

**City of Northfield Planning Board
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Minutes: June 2, 2016

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.

This REGULAR meeting of the Northfield Planning Board, held on Thursday, June 2, 2016 in Council Chambers, City Hall, Northfield, was opened by Chairman Richard Levitt at 7:02 p.m. and the following members were present or absent as noted:

Timothy Anderson
Mark Bruno-absent
Mayor Erland Chau
Jim Leeds
Dr. Richard Levitt
Lou Milone
Chief Paul Newman
Henry Notaro
Councilman Frank Perri
Ron Roegiers
Derek Rowe
Clem Scharff
Jim Shippen

Matthew Doran, Professional Engineer
Norman Zlotnick, Solicitor

There were two applications on the agenda this evening. The first was for 1203 Tilton Road, LLC which was recently purchased by John Mirenda from TD Bank and was previously used as a bank and then most recently as a banking training facility. The property is located at 1203 Tilton Road in the C-B Zone in Block 41, Lot 3. The building is 3,645 sf and is presently vacant.

The attorney for the applicant was Molly Merenich of Charles Gemmel's office in Linwood. She described the need for an amended site plan and the "C" variances required for the setback of the proposed trash enclosure.

Dr. Levitt swore in the architect, Mark A. Zawacki. He displayed the minor site plan dated March 22, 2016. Exhibit A-1 was marked as photographs of the site plan. Three photos showed where the trash enclosure will be located. He noted that the existing tree will remain. Mr. Zawacki said there was no other place on the site where the

enclosure wouldn't stick out and be noticeable. He added that the site is next to McDonald's Restaurant. Exhibit A-2 was a display of four additional photos showing the site and an aerial photo. Dr. Levitt asked if there was adequate parking on site. Mr. Zawacki said they have more than enough parking. Dr. Levitt asked about the proposed use. Ms. Merenich commented that the site is in the C-B zone and many commercial and office uses are permitted. The owner is currently seeking interested parties and a tenant and it is assumed that most will want a trash receptacle area. Mr. Merenich asked Mr. Zawacki if he is aware of the two variances required. Mr. Zawacki said there are two variances required. One is for a front yard setback where 50 ft. is required and 34 ft. is proposed and also for a side yard setback where 15 ft. is required and 4 ft. is proposed. Ms. Merenich asked Mr. Zawacki to discuss the justification for the variances. He said for aesthetic reasons, this is the best location on the site for the enclosure. Also, there is already a tree buffer between the adjacent McDonald's trash enclosure and the proposed one. They intend to match the buffer trees. There is no detriment due to the location on the site and there is no impairment to the zone. The site is strictly commercial and not adjacent to any residential zone or housing.

Dr. Levitt asked for questions from the Board. The Mayor asked about the previous business and how they handled their trash. Mr. Zawacki said they did not have a receptacle. John Mirenda, the owner, was sworn in. He said the bank had a service come in every day to remove the trash. He intends to have both a recycle bin and a small 8 ft. x 10 ft. dumpster. Mayor Chau asked if the enclosure would affect ingress or egress. Mr. Mirenda said it would not. The dumpster is small in size and he will schedule pick up on Saturday. It will not affect any parking spaces as well.

Dr. Levitt opened the public session and seeing no one who wished to speak, closed the public session.

Mr. Doran addressed his Engineer's report and stated he agrees with the two variances and the applicant has discussed the landscaping buffer and what they will supply.

Mr. Scharff made the motion and Mr. Shippen seconded the motion. The roll call vote was as follows:

Mr. Anderson-no vote as Alternate #4; Mr. Bruno-absent, Mayor Chau-yes, Mr. Leeds-yes, Mr. Milone-yes, Chief Newman-yes, Mr. Notaro-no vote as Alternate #1, Councilman Perri-yes, Mr. Roegiers-yes, Mr. Rowe-no vote as Alternate #3, Mr. Scharff-yes, Mr. Shippen-yes, Chairman Levitt-yes. The motion to approve the "C" variances for the trash enclosure carries.

Dr. Levitt commented that Mr. Mirenda has purchased this property at his own risk and commended him for his other properties in Northfield which are aesthetically pleasing and well maintained and he thanked him for his efforts.

