

City of Northfield Planning Board
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Minutes: February 2, 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, filed with the City Clerk, and posted on the City website, stating the date, time and place of the meeting and the agenda to the extent known.

The regular meeting of the Northfield Planning Board, held on Thursday, February 2, 2012 in Council Chambers, City Hall, Northfield, was opened by Dr. Richard Levitt at 7:04 p.m. and the following members were present or absent as noted:

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

Matthew Doran, Professional Engineer
Norman Zlotnick, Solicitor

The meeting opened with Mayor Mazzeo reading the Oath of Office to Henry Notaro who was sworn in to a two-year term as 1st Alternate.

There were no applications this evening. The meeting served as a work session for the Board to approve the Ordinance change proposals for submission to City Council. Dr. Levitt reported on the Ordinance sub-committee meeting which was held in January. He noted that the committee considered the input from Palombo's at the last Planning Board meeting and the outcome is the addition of a new zoning district

R-B, which is Residential Business. Dr Levitt said that an amendment will need to be added to the Master Plan to add a new district since any changes to the Ordinance needs to be done in the context of the Master Plan.

Matt Doran referred to the language of the Master Plan and said the goal is to maintain the residential character of Shore Road. The amendment is to continue to maintain this character; however a zone change for two areas of existing businesses along Shore Road should be given consideration. These islands of businesses were developed prior to the current Land Use Ordinance and are surrounded by residential uses and fail to comply with current use and bulk requirements. Mr. Doran continued by stating it is the intent of the new zone to provide guidance for any use changes for businesses within the new zone and to minimize the need for use variances. The intent is to permit various conditional uses while maintaining the residential character of the Shore Road corridor to the degree possible. The new Ordinance would then be consistent with the Master Plan and its goals.

Dr. Levitt said that the city can't just zone a single property and that sections need to be looked at. The sections considered are the business section located at the site of the old Post Office and Star N Florist and the previous House and Garden and Palombo's Pharmacy section. Should these businesses be abandoned and torn down in the future, residential will still be permitted and the bulk regulations will be that of the R-2 district. All other uses will be conditional uses which require a Planning Board application. Mr. Doran agreed and said that all other uses other than residential will have to come before the Board for a conditional use standard and to obtain site plan approval. Once the variance is granted, it stays within its like uses. Dr. Levitt added that a use variance would not be necessary and that a conditional use variance with conditions attached related to parking and compatibility with the surrounding area will be the approval sought.

Mr. Doran read concerns expressed by email from Nick Talvacchia who represents the Palombo's. His concerns are that the new zone does not include restaurants and that one of the conditional use standards requirement is a Compatibility Analysis. Mr. Talvacchia noted that conditional use standards must be objective. The proposed standards fail to provide objective criteria for which a developer can determine compliance with these standards and therefore is invalid. These concerns were in response to receiving a copy of the Ordinance changes.

Mr. Zlotnick noted that he received a copy of these concerns also. He received them late this afternoon and didn't have a chance to review the

case cited. He did speak with Mr. Talvacchia by telephone and told the Board that Mr. Talvacchia has dealt with a similar compatibility problem with Atlantic City and won the litigation. Mr. Zlotnick said Mr. Talvacchia does know the Zoning Law. Mr. Zlotnick's recommendations were that if Mr. Doran is the 'process' to convey the proposed changes to the city level and Keith Bonchi, Mr. Doran should send along Mr. Talvacchia's objections with the proposed changes. Dr. Levitt said the Board can add objective criteria also such as signage, architectural design, noise and other impacts.

Mayor Mazzeo questioned what the objections could trigger. Dr. Levitt commented that the Board has given 95% of what Mr. Talvacchia wanted. The new zone allows medical uses, retail uses and most of what was asked for. Mr. Zlotnick said the idea of having standards is the law. Mr. Doran said the compatibility study must address certain conditions, but the question is to address them in what ways. There is a need to set criteria that they can design to and meet a condition of. The conditions need to be specific so they can do an analysis for the compatibility study. Dr. Levitt said that knowing the zone, it would have to comply with things like buffers and there is no room there. The parking lot is built right up to adjacent properties. Dr. Levitt suggested determining the conditions now. Mr. Doran suggested setting conditions instead of a compatibility study. This will set what is wanted specifically.

Dr. Levitt began a discussion of the condition of hours of operation. The hours of 6:30 a.m. to 11:30 p.m. was agreed upon. Mr. Doran said to set this condition for all uses and not to call it a compatibility study and to set the most critical conditions. The Dialysis Center at Coast Design hours was discussed. Mr. Doran said the Dialysis Center would be grandfathered. They have already been approved by the Board. They have been granted a use variance previously.

