**City of Northfield Planning Board**

**1600 Shore Road**

**Northfield, New Jersey 08225**

**Telephone (609) 641-2832, ext. 127**

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Minutes: February 7, 2013

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 7, 2013 in Council Chambers, City Hall, Northfield, was opened by Dr. Richard Levitt at 6:56 p.m. and the following members were present or absent as noted:

Linda Dyrek-absent

Denise Kintish-absent

Dr. Richard Levitt

Mayor Vincent Mazzeo

Lou Milone

Sgt. Paul Newman

Henry Notaro

Councilman Frank Perri-absent at roll call

Ron Roegiers-absent at roll call

Derek Rowe

Clem Scharff

Jim Shippen

Matthew Doran, Professional Engineer

Norman Zlotnick, Solicitor

The first application on the agenda was from Raechell Blumenthal of 16 Forrest Drive, Block 88 Lot 32, in the R-2 Zone. She was sworn in by Dr. Levitt. The application is a request for “C” Variances for a side yard setback and a rear yard setback. The structure will be 3 ft. off the property line. Ms. Blumenthal plans to construct an accessory building and open deck. Dr. Levitt asked Mr. Doran to describe the variance. Mr. Doran said a variance is required for an accessory structure over 144 sf where 10 ft. is required at both the rear and the side. Mr. Doran said the proposed structure is 480 sf and the variance is necessary due to the size. Dr. Levitt asked Ms. Blumenthal how she intends to use the structure. She stated that she wants to use it for a storage garage and she wants to have a stone driveway the length of the property leading to the accessory building so that she could drive straight back to it. She noted that she also wants to construct a deck off the back of the house. Dr. Levitt asked Mr. Doran if the deck conforms. Mr. Doran said the Ordinance allows for encroachment in the setback for an open entrance or porch to the rear of the house, but a variance would be required for a deck without steps to the entrance.

John Mell, Ms. Blumenthal’s boyfriend who will be doing the construction, was sworn in by Dr. Levitt. He said the deck will be a finished deck 36 inches off the ground and the size will be 10 ft. x 16 ft. Mr. Doran said the deck is over 100 sf and this would require a variance. Dr. Levitt agreed that if this was a porch or entryway, a variance would not be required, but a deck would require a variance. Mr. Doran noted that the setback to the deck is 13.9 ft. If they moved the deck in 1.1 ft., they will comply. Mr. Shippen also suggested they consider lowering the height of the deck. Dr. Levitt said they most likely want the deck to be flush with the living space. They wouldn’t want to walk down onto the deck when going out the rear of the home. It was noted that the applicant did not advertise the variance for the open deck. Dr. Levitt said the deck as shown would require a variance. He suggested shifting the whole deck over a little bit so that it is setback from the corner of the house. This would also help when maneuvering a car back to the accessory building. Mr. Doran said the deck would need to be 15 ft. to conform. Dr. Levitt said the variance for the deck would no longer have to be considered and the deck will conform at the time of construction. The applicants agreed with this.

Dr. Levitt noted that Mr. Perri and Mr. Roegiers are now present at the meeting.

The accessory structure was discussed further. Mr. Mell said it will be a one story structure with a gable roof roughly 13 ft. There will be no plumbing but they would like to install electric. There will be no living space or apartment. Mr. Rowe asked what is currently on this site now. Mr. Mell said a 10 ft. c 12 ft. shed. He added that they need the 3 ft. variance to construct the new accessory building.

Dr. Levitt asked the applicants to address positive and negative criteria. Ms. Blumenthal said it will be a benefit to keep her car in the accessory building as this will keep the car in good condition and will keep the car off the street. Dr. Levitt asked about the benefits to the public. Mr. Mell said the project will not negatively affect their neighbors. Ms. Blumenthal said she spoke with all of her neighbors as she did her noticing by going door-to-door for signatures. Her neighbors had positive views about the project. Dr. Levitt asked about street trees on the property. Ms. Blumenthal said they lost two trees and never had a tree in the front. She noted the city cut the roots from one tree and she lost it. She did replace it with a maple tree and has a tree on the side. She said she has a cherry tree as well. Dr. Levitt said she has a tree in the front yard area and the Board accepted this.

Dr. Levitt asked if there was anyone from the public who wished to speak on the application. Seeing no one, he closed the public session.

