

**City of Northfield Planning Board
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Minutes: September 6, 2012

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, filed with the City Clerk, and posted on the City website, 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, September 6, 2012 in Council Chambers, City Hall, Northfield, was opened by Chairman Richard Levitt at 7:00 p.m. and the following members were present or absent as noted:

Councilman Greg DeWees
Linda Dyrek-absent
Denise Kintish
Dr. Richard Levitt
Mayor Vincent Mazzeo
Lou Milone
Sgt. Paul Newman
Henry Notaro
Ron Roegiers
Derek Rowe
Clem Scharff
Jim Shippen

Matthew Doran, Professional Engineer
Norman Zlotnick, Solicitor

There was one application on the agenda for Wayne and Susan Palaia, Block 1.02, Lot 38, located at 103 Julie Drive in the R-1A Zone. They are requesting a "C" Variance for a rear yard setback in order to construct a 300 sf covered porch with the dimensions of 20 ft. x 15 ft.

Mrs. Susan Palaia was in attendance to present the application and she was sworn in by Chairman Levitt. She testified that they want to construct a covered patio at the back of their property and they will be encroaching over the setback line a few feet. The porch will not be heated or air conditioned. They desire the patio for a table and chairs and to provide cover from the elements. Dr. Levitt asked about the foundation. Mrs. Palaia said they will be using poured cement. Her neighbor has constructed a similar porch and has the same model house. The neighbor has a

corner property and was able to make her porch longer and narrower and with a shed-style roof. She said theirs will be squarer in shape with a sloped peak roof. She would like to add some type of fan, possibly a ceiling fan for bugs, and eventually she may decide to screen it in. She hopes that the addition will make life more pleasant and the family can eat and spend time outside on the porch. Dr. Levitt asked if there was a step from the house to the proposed porch. Mrs. Palaia said the porch would be off the kitchen and she has a door but it is not a slider door. Dr. Levitt questioned if this project would require a variance. Mr. Doran said the roof is the cause of the variance. Mrs. Palaia added that the sun makes it hot at the back of the house and they need the shade. She has talked with her neighbors in order to obtain signatures instead of simply mailing out certified notices. She said there were no objectors and all comments were positive concerning the project.

Mr. Doran noted that they are proposing a 20 ft. rear setback where 25 ft. is required. This is a 5 ft. setback variance and he noted that the side yard setbacks conform. Dr. Levitt asked if there was anyone from the public who wished to speak on the application and seeing no one, closed the public session. He asked for Board comments and Councilman Dewees asked, considering the dimensions, if the roof will adversely affect any of the neighbors or create any drainage or water runoff issues. Mr. Doran said with the addition, the home will be 20 ft. from the rear setback line and there is plenty of room on the side.

Mr. Scharff made the motion for the rear yard setback "C" 2 variance. Mr. Shippen seconded the motion.

The roll call vote was as follows:

Councilman DeWees-yes, Mrs. Dyrek-absent, Mrs. Kintish-no vote as 2nd alternate; more than nine voters present, Mayor Mazzeo-yes, Mr. Milone-yes, Sgt. Newman-yes, Mr. Notaro-yes, Mr. Roegiers-yes, Mr. Rowe-no vote as 3rd alternate; more than nine voters present, Mr. Scharff-yes, Mr. Shippen-yes, Chairman Levitt-yes. The motion for the "C" 2 variance carries.

Chairman Levitt proceeded with a discussion of Resolution No. 136-2012 from City Council which involves newly proposed amendments to the proposed Land Use and Development Ordinance. City Council requested that the Planning Board review and make changes to a few of the originally proposed changes after public input at the most recent City Council meeting.

Dr. Levitt read through the changes in the resolution. The first change involves the new proposed R-B zone at Shore Road between Golf View and Casey Drives. Council and the public have requested that this section remain as the existing R-1 zone. It was also requested that Mill Road between Shore Road and Bay Drive remain as the existing R-1 zone. Sections 3 a,b,c of the resolution pertain to the newly proposed zone located at Oakcrest Avenue and Shore Road. The zone is proposed to be changed from the existing R-3 zone to R-B (Residential Business). It is being requested that food stores up to 3000 sf, tobacco stores and stands, and coin-operated laundries and dry cleaning services be removed as permitted conditional

uses. Dr. Levitt said he has no problem with any of the proposed modifications and asked for feedback from the Board.

Mr. Roegiers asked about the last modification item which involves electronic reader boards which is being requested to read that a maximum of one text change every three minutes as opposed to five minutes be permitted for these new types of signs. Dr. Levitt said the purpose is to be more business friendly. The signs will still not be allowed to be flashing. Dr. Levitt noted that some of the existing signs are not conforming or complying.

