

City of Northfield Planning Board
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Minutes: October 28, 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.

This special meeting of the Northfield Planning Board, held on Thursday, October 28, 2010 in Council Chambers, City Hall, Northfield, was opened by Clem Scharff at 6:57 p.m. and the following members were present or absent as noted:

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

Norman Zlotnick, Solicitor
Matt Doran, PE-Engineer

The application for this special meeting was from LGM Enterprises Inc. commonly known as Ventura's Offshore Café. The property is located in Block 85 at 2015 Shore Road (Lot 16) and includes property at 2120 Merritt Drive (Lot 15) and 2122 Merritt Drive (Lot 14). The zone is R-1. They are seeking variance relief in the form of a "C" flexible variance to expand an existing non-conformity and a "D" use variance to expand the restaurant and bar. The application also is seeking major site plan approval and a minor subdivision to change the lot lines to create two lots instead of three. The project involves constructing an outside seating area with a small bar on the northeast corner of the existing building and improving the site by adding 30 additional parking spaces at the rear of Lot 14.

The attorney for the applicant was Christopher M. Baylinson, Esq. of Perskie Mairone Brog and Baylinson of Linwood. He gave a brief overview of the application and said that the subdivision portion including the 30 parking spaces was approved in early 2000 and that configuration does not change. The map was not recorded with the County within 190 days and they are not seeking an extension. They are re-applying for the same relief again. Exhibit A-1 is the original site plan showing the two subdivided lots which accommodate the parking on the lot with the café and the second lot will contain the house which brings the lot into a totally conforming status. They plan to move the lot line to accommodate the additional parking. In regards to the restaurant expansion, the restaurant is located in a residential zone and it is a pre-existing non-conforming use which means it is grandfathered and is allowed to be there as long as it is not expanded upon. The applicant is here tonight to apply for relief to permit them to construct a

1000 sf expansion at the northeast corner of the building. Mr. Clifford entered the meeting at this point. This expansion will contain 13 bar seats and 36 dining seats and the dining area will be upscale. It will not be an open deck area with people hanging out. The sides will consist of stone retaining walls with columns. Mr. Baylinson distributed Exhibit A-2 which is an artist's rendering of the proposed expansion. The applicant is seeking "D" variance relief for the expansion to the restaurant and bar and Mr. Baylinson noted that the side adjacent to Patrick McGowan's house on the north side will not be an open area. It will be covered with solid glass. They also intend to enhance this area with additional buffering. This side now has 50 ft. mature trees and is dense and mature in nature, but they intend to enhance this with more trees and vegetation.

Vice Chairman Scharff swore in the professionals together. Present were Robert A. Bruce, Professional Engineer from Somers Point, Peter C. Weiss, Architect from Margate City, William D. Crane, Professional Planner from Egg Harbor Township, and Louis DiVentura, owner/operator of Ventura's Offshore Café.

Robert Bruce testified first. His credentials were accepted by the Board as he has testified before the Board many times. He displayed the site plan and zoning schedule, which is Exhibit A-1. The property fronts on Shore Road and Merritt Drive at the rear. The entire property is 110,000 sf. Mr. Bruce addressed the re-subdivision first. There are three lots existing and they are proposing two lots by the relocation of the lot line. They intend to expand the rear lot and preserve the 15 ft. setback. The balance of the property is 95,000 sf and contains the café and the two parking areas and this subdivision was approved in 2000 or 2001 and there are no changes proposed. Mr. Baylinson said the new lots would be more conforming since one lot would contain the residential home and the other the business.

Mr. Bruce testified that the proposed addition would be located at the Northeast corner of the café and would be 1038 sf. They are requesting a bulk variance (C2) for a front yard setback. They meet the side yard setback requirements. The existing structure is 28.1 feet from the property line and they are proposing a 6 ft. x 15 ft. 'bump out' which contains the fire pit and benches. A portion of this addition will be setback 15 ft. where 25 ft. is required. The majority of the setback will be in the range of 21 ft. which is only 4 ft. from conforming.