Mr. Scharff made the motion for the accessory building for a 3 ft. side setback with the condition that the deck will conform to the ordinance at 15 ft. Mr. Shippen seconded the motion. The Board discussed the driveway. Mr. Doran said the stone driveway is allowed. Mr. Mell said they recently submitted and were approved for a curb cut and this has been completed. He added that a concrete driveway would create a drainage problem.

The roll call vote was as follows:

Mrs. Dyrek-absent, Mrs. Kintish-absent, Mayor Mazzeo-yes, Mr. Milone-yes, Sgt. Newman-yes, Mr. Notaro-yes, Councilman Perri-no vote, Mr. Roegiers-yes, Mr. Rowe-yes, Mr. Scharff-yes, Mr. Shippen-yes, Chairman Levitt-yes. The motion to approve the “C” variance for a side yard setback for the accessory structure carries.

The second application was from Townsquare Media Atlantic City, LLC for Block 42, Lot 27 & 29, 950 Tilton Road and 999 Burton Avenue located in the C-B Zone. The applicants are requesting “C” Variance relief for setbacks as well as a “D” Variance for height and a site plan waiver in order to construct a Radio Broadcasting Tower from grade.

Mr. John Daniels of Fleishman-Daniels Law Offices of Northfield is the attorney for the applicants. He introduced himself and the applicants to the Board. He stated that Townsquare owns and operates five radio stations. Dr. Levitt swore in the witnesses. The following were present and sworn in to provide testimony: Michael Ruble, Station Manager, Tom McNally, Chief Radio Station Engineer, Arthur Ponzio, Jr., Planner and Surveyor, Ted Schober, Radio Engineer and Stella Hordes of Network 950 LLC, the owner of the property. Mr. Daniels discussed with Mr. Zlotnick those who are not eligible to vote. Mayor Mazzeo and Councilman Perri are not eligible as elected officials. Mr. Roegiers noted that he is eligible to vote as he has no interest in JC Miller which is within 200 ft. of the subject property. JC Miller is now only a paper company which was sold ten years ago. Mr. Roegiers himself is a corporation doing business and has no financial interest in the current company. He is a 1099 employee. Mr. Zlotnick said that the Board has more than enough eligible voting members to hear this application.

Mr. Daniels described documentation filing dates and proceeded with the application presentation. The applicant is requesting approvals to construct a 126 ft. high radio broadcasting tower with a 6 ft. high chain link fence and cable tray. They are requesting “C” Variances for side and rear yard setbacks, a “D” variance for height, and he noted that there are no site plan changes. The district is C-B (Commercial Business). Dr. Levitt asked Mr. Doran to describe why the height variance qualifies as a ‘D” variance. Mr. Doran stated that if this was a generator or an outbuilding as an accessory structure, it would require a ‘C” variance. But this is a radio station with a radio tower and antenna. The use is no good without a tower and it cannot really be considered an accessory. The height becomes a “D” variance because it above 10%. The height in this situation is excessive and whether or not it is accessory or primary is the question and it is safer to ask for a “D” variance. Mr. Daniels quoted the Cox manual and said in this situation, it is both accessory and primary and he is satisfied to proceed with the “D” variance. He noted that he had a nice talk with Mr. Doran about this.

Mr. Daniels introduced into the record a letter from Atlantic County Department of Regional Planning and Development dated January 17, 2013, entered as Exhibit A-2, which exempts the applicants from submitting a formal site plan to the Atlantic County Development Review Committee. Mr. Daniels submitted a copy of Exhibit A-3 which is a letter from the Northfield Fire Department dated January 11, 2013 stating no objection to the project’s approval. Exhibit A-4 was added to the record which is a letter of support dated January 30, 2013 from the Atlantic County Office of Emergency Preparedness and signed by the Director Vincent Jones.