Dr. Levitt opened the public session. The first member of the public to be sworn in and speak was Tom Whaley of 210 E. Yorkshire Avenue. He stated that he thinks Northfield is a beautiful residential community and has felt this way for the 53 years he has lived here. He took a ride and counted 15 businesses or offices on Shore Road and he is questioning zoning changes on Shore Road and cannot see where any new businesses could be added. Dr. Levitt said there is not any proposal to expand any businesses not already existing. The only zone change affecting Shore Road is the Palombo's section on Oakcrest Avenue. It is recognized that this area has developed as a business section and problems result when the business use changes. If a change needs to be made, it is necessary to come before the Board for a use variance. The Land Use proposal puts some limited uses that will be allowed and a potential business may not have to go through the whole variance process. Dr. Levitt gave the example of the Palombo's situation and technically at this time, the site can only be used as a pharmacy. Dr. Levitt noted that the Ordinance has restricted hours and signage limitations to protect Shore Road. It is not the intention to turn residential homes into businesses. Mr. Whaley said he wants Northfield to stay as it is now.

Wendy and Ed Fox of 110 E. Mill Road were sworn in and spoke next. They thanked the Board for listening to the residents and the recommendations from City Council and wanted to go on record that they support that Mill Road between Shore Road and Bay Avenue remains zoned residential.

Frank Perri of 7 Haddon Avenue was sworn in and addressed the Board stating that there was a public outcry at the last City Council meeting and numerous testimonies were given. He said the zone changes should have been thought out in a manner more sensitive to the public that live in the areas and have lived in Northfield for 40 to 50 years. He expressed concerns about the Board's professionals stating this was not spot zoning. Mr. Perri asked the Board if a pre-existing non-conforming business would be allowed to come before the Board and request an R-B use instead of variances. Dr. Levitt said a pre-existing use is allowed to continue and can be sold as a similar use. Mayor Mazzeo said zones can only be amended through the governing body. Mr. Perri asked if a business could come in and asked to be changed to R-B. Mr. Zlotnick said that is not the function of the Board. Dr. Levitt said that is exactly what the Palombo's did when they asked for a change to the N-B zone. Dr. Levitt said the Board said no at the advice of our professionals. It would require an Ordinance change through the recommendations of the Board to City Council. That

was the impetus for the R-B zone in the first place and inspired the process to rezone. Mr. Palombo made the point that it was difficult and too limited to only be able to lease the space to another pharmacy. Normally an applicant requesting a use change has a specific use in mind and it is not normal to rezone a single property. Mr. Zlotnick added that any owner can come to Council and ask to change a zone. They must petition the governing body to do so. Mr. Perri said by changing the zone, you are changing what has happened in the last 40 years. He is foreseeing what will happen in the future in that the zone will have a package of conditions. He questioned why another business can't come in and request the same. Mr. Zlotnick said that zoning is a package. Consideration needs to be given as to whether a geographical area or an isolated lot is being considered. Every situation is fact dependent. Mr. Perri questioned whether this situation is considered spot zoning. Mr. Zlotnick said that it has been noted many times that this is not a spot zoning situation and the section Mr. Perri is concerned about is not spot zoning. Mr. Mazzeo commented that possibly this is being questioned as spot zoning because only one zone is being discussed. He noted that Northfield Avenue as well as a section on New Road are being changed as well. Mr. Perri noted that there was a public outcry on the subject and Mr. Zlotnick said that is the reason for public input and the Mayor said that is why the issue was brought back to the Board and that is the process involved. Mr. Perri asked if a certificate of non-conformity was declined, can it be appealed. Mr. Zlotnick said that certainly the issue can be brought before Superior Court. Mr. Perri concluded by saying that he wants the character of Shore Road to remain the same.

Susan Palmer of 107 E. Mill Road was sworn in next. She has a residence on Mill Road and she asked if this means the zone will not be changed. She has tried to sell her home for the past two years and feels it didn't sell because as a residential property, it is too close to Shore Road and there is too much traffic. Dr. Levitt said that is why the Board considered this section for a zone change. There are only three houses that are not businesses. Mrs. Fox interjected by saying that the area is an entire neighborhood. Dr. Levitt said he simply made a statement that the zoning change would have only changed three residential homes of which one of them is now a group home. The Board just heard testimony from Ms. Palmer that she had trouble selling her home and due to recommendations by City Council the Board is considering tonight that the zone change will not be made. The consensus is that it will remain residential. When the zone was being considered, businesses such as Wawa's and shopping centers were not being considered. That was only a rumor. The Board was considering businesses such as Chiropractic, Accounting or Financial Planning types of businesses and this only affected one side of the street. Dr. Levitt addressed Ms. Palmer and said that without the zone change, should she obtain a buyer who wants to use the property for a business, they would need to pay for a variance application with the requirements of having to prove the size of the property conforms with the parking available, provide testimony as to landscaping and setbacks as well as all of the requirements of a site plan. Ms. Palmer stated publicly that she is in favor of the zone change. Dr. Levitt said that he feels opposition has been misguided and overwhelming, but this is our democracy and there are winners and losers.

Dr. Levitt asked if anyone else from the public wished to speak and seeing that no one did, he closed the public session.

