

City of Northfield Planning Board
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Minutes: January 5, 2012

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 re-organization meeting of the Northfield Planning Board, held on Thursday, January 5, 2012 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:

Councilman Greg DeWees
Linda Dyrek-absent
Denise Kintish
Dr. Richard Levitt
Mayor Vincent Mazzeo
Lou Milone
Sgt. Paul Newman
Henry Notaro-absent
Ron Roegiers
Derek Rowe
Clem Scharff
Jim Shippen

Matthew Doran, Professional Engineer
Norman Zlotnick, Solicitor

The meeting opened with the swearing in of new members and re-appointments. Mayor Vince Mazzeo swore in Clem Scharff and Ron Roegiers as re-appointments to four-year terms as Class IV members as well as City Council Liaison, Gregg DeWees to a one-year appointment as a Class III member, Sgt. Paul Newman to a one-year City Official appointment as a Class II member and Derek Rowe to a two-year appointment as Alternate #3. Henry Notaro was absent due to a scheduled vacation and will be sworn in at the next meeting to a two-year appointment as Alternate #1.

Dr. Levitt continued with the re-organization procedures. He asked for nominations for a one year appointment for Planning Board Secretary. Mr. Shippen nominated Robin Atlas; Mr. Roegiers seconded. There were no other nominations and Ms. Atlas was appointed by a voice vote which was all in favor. Dr. Levitt asked for nominations for Board Solicitor. Mr. Shippen nominated Norman Zlotnick, Esq. to the one-year appointment. Mr. Roegiers seconded. There were no other nominations. Mr. Zlotnick was appointed by a voice vote of the Board which was all in favor. Dr. Levitt asked for nominations for Board Engineer. Matt Doran was nominated by Mr. Milone for the one-year appointment. Mr. Shippen seconded. There were no other nominations. The Board was all in favor by voice vote. Dr. Levitt asked for nominations for Vice Chairman of the Board. Mr. Milone nominated Clem Scharff and Mr. Shippen seconded. There were no other nominations. Mr. Scharff was appointed to the one-year position by voice vote which was all in favor. Mr. Scharff nominated Dr. Richard Levitt for Chairman of the Board and Mr. Shippen seconded. There were no other nominations. The Board was all in favor of the appointment by voice vote. Dr. Levitt mentioned that he has served on the Board since 1979 and this will be his 33rd year which was verified by some research by the secretary. He mentioned to the new members that they are required to take a review course within 18 months of appointments. The secretary will provide information. He also asked Mr. Zlotnick and Mr. Doran to provide orientation overviews for educational purposes on slower meeting nights and encouraged members of the Board to read the Land Use Ordinance.

The first application of 2012 is from 802 Tilton Associates, LLC, Block 16.01, Lot 46.03 which is an office building located at 802 Tilton Road. The applicant, Kenneth R. Steinberg, of Parkshore Development Corp., was present along with Benjamin Zeltner, Esq. of Levine Staller of Atlantic City and William McManus, Professional Planner of Duffy, Dolcy, McManus & Roesch of Absecon. They are seeking a "C" variance for parking.

Mr. Zeltner gave an overview of the application. He described 802 Tilton Associates, LLC as an affiliate of Parkshore Development Corporation which is a quality development company with several office and retail complexes in the area. They have developed Central Park East, Central Square Mall, Linwood Professional Plaza, Providence Professional Plaza in Egg Harbor Township and others. The 802 Tilton Road building is from the 1970's and is a mix of professional and medical tenants. The building was purchased in 1999 by the current owner who has invested \$600,000 to renovate the building both inside and out.

The business was previously known as the AG Edwards building. AG Edwards has since relocated to a smaller facility in the Cornerstone complex in Linwood. The current occupancy in the building is primarily medical. They are seeking variance approval to allow medical, business, office, and government uses. The only proposed change is the addition of one handicapped parking space due to re-striping. Mr. Zeltner called Kenneth Steinberg as his first witness. He was sworn in by Chairman Levitt.

Mr. Steinberg testified that he is an associate and part owner of Parkshore Development which is an affiliate of 802 Tilton Associates, LLC. He has been in the development business since 1986. Parkshore is a family business started by his father in 1965. The family is originally from the Cherry Hill area. They relocated to Atlantic County in the sixties and have been involved with many projects. He stated he is a professional engineer, licensed in the State of NJ. He displayed a photo exhibit of the 802 Tilton building. In 1999 when he purchased the building it was a mixed use of lawyers, medical doctors, and a chiropractor. He added an interior elevator and gutted the interior and renovated the exterior as well. The uses have been primarily doctors and lawyers.