Mr. Baylinson asked Mr. Bruce to address the important issue of buffering and the parking expansion. They intend to expand the parking with 30 additional spaces to the 94 existing for a total of 124 total parking spaces. The buffering will consist of plantings along the property line and this will separate the house from the parking area. They insured the Board that they will meet the ordinance requirement for buffering with a staggered single row of plantings between the house and the new line. They also want to add plantings in the front corner section. Mr. Baylinson said they are proposing a minimum of 25 ft. from the new parking area with a 15 ft. buffer.

Mr. Bruce spoke about lot coverage and said this will increase due to the additional parking spaces, the building addition and sidewalk. He noted that the increase in impervious coverage will add 1.1% to 1.2% and that the previous impervious coverage was approved at 58% where 40% is permitted. Mr. Bruce said they do have low building coverage figures. Existing is 8% where 25% is permitted and the coverage will be increased to 9% if approved. The lot containing the house also has significantly less building coverage than what is allowed. Due to the restaurant expansion the setback to the northern property line conforms at 11.5 ft. The ordinance requires 10 ft. The distance between the restaurant building expansion and the principal structure of the northerly neighbor is 55 ft.

Mr. Bruce said that 124 parking spaces comply with requirements and there is two ways to look at this. If using the number of seats method, there are 210 seats which would require 70 parking

spaces and the bar area adds an additional 34 seats. The retail-package goods section adds one seat per 200 sf for a total of 108 seats required. The other method in which parking can be analyzed is by square footage at 1 space per 75 sf, and then adding 4 spaces for the retail area for a total of 111 spaces. The ordinance requires the highest amount to be used and therefore, 111 parking spaces would be required. The applicants are proposing to exceed that with 124 spaces.

Mr. Bruce further testified that storm water management meets the ordinance requirements and low grade pipe and stone trench will be provided. There will be new additional lighting for the new parking area. Back shields will be used and side shields may be necessary to keep the lights from bothering residents. He noted that as a condition of the previous approval, emergency access at the back of the site is required. No sidewalks are proposed here and patrons will walk through the parking lot as they currently do. There will be no new mechanicals.

Mr. Scharff asked about the area south of the parking lot which is now being used by employees for parking. Mr. Bruce said that some of the spaces will be used by employees. Mr. Baylinson added that the stone area is not in the parking calculations. Mr. Shippen asked what will happen to the triangular stone area. Mr. Bruce said it will be used as runoff and they intend to leave the stone in place.

The next professional to testify was Peter Weiss and his credentials were accepted. Mr. Weiss was the architect who did the previous upgrade from The Rugby Inn to the current Café. He referred to Exhibit A-3 which is a floor plan of the proposed outside area. The only realistic location for the improvement is at the front of the site. No where else made sense. The applicants wanted it to be both small and functional and to be as far away Shore Road as possible. They want to maintain the same look but add a new 2 ft. high stone wall with a metal railing. They will be keeping the materials warm with stone walls and columns and will use wood inside. The columns will hold up the roof and for the reduction of sound they will install glass panels on the northerly side which is the side next to the residential neighbor. Only the front section is open about six feet from the ceiling to the top of the fence and the outside addition is fully covered by roof structure. Mr. Weiss compared it to a wrap-around porch.

Mr. Baylinson said they plan to replace the sign in front of the addition area with a monument sign measuring 6 ft. x 12 ft. The setback from the property line is 10 ft. Mr. Weiss said the sign is a ground mounted monument sign. The existing sign is large and is actually the old Rugby Inn sign. They plan to remove it and replace it with the new monument sign. There will be a gate for access to the new area near the existing front door and a door at the rear for emergency access. There will be one additional door for service personnel. Anyone coming through the back parking lot will have to come through the bar and restaurant. Mr. Weiss said the new area will have 26 seats at tables and 13 seats at the bar. Mr. Roegiers asked how the sign will be illuminated. Mr. Weiss said backlit with red lettering. Mr. Roegiers asked about the glass wall and whether or not the north side would be entirely enclosed. Mr. Baylinson said there will be a slider for the front side of the building for cold or inclement weather.

