

**MINUTES OF THE
COMMITTEE OF THE WHOLE MEETING
VILLAGE OF NORTHFIELD
TUESDAY, MARCH 21, 2017**

The Committee of the Whole meeting was called to order by Village President Fred Gougler on Tuesday, March 21, 2017 at 5:30 p.m. Village Clerk Stacy Sigman called the roll as follows:

Committee Members Present:

President Fred Gougler
Trustee John Gregorio
Trustee Brian Kozminski
Trustee Thomas Roszak
Trustee Allan Kaplan
Trustee Joan Frazier
Trustee Jane Goldenberg

Absent:

Others Present:

Village Attorney Everette M. Hill, Jr., Village Manager Stacy Sigman, Assistant to the Village Manager Melissa DeFeo, slated Trustees John Goodwin and Tom Terrill and John and Max Shabika.

Approval of the February 21, 2017 Meeting Minutes

Trustee Kozminski noted a change on page 11. Trustee Kozminski made a motion, seconded by Trustee Goldenberg to approve the February 21, 2017 meeting minutes as amended.

Approval of the March 7, 2017 Budget Workshop Meeting Minutes

Trustee Goldenberg made a motion, seconded by Trustee Roszak to approve the March 7, 2017 Budget Workshop meeting minutes.

Discussion of Subdivision Code Concepts

President Gougler indicated this discussion will include some conceptual changes to the subdivision code.

Village Manager Sigman began by saying that based on a request from the Armstrong family, staff wanted to get some Board input on some possible options for a modified subdivision process. Although staff actually considered this in the past, but since we have so few of them, we never really have gotten around to implementing anything. In her 19 years, she remembers only 3 or 4 cases where this would apply. Most communities allow a modified process and as the attorney for Mr. Armstrong pointed out, these are allowed for in the Plat Act. In fact, the Plat Act provides for the direct filing of certain changes, but most local municipalities choose to be more restrictive.

VM Sigman said that here in Northfield, our definition of a subdivision includes any change or rearrangement to a property's lot lines and all of those must go through our formal subdivision approval process. Our code provides for a preliminary plat approval followed by a final plat approval. Both steps require a formal public hearing before the Plan and Zoning Commission, notice to surrounding properties and then the final approval of the Village Board of Trustees. The only real difference between the preliminary and final is the detailed information needed to be submitted. The biggest difference is the amount of detailed engineering work required. Currently, the only way to expedite this process is to file simultaneously for preliminary and final plat approval. Our code allows for this and for more simple straightforward requests, that is generally what applicants do. For more complex things, like the Fox Meadow Development, they start with preliminary and then come back for final approval.

She indicated what Mr. Armstrong and his counsel Mr. Franke are suggesting is that the Village consider an even more simplified process for minor changes. Actually writing and amending our Subdivision Code is a fairly simple and straightforward process. It is whether we want to and what it should include that is the challenge. Staff is hoping to get Board direction on a few items tonight such as, what do we want included and which process do we want to follow. If the Board supports the concept, staff would start to do more work on the details and find the best way to incorporate this into the code.

VM Sigman asked whether the Board wants to incorporate some sort of modified/expedited processes in our code or do we prefer the more detailed approach that requires a public notice, a public hearing, and Board approval? Additionally, if there is support for the concept of a modified process, which types of actions should it be allowed to be used for? Do we want to just allow it for lot line adjustments or lot line adjustments and plats of consolidations? A lot line adjustment is when there are two neighboring lots next to each other and one lot owner wants to transfer some of their property to the other neighbor. The caveat would be that both lots must still remain in compliance with zoning and subdivision codes. There couldn't be any variations associated with it. Some communities only allow an expedited lot line adjustment and others allow for lot lines adjustments and plats of consolidation.

VM Sigman then questioned if there is a preferred modified process. Option 3(a) administrative is where only staff reviews the plats and checks the subdivision and zoning codes -- as long as they meet the criteria, it is signed. Option two (3(b)) is administrative and Village Board approval. Staff would do the review and then it is reported at a Board meeting where the final determination is made. Option three (3(c)) is the same process as existing where they would still go before the Plan & Zoning Commission with a staff review and then to the Village Board, but with modified/simpler submittal requirements (Administrative, Plan and Zoning Commission, Village Board).