Mr. Steinberg stated the market today for office space is difficult and is the toughest situation the market has ever been in. It is being felt more in Atlantic County than other areas. Atlantic County is affected by Atlantic City growth which is in a bad state. Currently, the building is 30% vacant. When AG Edwards vacated the building, it was 80% vacant. They were fortunate enough to fill four of the offices, but it took a year and a half to accomplish. There is still one unit vacant on the second floor and there is no way to divide it. They checked with their architects and were told that the unit cannot be divided due to placement of the elevator and stairways. Mr. Steinberg said the demand for space is coming from mainly the medical community. He said five out of 6 calls are from medical types of businesses and he does not expect this to change in the near future. They now have a medical laboratory in the building, but there are few if any engineers or accountants calling to lease since they are utilizing smaller offices. Mr. Zeltner said they need a parking variance in order to lease to a medical business. Mr. Steinberg said the Northfield Zoning Officer has approved of all the lessees until this point.

Mr. Steinberg said the parking situation is as efficient as it can get. They looked into stacked parking for the staff, but this is not feasible. They even looked into outdoor elevator parking such as exists in cities, but this will not work either. They looked into gaining more space from adjacent neighbors which are owned by Dr. Salartash and the Network Group and

Bob Hordes. Dr. Salartash was not interested and there is a line of wetlands separating Mr. Steinberg's property and the Hordes property. To the east is the Auto Parts Store and they indicated they would not sell any property but may be interested in leasing property but only on a short term basis with a termination clause.

Mr. Steinberg said that a hardship exists in this situation. He engaged William McManus to complete a parking analysis so that they could proceed with an application for a parking variance to allow medical use throughout the building. They have informed potential lease applicants that they were making an application before the Board.

Mr. Zeltner called William McManus to testify and he was sworn in by Chairman Levitt. Mr. McManus stated he is familiar with the site and with Northfield's Zoning Ordinance. Mr. McManus gave his credentials for the new Planning Board members who may not have heard him testify before. He is a licensed Land Surveyor and Planner in NJ and he supervised the preparation of the parking study. They are not looking for a C1 variance which typically deals with exceptional narrowness or shallowness or the shape of the lot. They are seeking a C2 flexible "C" variance which advance the purposes of zoning found in the Land Use Law of which one purpose is to provide adequate space. Mr. McManus believes they have an appropriate location and sufficient space overall.

Mr. McManus discussed the parking analysis. He produced exhibit A-1 dated 1/5/2012 which is an analysis showing a review of the parking spaces and those currently occupied over a variety of days and times. The peak time was in the afternoon hours which reached 38 spaces of the 55 available on site. The exhibit listed the kinds of uses and peak demands. The study found at peak time, there was an excess of 17 spaces. According to the Ordinance, the site needs 74 spaces for full medical use. The applicant is seeking a variance to be able to use the entire building for medical if need be. Mr. McManus showed a chart that is not part of the application package. The chart is a demand comparison for full medical use. There is a deficiency according to the Ordinance of 23 spaces. Mr. McManus said the Ordinance is burdensome and is higher than most other municipalities. He feels the ordinance is excessive.

The parking study involved counting the number of parking spaces being used at different time intervals based on current occupancy and peak demand. He felt a practical and reasonable approach would be to use 1 space per 210 sf which would show a need for 56 spaces. The outcome would produce a shortage of one space. The study looked at five of the closest municipalities. On average the parking requirement is one space per 200 sf. This ratio would require 58 spaces which would be a shortage

of three. He also looked at I.T.E. figures (Institute for Transportation Engineers). These figures are the most widely used treatise across the country which is a compilation of studies in its 4th edition by traffic engineers concerning parking demands and parking generation. In their study of medical and dental offices, it can be concluded using their ratio of 1 space per 233 sf that 50 parking spaces would be necessary which would create a surplus. Mr. Zeltner asked if his parking study ever found the lot to be at full capacity. Mr. McManus said no, 38 spaces of 55 was the highest capacity. Mr. Zeltner asked Mr. McManus to explain the variance. Mr. McManus said they are requesting a flexible C2 variance which requires the proof that benefits outweigh detriments and that there is no detriment to the public good. There will be no overflow parking as there are no neighborhoods nearby and there could be no parking on the highway (Tilton Road). It was noted that both the Northfield Fire Department and Atlantic County have provided letters stating they have no issues.