The second application was for Phil Barber for the property located at 1935 New Road, Block 33, Lot 59 in the O-PB zone; formally Frank Vincent Windows and Siding. Eric Goldstein of Nehmad, Perillo & Davis of Egg Harbor Township is the attorney who represented the applicant, Phil Barber. Mr. Barber and Francis Carroll, the Engineer, were sworn in. The application is for a Site Plan Waiver which would allow for re-

striping of the parking area. Mr. Goldstein said Mr. Barber closed on the property earlier today. The property was in foreclosure. The applicant is proposing to use 2,522 sf of the property in front as a Dance Studio, and the building in the rear is to remain vacant. Mr. Goldstein said the dance studio is an allowed use. He commented that the previous owner used the 2nd building for storage and his client is not asking for any approvals for the second building in the rear. Dr. Levitt stated that any variance approvals would go with the lot not a particular building on the lot. The Board would have to anticipate that a future entity would use the space. Mr. Goldstein said his client would come back before the Board for any use of the second building and they would make this a condition if acceptable to the Board.

Mr. Barber testified that the Dance Studio is currently operated in the City of Linwood. They need a larger facility. The class size comprises about 15 students at a time and is a transient business. Most children, about 70% to 80%, are dropped off by their parents who then run errands and picked up the students after class. There are no performances at the facility and there are one or two instructors. They would agree to accept the condition that any increase in use would facilitate them coming back before the Board. Mr. Shippen asked if there were any graduation-type events. Mr. Barber said not on site. They would go to a more suitable facility. Mr. Roegiers asked if there may be any ingress or egress issues during pick up times when everyone is arriving or leaving at the same time. Mr. Barber said he does not foresee a problem. Mr. Goldstein said there would be no retail store for dance or music supplies or merchandise. Mr. Leeds asked what the current situation was. Mr. Barber said they currently are in Linwood and it is a lease situation. Mr. Notaro asked about the teachers. Mr. Barber said there are one or two. Mr. Goldstein said Mr. Barber researched the site and feels it will work.

Peter Carroll, a licensed professional Engineer in New Jersey, testified next. The Board accepted his credentials. Mr. Goldstein asked Mr. Carroll to describe the parking layout and the site circulation. He asked Mr. Carroll if he foresaw any problem with a shortage of parking based on the square footage of the building. He stated he did not see a problem as cars would be coming and going and he felt there was adequate parking on site for the number of people at any one time. The site does create the need for the variances due to narrowness and shape of the property and they are unable to purchase any adjacent land for additional parking. There were a number of waivers concerning access aisles for 90 degree parking required to be 25 ft. with 18 ft. existing, concrete curbing, landscaping, and lighting which were pointed out in Mr. Doran's letter and Mr. Carroll had no problem with them. Mr. Leeds asked if another curb cut could be installed. Dr. Levitt said that would require state approval. Mr. Carroll said that was his idea initially, but there doesn't seem to be enough room. Dr. Levitt discussed the curb cuts and said it appears that it is easy to miss the first cut which forces you to enter the second cut and that is on the adjacent property. There is no distinction between the two. This might only be a liability issue and he asked if they could put in a landscape strip to delineate the properties. Mr. Carroll could see the

need for concern, but he said this would narrow the driveway. Dr. Levitt said there is a grass area on the north end and he asked if anything could be improved without a lot of expense to dress up the property a little. Mr. Carroll said the grass section is a drainage area and the drive aisle out front is already too narrow. Mr. Goldstein suggested they could add planters, but these may create a circulation problem. He noted that no cross easements came up on the title search, but this was done through the bank through the foreclosure process. At this point they couldn't say whether crossing the property would be acceptable or not with the adjacent property. Mr. Goldstein agreed it is not the most attractive with concrete on concrete and he would like to see a more visually pleasing street scape. Mr. Barber commented that he was in the landscaping business and he intends to add landscaping. Mr. Zlotnick asked that he submit a landscaping plan to Mr. Doran so that it can be mutually agreed upon. Mr. Doran asked where they intend to add landscaping as anything on the front or side will take away what is needed for the parking. Dr. Levitt suggested that an option would be to discuss this with the neighboring business. Mr. Barber stated that he wants to make the site as nice as possible. Mr. Goldstein said that if there were any changes to the north side involving landscaping, they would certainly submit a plan. All agreed that the site is exceptionally narrow and parking would be an issue with any business or retail use. Dr. Levitt said that a dance studio is about as less of an intense use that the Board could ask for at this site.

Mr. Doran commented on the state sidewalk project that is underway alone Route 9. Mr. Goldstein hasn't seen the plan. Dr. Levitt said the state has all the right-of-ways for the project. He is the owner of a property on New Road and the state has taken control of all the property they need to complete the sidewalk project. The Mayor asked about the effect of the sidewalk on maneuverability. Mr. Zlotnick commented that the photograph showing the front of the building and the site shows a sidewalk on both sides of the apron. Dr. Levitt commented that planters in front of the building itself would be attractive. He then added that it may affect the parking stalls. Dr. Levitt asked about the blacktop and whether or not they would be improving it. Mr. Goldstein said they will be repairing the blacktop, but not totally re-paving it.