The major difference between these three options is the desired amount of public notice. Under administrative there is no notice to any neighbors. Under the Board process, it would be listed on the monthly agenda and acted upon at a public meeting and no individual notice to the neighbors. The third option would be the same as all Plan and Zoning Commission cases: a sign on the site, published in the local paper, every homeowner within 250' gets a written notice and publication in the Plan and Zoning Commission and Board agendas.

VM Sigman ended by pointing out that the types of actions which could potentially be governed under this new process are really ministerial. If the petitioner meets all of our subdivision and zoning codes, we have no legal ability to say no or place special conditions upon it. She said that can be confusing to the public that gets notices. There was a plat of consolidation submitted a number of years ago by Bert Getz. He bought two one acre parcels and wanted to combine the two lots into one larger lot. He met all of the codes but the neighbors came out against it. They didn't want one house that may be inconsistent with the neighborhood, on a larger lot. They preferred the two one acre lots. The Village didn't have any jurisdiction to deny it so it was approved. The neighbors left frustrated because they received notice, came to the meeting and objected, the Village had no power to do anything. However, if you don't have any notice, the neighbors could get caught unaware. So what would make the most sense? VM Sigman asked the Board to consider whether they want to do this sooner than later or if they are comfortable with the way it is. She said this is being presented to the Board as a global concept, not just for the Armstrongs.

Trustee Gregorio questioned if the lot line adjustment was for any size. VM Sigman said yes, it could be any size as long as both lots remain in compliance with code. If you had two acres and your neighbor had one acre and wanted to give you an acre, you could take it or each take a half acre. There would be no limit provided both properties remain in full compliance with the code. Neighbors could have really good concerns, but under the plat laws, the Village cannot legally deny it. Trustee Goldenberg stated that the essence is that there isn't a legal way to deny someone changing the lot lines if they meet the Village's requirements. She said as it is now, the Village requires a lot more hoops for residents to jump through and other towns just require the administrative review of a lot line adjustment. VM Sigman clarified by saying a lot of towns have expedited processes, some administrative, some go to the Board and a town like Highland Park has residents go through the whole process with the hearing, but have lesser submittal requirements.

Trustee Gregorio then asked with the administrative only process, would it run through VM Sigman's office and then go to the Village Attorney? VM Sigman answered that it would go through Community Development and Buzz would double check it with the engineers.

Trustee Roszak asked Attorney Hill if there was any reason why they shouldn't do this to make it a more simplified and modified process. Attorney Hill said he can't think of a good reason not to do it. He has written the ordinances for other municipalities and it has worked out very well. He hasn't heard any negatives about using an administrative process for a lot line adjustment or plat of consolidation.

On the plat of consolidation, President Gougler asked what if someone is combining a quarter acre lot, does that change the zoning? VM Sigman indicated that the plat only changes the legal description of the land; it doesn't change the Village's zoning map. If we wanted to change the zoning map, it would automatically kick in the public hearing before the Plan & Zoning Commission which is required by state statute. President Gougler felt that the plat of consolidation would involve more public input than just having staff to decide. VM Sigman said that in the Armstrong's case, if they transfer some of the land as shown in the exhibits, you would have lots in more than one zoning district. Part of the lot would be R-1 and part of it in R-2. She struggled with how it would be done if there was a lot line adjustment or plat of consolidation that results in a lot having more than one zoning district. There are other lots in town where this is the case, so we would need to write something in the Subdivision Code that says that if that ever is the case we either won't allow it or the stricter of the two standards would apply. So whatever is being built would follow the stricter district standard.

Trustee Frazier said she is concerned about the public notice element. Under option 3(a), there isn't any public notice. She thinks the property on Old Farm is a case in point. They went before the Board and it was a very controversial decision for the Board. The Board made a decision which wasn't popular but felt it was the right thing to do. So, if there isn't any public notice with this process, people will feel the Village is trying to pull a fast one. She is also concerned with option 3(b) where the Village Board becomes the hearing board. Staff would make the decision and it would go before the Board to decide where they become a hearing board. Trustee Frazier said she personally would favor option 3(c) (same process as existing) especially when this is something that seldom happens and jumping through a few more hoops doesn't concern her.

