

**City of Northfield Planning Board
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Minutes: April 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, 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, April 5, 2012 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:

Councilman Greg DeWees-absent

Linda Dyrek

Denise Kintish

Dr. Richard Levitt

Mayor Vincent Mazzeo

Lou Milone

Sgt. Paul Newman

Henry Notaro

Ron Roegiers

Derek Rowe

Clem Scharff

Jim Shippen

Matthew Doran, Professional Engineer

Norman Zlotnick, Solicitor

There was one application on the agenda from Sigano's Realty, L.L.C. which is the Center Point Plaza at 1205 Tilton Road, Block 41, Lots 4-7, 12-14, 22 and 23 located in the C-B Zone. The applicant is seeking a Conditional Use variance to locate a Frozen Yogurt Shop called Swirls within the shopping center.

Steven Fabietti, the Attorney for the applicant was present and he introduced the professionals who will testify. Robert Bruce, Engineer and Planner, Dan Mascione, Architect and George Siganos were sworn in by Chairman Levitt. Mr. Fabietti gave a brief overview. He said the applicant wants to lease a vacant store to a Yogurt Shop in the unit facing Tilton Road. The store previously was a mortgage company. Mr. Fabietti said that due to the location in the C-B Zone, the Ordinance says a conditional use approval is required and Section 9-11 criteria must be met. They are proposing a yogurt shop with both indoor and outdoor seating with a total of 80

seats. The shop will be a newer style yogurt shop with a self service bar for toppings once the ice cream is served in a cup. The yogurt shop owner will be operating the facility himself and it will be called Swirls Yogurt Shop. The application includes proposed signage for a 6 ft. x 8 ft. wall sign in addition to the storefront sign existing now.

Mr. Fabietti referred to Mr. Doran's Engineers report and the potential variances discussed. The first is for building coverage. The maximum coverage is 20% and they are at 25%. They are not proposing any additions or construction to the shopping center. Any renovations or new construction will take place inside Unit 1 which housed the previous mortgage store. Mr. Bruce will discuss the parking. The buffer requirement, which Mr. Doran noted they need relief from, involves a 25 ft. buffer. Mr. Fabietti said this only applies when the site is contiguous to a residential zone. Their lot lines do not touch the nearest residential zone which he believes is across the street on Northfield Avenue. Dr. Levitt noted that the City is in the process of considering re-zoning Northfield Avenue to Office Professional. The third variance is for the proposed Swirls sign which will be 6 ft. x 8 ft or 48 sq. ft. The maximum size is 22.5 ft. and therefore, relief is being sought. Mr. Fabietti called Robert Bruce for an overview of the parking calculations.

Mr. Bruce introduced himself as a Professional Engineer and Planner from Somers Point. He has appeared before the Board many times. He displayed the site plan showing the Center Point Plaza store facing Tilton Road. The parking analysis is shown on the plan. The analysis shows each use in the plaza and the required parking for each use. The total required parking spaces is 170 spaces. The current parking totals 132 parking spaces. There was a prior approval for the construction of a building behind the plaza toward Northfield Avenue. The parking lot has been constructed, but the building has not. They are proposing to dedicate 38 parking spaces of this rear parking lot for employee parking. This would total 170 parking spaces as required. Siganos would not be able to use this space for the parking required to construct the previously approved building without coming to the Board for a variance. Mr. Bruce stressed that this newly dedicated parking would be for employee parking at the rear of the site.

Mr. Fabietti called Dan Mascione to discuss the sign. He showed the Board a drawing showing the blank wall on the side where they intend to put the sign. It will be placed in the center of the wall and will fit proportionately. Dr. Levitt asked if the sign would be non-flashing and non-electronic. Mr. Mascione assured the Board that it would not be electronic.

