

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

Minutes: October 7, 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, October 7, 2010 in Council Chambers, City Hall, Northfield, was opened by Dr. Richard Levitt at 7:01 p.m. and the following members were present or absent as noted:

Dr. Richard Levitt-Chairman
Clem Scharff-Vice Chairman-absent-NOTE: Recused due to a conflict of interest
Mayor Vincent Mazzeo
Councilman Jimmy Martinez
Chief Robert James
Lou Milone
John Clifford-absent
Ron Roegiers-absent
Henry Notaro
Jim Shippen
Linda Dyrek-absent

Norman Zlotnick, Solicitor
Matt Doran, PE-Engineer

The meeting opened with the first application from Dr. Zubair and Suzanna Syed, Block 40, Lot 18.02 located at 6 Jack Sloan Court. They are seeking approval for "C" variances for a side yard setback and lot coverage. The zone is R-4. The Syeds are represented by an attorney, Brian J. Callaghan of Atlantic City. Engineer Jon Barnhart was also present to testify and all were sworn in by Chairman Levitt.

Mr. Callaghan explained that the Syeds' intent is to construct an in-ground pool. They need "C" variance relief for lot coverage and a side yard setback for mechanicals. The lot coverage requirement is 40% and the applicants are proposing 52%. They will locate mechanicals on the side and the requirement is 10 ft. and they are proposing 7 ft. to the enclosure and 8 ½ to 9 ft. to the actual equipment.

Jon Barnhart, who also resides in this neighborhood, described the site using a diagram. The structure is a single family two-story home in the R-4 zone. The property is three lots off the intersection of Burton Avenue and Jack Sloan Court across from the ball fields at Birch Grove Park. The frontage is 80 ft. with a depth of 110 ft. and area of 8800 sf. They want to make substantial improvements to their property and to develop the backyard for themselves and their children including a new rear porch, a paver patio, and a pool with a dimension of 16 ft. x 32 ft, and landscape improvements. They plan to relocate air conditioning equipment and the new pool equipment to the side of the house within a 4 ft. enclosed structure.

Mr. Barnhart described the variances as noted by Mr. Callaghan. He said the actual variance is technically only a one ft. variance. He noted that there is no potential impact related to this variance and there is no difference in the potential for noise. The improvements will be a benefit to the community and will include two rows of fencing for safety reasons. There is no negative impact to the neighborhood or zoning. Mr. Barnhart said in reference to the lot coverage increase, the pool makes up half of the increase in additional coverage. He noted that this does not create a water run-off problem as the pool will hold water for evaporation. The 2nd half of the coverage is surface coverage, not building coverage, and the ordinance exempts out patios for single family residences. There are no setback variances necessary for the pool itself and there will be a landscape buffer all around the patio. They will install special downspouts to keep water on site. Mr. Barnhart concluded by saying this is a nice project that has been well thought out by the applicants and there is no detriment to the zone plan.

Dr. Levitt asked about ongoing drainage issues within the subdivision. Mr. Doran said the drainage issues have been resolved, but street issues still exist. Mr. Doran's concern is that there is proper drainage around the pool so water doesn't drain onto neighbor's properties. Mr. Barnhart said all the yards in this area grade to the back in the direction of a drainage swale and with the additional drainage improvements added on site, he feels they have a good situation with regard to runoff. Dr. Levitt asked if the pools are pumped out yearly and Mr. Barnhart said no, they stay filled.

Mr. Shippen referred to a neighbor of his who was forced to pump water from his pool after heavy rains. Mr. Barnhart said if this becomes necessary water will be pumped into the drainage system on site. Mr. Shippen also asked about the perforated pipes for the downspouts. Mr. Barnhart said they will be located around the perimeter of the property and the pipes will lead into a bed of stone which allows for water storage and infiltration of water into the ground. He noted again that these lots grade straight back and there is no issue with side to side grading.

Dr. Levitt opened the public session and seeing that no one wished to comment on the application, closed the public session.

Mr. Doran noted that the application shows proper fencing with pool drainage and there is also drainage behind the house and the additional downspouts should take care of drainage issues. They will need to submit a plot plan showing plans for the piping.

Mr. Martinez made the motion and Mr. Zlotnick reviewed the two variances. Total coverage necessary is 40% and 52% is being requested and the side yard variance of 7 ft. where 10 ft. is required for a difference of 3 ft. Chief James seconded the motion.

