

**City of Northfield Planning Board
1600 Shore Road
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Minutes: May 3, 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, May 3, 2012 in Council Chambers, City Hall, Northfield, was opened by Vice Chairman Clem Scharff at 7:00 p.m. and the following members were present or absent as noted:

**Councilman Greg DeWees-absent
Linda Dyrek-absent
Denise Kintish-absent
Dr. Richard Levitt-absent
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**

Mr. Scharff began the meeting with the memorialization of the Sigano's resolution, Block 41, Lots 4-7, 12-14, 22 & 23, at 1205 Tilton Road known as Center Point Plaza. The application was approved at the April 5, 2012 meeting for a conditional use variance for building coverage, a "C" variance for signage, and an amended site plan for outdoor seating. All Board members present could vote. A voice vote was all in favor.

The next item on the agenda was the consideration of an amendment to the Master Plan and the proposed Land Use changes moving forward to City Council. Mr. Zlotnick explained that there will be two votes this evening. The first is for the report Mr. Doran drew required by Section 89 of the Municipal Land Use Act. The report termed "Periodic Reexamination of Municipal Plans and Regulations" Report from Matt Doran, Engineer deals with the proposed changes to the Zoning Code of

Northfield and will result in a change to the Master Plan. Mr. Zlotnick drew up a resolution reflecting this and the Board will vote and adopt the resolution in order to move the ordinance changes to Mayor and Council for consideration.

Mr. Scharff opened the public hearing to the public.

Frank Perri of 7 Haddon Avenue was sworn in to express his concerns. He asked the Board to postpone the vote this evening. He has looked at his business property at Block 147, Lot 9 and Dr. Perry's practice across the street and he is looking for consideration for an O-P zone for both properties. He said in looking at the rationale of the Ordinance and the Cox Manual, and the proposed creation of an O-P zone at Shore-Tilton-Mill and an N-B zone down the street, his concern is that there was nothing done at the north end of the City. The rationales are that these sites were originally zoned commercial and both properties are adjoining and have been there since 1926 and the early 1950's. They were originally zoned O-P and commercial. He is asking for consideration prior to the vote. There are thirteen other businesses on Shore Road besides the ones that have been addressed. Their attorneys should receive the same benefits as Oakcrest and Shore Road. At that site, the parking lot is not being included. Mr. Perri added that at the Shore Road-Golf View site, the parking is undersized for the square footage. At the Shore-Haddon side there is more parking for the square footage of the business. He sees a technicality with the House & Garden-Palombo site. Mr. Perri said he is not looking for R-B zoning, but considering there are thirteen other businesses and his own business at Haddon and Shore Road of which the zone could include Perri's Auto Service and Dr. Perry's practice, he feels it would be fair to consider them also. He believes that two businesses side-by-side like Palombo's and the parking lot, separated by a municipal street, should receive consideration. If the vote passes, this puts a burden on property owners to get a variance which could cost a few thousand dollars in Attorney, Engineer and other fees. He understands that it is the plan to not add businesses to Shore Road, but wants consideration for an O-P zone at Haddon Avenue and Shore Road.

Mr. Shippen said the objection to Mr. Perri's proposal was due to spot zoning since his property is one single lot. He understands that the Auto Body shop and Dr. Perry's practice are not contiguous and are across the street, but would this allow the Board to consider an O-P zone for these two properties? Mr. Doran referred to the definition for spot zoning. Mr. Zlotnick said in this situation, with two contiguous properties, it would be very difficult to change the zoning. Mr. Zlotnick added that both Mr. Doran and he have done their homework and these are isolated lots and this is a dangerous issue. What the Board does here is only advisory and this issue will be very controversial. His advice is to steer the Board away from this and allow the elected officials to handle the situation rather than the appointed officials. Mr. Zlotnick said he has been involved with litigated spot zoning cases and they have not been successful when involving isolated lots. He feels it would be clear to a Judge that the City would be reaching to extend the district.

Mr. Doran said he has received an email from Nick Talvacchia, the Attorney with the Palombo's litigation, and he wants to include the parking lot at Palombo's. Mr. Doran said it is not recommended right now. Mr. Zlotnick agreed that it should be left as it is now. Mr. Talvacchia will have a place before Council to argue the point and where it will be discussed formally. Mr. Shippen said the arguments presented by Mr. Perri are valid but cannot be voted on by this Board. He agrees that the issues need to get to the right place which is before Council. Mr. Perri said as a business person, he does not see ample parking at either site; Golf View or Oakcrest. He said there is not enough parking to sustain a retail business with the square footage. For many types of R-B businesses uses this would not work. It is his opinion that the sites should be O-P. Mr. Perri said O-P zoning would have less of an impact and would provide more suitable uses. He added that R-B would be overbearing which includes food stores and certain types of retail. He again asked the Board to postpone voting and if it is approved tonight and moved forward to Council, he will deal with it at that level.