Trustee Goldenberg said there is value in giving residents an opportunity to give their views. She asked if it's ever happened where a petitioner adjusts their proposal after public input. VM Sigman said it is possible, especially when someone wants to be respectful to their neighbors.

Trustee Gregorio asked Attorney Hill if the Patterson case is distinguishable because there was an issue about whether it qualified because of the abutting issue. Attorney Hill said it was different and under any circumstance would have required going before P&Z because they were trying to create a buildable lot. VM Sigman added that this would not apply to anything that creates a new lot or changes any public infrastructure.

Those would have to go through the more elaborate subdivision process. This discussion is only for adjustments to existing lots or to make fewer lots, as opposed to more lots.

Trustee Kozminski asked VM Sigman to explain what she means by “modified simpler submittal requirements” in 3(c). VM Sigman said what we would want at a minimum is all the things legally required on a recordable plat. We may want a little more information like topographical information. There are now 4 pages required.

Community Director Steve Gutierrez said there is a certain level of engineering, grading and topography that is required. Trustee Gregorio asked if a person is making a 10 foot tweak to the lot line, is it burdensome for them and expensive to go through the whole process and would take longer? VM Sigman said it would take longer under the current submittals which are more onerous than the state would require for that plat. It would cost them a lot more money in technical and engineering fees to procure those plans. There is also an application fee associated with that for staff review and everything else that goes with that. Director Gutierrez said the cost of the application is about \$2,400 depending on how many lots you’re dealing with. Trustee Kaplan then asked what the difference would be between keeping it as is and going with 3(c). It seems to him that most of the stuff is included in 3(c) anyway. VM Sigman said if we stay with 3(c), it would have all the same public notices. We would take a hard look at the Code and all of the submittal requirements and just the things that are necessary to file the plat legally. Trustee Kaplan said he is on the Village Board, not P&Z and has no expertise in planning and zoning, so when he gets the packet, he reads the comments of people who know more than he does. He feels that having it go through P&Z is a good idea. He is all for saving time, energy and money, but he doesn’t believe it is a big savings. VM Sigman said she thinks the average person wants the least amount of pain possible. Option 3(c) will save the petitioner both time and money because it is a single step process as opposed to the preliminary and final and there are fewer documents to be prepared by their professionals who bill probably a couple hundred dollars an hour so it will cost them a few thousand dollars more. VM Sigman said we may not want to require full topographical survey if all you are doing is moving the lot four feet. You’re not required to have it for the state to file the plat, you just have to have the meets and bounds descriptions of both lots. Trustee Kaplan asked if we could approach it from that direction to say what would be nonsense. Take the nonsense out, but keep everything else. VM Sigman indicated if they like (c), that’s exactly what they would try to do to make the process as simple and streamline as possible and eliminate anything that isn’t needed. As we noted from the Old Farm case, a topo is important. If you’re consolidating the lot and taking out the ability to build or moving the lot line from one side to another, the information isn’t as critical. She imagines that the topo and engineering are the vast majority of the costs. She can only think of one lot line adjustment.

Trustee Goldenberg felt that it is a minor point and from her perspective, it seems there would have to be a very good reason for all of these so it seems as long as we provide room for public review in the process, streamlining the process seems to make sense.

Paul Armstrong said he actually doesn't own property, his mother and father own the property and have lived there about 50 years. He said it's probably one of the only properties that is convoluted because half of it is on one side of the creek and a good portion is on the other side. There are neighbors that have an interest in having some additional land and mainly the frontage on the creek. The challenge is more to the lines of the cost – engineering, topographical maps for each and every potential parcel of land that might be joined to a neighboring property. If you read through Highland Park, it provides public notice, but the notice is a little less of a notice than the full outright subdivision, potential development notice. When you start measuring out 250 feet from every property line, you get half the entire community in that area saying what's going on. Mr. Armstrong said it is important to have public notice, but also to have public notice to the people who are affected by it. That's where he was hoping that things could be streamlined both on the costly engineering and having to do the topographical and legal work and more like a plat of survey proposal and reduced paperwork on the additional mailing side and the legal side.

