

City of Northfield Planning Board
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June 1, 2023

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 of Atlantic City on May 20, 2023 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. Digital copies of the application documents, exhibits, and the Planning Board Engineer's report have been uploaded onto the city website as well if applicable.

The **REGULAR** meeting of the Northfield Planning Board was held on Thursday, June 1, 2023. ***In following with the decisions of Mayor Chau and City Council, the Planning Board will be eliminating the mandatory observation of Covid-19 related social distancing measures at their public meetings. In addition, the Planning Board will continue to air the regular meetings on Zoom video conferencing for convenience of those who do not wish to appear in public.***

Formal action may be taken at this meeting.

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The meeting was opened by Chairman Richard Levitt at 7:01 p.m. with the reading of the Sunshine Law and the roll call. The following were present or absent as noted.

Peter Brophy
Matthew Carney
Mayor Erland Chau
Councilman Eric Leeds
Dr. Richard Levitt
Henry Notaro
Dan Reardon-absent
Ron Roegiers-absent

Derek Rowe
Clem Scharff
Jim Shippen
Paul Utts
Joel M. Fleishman, Esq.-Planning Board Solicitor
Matthew Doran, PE, PP-Planning Board Engineer

The meeting began with the Pledge of Allegiance led by Mr. Brophy.

The minutes from April 6, 2023 were approved by voice vote with a motion from Mr. Scharff and a second from Mr. Brophy. The minutes from May 4, 2023 were approved by voice vote with a motion from Mr. Scharff and a second from Mr. Brophy. Mr. Utts abstained from voting since he was absent at the meetings.

There was one application on the agenda from Northfield Integrated, LLC, Block 97 Lots 9 & 10, 1612 Tilton Road and Tilton Road for a "C" variance, Minor Site Plan, and waivers. The property is located in both the N-B and R-1 zones. The building is in the N-B zone and the rear of the property is vacant except for an existing landlocked shed. Leo Manos, Esq. represented Dr. Robert C. Olivieri, DO who is the owner of the LLC and who intends to operate a chiropractic office at the property. Mr. Manos said the doctor purchased the property in the fall of 2022. The existing building was previously a ReMax Real Estate office. Dr. Olivieri hired a contractor to perform a few upgrades and the contractor suggested squaring off the front of the building which previously was indented. The frontage remains the same at 15.5 ft. and the increase in building space is 50 sf. A "C" variance will be required for this deviation. A new pent roof was also constructed. The parking area was re-stripped with a handicapped space added and pavers were installed to the front of the building. The building now looks brand new. The building was previously a laundromat and Northfield Plumbing.

Mr. Manos said Northfield Integrated, LLC was issued a building permit, the construction was completed, and when the city came out to inspect for a CO, he was told that Board approval would be needed. Mr. Manos said a neighbor, Chico's & Sons has hired Ray Went, Esq. They have a standing procedural issue. Mr. Fleishman suggested a 5-minute recess and he spoke with the attorneys about the matter. During this time Dr. Levitt introduced Captain Benjamin Nixon of the Northfield Fire Department who was present at the hearing.

The meeting resumed and it was decided that Mr. Went will state his client's issues and Mr. Manos will then respond. Mr. Went said he is with the Law Firm of Nehmad, Davis & Goldstein of Egg Harbor Township and he represents Chico's & Sons. They have an objection to the bollards that were installed on the property line and they feel they are partially on Chico's property. Since a minor site plan approval is being sought, the applicant agreed to look into this issue and move them if they are indeed on the neighboring property. Mr. Went wanted this on the record and said they have other objections. Mr. Brophy asked if a survey was completed. Mr. Went said this may be a battle of the surveyors and agrees it has to be fixed if there is an issue. Dr. Levitt said the bollards interfere with ingress and egress. Mr. Went agreed and said that is the basis of the argument and the business is cramped on the lot. Dr. Levitt asked if the bollards were constructed with the renovations. Mr. Went said they were recently

constructed and when the purchase occurred, there were five bollards. There are now eight additional bollards.

Dr. Levitt suggested hearing the application and then Mr. Went can raise the issues. Mr. Fleishman said if it is found that the surveyors will need to work this out, it can be a condition of approval. Mr. Manos said the application is for a minor site plan for renovations to the site and the frontage variance. He said Mr. Went was courteous enough to reach out to him and speak about the matter before the hearing. It is his client's belief that he should not have to give up property for a neighbor's parking issue. Mr. Manos introduced Paul Kates, an engineer and planner in Cape May Court House. He said Amy Sullivan of ReMax is also present and may want to speak during the public session to give historical testimony. Mr. Manos said it was not their intention to come to the Board after the fact as they had their permits, but then they couldn't get a CO. He said no detriment was caused.