The roll call vote was as follows:

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

Before proceeding to the second application due to the time advertised, there were two resolutions to memorialize. The first was for Rachel Regina for approval of "C" variances for a residential addition at Block 136, Lot 3, 221 Bates Avenue. Abstentions include John Clifford (absent), Chief James and Councilman Martinez. The voice vote was all in favor. The second resolution was for Bunting Family Pharmacy, Block 42, Lot 9, 1337 New Road for a use variance to operate a pharmacy. Abstentions were the same as previously noted and the voice vote was all in favor.

The second item on the agenda was presented by Sal Perillo, Attorney for Roger B. Hansen. Mr. Zlotnick went on record and described the procedure that will occur this evening. Mr. Zlotnick

explained that Mr. Perillo will present a proposed settlement of litigation currently still pending in Superior Court. The settlement will be presented in detail so the Board will understand and make a clear decision with regard to it. This is not a formal application, it the presentation of a settlement. Mr. Doran's report will be taken into consideration. It is preferable that the Board go into an Executive Session due to the litigation. Any vote will be in public session. Mr. Zlotnick referred to Mr. Perillo's letter sighting the Whispering Woods case which authorizes this type of procedure and it is being properly presented before the Board. Because of this settlement approach, nothing said here tonight can be used in litigation under the court rules. If the Board agrees to the settlement, it will be reported to the court. There may be technical issues with regard to a revised plan, but this can be dealt with through Mr. Doran in further discussions. But that would abide the Board's substantive decision on what is being shown here tonight. Dr. Levitt asked for clarification that this is a variance application that was turned down by the Board and that the settlement is between the applicant and the Atlantic City Country Club and there has been no negotiation with the city. Mr. Zlotnick said that we have a copy of this settlement and the primary objective is that the country club, represented by Jack Plackter, Esq., and who is present this evening, now know they have settled and they have a binding written settlement agreement and the court is also aware of this. They are here tonight to close the circle to present to the Board a plan that is revised from the original plan as a means of settling the case with the Board since the Board rendered an adverse decision. Mr. Zlotnick added that this is not a re-application and the Board will not be hearing a variance request tonight.

Mr. Salvatore Perillo, the attorney representing Roger B. Hansen, began by stating that his client is not requesting any variances. He said that he was involved in a prep session with experienced attorneys of a combined 60 years experience, and they have never experienced a situation like this. He noted that the court favors the settling of disputes and referenced Whispering Woods and others. There is a settlement procedure set forth by the courts if the Board agrees with it and referred to the Cox manual section 33-7. If the Board approves, a resolution will be adopted. If the Board rejects the settlement, then that is the end of it and the settlement can't happen. If the Board approves the settlement and someone objects, they have a right to appeal and the grounds to appeal are limited. He said the ball is in the Board's court. Parties involved have spent two years trying to meet the concerns of the community and to settle. He recalled that there were fire and safety issues with the original application and no settlement with the city has been made. There were a lot of components with the city issues and they have made a number of changes that directly impact public safety.

Mr. Perillo proceeded. He said the Board rejected the original plan. The 2nd plan if approved will be a major subdivision plan. The 3rd option is a by-right plan requiring no variances or waivers and under the law the applicant is entitled to improve them. The three plans will be compared before the Board. Mr. Shippen asked why the Board has to approve a settlement between the country club and the Hansen's. Mr. Perillo answered that the settlement also includes a settlement with the Board. Dr. Levitt asked if the Court mandated this settlement and Mr. Perillo said no, the Board cannot be forced to settle a case. The Judge encouraged this and has been very patient throughout the whole process. Dr. Levitt asked about items in the settlement that the Board may not like. Mr. Perillo said he has people with him who can possibly resolve these issues tonight.

John Helbig, a Licensed Planner, was sworn in as well as Jennifer Marandino. Roger and Edwina Hansen were sworn in as well. Mr. Helbig gave his credentials and has been a Licensed Planner since the early eighties. He proceeded to describe the four exhibits:

- Exhibit A-1 Color version of plan previously rejected
- Exhibit A-2 Plan that is part of settlement agreement
- Exhibit A-3 By-right Plan
- Exhibit A-4 Aerial View of area in question

Mr. Helbig said Exhibit A-1 is the first, original design. It shows a 12 ft. width inner road consisting of pavers which would serve the three inner lots. Drainage is to a swale which empties into an existing pond. There is no additional landscaping and this plan preserves existing vegetation. Exhibit A-2 shows the plan which is part of the existing settlement. They will use pavers since water quality is important, but they will increase the width of the internal roadway and expand Argo Lane with a K-turn for emergency vehicles and trash trucks needing a turnaround. The radius has been increased using a WB50 template for use by tractor trailer trucks and the road dimension will be 18 ft. wide. The plan includes a 10 ft. wide paved pull off in addition to an 18 ft. wide paver section for vehicle pull off. Due to discussions with the Fire Department and the city, they are willing to expand the public water line and add two fire hydrants, one serving Argo Lane. All five homes will be serviced by public water and several homes along the route will have the opportunity to tie into the water line for service. The placement of one of the hydrants will be accessible from the driver's side of the pumper vehicle as per the Fire Department.

