

**City of Northfield Planning Board
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Minutes: February 3, 2011

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, and filed with the City Clerk, stating the date, time and place of the meeting and the agenda to the extent known.

The regular meeting of the Northfield Planning Board, held on Thursday, February 3, 2011 in Council Chambers, City Hall, Northfield, was opened by Dr. Richard Levitt at 6:59 p.m. and the following members were present or absent as noted:

Dr. Richard Levitt
Clem Scharff
Mayor Vincent Mazzeo
Councilman Steven Vain
Chief Robert James
Lou Milone
Ron Roegiers-absent
Henry Notaro
Jim Shippen-absent
Linda Dyrek

Matthew Doran, Professional Engineer
Norman Zlotnick, Solicitor

There were three applications on the agenda for this evening. The first was from Julie Ann Pepper for a "C" variance request for Block 119, Lot 15, 114 Mt. Vernon Avenue to construct an addition to a residential home. The property is located in the R-2 Zone. Mike and Julie Pepper were sworn in by Chairman Levitt. They testified that they are expecting a child and want to expand their home with an addition going straight up. Dr. Levitt said it appears that they have a side setback deficiency and need a variance. Mr. Pepper said they will be adding onto their kitchen, but will not be going outside any outside walls already existing. Mr. Doran said there are actually three variances. He referred to his review and stated that the addition is actually expansions of what is already there. They are asking for "C" variance relief for a front yard setback where 25 ft. is required and 9.8 ft. is proposed, a side yard setback of 5.5 ft. where 15 ft. is required, and Total Lot Coverage of 57% where 45% is the maximum permitted. Mr. Doran noted that they have curbs and sidewalks as well as the two parking spaces required.

Dr. Levitt asked if there were other two-story homes in the neighborhood. The Pepper's said their neighbors, the Previti's, received a variance for their construction and their home was very much like the Pepper's home. Dr. Levitt said the home is located on a deep lot at 150 ft. and he asked the Pepper's to give positive and negative criteria and to justify the impact of the project. Mr. Pepper said their home is located on the bike path. They want to fix up their house so that it will look nicer and add value to the neighborhood. He said there are no negative impacts that he is aware of. Dr. Levitt asked about the front porch. They are expanding the porch to the side but not extending past the side wall. The porch is being extended to square off the side. It will be a covered porch, but will not be an enclosed living area. The dwelling portion will not be extended

closer to the street. Dr. Levitt asked about trees and shrubs. Mr. Pepper said they have re-landscaped the yard and the side yard towards the bike path. They have a huge Oak tree in front and there is no room for anymore trees in the front. They have added trees to the backyard. The Board had no further questions.

Chief James made the motion and Councilman Vain seconded.

The roll call vote was as follows:

Mrs. Dyrek-yes, Chief James-yes, Mayor Mazzeo-yes, Mr. Milone-yes, Mr. Notaro-yes, Mr. Roegiers-absent, Mr. Scharff-yes, Mr. Shippen-absent, Councilman Vain-yes, Chairman Levitt-yes. The motion for the "C" variances carries.

The second application was for Open Range Communications, Inc. Their Attorney, Warren Stilwell, asked to be heard third this evening since one of the witnesses had not arrived yet.

Stephen Nehmad of Nehmad, Perillo & Davis of Somers Point introduced Luke Palladino, Chef, and Harold Weiss, owner of Plaza 9 shopping center. The property is located at 1333 New Road, Block 42, Lots 1.02 & 10. The applicant is requesting a Conditional Use, "C" Variance relief and a site plan waiver in the Commercial Business Zone (CB Zone).