Louis DiVentura testified next. He stated he is the owner/operator of the existing restaurant and he thanked the City of Northfield and the community for the opportunity to testify this evening. He is the general manager and with his father and business partner Louis, they have operated two establishments in the area for 25 years. They wish to expand the Offshore Café to give back to the community. They love Northfield and feel the addition will provide something different for their customers. They want to work with the neighbors to make this happen. He began working in the restaurant business when he was 14 years old as a dishwasher and has seen their operation grow over the years. The Offshore site now offers a delivery service and with the new addition to the business in the form of an expansion, it is a way to say "thank you" to their

patrons. He described their restaurant as a small business. He feels his type of business plays a significant role in today's economy in our nation. There 945,000 food service outlets and restaurants in the country and 7 of 10 are small single unit businesses. Three quarters of these restaurants employ fewer than 50 employees and most serve as conference rooms for the self-employed and other small businesses. This year the restaurant industry will generate 558 billion in sales and this industry is the largest private employer in the country and Mr. DiVentura is proud to be a part of it. He added that the new addition will provide a more relaxed atmosphere for their patrons.

Mr. DiVentura testified further that they do not expect to expand the employee base and there will be no live music outside. They plan to have ambient background music and will close at midnight. The inside area may be open later. He noted that they hire local employees. Mr. Baylinson asked Mr. DiVentura to explain the return on risk during this economy. He answered that they strive to add new and different aspects to the Café. He thinks people will enjoy it. Mr. Baylinson said parking is an issue during peak times and he has witnessed this himself and said there is always someone circulating the parking lot during busy times. He asked if the proposed 16 spaces beyond that which is required will handle any increase in patrons. Mr. DiVentura said that more parking will help with turnover and that service is usually quick. He also said it would be a pleasure to increase the buffering around the parking area.

Mr. Shippen asked if they were enclosing the north side of the addition with glass in recognition that noise could affect the neighbor. Mr. DiVentura said they have had differences in the past and want to make sure that this is not a problem this time and will keep the noise level down. Mr. Shippen noted that the noise would now be projected forward with the glass wall of the new addition.

The next professional to testify was William Crane a licensed Professional Planner from Egg Harbor Township with over 30 years experience. He referred to Exhibit A-1 and stated that the proposal takes an existing non-conforming use and makes it more aesthetically appealing and more functional in the circulation of cars and also parking. Mr. Baylinson asked the planner to address the C2 and "D" variance and to discuss positive and negative criteria and any detriment to the public or the zoning ordinance and to discuss the justifications for the variances. Mr. Crane said there are three purposes of zoning that are advanced. The first is that this is an appropriate location for this commercial use. It has existed for some time and the restaurant/bar use dates back 75 to 80 years. The use predates many of the residential homes in the area. Mr. Crane said the café is appropriately located in this spot and blends in well on the main thoroughfare through town. It is easy to get to. The second advance of the purpose of zoning is in regards to the public safety issue; the added parking area will provide more parking on site and prevent spillage on Shore Road. The third advanced purpose is that a desirable visual environment exists. These purposes support positive criteria for the "C" and "D" variances. Mr. Crane said the addition would not negatively impact the neighborhood and will provide fine dining with an outdoor dining/bar area which does not exist anywhere else in Northfield. He added that positive cash flow will help with education through tax revenues and will continue providing city and county jobs. He said the site is well suited and is a proven successful restaurant. The addition measures will improve the current situation.