Mr. Helbig discussed the pavers and said they are desirable for drainage and they allow rainwater to infiltrate through them. They are very expensive. The loop within the subdivision will be constructed using these impervious pavers. The pavers will be on a stabilized base and their use is encouraged by the State Department of Environmental Protection since there are substantial environmental benefits. The road won't have customary curbing, but will have a defining edge. There are some storm water changes after receipt of a letter from DEP. They need a 150 ft. buffer from the wetlands. Rather than a typical swale, the retention area would sheet out into the marshes and look will be a subtle landscape feature, not a traditional swale. They have met with the country club's landscape architect concerning landscaping and have agreed to the addition of 38 new plants of the evergreen, holly, Red cedar, and Colorado blue spruce varieties. These were recommended by the country club. They will also plant 63 evergreen shrubs. This landscaping will shield the golf course and the residential homes. Mr. Perillo added that they will be using mature plants which will complement and preserve the existing landscape.

Mr. Helbig referred to the by-right plan which came about after review of the ordinance. In comparison, there is no internal paved street. The street would be a cul-de-sac with a width of 28 ft. It would serve 7 lots. The street would comply with the ordinance and the city would be responsible for the street, lighting, street cleaning, and snow plowing. The other plan would involve a Homeowner's Association. This plan would not. Other changes with the by-right plan include no buffered landscaping between the homes and the golf course. The lots are smaller with the by-right plan and would not provide extra room along the property lines. The lots are much tighter and the Board would not be able to require more landscaping.

Mr. Perillo said with the new plan, landscaping would be maintained for five years. Mr. Helbig said with the by-right plan, there would be much more asphalt and a larger retention basin would be required given the increase surface area. Mr. Perillo added that architectural controls can exist with the new plan but not with the by-right. Mr. Helbig said the size of the lots, aesthetics, and drainage are substantially improved with the settlement plan. Mr. Perillo said one variance would be required with the settlement plan to allow homes fronting on a private street. A flexible C-2 variance would be required. Mr. Helbig said the provision allowing the Board to approve this is that benefits far outweigh detriments. Open space, light, air, and public safety are all better with the settlement plan. There would be two less homes and the entire site would be more aesthetically improved. The road system is softer and the homes would not look cookie-cutter.

Mayor Mazzeo asked about sewer. Mr. Perillo said systems would be sewer instead of septic and other homes on Argo Lane could hook into the sewer line. Mr. Doran said the homes all have private pumps tied into a forced main. Mayor Mazzeo questioned the cost to the city. Ronald Curcio was sworn in and discussed the sewer and the common forced main. Mr. Curcio stated

that he is the Engineer involved with the proposed project and this low pressure sewer system is a series of individual pump stations tied into a common forced main which can carry 15 to 20 units depending on the design. This system will require maintenance. Mr. Doran suggested that if no one else ties into the system, possibly their Homeowner's Association could maintain it. Mr. Curcio said the forced main is all below grade. Mr. Doran added that there are five individual pumps and each will be maintained. Dr. Levitt clarified that there is no main pump that the city will have to maintain. Mayor Mazzeo expressed concerns with how these are maintained. Mr. Doran said these systems are used in mountain regions where the houses are spaced out. In this area, the land is all downhill. Mr. Perillo said all utilities will be below ground and Argo Lane will be restored and repaved after development. The road will not be widened and all work will be done within the existing cart way. Mr. Shippen asked if fire hydrants are part of the by-right plan. Mr. Perillo said they would be. Mr. Shippen referred to the Fire Department letter dated October 6, 2010 which requires the road to be 20 ft. with a 2 ft. shoulder on each side of the road. Mr. Shippen feels the plan does not meet that. Mr. Perillo said the law says that regarding streets and improvements, only a fair share of the cost could be imposed on a developer of a subdivision. Dr. Levitt said the road could not be widened since the country club owns the land. Mr. Perillo said as a government entity, the city could condemn the land and take it over since it is a public road and may be in the interest of the public to do so. Dr. Levitt was not convinced this has been thoroughly tested in the courts. Mr. Perillo believed that the law is clear.