Mr. Nehmad opened with an overview of the application. He said the restaurant is located in the Plaza 9 Center which was originally built in 1983. The shopping center is 11,000 sf and this application concerns only one unit-"Luke Palladino's Seasonal Italian Catering and Take Away" which previously was the site of "Kenny's Kitchen". Mr. Nehmad noted that restaurants are a permitted conditional use in the CB-zone. They are seeking a deviation for two of the conditional use standards. Lot coverage on the total site is not to exceed 20% and there is to be a 25 ft. buffer from a residential zone. These conditions are non-conforming today in that building coverage is at 23.5% and there is a 5 ft. rear buffer. The applicant does not propose to make these conditions any less non-conforming and they will not be changing the site plan in any way. Mr. Nehmad continued by saying they will need a parking variance and he feels the variance is warranted for three reasons. The Ordinance does not have a parking standard for shopping centers of this size. The most operative standard is ITE (Institute of Transportation Engineers Standard) and the standard would require 46.2 spaces and there are 47 spaces existing so they would comply. A second reason is Smart Growth which is a planning concept which says that uses that have complimentary peak demand periods are allowed to share parking. There is an example in the near vicinity involving the Regal Cinema movie theater which shares parking with retail stores. Mr. Palladino wants to operate a 30 seat restaurant with peak periods that are different from the neighboring retail stores. As explained in the Rider submitted with the application, there are excessive parking spaces available at night when the other stores are closed and this is a classic example of the shared parking concept.

Mr. Nehmad continued his opening and said that Mr. Palladino acquired the business at the Kenny's Kitchen site and was authorized to operate a take out and catering business. Kenny previously had a number of seats in the restaurant and served lunch and dinner. Mr. Palladino wants to continue what Kenny had done on the premises beforehand. Mr. Palladino spruced up the restaurant with a whole new look. Mr. Nehmad commented that Mr. Palladino is a chef from a prestigious New York school and has worked as a chef at Borgata in Atlantic City. His current venture is very popular and he does not plan to continue to serve lunch. Mr. Nehmad added that he feels this type of operation is an urban and suburban development tool for invigorating the strip mall with a strong eating and drinking establishment. His client is seeking a conditional use standards variance and this does not require the same proof as a typical "D" variance. Mr. Nehmad referred to the Coventry Square decision which found that if a use is permitted within a zoning district, but does not comply with each and every condition, the use is essentially compatible and permitted if suitable. They need to demonstrate a relaxed burden of proof in that

the restaurant use is already allowed despite the fact that they do not meet two of the conditions, rear buffer and lot coverage, and that the site continues to be suitable for the conditional use. Mr. Nehmad asked if the Board would have any objection to their deciding whether or not to go to a vote later in the hearing since there were only six eligible voting members present. There was no objection to this.

Chairman Levitt swore in Mr. Harold Weiss, owner of Plaza 9, Mr. Luke Palladino, chef and owner of the restaurant, and Bill McManus, a surveyor and planner with Duffy, Dolcy, McManus & Roesch of Galloway. The Board accepted Mr. McManus's qualifications.

Mr. McManus described the area and existing conditions. He displayed Exhibit A-1 which is an aerial view with Plaza 9 highlighted. The site is southwest of the Tilton Road and Route 9 intersection. It is surrounded by both commercial and residential sites including Rite Aid Pharmacy, McDonald's, TD Bank Center, residential properties on Banning Avenue and is in the center of town. The shopping center was approved and constructed in 1983 and the original plans were done by Mr. Doran. The 11,281 sf L-shaped plaza is consistent today with what was built in 1983 except that the lot was 50,000 sf. The lot contained a typical neighborhood, regional shopping center with lighting, landscaping, drainage, 45 parking spaces and access to Route 9. There have been two changes to the site which came about when the NJ DOT, on two separate occasions, took additional frontage from the site for road improvements. They took a 5 ft. strip of frontage totaling about 250 sf for road widening in 1984-1985 and then, during the major intersection construction, the DOT took another 5 ft. strip. This reduced the lot area by 5% since 1983. It was also necessary to reconfigure the drive aisles parallel to Route 9. When the striping was re-done, a few parking spaces were added for a total of 47 spaces. Mr. Nehmad added that the land was taken by eminent domain which is the taking of land for public use and resulted in a loss of lot area. Mr. McManus said the land area was reduced from 50,000 sf to 47,000 sf. and the DOT had the constitutional power to do so.