Mr. DiVentura added that they will increase the buffer area to 15 ft. along the back area and all along the Yorkshire Avenue side as well as improve the buffer area for the property that sits on Merritt Drive. He added that in front they will improve the buffer area and comply with the 15 ft. setback, but there is noise generated from Shore Road. He added that the new restaurant and bar area will not be a significant noise generator and the noise level will be directed toward Shore Road. Mr. Shippen asked for more information of lighting considering they will be keeping the area open until midnight. Mr. Weiss said the lighting will be indirect soft incandescent lighting

with high hats in the ceiling and lighting directed towards the ground. The lighting will be subdued. The fire pit is a gas flame for ambiance. Mr. Baylinson said there will be benches in this area. Mr. Scharff asked if the flame would be visible from Shore Road. Mr. Weiss said they could make the wall higher on the outside to conceal the flame. Mr. Baylinson said that if the fire pit is a traffic distraction, they could eliminate it from the plan.

Mr. Doran read his Engineer's report. He said the applicant is required to explain how they will be advancing the purposes of zoning and it is the Board's job to decide whether or not they feel that the testimony justifies the variances. He noted that there is an ordinance requirement to construct a sidewalk or walking path from the parking area to the building. Mr. Doran agreed with the parking calculations. There are no new mechanicals and the applicant has agreed to shield the lights. The present sign is 72 sf and has a setback of zero. The proposed sign is also 72 sf, but is setback 10 feet which makes it more compliant. Mr. Doran said they have addressed everything else in his report and the most important issues are the buffers, the use, and the overflow of parking that might occur. The section of the report on the minor subdivision is simply a lot line adjustment and if approved, the plan is suitable for filing. Mr. Scharff reviewed the parking calculations and said 111 spaces are required and 124 spaces are proposed. They now have 94 spaces. Mr. Baylinson said this is based on square footage or number of seats, whichever is higher, and the calculation does not include the stone triangular area. This space could hold approximately 20 cars and if included, the new parking area space would not necessarily be needed to meet the parking requirement.

Vice Chairman Scharff open the public session and advised that he would allow five minutes for each speaker due to the number of people present. James E. McGeary, an attorney, introduced himself and said he was retained by the neighbors. He is deferring to the public for their opinions and will offer a summation after all of the residents have been heard.

Patrick McGowan of 2005 Shore Road spoke first. He resides at the Northwest corner of Ventura's and he noted that he likes the owner and he has dined at the restaurant. He is not opposing the business and thinks the parking will help certain neighbors, but for others, the lot will be in their back yards. He referred to the original resolution and asked that Mr. Zlotnick include certain items should they get approval. He felt that the words "significant caliber of trees" needs more detail. He noted that he wants the sight to have more trees and doesn't want them to get rid of any of the trees. He added that the applicant previously agreed to no outdoor dining. He discussed the fence on his side and said he would prefer a solid fence. Mr. McGowan spoke about trash pick up and said lids are continuously left open and attract seagulls. He asked that they please keep the lids closed. He would like to see the stone area restored for the Yorkshire residents and for storm water management. He doesn't think that 16 parking spaces will make that much of a difference especially considering that approximately 14 will be used for employee parking. He stated that they should have no neon signs and should turn the music off after 9:00 p.m. or 10:00 p.m. He has concerns with the sign and feels a smaller sign may have an adverse affect. He wants patrons to see the sign so that they do not pull into his driveway because they missed seeing the sign. He thinks it is a benefit to leave the sign as it is now. Mr. McGowan said he does not feel the expansion belongs since it is outdoor dining. He is afraid the expansion will also increase the indoor dining even though Mr. Baylinson said this will not happen. The neighbors cannot support any more business and he wants no expansion or outdoor dining.

Diane Himles of 2124 Merritt Drive said her property is near the west end of the new parking expansion. She hears noise from trash being dumped and has concerns about her property values and feels the noise is a nuisance and will increase with this plan.

Joe Sundra of 2115 Shore Road lives next door to Ventura's on the south side and he feels that the level of noise inside the restaurant is loud now and the noise will be able to escape through

the new open spaces. The parking addition and expansion will require more bartenders and wait staff. He discussed the noise level and said there are trash pickups at late hours and in one instance, there was a grease pick up at 3:00 a.m. The grease was removed through a vacuum and it was very loud. He feels for the McGinty family across the street. He said there is a bus stop directly in front of their home and employees who get off work at 1:30 a.m. and wait for the bus disturb them.

