



# CITY OF CONCORD

*New Hampshire's Main Street™*

**City Manager's Office**

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## **Parking Committee**

August 16, 2018 @ 6:00PM

### **Attendees:**

City Councilor Byron Champlin, Chair  
City Councilor Mark Coen  
City Councilor Linda Kenison

### **Excused:**

Mayor Jim Bouley  
City Councilor Brent Todd

### **Guest:**

Keith Nyhan, City Councilor Ward 7

### **Staff:**

Matt Walsh, Director of Redevelopment, Downtown Services, & Special Projects  
David Florence, Parking Supervisor  
Rob Mack, Traffic Engineer  
Paul Gendron, City Surveyor  
Keith Mitchell, Deputy Police Chief  
Sergeant Charles Wroblewski, Concord Police Department

This was an on-site meeting located at 39/40 Nivelles Street. The purpose of the meeting was to review a request submitted by Derek and Kristy Ruiz, owners of 40 Nivelles Street, to eliminate on-street parking on Nivelles Street.

Councilor Champlin opened the meeting at 6:00PM. He introduced members of the Parking Committee, City staff, as well as Keith Nyhan, Ward 7 City Councilor. Nivelles Street is located in Ward 7.

Councilor Champlin recognized Derek Ruiz, who provided an overview of his request. Specifically, Mr. Ruiz stated that he and his wife would like the City to prohibit on-street parking between #10 and #40 Nivelles Street, on both sides of the roadway. He stated that this is necessary to improve safety, provide continuous access to his driveway (which has been blocked by parked cars), and facilitate traffic movement, as the street is a dead-end without a cul-de-sac or hammerhead turnaround. Mr. Ruiz also indicated that, due to on-street parking and other issues, the U.S. Postal Service has stopped delivering mail to his home.

Mr. Ruiz also expressed frustration that the public, primarily those associated with 39 Nivelles Street, had been parking on his lawn. He referenced several pictures of this which were previously provided to the Parking Committee.

Cathy Cooper, resident of 175 South Street, was then recognized. She indicated that she was a family friend of Patricia and David Daniels who reside at 39 Nivelles Street. Patricia and David Daniels, and approximately 15 other members of the Daniels family, were present at the meeting. Ms. Cooper indicated that she was representing the Daniels family concerning this issue. Ms. Cooper stated that the Daniels family has lived at 39 Nivelles Street for decades and that parking had never been an issue prior to the Ruiz family acquiring 40 Nivelles in 2017. She stated that banning parking was not needed.

Ms. Cooper went on to criticize a stockade fence, trees and other plantings the Ruiz family had installed on the Ruiz's property within the City's right-of-way. Ms. Cooper also suggested that the Ruiz's had established an illegal driveway at their home, and were violating City parking ordinances by parking a pickup truck and trailer in the Nivelles Street right-of-way, parallel with the recently installed stockade fence.

Ms. Cooper also went on to state her opinion that prohibiting parking in the vicinity of the Daniels property at 39 Nivelles Street would devalue their property.

Councilor Champlin then invited other members of the neighborhood to provide comment.

Kimberly Macey, owner of 4 Nivelles Street, addressed the Parking Committee. She indicated that there is no parking issue, except for at the dead-end portion of the street near 39 and 40 Nivelles. She indicated that this is a neighbor dispute between the owners of 39 and 40 Nivelles. She expressed frustration that the owners of 39 and 40 could not resolve their differences on their own.

Mike and Susie Barry, owners of 5 Nivelles Street, addressed the Parking Committee. Mr. Barry expressed frustration that the situation between the Daniels and Ruiz family has boiled over and become an issue for the entire neighborhood. He suggested that if the Daniels family could be courteous in how they park in relation to the Ruiz's property, there would be no parking issues in the neighborhood.

Discussion ensued as to why parking on the street has become a City issue. Matt Walsh, Director of Redevelopment, Downtown Services, and Special Projects, explained that parking on Nivelles Street was brought to the City's attention by a letter Mr. Ruiz submitted to the City in January 2018. He suggested that if people could be courteous in how they park and treat their neighbor's property, then the City would have likely never been contacted about this issue. He also added that the City wants to ensure that traffic and provision of public services (road maintenance, public safety, rubbish removal, mail) are not obstructed by on-street parking.

