

City of Northfield Planning Board
1600 Shore Road
Northfield, New Jersey 08225
Telephone (609) 641-2832, ext. 127
Fax (609) 646-7175

Minutes: August 5, 2010

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, August 5, 2010 in Council Chambers, City Hall, Northfield, was opened by Dr. Richard Levitt at 7:00 p.m. and the following members were present or absent as noted:

Dr. Richard Levitt-Chairman
Clem Scharff-Vice Chairman
Mayor Vincent Mazzeo
Councilman Jimmy Martinez-absent
Chief Robert James-absent
Lou Milone
John Clifford-absent
Ron Roegiers
Henry Notaro
Jim Shippen
Linda Dyrek

Norman Zlotnick, Solicitor
Matt Doran, PE-Engineer

There were two applications scheduled for this evening. The first application was Rachel Regina for Block 136, Lot 3 located at 221 Bates Avenue for a "C" variance. She needs a front yard setback in order to construct an addition to her home. The property is located in the R-2 zone. Dr. Levitt swore in Ms. Regina.

Rachel stated she is seeking a variance for an addition the she and her father designed. Her and her father as well as Paul Koelling did the numbers and Mr. Koelling prepared the survey. She gave her history at the property. She purchased the home in July of 2008 and said the neighborhood is perfect for her. After two years, she said the house has become too small for her to live comfortably and after discussion with her father, they decided to add a dining room, bathroom and new master bedroom to the home. This will make the house a nicer addition to the city. She passed a handout to the board members with additional information concerning lot coverage which is currently at 34%. The addition will add an additional 412.50 sf to existing lot coverage. Lot coverage would be increased to 41.25%. Allowable coverage in the zone is 45%. She noted that the house is currently nonconforming under the guidelines of minimum gross floor area for the R-2 zone. The addition will allow the house to conform to these criteria. Ms. Regina said the house doesn't encroach on any setbacks except a 75 sf sliver into the front yard setback and that this is important for the completion of the addition. Both her neighbors will still have a nice boundary and the project won't interfere with their property lines. One neighbor is setback 33 ft. from the property line and the other is at 42 ft.

Rachel reviewed the drawings submitted with the application and discussed further the setback issue. A 25 ft. front yard setback is required and Ms. Regina testified that she currently has a 22.41 setback and is proposing 20 ft. Dr. Levitt noted that the house fronts on Bates Avenue and is a corner lot. Ms. Regina continued to describe the drawings and said the roof line will remain close to the original structure. She showed a photograph of the house at present which showed curbs and sidewalks intact. The photo also showed two large shade trees in the front yard. Mr. Doran said this will satisfy the street tree requirement.

Dr. Levitt commented that positive criteria has been addressed and Mr. Zlotnick said the applicant also addressed negative criteria in that she discussed distances to her neighbors. Mr. Doran said there is one discussion item to address which is really a technicality, but it would require a second small variance to complete the application. The house is now 9.17 ft. off an existing line and they are showing that as their 15 ft. side, but it should be the 10 ft. side. Dr. Levitt said they are only encroaching at the rear corner. The applicant advertised for a front yard setback, not the slight side yard setback, but the Board felt criteria, both positive and negative, had been addressed.

Dr. Levitt asked if anyone from the public wished to speak on the application. Seeing no one, he closed the public session. There were no further questions from the Board.

Mr. Scharff made the motion for the front yard and side yard setbacks as needed. The site has existing trees, curbs and sidewalks as required. Mr. Notaro seconded.

The roll call vote was as follows:

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

The second application on the agenda was for Bunting Health Center, LLC, Block 42, Lot 9 located at 1337 New Road in the O-PB zone. The applicant is seeking a "D" variance to operate a commercial retail pharmacy. Joseph C. Liguori, an attorney with Mazraani & Liguori, LLP of Somers Point, represented the applicant. Josiah Bunting, the owner of the business was sworn in.

Mr. Liguori gave a history of the business. Josiah Bunting has owned the Bunting Family Pharmacy for two years. The employees consist of family members including his mother and father and also his wife who works part-time. The pharmacy is currently located in the Tilton Shopping Center. He lives in Linwood, coaches Little League, is a member of the Kiwanis, and sponsors scholarships at Mainland Regional. He wants his business to remain in Northfield. He wants to purchase a property which is better suited for his pharmacy. The proposed property is currently under contract under the business entity Bunting LLC. The property is a three-unit, two-story building and the upstairs unit is residential. There are two commercial units downstairs. Northfield News and Tobacco leases one of the units on the first floor and the current owner lives on the second floor. The property is zoned O-PB. The zone is CB across the street and at the adjacent shopping center. There is no inclusion for pharmacies in the O-PB zone, but it does not say they are specifically not allowed.