Dr. Levitt said the whole zone is being considered for change not just Palombo's. Mrs. Kintish asked about the parking lot across the street. Dr. Levitt said the parking lot should also be included with the new zone and Mr. Doran said it is safer to include it than to leave it out. Mr. Shippen commented that Mr. Talvacchia was adamant about the parking lot being grandfathered. Mr. Doran said you can't grandfather something that was never legal to begin with. They were parking in the street. But, we need to go with it as an existing lot. Mr. Zlotnick noted that Mr. Talvacchia has said that the key to everything they propose involves the parking issue. Mr. Doran said that with conditional uses, negotiations will always be possible and most uses are never going to comply with all bulk requirements. Concerning site plan issues, everything will be flexible with these applications.

Dr. Levitt discussed the condition of signage. Mr. Doran said criteria needs to be set. Mr. Dewees questioned if this was covered by the Ordinance and Mr. Doran said basically yes. The Ordinance covers flashing issues, size, neon lights, and reader boards. Dr. Levitt asked the Board about their feelings about more restaurants on Shore Road in either of the two areas in question. He doesn't feel more should be allowed. Mrs. Kintish said that there are a lot of houses in both areas. Mr. Doran said an applicant can always come before the Board to request a restaurant use. Dr. Levitt said making it a permitted use is a problem. The Board would be locked into permitting them and the neighbors may not be happy about it. Dr. Levitt said he felt the Board has more than satisfied any grounds for litigation. Mr. Zlotnick said the APMP LLC case has been dismissed with the option for them to reinstate by June. He felt that this action by the Board will take care of the litigation. He added that with the compatibility issue, there is no need to invite trouble. Dr. Levitt felt that conditions of sound, light, noise, and odors of minimal impact should not adversely impact the surrounding area.

Mr. Doran discussed the allowed uses and read the list in the proposed Ordinance changes. They included retail stores, photographic, art and dance studios, and medical uses subject to parking. Mr. Doran read the entire list which included food stores up to 3000 sf, misc. retail, Banking and credit, Personal Services, Laundry and Dry cleaning, Barber shops and Beauty shops, Shoe repair, Child and Senior Care Services, Pet Services, Offices of Physicians and Dentists, Allied Medical Services, Architectural, Legal, Engineering, Accounting and Bookkeeping Services, Public Facilities such as Libraries or Government Offices, Administrative Offices, Insurance and Real Estate. As to conditional standards, parking must comply with Ordinance standards for the proposed use. N-B bulk requirement standards will be used for the R-B zone with R-2 criteria added for residential.

Mr. Roegiers asked if specific prohibited uses need to be listed such as massage and tattoo parlors. Dr. Levitt said if the use is not listed as permitted, it is prohibited. Mr. Doran said there is a whole section which includes those types of prohibited uses. Dr. Levitt asked about reader boards. Mr. Doran said he has it noted that no reader boards will be permitted in either the R-B or O-P zones.

Dr. Levitt said the committee added a POD section concerning portable home storage units. A permit will be needed the same as with a dumpster. Mr. Doran has removed all SIC Codes which are Standardized Industrial Uses. There are to be eliminated from the Ordinance. Dr. Levitt explained that the Ordinance is outdated by the SIC Codes. The

Ordinance will now be using descriptions and including 'similar uses'. This enables applicants to obtain a business license. He used the Dog Wash located in the Tilton Shopping Center as an example. This type of business was not even thought of when the previous Ordinance was written as were computer-related services. The sub-committee also added a section concerning Alternate Energy which includes size and noise requirements for wind turbines. Mr. Doran discussed the Golf Course and changes affecting their zone. Health Spas were added and buildable single family lot sizes must have a minimum of one acre of land. Dr. Levitt noted that they could build about 65 single family homes if the golf course was leveled. Mr. Doran said there are 100 acres of uplands. Five acres are needed to build a hotel. Mr. Doran suggested that the section be left as is since the Country Club attorneys have reviewed the proposed changes and the Country Club agrees with these modifications. Dr. Levitt said their agreement shows they want to keep the golf course.