President Gougler indicated that the Board is still on the conceptual level as to whether or not to expedite or streamline the process. Both could require public notice and P&Z review, it's just a question of the material to be reviewed. They haven't gotten into the specificity in terms of what the requirements are.

Trustee Kaplan asked if the Plan & Zoning Commission was consulted about this. VM Sigman said they were not, it's just being brought here to the Board to see if it is a concept that anyone would want to entertain.

Trustee Goldenberg asked Mr. Armstrong about the history of the lot and wondered if the creek always ran through it. He said there were 13 homes built back in 1966 or 67 in flood plain land. It's about 10.5 acres which is the same back in 1966.

President Gougler said the question before the Board is keeping the status quo and the other is option 3(c). He hasn't heard anyone speak strongly for the administrative review. Trustee Roszak said he would be for the administrative review (3(a)) with some more detail. He said with the requirements that it creates a new buildable lot that affects utilities, requires a zoning code variation and as VM Sigman mentioned, it might even involve multiple districts, it becomes more complicated. He thinks it could be streamlined so as not to over complicate it. Trustee Roszak questioned the notice. He asked if the neighbors have to be noticed and was informed no. He suggests a modified notice process so the surrounding neighbors have to get a certified letter.

Trustee Gregorio said he agrees with Trustee Frazier and Trustee Kaplan about notice and agrees with Trustee Roszak that there is no discretion. If Attorney Hill says it's ministerial, then what's the purpose of the review process and why bring in the neighbors to voice their opinion when it doesn't make a difference.

President Gougler asked if plats of consolidation are ministerial. VM Sigman answered that as long as they meet all the other underlying zoning, then yes. It troubles him to think that someone could acquire 4 quarter acre lots and build a home there without anybody being advised of what was going on or to not have any neighbor input. Trustee Roszak said that zoning deals with minimum lot areas, so this is America and as a landowner one should be able to build a house that complies with the underlying zoning ordinance. VM Sigman said let's say the zoning requires a 20,000 square foot lot, as long as every lot that is effected remains at least 20,000 square feet, it doesn't protect it if somebody wants 40,000 square feet because it still meets the minimum standards and lot coverage and all the other stuff still stays in effect. If you had 20,000 and you consolidated and now have 40,000, you can build a bigger home there than on a 20,000 square foot lot. She said the problem is that we don't have the ability to say no based on the character and we control the underlying zoning and set minimum lot standards. President Gougler said you can have a one acre parcel in an R-4 zoning district. VM Sigman indicated yes. She said the Armstrong property is zoned R-2 and 10 acres and the minimum lot size in an R-2 is 30,000 square feet. Attorney Hill indicated that where his house sat, it was zoned R-3, but his backyard was R-1.

Trustee Gregorio said the administrative review would be sufficient and he is comfortable with the automatic lot line adjustment. On the consolidation, he is not sure.

Trustee Kaplan said he agrees with Trustee Frazier, but his idea is to leave it as it is and streamline the things we don't need. President Gougler said the intent of 3(c) is keeping the current process but modify it to simplify it.

Trustee Frazier felt it would be trouble if there was only administrative review. She feels transparency is very important. If the neighbors of the Patterson property came to the Board and said wait, there was an adjustment there, and the Board replied it was ministerial and that's why there wasn't any hearing, they would go nuts. If there are only one or two a year at most, she doesn't feel it is that burdensome on staff or petitioners to go through our process. We owe it to the other people who live in that neighborhood.

President Gougler feeling was that it should not be ratified solely by this Board so he will get the incoming trustees' thoughts. President Gougler then polled the current trustees.