Dr. Levitt said the project is proposing 80 seats and he has concerns with the parking. He drove through the site today and suggested signage to help alleviate confusion and to direct drivers to the rear lot. He said a sign stating 'Additional parking in rear' would be helpful. There is an existing sign that says 'No through traffic' and this might deter drivers from proceeding in the direction of the rear lot. Mr. Bruce said the purpose of that sign was to deter shortcuts and it should remain. Dr. Levitt agreed, but additional signage such as 'Additional Parking for Swirls'

should be added. He doesn't want to see a situation which is occurring at Carluccio's Coal Fire Pizza where people pull onto the site and then see there is no parking and they stop. Mr. Sigano's said that he believes 75% of the business would occur after 4 p.m. and lunchtime would only see 25%. Dr. Levitt said he thinks there will be plenty of spots with the additional parking, but it may be very busy when they first open and additional signage will help with confusion. He thinks the yogurt shop is a great concept and he has visited them in other cities. You serve yourself and then they weigh what you have created for purchase and it is a lot of fun. He added that it would be a good idea where the 'No through traffic sign' is to add a sign that customer parking is allowed. We would want them to use this lot if they had to.

Mr. Scharff asked about Lot 22 and if that was the lot previously approved for construction. Mr. Bruce said it was approved for a building but they are proposing no development on that lot. Mayor Mazzeo asked where the outdoor seating will be. Mr. Bruce said on the Tilton Road side at the front of the shop. Mr. Fabietti referred to page three of the plans which showed the outdoor seating arrangement. Dr. Levitt asked the applicant to regularly police the area for blowing trash. Mayor Mazzeo asked how many people will be employed. Mr. Siganos said that there would be one to two employees during the day and up to five at night. Dr. Levitt asked for more information about the wall sign. Mr. Mascione said that basically the intention is that the sign will be centered on the wall which is now blank. Mrs. Dyrek asked about hours of operation and the anticipated opening date. Mr. Siganos said the hours would be from 11:00 a.m. to 10 p.m. They may expand in the summer months to 11:00 p.m. on the weekends. The anticipated opening date is June 10th.

Dr. Levitt opened the public session. A man who was not identified stood and asked about music. Mr. Siganos said music will play from the inside of the building and he said that the shopping center has outdoor music now. Cantor Jeffrey Myers of 1219 Parker Avenue said this parcel has great proximity to his home on Parker Avenue and he has concerns with noise. Mr. Siganos assured him that music is kept to a low level. Mr. Scharff said 50 decibels at the border of the property is State law. If the sound is above 50 DCs, the property would be in State violation. Mr. Siganos said he would not want that to happen and he plans to be at this site for many years. Dr. Levitt closed the public session.

Mr. Doran referred to his report and noted that the buffer would not have been an issue except that they did park on the other lot which is across the street from the residential areas. How the application was presented here does not really affect the residential zone. He added that the sign on the plan shows it's placement on Unit #2 but it is now understood that it will be placed on the outer side wall of the yogurt shop. Mr. Doran advised the Board that they will need to reference an amended site plan which would allow outdoor seating. The Board needs to approve that it is on the site plan and to make a reference to the amendment.

Dr. Levitt stated that for lot coverage, the variance becomes a D3 Use variance and noted that the elected officials cannot vote on that variance.

Mr. Roegiers made the motion for the D3 use variance for the Yogurt Shop building coverage of 25% where 20% is the maximum allowed. Mr. Milone seconded the motion.

The roll call vote was as follows:

Councilman DeWees-absent, Mrs. Dyrek-yes, Mrs. Kintish-yes, Mayor Mazzeo-no vote as elected official, Mr. Milone-yes, Sgt. Newman-abstained-arrived late due to Police business, Mr. Notaro-yes, Mr. Roegiers-yes, Mr. Rowe-yes, Mr. Scharff-yes, Mr. Shippen-yes, Chairman Levitt-yes. The motion for the D3 Use variance carries.

Mr. Roegiers made the motion for the "C" variance for the sign and the amended site plan for the outdoor seating. Mr. Milone seconded the motion.

The roll call vote was as follows:

Councilman DeWees-absent, Mrs. Dyrek-yes, Mrs. Kintish-yes, Mayor Mazzeo-yes, Mr. Milone-yes, Sgt. Newman-abstained-arrived late due to Police business, Mr. Notaro-yes, Mr. Roegiers-yes, Mr. Rowe-no vote as 2nd alternate, Mr. Scharff-yes, Mr. Shippen-yes, Chairman Levitt-yes. The motion for the "C" variance and amended site plan carries.