Dr. Levitt asked Mr. Doran to review the notes from the last sub-committee meeting. He said he compared the sub-committee final draft to Keith Bonchi's draft the best he could since he just received the most recent update from Mr. Bonchi. Dr. Levitt said that Pet Services and Allied Medical have been added to all uses. Boat parking has also been added to the Ordinance. Mr. Shippen said the committee worked on the language as to boat ownership and where the boat can be parked. Dr. Levitt read the section and said it reads that boats can be parked for 48 hours in the summer only if you own the home in front of which the boat is parked. Boat and trailer parking is prohibited from October 1st to May 1st. He continued reading and it was agreed that the section may need some re-writing. It is a complicated issue and the wording needs to be clearer. Councilman Frank Perri was present for the public and commented that the parking hours should be strictly regulated and noted that leasing and rentals are not mentioned. Dr. Levitt agreed the wording is confusing. Mr. Perri said he likes Margate's Ordinance on boat parking and it also includes street sweeping. Mrs. Kintish asked what the objective is. Dr. Levitt said in the winter, boats and trailers should be off the street. He noted that there are some people who do not have driveways and they are boat owners and the city needs to be more lenient in the summer. Mr. Shippen asked if any of the shore communities differ between summer and winter regulations. Mr. Perri said he wasn't sure. He said he is bringing up the issues of street sweeping and snow removal since it is difficult to get a good clean up when the trucks have to maneuver around boats and trailers. Dr. Levitt noted this also includes storage trailers.

Mrs. Kintish went online and obtained information from The Press concerning towns that have boat trailer parking laws. She informed the Board that Galloway, Ocean City, and Stone Harbor all have time limits on

boat parking. In Sea Isle City, boats must be attached to a vehicle to be parked in the street, and in Avalon, you can't park them at all.

Dr. Levitt said he agrees with the winter restrictions, but the Board needs to decide about the summer. Dr. Levitt said Linwood doesn't permit boat parking in the street and this has caused some people to park boats in Northfield at a friend's house. Mr. Perri said the Ordinance requirements need to be uniform and easily enforced. Mrs. Kintish suggested requiring a permit. Mr. Notaro suggested restricting any parking for unattached vehicles. Dr. Levitt said the residents will have a problem with that and will complain to Council. Mr. Perri said that the public should have an input. Dr. Levitt agreed, but seeing who complains the loudest to Council is not getting the true sentiment of the town. Mr. Shippen added that people need to come out and express their opinions.

Dr. Levitt suggested having one more sub-committee meeting to fine tune the boat trailer language. We should research what other towns are doing to determine what will work for Northfield. The Board does agree that no boats will be on the street in the winter. Dr. Levitt suggested utilizing a lot out at Birch Grove Park to park boats along with requiring a permit for such parking. Mayor Mazzeo said this would provide an option and would also be a revenue source. Dr. Levitt said there could be security and lighting issues. Mr. Doran said he would check with Linwood, Margate, and Ventnor and see how they are handling this situation. Dr. Levitt asked for Board sentiments. Mr. Roegiers and Mrs. Dyrek felt that boat parking on city streets presents a safety issue and Mr. Notaro felt this is a dangerous situation and would like to see boats totally off the streets. Mr. Doran noted that if the boat is attached to a motor vehicle, it is considered a motor vehicle. Mr. Shippen asked if there are any areas that are city owned that would be adaptable. Mayor Mazzeo said there is about an acre near the County buildings. Mr. Dewees said there are two areas; one is by the Veteran's building and the other is a wooded area across the street. Mr. Perri noted that the wooded area is residential, but the lot on the County side may be useable.

The sub-committee meeting was set for Wednesday, February 15, 2012 at 6:30 p.m. at City Hall.

Dr. Levitt opened the public session and Frank Perri addressed the Board. He stated that he resides at 7 Haddon Avenue and owns a car repair business on the corner at 513 Shore Road. He is currently a 1st Ward Councilman and for full disclosure, he said he has a vested interest in the zone change the Board is proposing. He gave some history and said he is 3rd generation at the site. In 1926 the site was built commercial and his family purchased the property in 1949. In the 70's, the Land Use

Ordinance and Tax Maps showed Shore Road as commercial and it was rezoned from commercial to non-conforming residential. As one of the 15 business owners on Shore Road other than the two areas discussed, of which he recently became aware of the proposed changes, Mr. Perri believes that his business as well as the other fifteen should be incorporated into the changes also. He said this should be done uniformly since it was changed as a whole in the 70's, and should be done as a whole now. In the future, he would like to see the whole strip of Shore Road to be uniformly zoned. As a Councilman, a legislator for the community, a business owner and a resident, he feels in a predicament, but he has a vested interest and feels he is being restricted by the non-conforming use from the first change, and these new zoning changes would be a benefit to his family as well as to the areas discussed.

