighborhood and will not alter its essential character.

Opposition to the proposal has been raised on the grounds that it is not typical for homes to be located in the rear yards of a residential neighborhood. The existence of these homes is not in character of a residential neighborhood and they should be removed.

**Recommendation:**

The variance request has been found to meet all variance criteria and staff is recommending approval. This is based on the practical difficulties test that the proposal is reasonable, there are unique circumstances associated with the odd shape of the current lot, the building placement, and granting the variance will not change the character of the neighborhood. The Zoning Board of Appeals can legally grant this variance and allow the City Council to decide whether the subdivision can be approved.

**Alternative Options:**

**Denial:** If the Zoning Board of Appeals finds the request is not in character with the neighborhood and wishes to deny the variance request, an alternate Denial resolution has been provided.

**Conditional Approval:** The Zoning Board of Appeals can also approve the variance with conditions. Many of the concerns raised by neighbors centered on fear of redevelopment of the rear properties. The variance could be granted with the condition that future redevelopment of the property is limited to single-family detached homes with a footprint under 1,000 square feet in size.