Dr. Levitt thanked Mr. Siganos for a first rate operation over the years.

Dr. Levitt reminded the Board to complete their Financial Disclosure forms and Civil Rights Policy training forms and to return them to the City Clerk's Office.

There was one resolution to memorialize for 332 Tilton Road, LLC which is the Capaldi, Reynolds & Pelosi building, Block 16.01, Lot 59 at 332 Tilton Road. The application was approved at the March 1, 2012 meeting for replacement of an existing sign with a new sign including an LED message board. Abstentions were Linda Dyrek, Lou Milone, Henry Notaro and Ron Roegiers. A voice vote was all in favor of memorializing the resolution.

Mr. Doran explained a technicality to the update of the Master Plan. He will prepare a report which the Board will review and vote on which will allow the inclusion of a minor revision to the Master Plan and an outline of the proposed changes to the Land Use Ordinance which will then be forwarded to City Council for consideration. This public hearing will be advertised by the Secretary in The Press of Atlantic City, to the County Planning Board and the City Clerks of bordering municipalities. Mr. Zlotnick said he would prepare the resolution to go along with this.

Dr. Levitt said he drove around town with Mr. Doran looking at the areas proposed to be re-zoned and it is clear that the O-P Zone does not permit any retail uses. Mr. Doran said the O-P zone is limited to office professional. Dr. Levitt said the new O-P Zones would apply to the Northfield Avenue and Mill Road sections if approved.

Dr. Levitt asked if anyone else from the public wished to speak on any issues. Tom Wolfe came forward. He resides at 317 Davis Avenue. He said the previous application was very interesting and that the Board did a good job with it. Dr. Levitt thanked him. Mr. Wolfe wanted to speak about the new restaurant on Tilton and

New Roads; Carluccio's, and questioned why the Board didn't do the same thing with them. Dr. Levitt said the business did not have to come before the Board with an application. Mr. Doran said he has spoken with Mr. Dattalo and he said the former Dunkin Donuts fits as a restaurant and therefore, Carluccio's didn't need any approvals. Mr. Wolfe asked if Mr. Dattalo needed to be certified. He then said that Dunkin Donuts was a convenience store and feels that the current establishment is now a full service restaurant. He felt it was creating a public safety problem at night. Dr. Levitt says he agreed there is an issue with people pulling onto the site and not finding parking and then coming to a stop, but the Board has no enforcement controls. They did not need to come before the Board and Dr. Levitt suggested taking his concerns to Council. He added that possibly there can be a discussion between the Zoning Department and the owners to see if possibly the employees could park offsite. Mr. Wolfe asked Sgt. Newman if there have been any reported incidents. Sgt. Newman said that there was a problem with one woman pulling out of the site. Mr. Wolfe said the corner is now so congested and there are no residential speed signs. Dr. Levitt said these issues need to be taken up with the Police Department and City Council. Dr. Levitt said the Board is not entitled by law to discuss or make recommendations and this is not part of what a Planning Board does. The Board is strictly land use and development.

Frank Perri, who resides at 7 Haddon Avenue, addressed the Board concerning the proposed re-zoning of some areas on Shore Road. He is upset that his business located at 513 Shore Road is excluded from the zone changes which are being proposed to the governing body. He asked if there were any concessions that could be made to include his Block and Lot in the re-classifications. He has compared his property to others being considered. His property has 160 ft. of frontage and the property has been a commercial business since 1949 and it was reclassified in the 1970's as non-conforming. He believes the site is the heaviest use on Shore Road and it would be a benefit to his family to have it reclassified if it were to be sold in the future. He would like a concession added tonight before the proposal is given to Council.