Dr. Levitt asked about the length of time the study covered. Mr. McManus said the study was based on 5 days in November and December. Mr. Steinberg logged some numbers from early November and Mr. McManus reviewed them and found the numbers to be even lower than the parking study figures. Dr. Levitt noted that the study was done when the building was at 69% occupancy. He could see that at peak times there would be a deficit with the building being nearly 1/3 empty and if more medical was in the building, it could be a problem at full capacity. Mr. McManus felt that there possibly could be a deficit, but nowhere near what the Ordinance says. They are asking for a variance because there could be a deficit and he felt that their study was reasonable. Dr. Levitt added that medical uses vary and there could be a very different situation when comparing a psychiatrist and a pediatrician office.

Dr. Levitt noted that Northfield has the same medical parking ratio as Linwood. It was changed from 200 sf to 150 sf after problems of overflow parking developed. He asked if there was a back up plan should problems occur. It could be a hazard if people drove on site and found no parking. They need to eliminate a safety issue. Mr. McManus said these are fair questions and comments. He said that Mr. Steinberg's experience would show that he will analyze uses because he would not want tenants whose clients would not be able to park and he felt it would not be a detriment to the public good if people pulled onto the property, couldn't park, and had to leave. Mr. Steinberg added that he realizes that medical uses have shown to have a different intensity. It would be more of a detriment to lease to a Doctor who would create parking issues which would affect other tenants.

Dr. Levitt discussed the Medical Laboratory tenant. It is a fairly new facility and he noted a busy situation exists at a similar facility in Somers Point (Labco). Mr. Steinberg said the lab's peak use hours are before 9:00 a.m. and AtlantiCare only has two seats in their waiting room. Mayor Mazzeo commented that his own doctor is located in the building and he has noticed the site to have low traffic with the parking lot usually half full. He agrees that neighborhoods wouldn't be affected and does not feel that AtlantiCare is a high traffic lab site. Dr. Levitt said the issue is the unknown specialty use. He asked if the Police Department found a parking over usage situation, would they be willing to come back to the Board to discuss alternatives. Mr. Steinberg said he wishes he could increase the parking in the lot. He asked if the Board could give approval tonight for the vacant space and if other space became vacant and a medical use wanted to lease the space, could it be done administratively. Mr. Doran said a similar parking study would need to be done. Dr. Levitt said an additional 1000 sf of medical use could create a real problem. Mr. Doran said they would need to provide information to base an administrative decision for the file.

Dr. Levitt asked if there is pedestrian access from the rear parking area and if there is a sidewalk. Mr. Steinberg answered yes. Dr. Levitt asked about additional landscaping, shade trees, and buffering which is required. Mr. Steinberg said there is not much landscaping area available. Mr. Roegiers asked if they could extend the parking area in the back in the area that is wedged in behind the school. Mr. Steinberg said they do not own that area. The area south of their property is owned by the Hordes Network Company. Mr. Scharff added that there are wetlands in that area also.

Dr. Levitt opened the public session. Seeing that no one wished to speak, he closed the public session.

Mr. Doran commented that the applicant has provided positive and negative criteria as required by law, but the Board needs to consider the wording of the variance. Mr. Scharff felt they should consider the entire building as medical since the space would not be rentable if parking wasn't available. Mr. Zeltner said they are asking for a variance for the entire building to be allowed to be medical use. Dr. Levitt mentioned the additional 1000 sf which is currently not a medical use. He said the burden would be on the applicant to show that there is adequate parking. Mr. Zeltner questioned what would happen if they rented the space and then took a few months to complete the parking study only to find that there is not adequate parking. Dr. Levitt said they would need to include in an agreement that they would need 30 to 60 days to complete a study

to show adequate parking for administrative approval for the medical use for the 1071 sf space. Mr. Zeltner said that would be fine.