Roger Hansen spoke before the Board. He said he has met with the Atlantic City Country Club on two to three occasions and also with the golf course architect and landscape planners and they have worked out a landscape screening settlement. Mr. Hansen said he is the current owner of a golf course and once owned three of them. He has understanding of golf course design and understands what ACCC wants. They desire peace and quiet and want to preserve what they have. Mr. Hansen is respectful of that and this subdivision will preserve nature and be sensitive to the environment. They want to subdivide the property because the house they live in is too large. They are in their sixties and the house has outgrown them. They may even be interested in one of the new lots. Mr. Hansen said he has businesses in the area and they have no intentions of moving permanently. They respect the city and safety and have met with Assistant Chief Crooks. He understands the city has a hydrant-driven Fire Department. He described the electrical fire five years ago at his home and it was tough to service the fire because the hydrant is 1800 ft. away. Had the fire been large, it could have been a serious situation. The fire engines were able to reach the site of the fire, but retrieving water was difficult. The country club doesn't want Argo Lane disturbed and 99% of the neighbors and the Hansen's themselves agree. He knows that safety is important and the extension of the water line will be beneficial to all. All utilities will be below ground. In the settlement, ACCC provided the controls and all were accepted during talks with the country club and conversations with the neighbors. Dr. Levitt said the settlement would have to deed recorded. Any other owners would be bound by this.

Chairman Levitt opened the public session. Robert Hogg of 13 Argo Lane was sworn in. He lives with his wife at what he feels is the gateway to the golf course and having met with Mr. Hansen and reviewing the plans, he likes the new settlement version. He does not want Argo Lane disturbed and feels that no one wants this. He said Argo Lane is a unique street within the City of Northfield. This new plan makes the most sense and he is in favor of the settlement.

Assistant Chief Lauren Crooks addressed his letter and Mr. Shippen's questions. He said that after meeting with the Hansen's as well as Chief Henry Martinelli on Monday, October 4, 2010, it is the opinion of the Fire Department that they realize the lane is restricted and that with proper procedures on the end of the Fire Department, it is felt that any problems can be mitigated. They will be able to do their job with the added improvements.

William J. Hughes, Jr. was sworn in next. He resides at 300 Argo Lane. He has reviewed the plans and has spoken with the Hansen's. He would prefer that there be no development, but he understands they have the right. He thinks the settlement plan is preferable. He has concerns with preserving Argo Lane in the state it currently is in. Mr. Hughes has two young boys and he doesn't want the character of the neighborhood to change. He feels the neighbors should have the ability to tap into the forced main sewer line. His property is septic and he would like to have the option for city sewer. He asked that speed signs be posted along the roadway for 10 to 15 mph. There are golfers in the area and drivers on the road should have to drive slowly. Chairman Levitt agreed and said this is an important point. He also noted that if the sewer main is in a public street and residents would have a right to attach to it. Mr. Zlotnick said they would have to install a personal pump.

Jack Plackter, Esq., attorney for Atlantic City Country Club, spoke next. He said Lynn Hughes, General Counsel for the country club and Ted Herschel, General Manager of ACCC are also in attendance. He believes Mr. Hansen and Mr. Perillo adequately presented the settlement agreement and the Board is correct in stating they are not bound by the agreement as it is an agreement between the Hansen's and the country club. He said they are all in favor of it. Two years ago there were a few hearings on this matter and since then, Mr. Hansen has worked with the country club in good faith to try to come up with something protective of the neighborhood, to come up with an acceptable architectural design, and to do what he could to be a good neighbor.

Edwina Hansen spoke about an email she received from a resident of 400 Argo Lane who is in favor of the extended water and sewer lines. The resident said the 4 additional lots will fit in well with the area and will be landscaped beautifully. The resident also likes that they are striving to keep Argo Lane the same. Mrs. Hansen also said that emergency vehicles will not have an issue getting to the area.