Jacqueline McGinty of 2100 Shore Road spoke next. Her family lives directly across the street. She thanked Mr. Shippen for bringing up the situation of noise being funneled straight out across the street. She said the noise level is loud now. She noted that there is a code prohibiting unnecessary noise. Noise at 9.8 to 10 decibels for bars is at an unhealthy level. She stated that the area in question is a residential neighborhood. She noted that her home, as well as the McGowan and Sundra homes, is over 150 years old. She said this is where we live and it is not just about a business or a project.

Margaret McGowan of 2005 Shore Road said she is speaking tonight as a mother. She has concerns about the outdoor dining area and smoking. She said there is an outdoor smoking area now and the smoke comes through to her property. Her son has asthma. She noted that if a house was next door, smoking would not have the same affect. With this new plan, she fears that smoke will be coming from both the front and back of the establishment. She noted that her sons play in her yard and she added that she believes the noise ordinance goes into affect at 10:00 p.m. She has concerns about the fire pit and that it will become a smoking area. Her sons go to bed early to be successful in school and the noise will affect their sleep.

Nick Galli of 2126 Merritt Drive agreed with all that has been said by the residents. He understands that the property is grandfathered. He noted that Ventura's is non-conforming and feels it is enough of a non-conformity and doesn't feel they should expand the commercial use. He asked what would happen to the single family home on Merritt Drive. Mr. Baylinson said it is proposed to remain as it is.

Mary Altobelli of 2110 Merritt Drive spoke next. She has concerns with the outside dining area. No one in the city has an outside dining area that feeds over 30 people. She felt outside dining is inappropriate and believes parking is an issue. She said this issue can divide neighborhoods. Some don't want the expansion in the front; others in the back of the building. She is angered that problems haven't been fixed prior to this. She felt they have done nothing to improve the relationship with the neighbors. She mentioned that Yorkshire Avenue needs the drainage section and feels that people will continue to park in the stone area. Originally the seating was supposed to be thirty and now they are proposing 36 seats. The owners said years ago that they would not increase the restaurant space and now are proposing outdoor dining with a fire pit and benches. She added that Mr. DiVentura said it would be quaint and she sees it as loitering.

Gina Wallace of 3 Surrey Avenue testified that she has given the project a lot of thought and talked to the neighbors and she is in favor of the project and likes what they are trying to do. She frequents the café often and does not feel that noise is a problem and isn't bothered by people parking in front of her house. She looks forward to sitting by the fire pit.

Mary Galli of 2126 Merritt Drive spoke next. She has concerns with the project and has lived at her home for 40 years. She said trash pick up in the middle of the night is unacceptable. She has concerns that they might need to expand again in the future. She notices the lights at night and said they are bright. She hears noise and laughing. She feels that the neighborhood is a quiet residential neighborhood and there needs to be an end to any expansion.

John Sullivan resides at 2 Surrey Avenue which is the first house in on Surrey Avenue behind the McGinty's after the alleyway and his driveway faces Surrey Avenue. He has experienced his driveway being blocked by parked cars. The Police have written tickets. If he gets home late, cars line the street, and at other times he has trouble getting his car out of the driveway. He does hear noise in the summer, but noted that it's not too bad. His issue is with the street parking. He has lived in this area all his life and both he and his wife have trouble parking. Mr. Sullivan added that he does not want to appear selfish, but he feels the expansion will increase the parking problems.

Chuck McGinty of 2100 Shore Road presented a petition of 61 signatures which he collected from those who could not be at the meeting tonight. Mr. Zlotnick advised Mr. McGinty that the Board is not allowed to accept petitions. Mr. McGinty said that Mr. Sullivan, who spoke previously, is allowed to be selfish since he is speaking about his home. He feels there were mixed messages presented about noise. He said the noise will become a band shell with the noise reflected outward and he has heard sounds of people talking on cell phones. He understands that he knows what he was getting into purchasing a home across from a bar and restaurant, but when there may be 60 or more people outside day and night, it is too much for the area.