The wording of the variance was discussed further. Mr. Zlotnick explained that the variance is not a "D" variance since the use is allowed in the zone; a "C" variance would be required for parking. Dr. Levitt added that this is because they are changing the use to one which requires a greater parking requirement. Dr. Levitt added that they are requesting permitted medical use for all areas except the existing nonmedical area. Mr. Doran said the sf would actually be 2348 sf which includes the AtlantiCare Lab and the law office. Further discussion developed concerning the wording of the variance. Mr. Zeltner suggested that the variance for the whole building would have to be legally granted in order for them to go to Mr. Doran to grant any future administrative approvals after adequate parking evidence is provided. Mr. Shippen asked if the Board were to grant medical use for the entire building how can we tell them "no medical". Mr. Zlotnick answered that they would need to provide proof of adequate parking according to the type of medical use. It would need to be proven that the site could handle that type of medical use. Mr. Shippen said there may be legal issues. Mr. Zlotnick said they would have to apply to the Building Department for a CO permit and in order to do that, adequate parking would have to be proven. Mr. Zlotnick said that the type of new tenant would have to make commercial sense to the landlord who would not lease to a tenant who would affect the parking for the other tenants. Dr. Levitt said this has proven to be a problem in the city in the past. There was once a medical office that overflowed parking onto the bike path area which forced the city to require no parking along this area. Mr. Shippen added that in these tough economic times, people may take on something they hope will work out. Mr. Zlotnick said that is why there is a control being proposed for the resolution that would deal with the necessity of adequate parking proof according to the type of medical uses being proposed. It was agreed after more discussion that the 1203 sf of space currently occupied by a law office with three more years on their lease would be restricted in medical use unless they can prove administratively to the City Engineer that parking would not overflow.

Mr. Scharff made the motion for a C2 parking variance. Mr. Zlotnick assisted with the wording for the parking variance approving medical use the entire building with the exception of 1203 sf currently occupied by the Weinstock Law Firm with the condition if this area is to be converted to medical use in the future, their Engineer would have to provide a study to the City Engineer that it would not cause overflow parking or other parking problems on site. Dr. Levitt added that if the Engineer was not satisfied, the applicant would have to return to the Board for further

analysis. Mr. Scharff agreed with the wording of the motion. Mr. Shippen seconded the motion.

The roll call vote was as follows:

Councilman DeWees-yes, Mrs. Dyrek-absent, Mrs. Kintish-yes, Mayor Mazzeo-yes, Mr. Milone-yes, Sgt. Newman-yes, Mr. Notaro-absent, Mr. Roegiers-abstain, Mr. Rowe-Alternate #3 vote not called as nine voting members are present, Mr. Scharff-yes, Mr. Shippen-yes, Chairman Levitt-yes. The motion for the C2 parking variance carries.

Dr Levitt informed the Board that the Land Use Ordinance proposed changes has been completed by the City Solicitor and is now in legal language. He suggested one more meeting of the subcommittee members to make sure the language is the intent of the Board and to check for any errors or omissions. He suggested that the Board could take a vote at the next Planning Board meeting in February and then forward the Ordinance to City Council. The committee members are Mr. Shippen, Mr. Scharff, Mr. Doran, Mayor Mazzeo, and Dr. Levitt. He added that Mr. Bonchi has a request from the Palombo's for an addendum to the recommendations previously set. He said the subcommittee can consider this at the same meeting.

Nicholas Talvacchia, Esq. and Jon Barnhart, PE addressed the Board as representatives of the Palombo's. Mr. Talvacchia, with Cooper Levenson Law Firm in Atlantic City, said Aldo and Mary Palombo were also present. Mr. Zlotnick began with a ground rule since litigation is pending. Anything stated this evening is not binding and without prejudice. Dr. Levitt added that this is simply an informal hearing and there will be no decisions voted upon. The Board will hear a request from the property owners which includes their concerns and recommendations for the site. Mr. Talvacchia agreed.

Mr. Talvacchia said they were before the Board back in April for an informal hearing and they recommended a zone change for the site. He said the site was zoned residential in 1976 and added that clearly, the site will never be residential and a residential use not suitable for the site. He stated that whenever there is several use variances granted for a site, this is an indication that there is a zoning problem. They are recommending conditional uses which are not quite permitted, but are not prohibited uses. This is fair to the property owners in that they know the uses which are allowed, they are allowed with conditions, and this protects the surrounding neighborhood and is typical in transition areas such as this business which is next to residential areas. They are proposing a range of commercial uses (office, medical, restaurant and retail) with the conditional use being the parking. A simple "C" variance

would be needed if the use is permitted. Under a conditional use, where parking is the condition, a D-3 Variance would be needed and a super majority of the Board (five affirmative votes) is necessary for approval. This creates a heightened level of control for the Board where the use is permissible, but the parking would have to be proven to be sufficient. Mr. Talvacchia stated that many possible tenants have walked away due to the necessity of a use variance. There is too much open commercial space available where potential tenants would not need to obtain a use variance. The land is taxed commercially, but is not zoned commercially. Parking is the issue creating the problem. In fairness to the property owner, he urged the Board to make the parking a conditional use. He added that the only tenants that have wanted to lease the building have been medical.