Mr. Daniels introduced Tom McNally, the Chief Engineer for the radio stations, to give testimony to the Board. Mr. McNally has built and maintained the stations. He stated that he is a Northfield resident for 23 years, who resides at 2701 Zion Road and has maintained the radio stations for 17 years and has worked with other stations as well. He has 40 years total experience. They own 1 AM station and 4 FM stations-1450 WPG, 96.9 WFPG-Lite Rock, 107.3 WPUR-Cat Country, 104.9 WSJO and 97.3-WSPN-Sports Radio. He testified that the applicant leases the premises. The current tower was erected in 1997 when they moved to the site. They are asking to construct a 125 ft. tower behind the building. It will be high enough to broadcast any of the FM stations right from Northfield. During the hurricane and derecho storms, they found that Atlantic City is no longer reliable. They lost their generator, and could not get into the city due to the water, were off the air for over a little over a day, and they would like to be self-sufficient from Northfield to be able to flip a switch and to be able to serve the public. After the hurricane, when they were able to get back on the air, they were able to simulcast all the stations and were there for the benefit of the public. They were available to inform the public by transistor radio when the public had little other contact.

Dr. Levitt asked if the tower is for daily or emergency use. Mr. McNally said they want to serve two purposes. The main purpose is for the antenna to broadcast to most of Atlantic County. It will be lower in power and height than the Atlantic City antenna where the wind turbines are located in the ACUA fields with a height of 385 ft. to 400 ft. This area was flooded during the storm and took them off the air. The new antenna will also be used for FM backup during power outages, hurricanes, or if towers should come down. It will basically be used for back-up. The daily use will be for internal use for links to transmitters for programming purposes. The current antenna is 50 to 60 ft. and is attached to the back of the building.

Mr. Daniels asked Mr. McNally to show the existing antenna on the site plan and to show where the proposed antenna will be located in the vacant area on a concrete base 17 ft. x 17 ft. Dr. Levitt asked for details and said the Board needs to see what this tower will look like. Mr. McNally said the tower is triangular in shape measuring 48 inches and will be self-supporting. It is made of galvanized steel and is not painted and will have no guy wires, lights or strobes. Mr. Ponzio displayed Exhibit A-6 showing the base and tower. Mr. McNally said it will be about 7 ft. above the earth on a 17 ft. square concrete base. The antennas will contain links to Atlantic City and Egg Harbor City and a backup antenna. There will be no cell communications or rentals, but the radio station will put a whip antenna on the tower as a courtesy to Atlantic County. They also offered the National Emergency Weather Service a backup to their tower located in Atlantic City.

Mr. Scharff asked about the STL links that go out to the stations. Mr. McNally said they are gold and look like a chaise lounge about 4 ft. x 2 ft. Mr. Scharff asked about the main FM antenna. Mr. McNally said they are called bay antennas and they are two antennas that work together. They are low wattage and the wattage that goes into them is the same wattage that is emitted. The power is very low, but is enough to cover Atlantic County with a decent signal.

Mr. McNally stated that the security fence will be 6 ft. high and 10 ft. square around the base of the tower. Dr. Levitt asked the applicant to comment on the necessity of the 125 ft. height. Mr. McNally said the height is the minimum to put out a usable signal. If they went lower, the signal would be in line with surrounding trees which include many large oak trees. They need to get above the tree line. He noted the heights of their other towers to be at 385 ft. in Atlantic City, 512 ft. in Egg Harbor City, and 500 ft. in Corbin City and they have a back-up on the roof of the Taj Mahal Casino. Dr. Levitt expressed concerns with the effect on the aesthetics of Northfield’s town center. Mr. McNally said the tower will blend in with the trees and he showed this by displaying a diagram of four photographs labels Exhibit A-5. He said the galvanized steel doesn’t shine and the tower blends in with the scenery. You won’t see the tower unless you are far away as it blends in with the trees. It also is not a solid structure and you can look right through it which helps with its invisibility. Mr. Roegiers asked for a comparison to the cell tower at Birch Grove. Mr. McNally said that tower stands at 375 ft. Mr. Daniels asked Mr. McNally if the tower will meet all City of Northfield and State of New Jersey Building Codes and Specs and he answered yes. Dr. Levitt asked if the tower is prefabricated. Mr. McNally said yes and it will come in 20 ft. sections. Mr. Daniels asked if there would be any other users of the tower. Mr. McNally said there would be no private users including cell phone users and the tower will serve the public in emergencies.

Mr. McNally concluded his testimony by stating that the coverage from the tower will be between 15 and 20 miles and the height of the tower is necessary for the coverage to be worthwhile. There are no FAA approvals or waivers necessary and there will be no light on the tower. They plan to remove the existing antenna around the same time the new tower is in place. The radio stations are licensed by the FCC. He testified as to discussions with Vince Jones of Atlantic County Office of Emergency Management about the importance of an emergency backup and noted that all the Board members have a copy of his letter of support for this project.