Cathy Cooper attempted to refocus the conversation on the Ruiz family's encroachments into the right-of-way. These included fencing, landscaping, certain signage, and storage of vehicles. Councilor Coen asked for City staff to provide a basic summary of permitted uses.

Paul Gendron, City Surveyor, responded that the right-of-way for Nivelles Street is 50' wide. The pavement is approximately 21-22' wide. He explained that the pavement is not centered in the right-of-way, so the bounds of the right-of-way might not be easily discerned by abutting property owners. He further explained that, generally, permitted uses within the City's rights-of-way are limited to vehicular and pedestrian travel, temporary parking of permitted vehicles, and public utilities. He noted that permanent private structures within the right-of-way, such as buildings and fences; and other items, such as permanently installed basketball hoops; are not permitted.

Mr. Walsh supplemented Mr. Gendron's comments by explaining the right-of-way is essentially a powerful easement controlled by the City. Although abutting property owners may own the underlying fee simple real estate beneath the right-of-way, the City's rights trump the property owner's rights.

Mr. Walsh went on to discuss the lack of courtesy, which some neighbors have been displaying regarding on-street parking. He stated that common courtesy is to park so that the wheels of the vehicle are on the pavement of the street. He noted that Nivelles Street is a low volume roadway and that there is no reason to park vehicles off the pavement. He also stated that parking is permitted on both sides of the road; however, on-street parking must be executed so that at least a 12' wide travel way is maintained between parking vehicles at all times. Mr. Walsh explained that, generally, off pavement parking is allowed in public rights-of-way, and that such parking might be appropriate in some instances (such as busy high speed roads with unpaved shoulders in the rural areas of the City where parking on pavement would present a traffic hazard). Nivelles Street is not a busy, high traffic rural roadway.

Mr. Champlin asked whether there is a need to ban parking on the entire street. It was the consensus of those present that there is no need to ban parking on the entire street. It was also suggested that if the Daniels and Ruiz families could cooperate, there was likely no need to ban parking at the dead-end section of the roadway.

Councilor Nyhan stated that, in his opinion, this is a neighbor dispute between two parties which has boiled over and embroiled the rest of the neighborhood, as well as the City. He expressed frustration with the situation, and the amount of City resources this dispute has consumed. He suggested that the parties resolve their differences, or the City would take action to address the parking issue. He also suggested that the City prepare a letter to all residents on Nivelles Street explaining what private improvements and uses are permitted in the right-of-way.

Discussion about mediating the situation between the Ruiz and Daniels family ensued. Derek Ruiz stated he thought that the City would mediate the situation when he submitted his letter to the City. Mr. Florence explained that the letter was sent to the Parking Committee for review and to see if ordinance changes, if any, were warranted. He added that because the Daniel's family chose to not attend the Parking Committee meetings, then the opportunity to discuss the issue with all parties, and, thus, potentially "mediate" the dispute, did not occur.

Discussion ensued. After discussion, it was the consensus of the Parking Committee to proceed as follows:

1. The Parking Committee asked that City Staff prepare a letter summarizing permitted uses of the public right-of-way and that the letter be sent to all property owners on Nivelles Street. The letter will also contain basic information about City parking ordinances pertaining to on-street parking, such as driveway setbacks, minimum travel width, storage of vehicles, etc.
2. That City staff meet with the Daniels and Ruiz families to attempt to mediate a resolution regarding parking and related issues. If attempts to mediate the parking issues are not successful, staff shall report back to the Parking Committee which shall then revisit this issue.

The Parking Committee meeting adjourned at 6:42PM. Following the meeting, Matt Walsh, David Florence, Paul Gendron, and City Councilor Keith Nyhan met with the Daniels and Ruiz families to facilitate a discussion between the parties.

Respectfully Submitted,

Matthew R. Walsh  
Director of Redevelopment, Downtown Services, & Special Projects