Dr. Levitt said that problems could arise from spot zoning. Mr. Perri said he feels spot zoning is already happening in this case. Dr. Levitt said these areas have several connected properties. Mr. Zlotnick said that language could be included creating these conditional uses up and down Shore Road to a certain depth from Shore Road. Mr. Perri added that it was done uniformly in the past. Dr. Levitt said it is always the right of an applicant to come in for a variance and that there is nothing to prevent that. Mr. Perri assured the Board he is in full disclosure, that this was not his idea and he is not looking for any gain here, but he is also a businessman and feels this change needs to be done as a whole. He added that the businesses at the south end are getting a benefit and the north end is not. The Shore Road strip was once all zoned commercial and was changed as a whole to residential and now the Board wants to take these two areas and change the zone. The Board should propose changing the whole strip. Mr. Zlotnick said the Master Plan would have to be changed and to designate Shore Road as such would mean going back to square one. Mr. Perri said his family was not happy when the commercial status was taken away from them. He was a young boy at the time, but he still remembers that there was opposition to it. Mr. Zlotnick said that the current intent of the entire Master Plan to protect the residential character of Shore Road would have to be changed and then a conditional use overlay could be done. Mr. Doran said possibly some of the areas could be more softly zoned. Mayor Mazzeo said Palombo's has been vacant for years and the owner is having difficulty finding someone to rent the building. The other businesses on Shore Road are occupied and in business. Mr. Perri said if his own business was struggling, he would benefit more by the R-B zone. Dr. Levitt said the offices on Shore Road have maintained the residential character of Shore Road and he doesn't feel the R-B zone would be appropriate up and down Shore Road. Mr. Perri said he is only bringing his concerns before the Board. Dr. Levitt said the Board encourages people to bring concerns before them. Mr.

Perri said it would be easier to market his property as R-B than as a non-conforming use in a residential zone.

Mr. Perri thanked the Board for their time. Dr. Levitt said the Board will definitely consider his concerns and look into the language of the ordinance proposed changes. Mr. Shippen questioned if the zone was changed to certain depth allowances, wouldn't this enable everyone along Shore Road to turn their site into a business. He said this is exactly what the Board has been trying to prevent. He appreciates Mr. Perri's position and he does have valid points, but the Board has inherited an awkward position and they are trying to make the best of the situation. Mr. Perri said there is an ordinance that delineates what properties are non-conforming in residential neighborhoods. These are grandfathered. Nothing residential now can be non-conforming. Dr. Levitt asked how it would be possible to designate what uses would be appropriate for each property. Mr. Perri said that is why it was re-zoned in the 70's. The other 15 businesses on Shore Road are going to be concerned. He said he does not have a certificate of non-conformity and this would be an issue if he was to sell his property. No one would buy the property without it. Dr. Levitt said the Board is open to informal hearings. Mr. Perri said he isn't interested in that. He wants the whole corridor re-zoned. The classification to R-B would be a plus.

Dr. Levitt thanked Mr. Perri for his input. Mr. Zlotnick added that the areas the Board are proposing a zone re-classification include sites that have experienced multiple variance applications over time. It is not appropriate over time to zone by variance. Mayor Mazzeo added that what Mr. Perri stated would go against the entire Master Plan. The purpose is to try to make the owners of those areas more successful than they have been. Mr. Zlotnick agreed that trying to keep the zone economically viable is certainly a consideration. Dr. Levitt brought up the point that people who have bought residential houses next to a service station know what they have bought and the same goes for those who have purchased homes next to a law office that looks like a residential home.

Mr. Doran located the boat section in question that was discussed earlier and said it has been corrected in the committee notes but not in the copy of the final draft received. Matt read that boats and boat trailers cannot be parked for more than 48 hours and must be parked in front of a home leased or owned by the owner of the boat or trailer. Mr. Roegiers said it is agreed that a boat or trailer can be parked in front of your own house in the summer for two days. Mr. Rowe commented that this should include recreational vehicles as well. Mr. Doran agreed and said the wording includes trailers and any vehicles provided they are not used for human

habitation. Dr. Levitt said we agree that in the summer you can park in front of your own house. Mr. Notaro questioned how long a boat has to be gone to start up the new 48 hour time clock. Mr. Shippen and Mr. Roegiers agreed that this makes it tough for Police to enforce.

Dr. Levitt asked for a vote on the proposed ordinance changes except for the Boat section which will be discussed at the subcommittee meeting. The changes will be forwarded to Keith Bonchi to put into legal language and then forwarded to City Council. Dr. Levitt said the Boat section will be handled administratively. The voice vote was all in favor.

There was one resolution to memorialize for 802 Tilton Associates, LLC, Block 16.01, Lot 46.03. The applicant received approval for a "C" variance for parking at the January 5th meeting. Abstentions were Mrs. Dyrek, Mr. Roegiers (originally abstained), and Mr. Notaro. The voice vote was all in favor.

The next meeting is scheduled for March 1, 2012 at 7:00 p.m.

The meeting was closed at 8:45 p.m. with a motion from Mr. Shippen and a second from Mrs. Dyrek.

Respectfully submitted,

Robin Atlas, Secretary to the Board