

City of Northfield Planning Board
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Minutes: April 4, 2019

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, April 4, 2019 in Council Chambers, City Hall, Northfield, was opened by Chairman Richard Levitt at 7:01 p.m. with the reading of the Sunshine Law and the following members present or absent as noted:

Mayor Erland Chau-absent
Jim Leeds
Dr. Richard Levitt
Joe Massari-absent
Chief Paul Newman
Henry Notaro
Councilman Frank Perri-absent
Daniel Reardon-absent
Ron Roegiers-absent
Derek Rowe-absent
Clem Scharff-absent
Jim Shippen-absent
Steve Vain

Matthew Doran, PE, PP-Planning Board Engineer-absent
Mark H. Stein, Esq.-Planning Board Solicitor-absent

There were no scheduled applications this evening.

There were two resolutions to memorialize. The first was for Heather Clark and Scott Sherwood, Block 158, Lot 17.18, 19 Ridgewood Court for "C" Variance relief to construct a 4 ft. fence along the front yard facing Cove Avenue. Chairman Levitt did not vote as he recused himself from the application. The voice vote of the other Board members present was all in favor. The second resolution was for Stretch Me LLC, Block 41, Lot 4,5, and 23, for an interpretation for a stretching fitness facility at 1205 Tilton Road, Unit #16 in the Sigano's Center Point shopping center. The voice vote was all in favor of adoption.

There were members of the public who wished to address the Board in the public session. Mr. Ray Rha who owns Terra Mar Plaza, Block 42 Lot 30, 900 Tilton Road. The property owner of record is Frank Rha and RMR LLC. The strip mall is in the C-B (Commercial Business district) zone. Dr. Levitt explained the issue to the Board. Mr. Rha wants to lease a vacant unit to Mr. Naman Rafi who wants to open a retail

tobacco and tobacco products store. There are retail stores in the general area on Tilton Road and the Zoning Officer denied a Certificate of Business. It could be possible that there is a typographical error or oversight in the Ordinance in reference to the C-B zone description and what is permitted in the zone. Tobacco wholesalers are allowed in the zone and this would allow tobacco distributors to operate. The Ordinance does not state that retail tobacco sales are permitted. Dr. Levitt noted that most food stores carry tobacco products. He stated that Mr. Rha would have to come before the Board for a formal Interpretation. He said that Mr. Rha is present tonight to get a general feel from the Board.

Mr. Leeds noted there is a tobacco store near Hot Bagels. Chief Newman said that is a cigar store and Dr. Levitt said the location of that particular strip mall is in the R-C zone and retail tobacco is a permitted use. Mr. Leeds said that Sigano's also has a retail tobacco store, Northfield News and Tobacco. Dr. Levitt said this could be a problem and he said this type of retail could also fall under General Merchandise. Mr. Notaro said he had no objection. Mr. Vain said he would like to know what they plan to sell. Chief Newman said he would like to hear testimony. Dr. Levitt asked the Board if they thought it could be handled as an interpretation.

Mr. Rha was sworn in by Dr. Levitt. He said he has owned the shopping center for 15 years. The women's clothing store "Talk of the Walk" vacated and he now has a new tenant who wants to operate a retail tobacco store. Mr. Rha said he didn't see any problem with this because ACRAT previously operated at the shopping center. He added that "Hollywood Smokin" is down the street on Tilton Road. Mr. Rha said his tenant was denied a permit from the Zoning Official. He was told that only Wholesale Tobacco products could be sold in this zone. Mr. Rha stressed that Tilton Road has many retail establishments. Mr. Rha went to see Mr. Dattalo for an explanation and he was shown the Ordinance and the sections pertaining to the C-B zone and the R-C zone and the sub-sections referring to the sale of Wholesale and Retail goods. Dr. Levitt said Mr. Dattalo was following the law, but he thinks there needs to be an interpretation. Mr. Rha said the Zoning Official didn't make sense. Dr. Levitt said Mr. Dattalo did his job. It is not a strictly prohibited use such as tattooing or massage, but it can be interpreted to be a possible use. He encouraged Mr. Rha to obtain an Attorney and it was up to him to proceed further. Mr. Rha wanted to make a further point and Dr. Levitt asked him to hold the testimony until the Interpretation. He said the Board can be sympathetic, but cannot give an approval or render a decision tonight. Mr. Rha went further to say that he is upset that there might be something missing in the C-B zone Ordinance section. Mr. Rafi, the tenant, suggested he could try to obtain a permit under General Merchandise and sell his products as planned. He was told that the Zoning Official could ask him to remove certain items for sale that are not permitted. Mr. Rha continued by saying he is surrounded by other zones, C-B, R-C, and N-B, and there are retail stores in all the zones and that it states in the Ordinance that R-C can permit both Wholesale and Retail tobacco products. Dr. Levitt said the C-B zone is intended to be a less intense zone for use purposes. As time has evolved, there is now more retail, and he advised him to come back with a formal Interpretation application. Mr. Rafi said he has been there for three months and has been unable to open. Dr. Levitt said the Board does not have the power to overturn a Zoning decision without an Interpretation decision and the Board is not a regulatory or enforcement power. Mr. Rha said he expected understanding and repeated that there may be a mistake in the Ordinance. Dr. Levitt said whether General Merchandise contains tobacco products needs to be interpreted by the Board. Mr. Rafi said he has already started renovations and spent money on signs. Dr. Levitt said the only mechanism is to come before the Board for an Interpretation that tobacco products can be considered General Merchandise. Mr. Rha said Wholesale tobacco has more of a broad use. The discussion ended there and Mr. Rha was advised to see the Secretary for the information he needs to file an Interpretation application.

Dr. Levitt gave a report to the Board on the City Council meeting Tuesday evening concerning the Sign Ordinance. He said a City Council member suggested the LED signs could be five times brighter than the proposal. It was thought that the brighter the sign, the more business would be increased. City Council did give up on pursuing digital signage on Shore Road. They are still discussing the size of signage in the Country Club zone. The proposal will be discussed at the next City Council meeting and it should then be brought back to the Planning Board for review. The Planning Board has 35 days to act and if the Board agrees with the proposal, it goes back to City Council for approval. If the Board doesn't agree, it goes back to City Council for a majority vote. Mr. Leeds asked if this was discussed in the Work Session. Dr. Levitt said it was not published publically yet. He added that there really weren't a lot of changes except for Shore Road LED signs being off the table. He noted there was public objection to Shore Road signage.

Mr. Leeds asked if the Planning Board will be looking at the Ordinance from the perspective that Mr. Rha presented tonight. Dr. Levitt said the Ordinance used to be very specific and used SIC codes. These have been eliminated from the Ordinance and now contain general zone conditions. Mr. Vain, Mr. Leeds, and Chief Newman all asked where marijuana fits in. Dr. Levitt said the City can exclude it completely as well as drug paraphernalia. Chief Newman inquired as to whether the Board is permitted to get into hypotheticals with what is going forward with the state. Dr. Levitt said this will be an elected official decision and we will defer to them.

Mr. Vain made the motion to close the meeting and Mr. Leeds seconded. Dr. Levitt closed the meeting at approximately 7:45 p.m. There was an error with the recorder and only the log notes and minutes are available for this meeting.

Respectfully submitted,

Robin Atlas, Secretary to the Board