Arthur Ponzio, Jr., Professional Planner and Land Surveyor in NJ, testified next. His qualifications as a professional were accepted by the Board. He displayed Exhibit A-1, the site plan, and described the variance plan. He showed the proposed location of the tower at 10 ft. from the rear of the property line. The setback requirement from the rear of the property is 30 ft. and they are proposing 10 ft. The side setback is a technical variance since the internal sideline between the lots is owned by the same individuals. The tower will be 10 ft. from the sideline where 15 ft. is required. There will be a cable router tray installed to get the wires from the tower to the building. The third variance is for height due to the principal use and operations of the facility. The required height is 25 ft. and they are asking for 125 ft. for the tower and 1 ft. for the pedestal. They are asking for a site plan waiver since the changes to the site are minimal and Mr. Ponzio feels this is an appropriate request.

Mr. Ponzio continued by stating that radio broadcasting is a permitted use in this zone and is a well-suited purpose. The governing body has stated that radio use is permitted and the antenna is part of the use. The business has operated here for 17 years and is well-suited in a commercial zone and the type of use is appropriate. The size of the site is over two acres and there is 500 ft. from the tower location to Tilton Road. The surrounding area is dominated by commercial use. Mr. Ponzio testified that the property immediately to the rear of the property is owned by Atlantic County and is used for drainage purposes. The nearest structure is a few hundred feet away.

Dr. Levitt asked about the lot boundary between lots 27 and 29. Mr. Ponzio said the lot line is a curved boundary. Dr. Levitt said the antenna is not on the lot with the radio station use and only one permitted principle use is allowed per lot. Mr. Doran discussed deed consolidation. He said this came up in his discussions with Mr. Daniels and in his Engineer’s report. A deed consolidation would clean this up. Dr. Levitt said it does create problems. The antenna would be on the lot with the office building not on the lot with the radio station. Mr. Ponzio said they are connected by the 3 ft. wide cable tray. Mr. Daniels said that cross easements and deed consolidation has been discussed. Dr. Levitt said that future owners or successors would have to sell the lots as one property but these lots clearly have different uses even though they have one owner at this time. Accessory uses go on the same lot as the primary use not on a separate lot.

Mrs. Hordes stated that the building on Lot 29 is not an office building but is used for storage by the radio station. Dr. Levitt said there would be a question as to which lot the parking goes with if the owner sold Lot 29. Mr. Daniels said a cross easement would take care of that issue. Mr. Rowe commented that there could be parking issues. Dr. Levitt said there is also an access easement issue that would need to be cleaned up. Mr. Doran said he suggested a deed consolidation, but understands they don’t want to do that since the lots have slightly different ownerships. Dr. Levitt reminded that there can only be one principle use per lot and with a consolidated deed, there would be two principle uses on one lot. Mr. Zlotnick said this presents an intriguing technical issue. Since the use is on the other lot it becomes an accessory to the use on Lot 27 rather than Lot 29. Dr. Levitt questioned the access for both lots and it was noted that Lot 27 has access to Tilton Road and Lot 29 has access using Burton Avenue. They could be independently developed lots in the future which would be a ratable advantage to the city. Dr. Levitt said in the future, a developer may want to use Lot 29 for more than a warehouse. Dr. Levitt reminded that there is an Ordinance prohibiting parking on one lot for a use on another lot. Mr. Doran stated that the warehouse on Lot 29 did come before the Board for site plan approval 10 to 12 years ago and these parking/use issues were dealt with at that time. Mr. Zlotnick noted that if the tower is on Lot 29 it can’t be principle to Lot 27. Mr. Doran said that this would become an additional technical “D” variance to allow a dual use on Lot 29. Dr. Levitt commented that the antenna should be on Lot 27 with the radio station. Mr. Shippen suggested the possibility of moving the location of the tower. Mr. Ponzio said there is an emergency drive aisle at the back of the property. Mr. Shippen said the Fire Department would not agree to the tower placement in that area.