Mr. Perri asked about on-site drainage. Mr. Carroll said water runoff goes to a grass area that is actually a drainage ditch. It is at the north end of the property and the water then travels to the street. Mr. Leeds said that he doesn't think there should be any additional landscaping due to the narrow driveway. Mr. Goldstein said this is an odd piece of property and the parking is really the issue here. Dr. Levitt said he would like to see the applicant come up with some type of landscape plan and see if it can work. Mr. Zlotnick agreed. If Mr. Doran feels it will create a safety issue it won't happen. He also addressed the Mayor's question about the sidewalk and said if the state constructed sidewalk project affects the parking number, they would need to come back before the Board.

Mayor Chau asked about signage. Mr. Barber said they have not proposed any signage yet. Dr. Levitt said they are allowed to utilize the existing signage space. Mr. Goldstein agreed and said it is in the Ordinance. Mayor Chau asked about hours of operation. Mr. Barber said most classes will be primarily in the evening hours. Mayor Chau asked about the lighting situation. Mr. Barber said there is existing lighting. He still needs to address the lighting inside of the building. Mayor Chau expressed concerns that previously this site was primarily a daytime business. He said the location of this site can be dangerous to get in and out of. Dr. Levitt said he would like to see a lighting plan submitted. It is dark in the back of the site and the site runs up to a parking lot behind the building. He is unsure of the lighting in that area and whether or not more is needed for safety purposes. Mayor Chau agreed and said that is the concern he was driving at. As to the parking, Mr. Doran agreed with the calculations. The waivers are Ordinance waivers and it is not a high volume all-day business. Dr. Levitt said any business on this site would require a parking variance unless it was a warehouse. Mr. Doran agreed and said it is the best site plan for the property. Mr. Doran had a suggestion for the applicant. He asked that they bring the fence up 20 ft. to the building. Dr. Levitt thought this might affect circulation. Mr. Doran said this would be past the parking area and he thought closing the gap from 60 ft. to 40 ft. would cut down the openness and may define the property better. Dr. Levitt suggested a decorative vinyl fence would help the property visually. Mr. Shippen agreed and said this would help to beautify the property. Mr. Doran added that there is really no room for landscaping and this area should be either left open or install a fence. Mr. Goldstein agreed that the site needs to be safe for maneuverability. Dr. Levitt said there is already a sidewalk, and suggested they hang flower boxes on the discussed fence or in front of the building.

Dr. Levitt asked Mr. Doran if everything had been addressed in his report. Mr. Doran said the waivers include the access aisle, the 3 ft. landscape strip along the side of the property, and they need to add one handicapped parking space. Mr. Carroll said there is plenty of room to do that. Dr. Levitt asked about employee parking. Mr. Goldstein said they will park in the very back. They would be pulling into the site first and will be the last to leave. They can stack park two or three cars if they need to. Mr. Goldstein said they could even use the back building for cars if need be. The main building can be entered directly from this space and the overhead doors are high. Mr. Scharff asked if they would need sprinklers in the back building. Mr. Doran said as long as living space was not above it, this would not be necessary. Mr. Doran asked if the Board was allowing parking in the back building. Dr. Levitt said yes.

Mr. Goldstein said this application is really a classic C(1) variance. There isn't a whole lot that could be done with this property without demolishing the buildings and starting over from scratch. Mr. Doran clarified that the storage building is for the owner's use only and cannot be rental storage. They agreed.

Dr. Levitt opened the public session and seeing no one who wished to speak, he closed the public session.

Mr. Scharff made the motion for the Site Plan Waiver with a "C" variance for number of parking spaces, waivers for access land width, landscaping buffer, and curbs, a condition that there will be no use of the back building except for owner equipment and vehicle storage, and the submission of lighting and possibly landscaping plans for administrative review. Mr. Shippen seconded.

The roll call vote was as follows:

Mr. Anderson-no vote as Alternate #4; Mr. Bruno-absent, Mayor Chau-yes, Mr. Leeds-yes, Mr. Milone-yes, Chief Newman-yes, Mr. Notaro-no vote as Alternate #1, Councilman Perri-yes, Mr. Roegiers-yes, Mr. Rowe-no vote as Alternate #3, Mr. Scharff-yes, Mr. Shippen-yes, Chairman Levitt-yes. The motion to approve the Site Plan Waiver, "C" variance, and waivers carries.