Mr. Liguori referred to the rider included with the application and commented on positive and negative criteria. He said a pharmacy will be a beneficial use at this site. It will be a family-type pharmacy which supports the well-being of people in the area. It will not be a convenience store where you could pick up milk and food items. It would be strictly a pharmacy which sells over the counter medications, prescription drugs and medical supplies. Located on Route 9 and near other businesses and Plaza 9, this pharmacy would be well-suited in this area. There are no negative criteria and no detriment to the public. The site is zoned for retail, but there is no inclusion for a pharmacy type of retail store, but they could locate across the street or next store in the CB

zone. They are making no changes to the structure of the building and are not changing the site plan. Dr. Levitt asked if the variance was strictly for the vacant unit. Mr. Bunting answered that they are seeking the variance just for the vacant unit. Dr. Levitt stated that they would have to come back before the Board if they wanted to expand and use both downstairs units for the pharmacy.

Mr. Liguori said the applicant is currently in negotiations with Northfield News and Tobacco for a lease agreement. They now lease month to month. Mr. Bunting hopes it will work out, but if not, he will seek another retail lessee. They are not seeking approval for that at this time. They are aware that they will be required to come back before the Board if they want to lease to a medical facility even though it is zoned for that use. Mr. Liguori added for the record that the entire first floor is approximately 2000 sf and the proposed Bunting Pharmacy would occupy 1037 sf. He also said one parking space is required for every 200 sf. Dr. Levitt noted that the residential unit parking requirement is 2 spaces. Mr. Liguori said Mr. Bunting has no intention of operating a two story pharmacy and will keep the second floor residential. Josiah Bunting testified that he is the sole owner and is currently under an agreement of sale contract. He intends to keep the current retail occupant, move his pharmacy into the vacant unit, and maintain the 2nd floor as residential. Dr. Levitt said that only a medical use would require returning to the Board with a site plan.

Mr. Bunting described his business as being a 'mom & pop' style pharmacy which would be open 9:00 a.m. to 7:00 p.m. Monday to Friday, 9:00 a.m. to 4:00 p.m. Saturday, and closed on Sunday. From experience, customers are infrequent and their time in the store is quick. He is the sole pharmacist, his father handles deliveries, his mother runs the counter, and his wife works as a part-time pharmacy technician. His pharmacy is a family-oriented business and he intends to make no changes to the structure of the operation. Dr. Levitt asked about his current location. Mr. Bunting said he is currently leasing a unit which is 1600 sf. He feels this is more space than he needs. His pharmacy business can operate in 1000 sf of space and right now he has a lot of wasted space in his store.

Mr. Liguori stated that there is an area behind the building which could be utilized for parking and also directly behind the building is space that could be used for employee parking. He added that he thinks the current parking is suitable. He said a toy store, a stationary store, or a game shop would use more parking. Mrs. Dyrek asked what type of business occupied the unit previously. Mr. Liguori said it was a computer repair shop. Mr. Bunting said there would be no more than two employees in the store at a time and that his parents drive in together. Dr. Levitt asked about deliveries. Mr. Bunting said he has a courier service that arrives at 8:45 a.m. once daily and brings product into the store by hand. Dr. Levitt asked about trash. Mr. Bunting said he utilizes a shredder and that there is currently a dumpster on site. Dr. Levitt noted that the site has a fairly deep lot at 169 ft. and the land at the back of the lot is vacant. Mr. Doran said he agrees that the area could be used for additional parking, but it backs up to a residential zone and they would need to maintain a 15 ft. buffer. Dr. Levitt said the Board is sensitive to granting a variance to a business bordering on residential areas. He said the Board would like assurance that if parking becomes an issue, the applicant would come back to the Board for site approval to utilize the vacant land for parking. Mr. Zlotnick said reasonable conditions can be attached to a use variance. Mr. Doran suggested that the Zoning Officer can trigger this from complaints from neighbors and it can be handled administratively. Mr. Liguori stressed that Mr. Bunting is not looking to expand his pharmacy business. He was previously a retail pharmacist and did not like that he didn't have time to talk to his customers. Dr. Levitt asked that if the need arose, would the applicant be willing to increase the number of parking spaces. Mr. Doran said if a complaint came to Council or to the City, this would trigger the Zoning Officer to require that up to three spaces be added and Mr. Doran would review this. Mr. Doran added that if they did not agree to this and appealed the Zoning Officer's decision, they would have to come back to the Board in order to do this. Also, if more than three spaces were needed, they would have to come back before the Board anyway. Mr. Liguori asked that if the need arose, could the applicant be given

time to complete the compliance alterations for additional parking and remain open and in business. Mr. Zlotnick explained the process. If the Zoning Officer receives complaints from the neighbors, for example, from residents living on Banning Avenue, that there are parking issues generated from Bunting Pharmacy, the Zoning Officer would then come out and observe. Dr. Levitt added that if the Zoning Officer observed parking chronically overflowing onto the neighborhood streets, he would administratively require three additional spaces. If more spaces were needed, the applicant would be required to come back before the Board with a parking plan to accommodate the additional parking spaces. Mr. Zlotnick said if only three spaces are needed, there would be no appeal before the Board and the applicant would work directly with the Zoning Official. Mr. Liguori clarified what Mr. Zlotnick stated and said his applicant agrees. Dr. Levitt clarified that this requirement runs with the building, not with the applicant, and it will be passed on to any future buyers and runs with the land. Mr. Liguori said he would certainly incorporate that into any future purchase agreements. Mr. Doran said that three additional spaces are being used since the parking calculation requires 13 spaces and they have 10. If they constructed an additional three, they would comply with the parking requirement. Dr. Levitt added that a variance is being requested and upon a variance, further conditions can apply. Mr. Doran agreed. Mayor Mazzeo suggested that additional parking should be used for employee parking in order to keep customers closer to the building. Dr. Levitt added that any future parking plan should consider eliminating the parking at the side of the building as this creates a hazard.