Jimmy Martinez of 105 W. Revere Avenue spoke next. He said the problems he is experiencing are horrible. The noise from the Dialysis Center next door ends at midnight and starts up again at 4:00 a.m. The ambulances are very loud and are a major impact on the neighborhood. It is hard to function and to sleep. The ambulances are right outside his property and privacy is also an issue. He has been trying to work with the owners instead of dealing with litigation and he is having a hard time. He would hate to see any further changes at the site which may create a bigger impact. Mr. Martinez noted that he is a former member of the Planning Board and many issues have been discussed and he has agreed with a lot of the Boards proposed changes. He does not remember this particular issue of a zoning change being discussed when he was a member of the Board. He added that he thinks if the Board had known what would occur at the site, they would never have allowed the Dialysis Center. He remembers the testimony and the Board members were told that the use was not supposed to be a big deal. He wants the Board to know that the idling vehicles and excessive noise has brought the Police to the site. He noted that there are people who look out for Shore Road and business uses and they are not present this evening. Mr. Martinez has fears of what the approved Urgent Care Center will bring.

Mr. Martinez said that he was part of the Board for five years and these zoning changes were never discussed. He remembers that the golf course and other items were discussed, but not the zoning change issues, and he wants them removed from consideration. He asked the Board to feel free to stop by and see what he is talking about and he said he thinks the Board should think about this carefully.

Craig Tanzola was sworn in by Mr. Scharff. He resides at 10 Magnolia Court. He stated that he is not directly impacted, but he is present tonight to support a neighbor and friend. He said he remembers the Ventura's hearing and the way the neighbors spoke. He noted that Dr. Levitt was very vocal about lights facing into his bedroom when he came before City Council with thirty signatures. Mr. Tanzola said he was not experiencing any noise and he can shut his blinds against the lights.

Mr. Tanzola said his child goes to school with Mr. Martinez's child and he can't imagine a kid being woken up by ambulances, noise and diesel fuel. He said he has concerns that the owner of the building has not taken any action with the tenant. He saw how the Board was with the Ventura's hearing and how they listened to the complaints about noise at 10:00 p.m., cigarette pollution, and noise from music. Children need proper sleep in order to do well in school.

Mr. Tanzola addressed Sgt. Newman and he knows he has been called there recently. This problem impacts the Police Department. The Police are busy watching Tilton Road where there are many retail and business establishments. The Police are overwhelmed already and are now being forced to watch both sides of the street.

Mr. Tanzola stated that he remembers shopping at House & Garden and even at the height of the holiday season, they were shut down at 10:00 p.m. He doesn't think anybody had any idea that this was going to happen. He is looking for compassion for the Martinez family and the residential community and people are concerned that their property values are going down.

Mr. Tanzola said he addressed Dr. Levitt at a Council meeting and questioned an opportunity to put a Methadone Clinic there. Dr. Levitt said if they wanted it, they could apply to this Board, but they could also sue the Board to get it because of the zone. Mr. Tanzola said he previously had a business in Atlantic City and has seen how they operate and this is not what he moved to Northfield for. He is asking for compassion for the children, the residents, the community, and the impact it will have. He questioned that with Urgent Care coming, with ambulances going in and out all day and Casino shift workers living in the area, when will they sleep? He understands Mr. Droboniku is impacted financially, but he should have thought about that as a businessman when he bought the property.

Mr. Tanzola finished by saying that Dr. Levitt indicated that there is a bit of a rush due to possible litigation. He stated this publically. Mr. Tanzola doesn't think this should be rushed due to a mistake being made and which would mean two wrongs needed to make a right.

Mr. Zlotnick addressed Mr. Martinez's concerns. The reason the Board took up that area is because there was essentially no zoning affecting that area. The only way to change the use was to obtain a use variance. The Board wants to have real control of the zoning. This is what can happen with non-conforming uses in the event that they try to put a use at the site. The owner can say that we cannot zone them out of existence and that they need to find some use for the property. The use that Mr. Martinez described can unfortunately find its way into the community with unanticipated consequences. If the Board sends the proposed Ordinance changes to Council this will have a positive affect in that the zoning will be controlled. The hope is that eventually current uses will leave and then more restrictions can be used and the zoning controls will finally kick in.