Mr. McManus further testified that the building has not changed in footprint and he showed this with Exhibit A-2 which is the variance plan and shows the approved site plan and is representative of existing conditions. The building area is 11,281 sf with ten rental units. The application involves one unit facing Route 9 which is 900 sf. Other units in the shopping center include a Coast Guard recruiting office, Metro PCS, a Thrift store, a Chinese Take-out restaurant, a Barber Shop, and Nelson Collectibles. The shopping center is classified as a neighborhood shopping center in the C-B zone and restaurants are permitted as a conditional use as long as certain conditions are met. Mr. McManus said they are proposing to continue to operate a sit down and take out restaurant with catering and the unit represents about 8% of the building area.

Mr. McManus continued by stating that concerning the conditions of a conditional use, there are two conditions which are not met in this situation. The zone has two conditional uses and they are Automotive Services and Restaurants. These have three conditions attached of which two are not met with this application. The first is that one acre of property with 200 ft. wide frontage is required. They comply with this condition as there is 1.1 acre of property with a 250 ft. frontage. It was noted that these conditions seem to apply more to stand alone restaurants and not an inline plaza-type of restaurant. The two that are not met deal with building coverage and buffering to a residential use. For building coverage, 25% is allowed, but for the restaurant conditional use standard, 20% coverage is allowed. There is 23.5% existing lot coverage which meets zoning criteria, but not the conditional use standard. They are not proposing to increase lot coverage in any way. As to the buffering to a residential use, 25 ft. buffering is required, and they have a 5 ft. buffer which is a pre-existing non-conforming use which again, they do not intend to worsen by this application.

Mr. Nehmad and Mr. McManus discussed the parking variance being sought. There are 47 spaces existing today. There are no specific criteria for this type of mixed use and individual uses need to be looked at and the uses need to be added together. There are different formulas that can be used. Mr. Nehmad thought that 49 spaces would be required if all the requirements for individual retail stores were summed up and with the restaurant included, this would increase to 55 spaces. Mr. Nehmad asked for Mr. McManus' opinion as to whether there is sufficient parking on site for this proposal. He answered he has a strong favorable opinion that due to the mixed use anomaly, there is sufficient parking. He said there are three ways to look at this situation and he conducted an empirical demand study since the Ordinance doesn't have specific standards. He discussed shared parking and said that with shopping centers, parking spaces are occupied at different times due to the different uses of the stores. This is beneficial and complimentary and common with shopping centers as times and intensity of use changes. He used an example of a retail shopping center with a church as part of the shopping center. The church is able to use the parking spaces on Sunday when the retail stores or offices are closed. This is similar to the proposed application as Luke Palladino will operate when most of the other stores are closed. Mr. McManus said there are volumes written on the shared parking concept and it is a major benefit for shopping centers and is a part of some master plans. This applicant's situation is ideal for considering this concept in that the restaurant's peak periods are from 5 p.m. to 10 p.m. in the evening and the other stores have peak periods during the day.

Mr. McManus discussed another study compiled by planners into a report to the DOT which is a parking recommendation for shopping centers and strip malls. They recommend 4.1 parking spaces for every 1000 sf gross leasable acres. Using this formula, Plaza 9 would have 46.2 parking spaces which rounded up is 47 spaces and equal to the number currently available. Mr. McManus also conducted a parking demand analysis on the actual parking use on site. He went to Luke Palladino's for lunch and counted occupied spaces and then continued to collect parking counts over a representative time period. This report was included in the Justification Rider. Occupied spaces were counted, dates and times were recorded, and parking availability percentages were devised. He compiled this report over a three week period over twelve different days using different days of the week except for Sunday. The report was done in November 2010. The results were that the highest parking demand was during the noon hour. At that time, the restaurant was open for lunch. The average range of parking spaces occupied at the 6:00 p.m. hour was 40%. The conclusions of the study were that the parking supply far exceeded the parking demand on site. Mr. McManus believes the conditions are minor deviations and are pre-existing conditions and that the variances are warranted. He added that Mr. Palladino has expended a lot of capital to produce a strong eating and drinking establishment which has improved the site and added a highlight to the community. It attracts outside visitors to Northfield and is a destination attraction. Word is spreading as to the quality of this restaurant and Northfield should be proud of it. Mr. McManus said there is no substantial detriment to the zoning plan and there will be no change to the site plan.