Mary Sundra of 2115 Shore Road asked if they would be applying for a new liquor license. Mr. Baylinson said they would need to apply for a modified license. Mrs. Sundra's next concern was about the vat pickup. She had a meeting with Mr. DiVentura concerning the expansion and she said the noise generated from the vat pickup was unbelievable and not convenient for the residents. She said that they have trash on their lawns from the site now and is concerned this will worsen. She had drunk individuals on her property and had to call the police. She doesn't feel that sitting on Shore Road listening to traffic is ambiance. She wants to see the back parking lot expansion, but not the outdoor dining area. She has trouble getting into her driveway and doesn't feel the parking will be enough even with the extra additional parking.

Julie Caywood of 15 W. Yorkshire Avenue spoke next. She wanted to reaffirm what others have already voiced. She is opposed to the business. She does patronize the establishment, but does not support the expansion. She said that trash is a problem and has seen a raccoon in the area during daylight hours. Seagulls sit on her roof. Her family has a well-kept house and they want to keep it that way. Dumpsters are left open and her own dog found meat bones that did not come from her property. She hears loud music from the restaurant kitchen and hears trash and recycling pickups. She enjoys the current buffer zone and does not want cars parked up to her fence. She is having a child and the baby's bedroom will be against the parking area. She enjoys spending time in her backyard and this expansion will hinder that experience.

Mike Turon of 1904 Merritt Drive testified that he has lived there for three years and is within 200 ft. of the site. Mr. Turon said he thinks the business is a successful, trendy establishment and that Mr. DiVentura is a great businessman, but not a good neighbor. Mr. Turon said he wants to protect his new home which is an investment. He said he was a member of the Planning Board when Ventura's appeared before the Board previously and referred to his notes and the Resolution. He discussed noise and smoking and said they are issues and there is outdoor furniture in the back currently. He cannot open some of his windows due to the noise and even though he is not directly affected by the parking, he knows the problem exists. Expansion will exacerbate the problem and he feels the residents have demonstrated that the negatives outweigh the positives.

Sharon Miller of 2004 Shore Road testified that she agrees with the other neighbors and after having heard the testimony, she is now more concerned with the glass wall as her home is across the street on Shore Road. She is worried about the noise coming across Shore Road. The cars

parked on Surrey Avenue are incredible and she has to resort to using the alley. She doesn't think additional parking with help due to the expansion.

Jeffrey Caywood of 15 W. Yorkshire Avenue doesn't agree with the expansion in a residential area. The delivery people drive too fast and he has concerns for his new baby. He is frustrated with the seagulls, drunks, and delivery drivers who use his street. He had problems with a tree in his backyard that had fallen and caused damage to his fence which needed to be replaced. He sent letters to Ventura's and after 3 or 4 months, he resorted to bringing it to the Mayor's attention. The downed tree was not taken away and was left cut at the base of the fence. He feels Mr. DiVentura is not showing that he is a good neighbor.

Carlton Barto who resides at 2114 Merritt Drive stated that seagulls and the trash problem are an issue and he hopes the problem doesn't extend further back on their property. He lives near the proposed parking area and hears noise in the early morning. Breaking bottles wake him up and he doesn't want parking near his backyard. He also has concerns with the front addition and its proximity to Shore Road. He is concerned that patrons may wander into Shore Road. He feels that alcohol should not be consumed in the front of the building and will create a distraction for motorists.

Mr. McGeary, attorney for the residents, gave a summation of the testimony. He said he took a ride down Shore Road this morning and drove past Ventura's. He said were it not for the sign, he would not have realized it was a commercial establishment. The grounds were beautifully landscaped with flowers and it appeared to be a first class restaurant. If the Board is to permit the outside addition, it will be obvious to everyone that there is a non-conforming use restaurant at the site. He asked the Board to picture the porch area with the extension and the closeness to a highly trafficked county road. He understands the concern with the outside expansion and since it will be so visible to passerby; this would create a public safety hazard. People will naturally turn to look. He doesn't believe the glass wall will minimize or eliminate noise or music. He is familiar with the City noise ordinance and wonders if Ventura's would lose customers if the music stops at 10:00 p.m. He feels the expansion will cause additional problems for the neighbors. If the application is denied, the restaurant will not close down and will continue to operate as they have been. If granted, public safety and noise concerns will continue to grow and increase in years to come. He urged the Board to reject the application and the contradicting testimony.