Dr. Levitt referred to the professionals present since this would involve re-zoning a single property. Mr. Doran read the definition of spot zoning from the Cox manual and said if this change were to be made, this would constitute spot zoning. Mr. Zlotnick said this is classic law and with the definition read by Mr. Doran, this would clearly be a spot zoning issue. The professionals can only give their opinions and a Judge would have the last word by definition. It is clear when reading the definition and comparing it with this lot. The lot in question is an isolated and incompatible lot which is not compatible with the zoning plan. This could lead to a lawsuit. Mr. Milone questioned whether the site down the road from City Hall proposed to be re-zoned is one building. Dr. Levitt said it is three separate office/stores. Mr. Scharff suggested that Dr. Perri's office is across the street from the garage and suggested they could possibly be considered N-B. Dr. Levitt said this location is a residential home with no off-street parking. Dr. Levitt added that to be frank, the Perri site is essentially an abandoned gas station. Any other use such as an office or a small store would be more compatible with the neighborhood. He said the Board would

consider any use for the site and many uses would be well-suited. It would be a matter of a \$500 application and many uses would be an improvement. He sympathized with Mr. Perri's plight if they plan to sell, but these reassurances could be given to any potential buyer and he did not feel the burden to be too great. Mr. Perri said he felt the property would be better classified than unclassified. Dr. Levitt answered that according to the professionals his lot is surrounded by residential homes and cannot be singled out. This is within the context of the law. Mr. Perri said, in looking at other areas, there are separate lots. Dr. Levitt said they are groups of lots of different owners in enough of an area to comprise a district. Mr. Perri discussed the car wash on the road to Margate and the proposed O-P zone. Dr. Levitt said that site was grandfathered and they are proposing to create a zone from the car wash to the old Bay School and he believes there are only two residential lots involved. This area involves about six lots and is considered a section. Mr. Perri said he feels the committee did not look at other properties for consideration. If no resolution is given tonight, Mr. Perri said he will bring the issues before Council. He feels Shore Road should be uniform and if a zone is created at one end, there should be the same created at the other end. Mr. Perri then discussed the committee members and asked if there were minutes of the Board's comments. Dr. Levitt said the committee could not have a quorum present while in committee and that the Board members had a written form of proposed changes for review for weeks and all was open to discussion. Mr. Perri asked about public input. Dr. Levitt said the meeting for next month will be advertised as the public hearing on the subject and he added that Mr. Bonchi informed the Board that this is the proper time to advertise the meeting for the public for presentation and that the summary is available. Mr. Zlotnick said it is not necessary to advertise the entire document; it must be advertised that the document is available for public inspection. Mr. Perri summarized by saying it is his understanding that there is no consideration to create a zone on the other end of Shore Road and the Board is proposing to create a zone on Mill Road that contains residential lots.

Mr. Zlotnick explained that it is the Board's responsibility to do the work and pass it on to the Governing Body. The Board itself cannot pass the Ordinance and the Governing Body has the discretion to do whatever it wants. If the proposed changes divert from the Master Plan, the governing body needs to justify this with reasons and they have that discretion. The real time and place to be heard is when the proposed changes are formally presented to the Governing Body for consideration. Mr. Zlotnick felt that Mr. Bonchi would agree with the professionals although he is not speaking for him. Mr. Perri said he is trying to get consideration from the Board prior to the Council presentation. Mr. Zlotnick said if the Board did that, and the City Solicitor said it was spot zoning, we would be back to where we are now and where we should be in the first place. Mr. Perri said in the 1970's, the City changed his property from a commercial use to a non-conforming use and he feels that was spot zoning. In the future, it would be more beneficial to his family, who has been here since the 1940's and in business for three generations, for the site to be classified.

Dr. Levitt commented that the next meeting will be May 3, 2012 and this will be the public meeting for the Master Plan minor revision and the proposed Land Use

Ordinance proposed changes to be forwarded to City Council for consideration. He informed the Board that he will be away for this meeting and Vice-Chairman Clem Scharff will chair the meeting.

Mr. Roegiers made the motion to close the meeting and Mr. Milone seconded. Chairman Levitt closed the meeting at 8:52 p.m.

Respectfully submitted,

Robin Atlas, Secretary to the Board