Dr. Levitt referred to the parking allocation report and asked Mr. Weiss about the two units that were shown to be unoccupied and if they were still vacant. Mr. Weiss testified that two units at 2000 sf and 900 sf were vacant at this time. Dr. Levitt asked if they became occupied, how this would affect the calculations. Mr. McManus said the calculations would never exceed 100% and that peak demands are between 9 a.m. and 5 p.m. Mr. Nehmad added that this would be true unless another restaurant were to occupy the vacancies. Mr. Palladino has decided to discontinue lunch service for this reason and wants the landlord to be reassured that there will be sufficient parking. Dr. Levitt asked Mr. Doran if medical uses are permitted in this center. He added that historically, that is where parking problems arise. Mr. Doran and Mr. Nehmad reviewed the Ordinance. Mr. Weiss said he did not believe he received approval for any medical uses twenty-five years ago. It was determined that medical uses are not allowed in the CB-zone and Mr. Nehmad commented that Northfield has one of the most stringent parking requirements for

medical uses among the mainland communities. He referenced that a variance would be necessary if any medical uses were proposed at Plaza 9.

Mr. Nehmad introduced Mr. Palladino and asked about his background. Mr. Palladino said his educational background includes a prestigious New York culinary school, work in Italy, and the Borgata Casino. Dr. Levitt said further testimony on the chef's background would not be necessary as his reputation is well known. Mr. Nehmad said his client is available to answer any questions.

Dr. Levitt opened the public session. There was no one from the public who wished to speak and the public session was closed.

Mr. Doran referred to his report and said that they have done a very good job on the planning aspects and he does not know of any complaints, but they should address dumpster issues. Mr. Palladino said he has received compliments concerning smells and he sanitizes the dumpster, packs up recycling for removal, appropriately stores grease in containers and it is recycled by a farmer. Also, there are filters in the exhaust system.

Mr. Nehmad had no summary and there were no further questions from the Board.

Dr. Levitt said there are three variances to consider and asked for a motion. Mr. Scharff made the motion for existing lot coverage, the residential buffer, and parking where 55 spaces would be required and they are proposing 47 spaces. Mr. Milone seconded the motion.

The roll call vote was as follows:

Mrs. Dyrek-yes, Chief James-yes, Mayor Mazzeo-no vote as an elected official, Mr. Milone-yes, Mr. Notaro-yes, Mr. Roegiers-absent, Mr. Scharff-yes, Mr. Shippen-absent, Councilman Vain-no vote as an elected official, Chairman Levitt-yes. The motion for the Conditional use and parking variance carries.

At this time, Mr. Stilwell addressed the Board and said his Radiofrequency Engineer is on his way from Colorado, but he is still in Denver at this moment. Dr. Levitt suggested that the application proceed and if questions arise from the public where it is absolutely necessary to have a radio frequency engineer available the hearing can be continued. He noted that the Board has heard a lot of testimony from radiofrequency engineers in the recent past and as long as the Board has no objections, he would like Mr. Stilwell to go forward. There were no objections.

Mr. Warren Stilwell of the law firm of Cooper Levenson in Atlantic City said proper noticing has been completed for this hearing for wireless antennas to be placed on a 350 ft. existing tower at 162 ft. and 182 ft. The application is from Open Range Communications, Inc. at the site of Block 16.01, Lot 40, 1473 Burton Avenue for a preliminary and final minor site plan. He noted that the placement of antennas on towers is a permitted use. Mr. Stilwell introduced his witness as Sheri Lamphere, an engineer, and she was sworn in as a Licensed Professional Engineer in the State of NJ.

Ms. Lamphere displayed an enlarged copy of the site plan and referred to page Z-1 showing the existing compound and the 350 ft. guy tower. Page Z-2 is titled "Tower Elevation" which shows at 162 ft., a 6 ft. diameter dish and panel antenna will be installed and at 182 ft. two 4 ft. diameter dishes will be installed. Mr. Stilwell said they will use existing utilities. The purpose is to provide Broadband wireless services which are licensed by the FCC and are different from other types of wireless services. Broadband is used by homeowners and is a fixed point, non-mobile service for houses. The range is a few miles and will serve residents of Northfield. It will be a useful, inexpensive service.