Vice Chairman Scharff closed the public session and asked for questions from the Board.

Mrs. Dyrek addressed the contradicting testimony regarding the hiring of employees. Mr. Baylinson said there is no plan to expand the number of employees. Mrs. Dyrek asked about the differences in the number of seats proposed. Mr. Baylinson said the count was wrong initially. Mrs. Dyrek said the wait for a table can be long at times. She asked if the intent of the expansion is to be a waiting area. Mr. DiVentura answered no that it is not intended to be a waiting area. Mrs. Dyrek said that the expansion would limit loitering on the porch area and this is not the type of establishment that attracts degenerates looking for a bar. People now wait on the porch and the sidewalks and this will provide more space for everyone. Car traffic will run smoother with the improved parking area. Mr. DiVentura assured the Board that he would address complaints and would contact the trash and other companies about hours of operation. Mrs. Dyrek added that she thinks the glass wall will help to eliminate noise.

Mr. Shippen commented that he has heard different takes on the hiring of employees and believes that adding a bar and new tables will require more help and employee parking will also increase. Mr. Baylinson said that the new area would be staffed, but they will not increase staff. Mr. Shippen complimented Mr. Weiss on the design. He said that he lives a block away and believes that if problems are disturbing the neighbors now, this can only increase with an

expansion. He said business will likely increase with the more attractive setting and new features, and this will require more parking but the number of people waiting will not vary a great deal. He referred to the Land Use Law and said the development must contribute to the well being of people, neighbors, and the community and contribute to the preservation of the environment. He does not feel this application does that and agrees that the negatives outweigh the positives. He is in favor of the parking expansion.

Mr. Scharff commented that proper advertising and noticing has been done and an affirmative Fire Department letter has been received. Mr. Zlotnick said that the party with the burden will have the right to speak last.

Mr. DiVentura added that The Rugby was not an eye pleasing structure and it was dangerous to get in and out of the site. He doesn't have jurisdiction over the outside companies that provide services to his business and he needs to contact them individually. He said he will submit a letter of intent. Mr. Sundra added that when he owned The Rugby, he tried to obtain variances for improvements and they were always denied. He said it was not their fault that they could not modify the outside of the restaurant and bar.

Mr. Baylinson summarized. He said the applicant is asking for a 1000 sf expansion. He understands the concerns of the public and their complaints will be addressed. He noted that the people who spoke were direct neighbors and he expected them to be in attendance tonight. There are problems associated with living in a residential zone with an established commercial business. The positive impacts to this application are on vehicle circulation and turnover. There will not be as many people waiting to sit down to eat and drink. The DiVentura's run one of the finest restaurant establishments in South Jersey. Problems and complaints will be addressed with the manager, but complaints will continue either way. Complaints will remain whether approval or denial is granted. The development will give existing clientele a new opportunity. The expansion will not be a beer drinking deck, but will provide additional seating with a much needed parking area. These are positive benefits.

Mr. Zlotnick instructed the Board that they will be voting on the "C" and "D" variances together as one vote and this includes all variances and design waivers discussed. Mr. Baylinson said if the variances are denied, the minor subdivision will not be necessary. Mr. Zlotnick asked that all voting members, with the exception of Mrs. Dyrek and Mr. Shippen, who have already expressed their opinions and reasoning, give reasons for why they are voting as they are. All members present can vote for all the types of variances being sought. Mr. Zlotnick referred to the law and hoped that all the Board members read Mr. Crane's variance justification which was well written and was included with the application packet. The justification discusses both positive and negative criteria and that the applicant must prove for special reasons why the property is suited for the proposed development and will advance the purposes of zoning and municipal land use law. They need to prove that they are entitled to the variances and that positive criteria outweigh negative criteria. In reference to negative criteria, it must be proven that relief can be granted without substantial detriment to the zone plan and zoning ordinance of the City of Northfield and without substantial impairment to the public good. So that all understand how they are voting and that the record is clear, Mr. Zlotnick asked for a motion in the affirmative.