Dr. Levitt opened the public session. Harold Weiss, owner of the Plaza 9 Shopping Center was sworn in. He said that parking in this area is a problem and he feels it will be more convenient for the Bunting customers to park in the Plaza 9 lot and walk next door than to use Banning Avenue. He has noticed people doing this, and has been told he can have the cars towed, but this is difficult for him to do. Dr. Levitt suggested putting up a sign and Mr. Weiss said he has one already. Dr. Levitt said the Board is trying to address parking concerns tonight to make sure Bunting will have enough parking. Many businesses face this problem. Mr. Weiss said he does not have enough parking to accommodate this occurring. Dr. Levitt suggested that Mr. Bunting ask his customers not to park at Plaza 9 and to have a sign stating this at his cash register. Mr. Doran proposed that a rear entrance would encourage using the back parking area. Dr. Levitt agreed that this would be safer and more convenient. Dr. Levitt closed the public session seeing that no one else wished to comment.

Mr. Doran read his Engineer's letter addressing the 15 ft. buffer needed which backs up to residents on Banning Avenue. He calculated 13 parking spaces are necessary and the applicant is providing 10. The applicant has addressed the medical questions, they have adequate lighting and there will be no signage changes. Mr. Zlotnick clarified the special condition that will be attached for additional parking if the Zoning Officer determines there is a problem. If more than three spaces are needed, they have agreed to come back to the Board with a parking plan. The applicant has agreed that for up to three additional spaces, they will not appeal or object and they will comply with this requirement. Mr. Liguori said the applicant agrees and if more than three spaces are needed, they will come back before the Board with a parking plan.

Mr. Shippen made the motion for a use variance to operate the Bunting Family Pharmacy in one of two first floor units at 1337 New Road, Block 42, Lot 9, in the O-PB zone subject to conditions of parking as stated. Mr. Milone seconded the motion.

The roll call vote was as follows:

Mr. Clifford-absent, Mrs. Dyrek=yes, Chief James-absent, Councilman Martinez-absent, Mayor Mazzeo-no vote as elected official, Mr. Milone=yes, Mr. Notaro=yes, Mr. Roegiers=yes, Mr. Scharff=yes, Mr. Shippen=yes, Chairman Levitt=yes. The motion for the "D" use variance with parking conditions carries.

There was one resolution to memorialize for Raddev, LLC, Block 126, Lot 26 at 424 Fairbanks Avenue for a minor subdivision with no variances. The voice vote was all in favor with Mayor Mazzeo, Mr. Notaro and Mr. Shippen abstaining.

Chairman Levitt announced that there will be a Land Use Ordinance subcommittee meeting on Wednesday, August 11, 2010 at City Hall at 7:00 p.m. He asked that Lance Landgraf attend the meeting also.

Mr. Zlotnick gave an update on the Hansen litigation. They have submitted new plans to the Board with a request for a special meeting with the Board. They have also reached an agreement with Atlantic City Country Club, but he cannot speak for the Gove's or any other neighbors. Mr. Zlotnick advised that the Hansen's will need to provide a new, full application with noticing, advertising, and the payment of required fees. Dr. Levitt agreed and said a new application will need to be heard on its own merits. The Board has agreed to nothing as of this time and denied the original application. Mr. Doran also agreed and said the Board cannot continue to hear a denied application. Mr. Zlotnick informed the Board that Judge Valerie Armstrong has ordered a telephone case management conference for September 2, 2010 to address whether this matter is fully resolved and the litigation may be dismissed. He advised that he will report to the Board on the Judge's decision and until litigation is resolved, there is nothing for the Board to hear. Dr. Levitt said if the Board were to hear the recently submitted 'plan' and lose the litigation, there would then be two plans. He added that the merits of the Board's decision stands on its own and the Board has a case and will follow through with it. Mr. Zlotnick said "Whispering Woods" does allow for settlement with Planning and Zoning Boards. The Judge may order the new plan to be presented for settlement purposes as a settlement offer instead of simply a discussion. Dr. Levitt asked if the Board can negotiate. Mr. Zlotnick said yes, there is give and take in any settlement discussion. It could also be possible that an agreement may not be reached. The Board can reject a settlement offer and then the Hansen's would have to make a decision to go on with litigation or dismiss it. He advised that no hearing be scheduled until after the September 2nd conference.

Chairman Levitt closed the meeting at 8:15 p.m. with a motion from Mr. Milone and a second from Mr. Shippen.

Respectfully submitted,

Robin Atlas, Secretary to the Board