Mr. Shippen said he remembers that the Board placed restrictions on the hours of operations during the hearing. He believes it was 6:00 a.m. to 10:00 p.m. Mr. Roegiers said that it is illegal to idle due to diesel contamination. Mr. Scharff agreed you cannot idle beyond three minutes by law. Mr. Martinez said they are not ticketing and Mr. Roegiers agreed that the restrictions need to be enforced. Mr. Martinez said he understands Mr. Zlotnick saying they can't anticipate the consequences but you can see here in black and white there is a problem. Mr. Zlotnick said that can happen with any zoning application. Once it leaves the Board's jurisdiction, it becomes a zoning and enforceable issue. Mr. Shippen said this should not be allowed since it was not agreed upon and he feels for Mr. Martinez. He added that the Board sets the parameters, but cannot enforce. He believes they should be cited. Mayor Mazzeo added that every use would have to come before the Board to approve the parking and would be a conditional use. A man from the public who was not identified asked if they could pull the CO. Mr. Zlotnick said it is possible for a Judge to do that, but it is the preference of the courts to go with graduated penalties. Mr. Tanzola asked if they could expand the current use in the unoccupied space at the site. The Board said absolutely not. Mr. Scharff stated that R-B is actually more restrictive than O-P. Mayor Mazzeo would he would like to know how many calls were actually made to Police and what the response was. Mr. Martinez said it would be a public record but he respectfully does not use 911 since he feels this is not an emergency. He uses the non-emergency number. He noted that he has awoken to fights between EMS drivers and called Police and they did show up. He said the constant backing up and idling of the diesel motors is terrible. They are not complying with the drop off and pick up agreed to during the hearing. They are dropping off patients and are not leaving. They sit and idle.

Mr. Zlotnick said he should speak to the Code Enforcement Officer. They are in violation and he should cite them. Mayor Mazzeo said part of the problem is that Code Enforcement only works until 4:30 p.m.

Mr. Perri addressed the Board and said he understands in the proposed changes the Board wants to get away from using SIC codes, but he would like an explanation of Allied Health. Mr. Doran answered that this would include any other associated health position not directly related to a Physician such as Medical Billing, Ancillary Medicine, Commercial Health and Physical Therapy to name a few. Mr. Perri said another issue is that of parking and parking compliance. Palombo's would not comply with the parking they have. Mr. Zlotnick said they would have to come before the Board for a Use variance. Mr. Perri asked what constitutes food stores. He suggested this to mean 7-11's or Wawa's. Mayor Mazzeo added or a store similar to B.F. Mazzeo's. Mr. Scharff said that in those cases, parking would most likely not comply. Mr. Shippen said the use allowed would more likely comprise a coffee shop use. Mr. Scharff said that may not be commercially viable. The public session ended.

The first vote was to advance the proposed Land Use changes forward to City Council for consideration as they are written. Mr. Zlotnick said the proposed Land Use changes are the result of five years of work on the part of the sub-committee and professionals. Mr. Martinez said the zone changes were not part of it. Mr. Zlotnick said the zone issues came up toward the end of the process. The entire Ordinance process involved five years.

The motion was made by Mr. Shippen and seconded by Mr. Roegiers.

The roll call vote was as follows:

Councilman DeWees-absent, Mrs. Dyrek-absent, Mrs. Kintish-absent, Mayor Mazzeo-yes, Mr. Milone-no, Sgt. Newman-yes, Mr. Notaro-yes, Mr. Roegiers-no, Mr. Rowe-no, Mr. Scharff-yes, Mr. Shippen-yes, Chairman Levitt-absent. The motion to move forward the proposed Land Use changes to City Council passes with a vote of 5-3.

The second vote was to adopt Mr. Doran's report. Mr. Zlotnick said he has drawn up a resolution for the Master Plan changes and to adopt Matt Doran's report as a matter of record here, open to the public, as required by Section 89 of Municipal Land Use Law.

The motion was made by Mr. Shippen and seconded by Mr. Roegiers.

The roll call vote was as follows:

Councilman DeWees-absent, Mrs. Dyrek-absent, Mrs. Kintish-absent, Mayor Mazzeo-yes, Mr. Milone-no, Sgt. Newman-yes, Mr. Notaro-yes, Mr. Roegiers-yes, Mr. Rowe-yes, Mr. Scharff-yes, Mr. Shippen-yes, Chairman Levitt-absent. The motion to adopt Mr. Doran's report passes with a vote of 7-1.

The meeting was closed by Vice Chairman Scharff at 7:48 p.m. with a motion from Mr. Shippen and second from Mr. Roegiers.

Respectfully submitted,

Robin Atlas

Robin Atlas, Secretary to the Board