Mr. Barnhart discussed the square footage of the building. There are three compartments totaling approximately 6300 sf of gross floor area. He displayed two exhibits showing the different compartments. The Palombo's own the building and the parking lot across the street. One tenant space is 1560 sf with the other at 3120 sf. The third compartment is a two-story storage area with about 800 sf on each floor. He agreed that parking is creating the issue and the situation is similar to the previous application heard tonight. He referred to ITE and Mr. Talvacchia agreed that Northfield's Ordinance is very restrictive by national standards. Dr. Levitt said that the Board has experience with real world data and residents have called the Mayor complaining that they cannot get into their driveways and there are cars parked all over the place and up and down the streets and there have been past problems in this area. The Board needs to consider the site, its potential, the history, and the neighborhood. Dr. Levitt agreed something has to be done, but the solution is not to spot zone this site.

Mr. Talvacchia said they are no longer looking for the site to be zoned NB. They are looking for an N-B2 district. Dr. Levitt said some N-B uses may be appropriate such as medical, and others may not. He said if the House and Gardens area had been zoned N-B, the site could possibly have been a supermarket and he thought that might not be appropriate in the area. Restaurants could also present problems due to cooking odors, trash, etc. Mr. Palombo said there was once a take-out fish store at the site back in the 1960's. Mr. Barnhart said there could be a number of different mixtures of uses at the site and Mr. Talvacchia believes all the possible uses can work if the parking is controlled. Mr. Barnhart said if parking is controlled, this should give the Board a level of comfort. It was discussed between Mr. Doran, Mr. Talvacchia and Dr. Levitt about the non-conformity of the parking lot and that these issues would be discussed in a D-3 variance application. Mr. Talvacchia argued that the site is

grandfathered. Dr. Levitt summarized that they are all in agreement and understand that something must be done and we need to work together on this. Mr. Roegiers added that the purpose of the Zoning Board is to find a balance between the community and businesses especially in this economy. He suggested that it is important to be receptive, open, and honest in seeking this balance. Dr. Levitt said the objective of the Master Plan is to improve the economic development of the area, but also to maintain the residential character of Shore Road. Mayor Mazzeo added that commercial uses have been at this site for many years and he reminded that medical use was recently granted to the old House and Garden site.

Mr. Palombo said that he does not know what to do with the property at this point. He said he pays \$22,000 in taxes and he cannot rent it. Dr. Levitt said the Board will look into the possibility of the N-B2 zone to help the situation. Mayor Mazzeo said that the Ordinance will ultimately be approved through Council, but it is going to take some time. Dr. Levitt said the subcommittee will meet and vote in subcommittee and then bring before the Board at the next meeting. Mr. Palombo said that the Coastal Design site gave Shore Memorial Hospital approvals and they are a not-for-profit organization. He is simply a “Mom and Pop” business owner. Dr. Levitt assured him that he Board will have a recommendation by the next meeting. Mr. Talvacchia said that an Ordinance change can be done without doing the whole Ordinance. Mr. Zlotnick agreed that it doesn't have to be done as part of a total package, but they have to sell it to Council. Mr. Talvacchia stated that he feels they have presented the right argument. Mr. Palombo felt that he is not being treated fairly.

Dr. Levitt said the Board has always tried to strike a balance between commercial and residential properties. The problem in Northfield has been the way the City evolved with a stretch of commercial development on Tilton Road, New Road, and a smaller amount on Shore Road and the remainder is residential. It has been a challenge to coordinate commercial and residential needs. The City has heard many complaints.

A subcommittee meeting was scheduled for Monday, January 9, 2012 at 6:30 p.m. at City Hall. The February meeting can be used for voting on the Ordinance and then forward it to City Council and to also address the NB-2 zone issue.

A voice vote took place to approve the 2012 Meeting Schedule for publication. All were in favor of approval. The second resolution was for Christopher J. Keenan, Block 30, Lot 7, 2534 Cedarbridge Road who was approved for a “C” variance to construct a screened-in porch at the December 1, 2011 meeting. Abstentions were Jim Shippen, Councilman

Gregg Dewees, Sgt. Paul Newman, and Derek Rowe. The voice vote was all in favor.

Chairman Levitt closed the meeting at 8:43 p.m. with a motion from Mr. Roegiers which was seconded by Mr. Shippen.

Respectfully submitted,

Robin Atlas, Secretary to the Board