Dr. Levitt asked about a structural analysis and Mr. Stilwell said he has noted that Mr. Doran referred to this in his report and he is willing to make that a condition of approval. Dr. Levitt said he has concerns with 6 ft. dishes at that height and how wind will affect them. Mr. Doran said this particular tower has gone through major structure improvements, but he is still requesting a structural report. Dr. Levitt agreed that this should be a condition of approval. Ms. Lamphere stated that they will not be adding any new lighting, there will be no height increases, and no signage. Mr. Doran noted that everything is within the existing fenced-in compound. Ms. Lamphere testified that they are not expanding the footprint of the compound, equipment will be installed at the ground level, and cable bridges will go up and over the compound. She also testified that there would be no increase in ambient noise levels above 50 decibels at the property line. Mr. Stilwell said there is a requirement in the Ordinance that yearly noise measurements and RF frequency from the facility be compiled as a report and he respectfully asked for a waiver. Ms. Lamphere said to her knowledge noise levels would not be a problem and Mr. Scharff agreed that there would be no reason for a report because if they were not in compliance, someone would be at the site fixing any problems in order to comply. Mr. Doran said there is no noise at the site. Dr. Levitt agreed to waive the yearly noise analysis.

Dr. Levitt opened the public session. There was no one who wished to speak and the public session was closed.

Mr. Scharff commented that American Tower still has two old microwave dishes on the top of the tower which were supposed to be removed a long time ago. Dr. Levitt suggested requiring that they remove any inactive, unused equipment. Mr. Stilwell had no problem with that. Dr. Levitt said there will be two conditions; the first is to remove what is not being used and the second is that they will provide a structural analysis. Mr. Doran said there is no continued structural analysis required, but they will need to provide the structural analysis for the new antennas.

Mr. Scharff made the motion for minor preliminary and final site plan for one two ft., two four ft., and one six ft. microwave dishes and two panels permitted on an existing tower. Mr. Milone seconded the motion subject to the two conditions stated.

The roll call vote was as follows:

Mrs. Dyrek-yes, Chief James-yes, Mayor Mazzeo-yes, Mr. Milone-yes, Mr. Notaro-yes, Mr. Roegiers-absent, Mr. Scharff-yes, Mr. Shippen-absent, Councilman Vain-yes, Chairman Levitt-yes. The motion for the site plan carries.

Dr. Levitt said that the Board will be discussing the Ordinance proposed changes at the next meeting. He asked Mr. Doran to give some thought to an issue raised this evening concerning restaurants in shopping centers. The conditions of the Ordinance do not seem to make a lot of sense. Mr. Doran agreed that conditions refer more to stand alone restaurants. Dr. Levitt said since we are seeing more small restaurants in shopping centers, the ordinance may need to make the conditional use more related to parking rather than bulk items. A restaurant within an existing shopping center is part of a whole when looking at parking. Mr. Doran said perhaps it can be limited to a certain use percentage. Dr. Levitt said the Board does not want to discourage these kinds of uses and the issue should be looked into. He asked the Board to read through the proposed changes for the next meeting.

There were two resolutions to memorialize. The first was for T-Mobile Northeast, LLC, Block 78, Lot 14, 2605 Shore Road. Approval was received at the January 6, 2011 meeting for a "C" variance, Minor site plan, and "D" variance for a previously approved cell tower which will now be located at a different location on the site. Abstentions were Jim Shippen and Mayor Mazzeo and Steve Vain as elected officials. The voice vote was all in favor. The second resolution was for APMP LLC, Block 76, Lots 19 & 20 and Block 78, Lots 18 & 19, 2617 Shore Road and Oakcrest Avenue who were denied approval on January 6, 2011 for a "D" variance. Abstentions were the

same as previously noted and the voice vote was all in favor. The timeline for appeal will begin on this date for a period of 45 days.

The next meeting will be Thursday, March 3, 2011.

Chairman Levitt closed the meeting at 8:27 p.m. with a motion from Mrs. Dyrek and a second from Mr. Milone.

Respectfully submitted,

Robin Atlas, Secretary to the Board