Mr. Perillo thanked the Board for rejecting the plan two years ago as it allowed the plan to be improved upon due to the Board's actions. Mr. Doran asked for clarification on certain items. He said Mr. Perillo, when speaking about the by-right plan, said tree maintenance would be taken care of for two years and with the new plan, five years. Dr. Levitt said this is a private agreement. Mr. Zlotnick said after five years, the Homeowner's Association would take over responsibility of the trees and landscaping. The city is not responsible for this. Mr. Doran commented on the K-turn and asked if an easement could be obtained keeping the road always open and so that no fences or gates could be installed. Mr. Doran said there is an ordinance requirement for a right-of-way dedication of 25 ft. half width. The street doesn't go anywhere, but this technicality is required. It would allow the road to be widened in the future if need be. Mr. Doran added that since this area is near a bay or open waters, storm water basin concerns quality storm not quantity storm. The basin is only on quality; the basin is there to take sediment out of drainage and is only one ft. at its deepest. He added that he has no problem with the design waivers.

Mr. Zlotnick asked Mr. Doran about the variance concerning homes fronting on a private road. Mr. Doran said that is the only variance with the new plan, but there are technical waivers that need to be addressed. Dr. Levitt said there are residential design standard waivers. Mr. Zlotnick asked if any variances couldn't be dealt with through the engineers. Mr. Doran said if the Board likes the plan that is fine; everything has been presented before the Board.

At 8:32 p.m. the Board went into a closed Executive Session since litigation is involved. It is not open to the public and the minutes will probably not ever be released to the public. A vote and any action taken will be in public session.

At 8:39 p.m. the Board came out of Executive Session and the meeting was opened to the public. Chairman Levitt asked for a motion for approval of the settlement agreement. Chief James made the motion and Mr. Shippen seconded the motion.

The roll call vote was as follows:

Mr. Clifford-absent, Mrs. Dyrek-absent, Chief James-yes, Councilman Martinez-yes, Mayor Mazzeo-yes, Mr. Milone-yes, Mr. Notaro-yes, Mr. Roegiers-absent, Mr. Scharff-absent, Mr. Shippen-yes, Chairman Levitt-yes. The motion for approval of the settlement agreement carries.

Chairman Levitt stated that according to Mr. Zlotnick, proper noticing has been made for preliminary subdivision approval. Mr. Doran has stated that there are still some site issues and Homeowner's Association issues to resolve. A separate final subdivision approval would be appropriate without having to re-hear all of the testimony. Mr. Perillo asked if they could all agree on conditions of approval tonight without incurring more fees and having to do further noticing. Mr. Perillo said they have easements for utilities, the grading system and the K-turn. He asked to be informed as to what the issues and loose ends are. Mr. Hansen said he wants to do whatever the Board advises. Dr. Levitt said the Board needs to know details about trash containers, trees, mailboxes, and fire hydrants. It still needs to be determined if the second fire hydrant is necessary and if it will be used. The city has to pay fees to the water company for each hydrant. Mr. Hansen interjected and said he wants the extra hydrants for his neighbors up the street. Asst. Chief Crooks said he wants more time to further review this. Dr. Levitt said he thinks it is important to advertise the final subdivision for the public. Dr. Levitt said there are other issues. Mr. Doran needs to review the swale for instance and preliminary approval is an approval but final approval is the clean-up process of the details. Mr. Doran noted that there is no final plan before the Board.

Chairman Levitt asked for a motion for preliminary major subdivision approval for Block 175, Lot 38, referencing the Engineer's report for the individual lots (Lots 38.02, 38.03, 38.04, 38.05). Councilman Martinez made the motion and Mr. Shippen seconded.

The roll call vote was as follows:

Mr. Clifford-absent, Mrs. Dyrek-absent, Chief James-yes, Councilman Martinez-yes, Mayor Mazzeo-yes, Mr. Milone-yes, Mr. Notaro-yes, Mr. Roegiers-absent, Mr. Scharff-absent, Mr. Shippen-yes, Chairman Levitt-yes. The motion for approval of preliminary major subdivision carries.

Chairman Levitt informed Mr. Perillo that the Board will want to see the Homeowner's Association outline and documentation. Mr. Perillo said he will submit these in advance. Mr. Doran noted that no experts will be necessary at the final major subdivision hearing. Issues can be worked out before they come back. Mr. Zlotnick asked Mr. Perillo to submit a form of order.

Chairman Levitt asked that an Ordinance Committee meeting be scheduled as soon as all involved are available. He wants the Ordinance completed by the end of the year.

Councilman Martinez made the motion to adjourn and Chief James seconded the motion. Chairman Levitt closed the meeting at 8:50 p.m.

Respectfully submitted,

Robin Atlas, Secretary to the Board