Dr. Levitt swore in Mr. Kates and Dr. Olivieri and Mr. Fleishman disclosed that he works with Mr. Kates serving Somers Point. Mr. Kates listed his qualifications and said he serves on three Boards. The Board accepted his qualifications. Mr. Kates said he prepared the minor site plan and it was labeled Exhibit A-1. He discussed prior conditions and what is there now. Mr. Kates said the building is located between Jersey Cow Ice Cream and Chico's & Sons. The site is 95 ft. wide and 250 ft. deep. The business was previously ReMax Real Estate and they paved and striped the parking lot and concrete walkway. The building was previously 2200 sf and is now 2250 sf. The medical office has a 15-parking space requirement and they have 17 spaces and one handicapped. The building previously had an 8-ft. indentation. The roof line creates an overhang. The front of the building was brought out square. The bollards existed previously and they are shown on a previous survey. He is willing to go out to the site and make sure they are on Dr. Olivieri's property. Dr. Levitt suggested possibly stack parking for employees in the area between the bollards and the building if needed.

Mr. Manos distributed before and after photos labeled Exhibit A-2. Mr. Manos said bollards were installed by the new owner and they have been historically there and were replaced. Mr. Manos distributed bollard photos labeled Exhibit A-3. Mr. Fleishman said no matter what the photos show, they have agreed to move the bollards if they need to be moved. Mr. Manos labeled the photo showing the bollards are similar to fencing and are permitted within property lines and he felt they comply with all sections of the fence ordinance sections. Mr. Kates said they may need to remove one bollard in the front setback that might not be allowed by the fence ordinance. Mr. Kates asked for Fire Department perspective in reference to access through the parking lot. Captain Nixon said he would physically need to go to the site to access the situation. Dr. Levitt felt there have been problems with medical offices and parking and said the area between the building and the bollards should be available for stacked parking if needed.

Mr. Manos said they are requesting one variance for the front yard setback and asked Mr. Kates to discuss positive and negative criteria. This project promotes general welfare and public safety by improving the access to the building by making it broader and it provides more room in the building. The parking lot is better delineated and the building has been cleaned up and provides an aesthetic enhancement. This is a much-needed maintenance to the building. For the negative prongs, there is no

detriment to the public good or to the zone plan and the changes are di minimus. The positives well outweigh the negatives. Mr. Manos said the drainage was approved by the City Engineer and there are no impervious increases. They were not required to do drainage calculations. They cleaned up the buffering and landscaping and since it was previously landscaped, they don't want to change or fill in with more.

Mr. Manos said they agree with Mr. Doran's report and agree to a handicapped access sign. The Ordinance requires two street trees in front and they are asking for a waiver. The front of the building is not a viable spot for trees. Dr. Levitt said the Board agrees and it would create a site triangle issue. He added the lot is densely wooded at the rear of the site. Mr. Kates said they are also asking for minor site plan approval. Mr. Carney asked about access to Lot 7 which is the adjacent property at the back of Lots 9 and 10. Mr. Kates said the previous owner owns the property with the residential house and there is a chain pulled across the rear of the property. Mr. Leeds commented that he thought handicapped parking needs to be outlined in blue. Mr. Kates said they just need to add the handicapped parking sign. Mr. Fleishman thought it was important to clarify the employee parking. The application complies with parking requirements, but the Board should decide on the stacked parking possibility.

Dr. Olivieri said it would be nice to have the employee stacked parking option. He is the principal owner and CEO of Northfield Integrated, LLC. He operates the Spine Institute and has locations in Rio Grande, Marmora, and Marlton as well. He said those locations are well kept with a lot of landscaping. He has served as a Chairperson on a Planning Board. He thought that this would be a simple case. He trusted his contractor who suggested squaring off the building during renovations. He has people on his payroll and this has been going on since February and it is costing him a lot of money. He mentioned that during construction a delivery truck backed up and hit his roof. He said Amy Sullivan, the previous owner, will tell the Board that trucks have hit the building in the past. He said cars use his property in the back and use his parking lot. He said this isn't fair. He tried approaching the owner of Chico's about this and doesn't see why he is being punished. The restaurant does not have adequate parking and Dr. Olivieri said he is not responsible for that. He said delivery trucks are coming from behind Jersey Cow to deliver to Chico's. Dr. Levitt asked why the fence was taken down. Dr. Olivieri said the fence disappeared one night. The day after he installed the bollards, he found one of them at a 45-degree angle. Trucks are hitting the building and he needs the bollards to protect it. Photographs depicting this were labeled Exhibit A-5 and the Building Permit was labeled Exhibit A-6. Mr. Manos asked Dr. Olivieri how many employees he would have at any given time. He said the maximum would be five employees and one is part-time. He described the practice as a rehabilitation facility and said the patients see all of the practitioners. Mr. Manos said he will reserve some rebuttal and has entered all exhibits into evidence.