Mr. Shippen made the motion for "C" variances for a front yard setback, lot coverage, and parking lot depth of buffer and the "D" use variance which expands an existing non-conforming use and a design waiver for the sidewalk from the parking area to the building. Mr. Milone seconded the motion.

The roll call and reasons were as follows:

Mr. Clifford- Mr. Clifford stated that he has been in sales for over ten years and thinks the team did a good job packaging the application, but he did not feel that they met the criteria and it seems like they are more interested in increasing the capacity of the business, which he understands as a businessman, but they are not really behind the well being of the community. He did not feel that they are really changing anything and that the public concerns will exist either way. If they increase the dining area and increase the parking they are really just shuffling numbers. People will be waiting to be seated either way. The existing use has been grandfathered in and they now want more without having met the criteria standards about what will be done to improve the community. Mr. Clifford voted no.

Mrs. Dyrek- Mrs. Dyrek voted yes for the reasons stated previously and noted that the neighbors living in the vicinity of this establishment are experiencing existing conditions.

Chief James- Chief James stated that he listened closely to all the testimony and does not frequent the establishment, but he has concerns with a business that is not harmonious with their neighbors. He had concerns with the negative criteria and that the project is not for the public good. He voted no.

Councilman Martinez- absent; recused due to conflicting interests.

Mayor Mazzeo- absent; recused due to conflicting interests.

Mr. Milone- Mr. Milone stated that a business owner has the right to improve their business and it is a great building and they provide good food. He had concern with the owners not addressing the complaints from the neighbors until they come before the Board and need to get something more from the Board. He said he was torn in his decision, but has to vote no.

Mr. Notaro- Mr. Notaro said that he listened to all that was said this evening and he feels that the negative criteria far outweigh the positive criteria. He voted no.

Mr. Roegiers- Mr. Roegiers stated that he understands it is difficult to improve businesses and he applauds what they want to do. But he has concerns that this project is an expansion of use in a non-conforming zone. He lives at 2000 Shore Road on the corner of Yorkshire Avenue and understands the challenges with the noise issue. Without demeaning anyone's complaints, he believes this is part of where you live. The only reason he voted no is due to the expansion of the non-conforming use.

Mr. Scharff- Mr. Scharff said that he is torn with this application and thinks they have done a fantastic job with their business and it is wonderfully successful. It exists in a residential area and he has concerns with increasing commercial use on Shore Road. Mr. Scharff said that the Board has spent years re-doing the Master Plan and the major item they dealt with was trying to maintain the residential character of the Shore Road corridor. He said he was sorry, but he cannot vote for a more intensive use in a residential area.

Mr. Shippen- Mr. Shippen said he is voting no for reasons already stated. He does not feel it is in the best interest of the community. He has a great respect for both of the DiVenturas and feels they have done a fabulous job with the property. Considering that the negatives outweigh the positives, he is voting no.

Chairman Levitt- absent; recused due to conflicting interests.

The motion for the "C" variances and "D" variance was denied.
The minor subdivision portion of the application did not come to a vote.

There was one resolution to memorialize for Dr. Zubair and Suzanne Syed who received approval for a "C" bulk variance for a side yard setback for pool mechanicals on October 7, 2010. Abstaining were John Clifford, Linda Dyrek, Ron Roegiers and Clem Scharff. The resolutions were memorialized by voice vote with a motion from Mr. Shippen and a second from Chief James.

Vice Chairman Scharff closed the meeting at 9:30 p.m. with a motion from Chief James and a second from Mr. Milone.

Respectfully submitted,

Robin Atlas, Secretary to the Board