There was one resolution to memorialize for Roger B. Hansen who was approved for a Preliminary Major Subdivision extension for Block 175, Lot 38, 1300 Argo Lane at the May 5, 2016 meeting. Abstentions were Tim Anderson, Mark Bruno, Mayor Chau, Jim Leeds, Lou Milone, and Jim Shippen. Mr. Scharff made the motion and Mr. Roegiers seconded. The voice vote was all in favor.

The last order of business for this meeting was an update on the Atlantic City Country Club Properties, LLC appeal. Dr. Levitt gave a brief summary of the situation. He said the Board is being sued for the denial of the electronic sign on Shore Road. He said digital signs are permitted in other zones in the city such as the O-PB zone and he didn't feel there was anything arbitrary or capricious about the decision of the Board. It has come to his attention that City Council is considering a resolution permitting electronic signs in the Country Club zone. He felt that would be a game changer in that area and would not maintain the residential nature of Shore Road or of the Master Plan.

Mr. Zlotnick gave an update of the situation. He said the attorney for ACCC is currently processing a transcript of the audio from the hearing February 4, 2016 and this will be communicated to the Judge. The Board has the complaint and the answer and the Judge will not re-try the hearing. What will happen next is that the Judge will determine if there is sufficient testimony to substantiate the Board's decision or if an arbitrary decision had been made. The case is fact sensitive and he will only consider what came before the Board. The Judge can overturn the decision and the variance can be granted or he can refer the case back to the Board. Mr. Zlotnick said he thinks the Judge will affirm or not affirm. Procedures were done correctly and a full record was made. The Board did nothing out of line. He said he has been through 1,000 of these cases. The Judge will want a telephone conference with both Counsels. The attorney for ACCC has ordered the transcript and Mr. Zlotnick said he will get a copy. This appeal will not be treated as a trial. It is argued by attorneys as to evidence and he will

keep the secretary informed who will forward information to the Board as it becomes available.

Mr. Leeds asked about a time frame. Mr. Zlotnick said it should take two to four months. Mr. Leeds commented that their drawings were wrong and measurements and square footage were incorrect. Mr. Zlotnick said every exhibit placed in evidence will be brought before the Judge. Dr. Levitt asked the Mayor to keep the Board informed about the proposed sign ordinance. Mr. Perri noted that Council President Jim Travagline is Chairman of the committee.

Mr. Zlotnick said there is another legal issue. The Judge will decide the case based on the Zoning Ordinance in place at the time. If it changes before the decision is made the Judge will take that into consideration. He might send it back to the Board in light of the zoning change. If the change is after the decision, it won't matter and his decision will be binding.

Mayor Chau discussed the Samantha Gill fence situation on Lake Avenue and Ordinance 9-2016 which is up for final reading at the June 28, 2016 City Council meeting. The Ordinance will allow a disabled person to request exemption from the payment of any fee charged in connection with an application for development which promotes accessibility to his own living unit. This is a reflection of the state statute concerning exempting fees. It remains unclear as to what types of fees specifically can be exempt and whether this includes building permit fees and professional fees. Mayor Chau and Councilman Perri had concerns as the language in the Ordinance is vague, but they also don't want to cause a hardship for a disabled person. Dr. Levitt said he understands if a disabled person needs a handicap ramp, but this situation doesn't address that type of issue. The Gill circumstances involve a fence that was constructed with a permit and installed in a different location than that which was shown on the permit application. The fence now needs a variance. This issue doesn't involve or apply to residence accessibility. Mr. Perri said he can understand waiving the Planning Board fees, but not any professional fees or advertising costs. Mr. Zlotnick noted that there should be some type of means test. A multi-millionaire who is disabled could also ask that fees be waived. Mr. Perri noted that there are existing contracts for professionals that do not contain anything regarding wavering of fees and he felt the Ordinance as written is too open-ended. It was also noted that there are state fees involved with permits that must be paid and permits fees should not be waived either. Mr. Perri said it is imperative that construction is reviewed and this involves the payment of fees. Mr. Anderson added that last year the Disabled American Veteran's property wanted a waiver for a new sign and they were told that the fees could not be waived. Dr. Levitt said not only could veteran's groups request waivers, but also, clergy and other entities. You would like to waive the fees, but the question is practicality. Mr. Shippen said this needs more thought. Mr. Leeds asked if it was commonplace to waive fees in other municipalities and the Board felt that it was not.

Mr. Shippen made the motion to close the meeting and Mr. Rowe seconded. Dr. Levitt closed the meeting at 8:10 p.m.

Respectfully submitted,

Robin Atlas, Secretary to the Board