Trustee Goldenberg said it is a difficult issue. If criteria could be set that would be specific on which types of line adjustments or plats of consolidation would come into a larger review process, that would be related to something related to how the

neighborhood might react, because we don't have an ability to say no. Personally for her, being a landowner with a minor adjustment related to utilities, she would resent having to go through all of this process. She would be supportive of administrative review, but not in all cases that where the community interest is for transparency. President Gougler agreed and said there could be some public resistance for doing something that would change the attitude of the property owner. Having the public process is important to him.

Trustee Kozminski said his natural inclination is to go with 3(a) administrative with the caveat that the more restrictive zoning would apply if there are 2 zoning districts. He is also okay with 3(c) as a compromise because it simplifies. Trustees Goldenberg and Gregorio agreed. President Gougler said he would recommend 3(c) as well.

President Gougler then asked incoming Trustee Goodwin what he thought. Mr. Goodwin said as an incoming freshman he wants to be conservative and thinks that Trustee Kaplan's comments are right on to try to be efficient, save time and money where we can, but have the transparency that he thinks is always a good idea. He likes 3(c).

Incoming Trustee Terrill said he is extremely in favor of transparency in every possible situation. When you have that, every little issue will come out and people will be able to think about it. He likes 3(c).

President Gougler said the consensus seems to be to drive it towards 3(c) and suggests that a future Board meeting when the new Board can weigh in. VM Sigman said we can go right to code and bring this to the Board or we can take 3(c) and flush it out a little more and bring it back to another Committee of the Whole meeting to go through the details. Staff didn't want to get into the details of any one of these scenarios if it wasn't something the Board wanted to consider. So she then asked the Board members which they would prefer to do.

Trustee Roszak felt that some input from the Plan & Zoning Commission and the Community Development department as to a recommendation was important. Trustee Gregorio asked VM Sigman in terms of paring down, he believes that everyone is trying to save time and money. VM Sigman said she is sensing that for minor things, we need to make sure it meets all of the statutes for filing the plat and we don't need any of the extra things.

President Gougler said it will come back with more detail towards 3(c) and the Board can weigh in again on that. It can therefore be ratified at a later date.

John Shabika, resident in Northfield and scout leader with Max, his son. They are talking about politics in Boy Scouts and so he wanted to come and see it firsthand.

Follow up Budget Questions

VM Sigman said there may be questions since the last meeting on the budget. Tonight will be a more streamlined version from the Budget Workshop.

Other Business

President Gougler asked what else is coming up for future COW meeting discussions. VM Sigman said there isn't a meeting in May because we are celebrating outgoing trustees and welcoming new trustees. Director Gutierrez said as they are finalizing and working through the Phase I engineering for the reconstruction of Northfield Road, they are more concerned now with putting a bike lane in given the amount of delivery traffic. Staff would like to present that concern at the April meeting. Mr. Terrill indicated he has seen near accident with bicycles on Winnetka Road. VM Sigman added that reviewing some possible modifications to the storm water ordinance would be coming up too. Director Gutierrez said that staff would like to clarify some language in the flood plain and storm water ordinances. The Village engineer who deals with the ordinances on a daily basis thinks there should be some clarification made, specifically what triggers certain requirements and how you look back on the amount of development done on a piece of property that might trigger some flood plain requirements.

Attorney Hill said the Porters have sued the Pattersons on the 225 Old Farm Road matter. They claim they do not have the right to the subdivision. The Village wasn't named as a defendant so we don't have to get involved. Mr. Terrill asked Attorney Hill if we have given them Board permission to do that, why wouldn't they sue us. Attorney Hill said they have filed a declaratory judgment and essentially what they want the judge to say is that you can't put another house on that lot. They are asking the judge to declare that our decision was an incorrect one and contrary to law. If our decision is being challenged, shouldn't we have the right to defend it and if we filed an interpleader, to be made a party to it, he is sure the judge would allow us to get into the case. Mr. Terrill asked if it is likely that the Pattersons will ask for that. Attorney Hill said he doesn't think either party will want us in it.

Adjournment

Village President Gougler asked for a motion to adjourn. Trustee Gregorio made a motion, seconded by Trustee Kozminski to adjourn the meeting. By voice vote all agreed and the meeting was adjourned at 6:55 p.m.