Dr. Levitt opened the public session with a motion from Mayor Chau and a second from Mr. Shippen. Ray Went, Esq. addressed the Board first. He represented Concrete Development, LLC which is the immediate neighbor towards the bridge commonly known as Chico & Sons, Block 97 Lot 11. Mr. Went said there is a previous survey but he did not have a copy. Mr. Kates said he can obtain an original and it does not show bollards. Mr. Went showed Google photographs showing at least 10 bollards. Mr. Scharff brought up historical Google maps on his laptop going back to 2013 and Mr. Went observed these photos. Mr. Went said in 2013 they were more like fence posts linked by chain and were not like the

bollards seen today. Mr. Went introduced Joseph Feriozzi, the owner of Concrete Development, LLC and he was sworn in. Mr. Went passed out an Objection Exhibit List labeled Exhibits O-1 through O-7. Mr. Went said there was a fire at the back of the parking lot and he asked Captain Nixon to look at the exhibit. Captain Nixon was not given these photos ahead of time. Mr. Went said the bollards restrict access. Dr. Levitt said the Fire Department will access where they can and were not required to review the neighboring property. Mr. Fleishman reminded that there was no objection from the Fire Department for this application. Mr. Went said Mr. Feriozzi is in the construction business and felt the bollards are on his property. Mr. Went said the bollards are creating problems on his property and it is challenging to park. Mr. Feriozzi wants the bollards moved back a bit so that patron's cars are protected and he is asking the Board for relief. They want to be a good neighbor and understand if the area is needed for stacked parking. Dr. Levitt said the Ordinance requires that fences are clear of the property line. Mr. Doran agreed and said bollards must be clear of the property line and not on it or over it. Mr. Brophy wanted to know what relief they are asking for. Mr. Scharff said it isn't applicable and this should be a civil case and has nothing to do with the application tonight. The application doesn't deal with the other side of the building. Mr. Went said this is an after the fact application. Cars can hit Chico's building due to the placement of the bollards. His client is asking for relief. The application isn't for a parking variance and the medical office is a by-appointment therapy facility and they shouldn't require more parking spaces. Mr. Shippen felt if more parking becomes necessary, they should be allowed to use this space for parking. Dr. Levitt agreed as this has been a characteristic of medical. Dr. Levitt reminded that the Chico's property was never subject to review by the Board. It was a plumbing facility, an art gallery, and a ReMax Real Estate office. The risk is on the business owner and there are property rights in this country and the Board doesn't have to provide access for Chico's and it is not a reasonable request. They have agreed that the surveyors will work it out and the applicant has agreed to move them if necessary. A discussion about permits and safety for the buildings and patrons took place. Mr. Fleishman reminded the Board that we have an objector asking to move the bollards to provide access for the neighbor and the question to decide is if this is appropriate to this application. Mr. Went said with a variance relief application, the Board can deal with practical problems dealing with the neighbors. There are trade-offs and the adjacent neighbors should be considered. The Board has that power and obligation. They are asking Dr. Olivieri to move the bollards 5 ft. from the medical building. Mayor Chau suggested spacing them further apart. More discussion took place. Mr. Manos said this is not a reasonable condition. One simple variance is being requested. They are asking the applicant to give up 5 ft. of his property. To condition giving up property is unreasonable.

Amy Sullivan of ReMax Real Estate addressed the Board. She said ReMax owned the property since 2004. It was previously Bette's Fine Framing Shop. ReMax installed a fence in 2009 the full length of the property to the front. In 2011 Matt Feinstein purchased the lot next door and opened Dooley's Sub Shop. In 2018 Concrete Development purchased the property. The fence was installed to keep cars from backing into their building. There were 18-wheelers backing in for deliveries and it was impossible to get in or out and it made it difficult to conduct business. Then the trucks started coming in through the back. She said the fence was stolen and that is when they installed the bollards. At first, they had posts with metal chains between and they decided they needed something more permanent.