Dr. Levitt addressed the Board and said we have before us a package of requests from City Council and asked for Board comments. Mr. Perri had one more question for the Board. He asked why there is still a prohibition on auto sales and used car lots. Dr. Levitt said this goes back to the original Ordinance of 1976 when it was determined that unsightly, large car lots were not suitable for Northfield and were not good ratables for the City. He suggested talking to City Council. It may be a zoning issue and is not a permitted use. There may be a compromise that may permit some type of auto sales, but this would require an Ordinance. This can be explored through City Council, but he feels the town is fully developed. Mr. Perri said there is room near Cresson Avenue. Dr. Levitt said this is the first he is hearing of this issue of new and used car sales and feels that the Board is at the end of a 4-year process, in the 9th inning with two outs, and an interested party could seek a variance which is what the variance process is for.

Dr. Levitt re-opened the public session at the request of Ms. Ada Stabnau of 8 E. Rosedale Avenue. Her property is on the east side of Shore Road towards the Bay. She resides in the 3rd house on Rosedale off Shore Road and has a problem in that she feels her street needs repaving. Dr. Levitt said the Board has nothing to do with the paving of roadways and she would need to speak with the City Engineer. Dr. Levitt said he is aware of the issue as he lives on the same street. Matt Doran, the City and Planning Board Engineer, addressed Ms. Stabnau and said her street is on the list for re-paving and believes it is scheduled for the spring. Dr. Levitt closed the public session.

Dr. Levitt asked for a motion to consider Resolution No. 136-2012 of which several changes were proposed by City Council to the original amendments proposed to the Land Use and Development Ordinance and these changes were read at the beginning of the discussion. Mr. Shippen made the motion to accept the modifications requested by City Council. Mayor Mazzeo seconded the motion.

The roll call vote was as follows:

Councilman DeWees-yes, Mrs. Dyrek-absent, Mrs. Kintish-no vote as 2nd alternate; more than nine voters present, Mayor Mazzeo-yes, Mr. Milone-abstain, Sgt. Newman-yes, Mr. Notaro-yes, Mr. Roegiers-yes, but noted he is in favor of returning the changes to City Council but is opposed to the re-zoning of the town; he expressed he wants the town to remain as it is, but if changes are approved to return to Council, he supports this, Mr. Rowe-no vote as 3rd alternate; more than nine voters present, Mr. Scharff-yes, Mr. Shippen-yes, Chairman Levitt-yes. The motion carries.

Dr. Levitt asked if there was any other business. Mayor Mazzeo informed the Board that Atlantic City Country Club was present at their last Council meeting and their proposal to change lot sizes from 15,000 sf to 10,000 came out of left field and was not expected. Dr. Levitt said the owners sent a lawyer to protect the economic

interests of ACCC and that the City can well defend existing one acre lots sizes in the zone due to exclusivity, the golf course, the wetlands and the existing exclusive homes. The City cannot afford two hundred 10,000 sf lot homes to go up all of the country club section of town. Mr. Scharff said they previously came before the Planning Board and were given flexibility for things like day spas. Dr. Levitt agreed and said the flexibility included a convention center as well. He continued with explaining their thinking is that if the golf course is no longer a profitable item, they need to explore other options. The golf course is owned by a Chicago management company without a sense of the history and open space of the area. They look at it as a land investment only. The owners told the lawyers to look for the highest return and to protect their interests. This was not warmly received. Our Planner says one acre lots are certainly justifiable in that zone. Mr. Shippen asked if Council seems inclined to agree with what was originally proposed and he noted that the Board went out of their way to include ACCC officials in their discussions. The Mayor said they made it clear to them that this not expected or supported.

Mr. Scharff initiated a discussion about a ham radio antenna issue with a resident in town. Mr. Scharff worked on the Telecommunication Tower Addendum to the Land Use Ordinance and wants to make sure the City is in Federal compliance by not limiting ham radio operator installations. He discussed a letter from a resident who has an existing tower and wants to install a tower behind his house. He wants to swap a home-made antenna for a commercial tower. Mr. Doran said he never came in with a proposal and only asked for information. Dr. Levitt said he believes he was told by zoning that he could not install anything higher than 35 ft., but this does not apply to radio towers. Mr. Doran said the Zoning Department needs something submitted in writing. Mr. Dewees spoke about the resident coming before Council and that he has an existing antenna and wants to add power to it. Mr. Scharff asked if he needed a permit. Mr. Doran said yes, for the building aspect of it which includes the free-standing tower and foundation. Mr. Scharff read Article 9. Mr. Doran said the antenna itself is not the issue and there may be a variance required. The issue is with the height and the resident needs to supply specifics to Mike Dattalo in Zoning. Mr. Scharff said he will speak with the resident and that the tower should be a pre-engineered structure.

The next meeting is scheduled for October 4, 2012, but at this time, no applications have been submitted. The regular meeting November 1, 2012 has one application on the agenda.

Chairman Levitt closed the meeting at 7:48 p.m. with a motion from Mr. Shippen and a second from Mr. Roegiers.

Respectfully submitted,

Robin Atlas, Secretary to the Board