Dr. Olivieri commented that they are requesting a variance for a very simple issue. He commented that he did fire his builder. He feels he is being penalized for a problem that is his neighbor's. He doesn't want to give up his property. He said he is trying to be a good neighbor but noted that Jersey Cow was using his property during construction and he didn't think that was right.

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

The Board members gave their opinions about the bollard situation by discussion. Mr. Notaro said the applicant shouldn't have to give up part of his property and should keep the bollards. They should be moved if located on Chico's property. He added that patrons will have to make a K-turn or back out onto Tilton Road. He said there is a problem there. Mr. Shippen agreed with Mr. Notaro. He said the bollards need to be off the property line if they are found to be. Mr. Scharff agreed with Mr. Notaro and Mr. Shippen. Dr. Levitt agreed there are ways to handle the problem. He suggested signage and Chico's can restrict parking in the back. Mr. Rowe agreed with the other Board members. The bollards should be relocated if necessary to clear the property line completely. He was agreeable to give the applicant flexibility to park employee cars there. Mr. Brophy agreed as well and said the applicant shouldn't have to move the bollards closer to his building and give up his land. It's not the way we do things in the U.S. Mr. Carney said for safety purposes, he hopes they can work it out between them and he agreed with the other Board members. Mr. Utts said they may need to bring a vehicle up the side of the property and he agreed that he should not be forced to move the bollards unless on Chico's property. Mr. Leeds said once the property line is figured out and agreed on, that should be it with the bollards. Mayor Chau agreed with Mr. Leeds. Dr. Levitt said the Board is unanimous on this. Mr. Shippen mentioned that some of the bollards are not painted. Dr. Levitt said they should be a visible yellow color and they could even be higher. But they must be off the property line and there should be signage. He suggested "Medical Parking only".

Mr. Scharff made the motion for the "C" Variance for a front yard setback, and to waive street trees. Conditions are that the bollards on the property will be verified. Waivers are for drainage calculations and they must comply with Mr. Doran's letter and stacked employee parking is allowed if necessary. Mr. Fleishman clarified that there is no landscape plan required, the approval is also for a minor site plan, the bollards must be moved and re-located if found to be on or over the property line, the eaves must be less than 24 inches and this must be demonstrated, and the bollards will be painted yellow. Mr. Shippen seconded the motion.

The roll call vote was as follows:

Mr. Carney-yes; he hopes they work this out for the safety of people

Mayor Chau-yes; the applicant provided evidence and he supports the application

Councilman Leeds-yes; being good neighbors is good for the city

Mr. Notaro-yes; the variance is reasonable and the applicant made his case

Mr. Rowe-yes; the case was proven and they agreed to the additional requirements

Mr. Scharff-yes; the applicant clarified his understanding about the setback and the positioning of the bollards

Mr. Shippen-yes; the applicant explained the nature of his errors and worked diligently to correct the permit issues and he has the right to full access to his property within the confines of the statute of the city

Mr. Utts-yes; the applicant met the criteria for the variance

Dr. Levitt- yes; the variance is di minimus and the positive criteria outweighed any negative criteria. He wished the doctor success.

The motion carries.

There was one resolution to memorialize for Ronald & Melissa Hutchison, Block 153 Lot 21, 26 E. Oakcrest Avenue for "C" Variance relief for an addition to their residential home. Abstentions were Mayor Chau, Mr. Notaro, and Mr. Utts. The motion was made by Mr. Scharff and was seconded by Mr. Shippen. The voice vote was all in favor.

Dr. Levitt said Mr. Doran sent thank you letters to Mary Canesi, City Administrator and City Clerk and Pedro Bretones, Northfield Community School Superintendent who provided information for the Master Plan research that Mr. Doran is working on. Dr. Levitt added that zoning changes on Northfield Avenue are a consideration. Mr. Leeds said Carolyn Bucci sent communication to Dr. Levitt and has been in touch with a consulting company to enhance economic development in the city and to incorporate this into the Master Plan. Mr. Leeds will discuss the Generator Ordinance with the City Clerk for status.

Dr. Levitt closed the meeting at 9:07 p.m. with a motion from Mr. Shippen and a second from Mr. Scharff.

Respectfully submitted,

Robin Atlas

Robin Atlas, Secretary to the Board