Mr. Zlotnick said that as a legal matter, this will change the nature of the variance relief being sought with conditions that would be drafted by resolution and it certainly would not be an insurmountable issue. Mr. Doran added that the cleanest way to solve this would be to grant a second use variance to allow two principle uses on Lot 29 and with cross easements. This would pass the test of a surveyor, lawyer or deed. The use variance takes care of the tower and the cross easements are easily plotted and identifiable. Mr. Zlotnick added that easements would be recorded in the Atlantic County Clerk’s Office and will come up if any searches are done. Dr. Levitt said that Mr. Hordes would have to be aware that the future sale of Lot 29 could be affected and the landlords would need to agree to this. Mr. Daniels said he has had discussions with Mrs. Hordes’ son about cross easements and he has had no objections. Mr. Daniels added that they have advertised for any and all relief required.

Mr. Ponzio continued with his testimony referring to special reasons and the purposes of zoning and the general safety and welfare of the community. He said that all of us have suffered somewhat during these storms and it has woken up the community. Many lost power and were without communication and did not know what was happening on the islands. The height of 125 ft. for the tower was determined by analysis to stay in service which is important to all of us for safety reasons and communication. This is an important opportunity. Mr. Ponzio read some of Vince Jones’ letter to support these comments. He noted that backup power is a key element in communication.

He continued with special reasons from Land Use Law in that it is important to secure safety from fire, flood and panic from natural and other man-made disasters. We need communication capabilities to be installed for emergency situations.

Mr. Ponzio addressed negative effects. He stated that with a variance, there is always a negative aspect since it is a deviation from the Ordinance, but there is also a balancing effect. In this location the benefits outweigh the detriments. A negative effect would be the visual impact. The present tower is almost invisible. As these towers weather, they blend into the background. The tower is not a solid structure and does not have the visual impact of a telephone pole. The base is hidden in the tree canopy and the closest homes are 500 ft. away without a direct view. Mr. Ponzio continued by stating that he feels the benefits of this project far outweigh any detriments and that the public good would benefit greatly as would the zoning plan. He referred to the Master Plan item “S” under general goals which recognizes the need for cell towers and to allow them to be constructed in commercial zones. Mr. Ponzio agreed there is a need for towers and he believes the site is well suited for this tower. Mr. Daniels said this concludes their testimony.

Dr. Levitt opened the public session. There was no one who wished to speak on the application and he closed the public session.

Dr. Levitt commented on the variance plan drawing and questioned the lines delineating the lots. There is a heavy dotted line on most of the boundaries and a thin line between the two lots interiorly. Mr. Ponzio said that is a drafting technique. Dr. Levitt said he felt the interior line should be drawn the same and the line should be more clear.

Mr. Daniels gave a short conclusion by saying that we have had storms and there have been power outages and there will be more on the way. This project is an opportunity to have the radio stations remain on the air and he asked the Board for a vote of confidence. They have agreed to cross easements or possibly even a subdivision may be required and Mr. Daniels felt this would solve any problems with the lots. Dr. Levitt had reservations about voting for a cross easement he hasn’t seen on paper. Mr. Daniels suggested making it a condition of approval. Dr. Levitt said the parking has not even been addressed. Mr. Doran said that easements are a legal document and nothing in the document will most likely change the plan, but it is within the Board’s right to want to see them. Mr. Shippen asked Mr. Zlotnick if this is a viable way to deal with the problem and can this be done to achieve the objective the Board is after. Mr. Zlotnick said that cross easements are not unusual and they are necessary when one property has to have access to a particular purpose on another property. But, these issues have some up this evening and the applicant should have the opportunity to present them before the Board and he suggested a continuation would be in order. Mr. Zlotnick said the Board should consider the variances this evening and save the site plan waiver and easements for the next meeting. Dr. Levitt asked if they had adequately advertised for two principal uses on one property. Mr. Zlotnick said they have previously advertised properly and no further advertising will be necessary. Mr. Scharff questioned the different lot addresses and the ownership. Mrs. Hordes said they are owned by two different corporations with only slightly different ownership. Mr. Daniels said the continuation is a great suggestion and solution to the issue and the applicants appreciate this.

Mr. Zlotnick described the motion as being “C” Variance relief for the side yard and rear setbacks and “D” Variance relief. Mr. Doran further described the “D” variances as a D6 and D1 variance for height and two uses on the same Lot 29. Dr. Levitt mentioned the site plan conditions of no lighting, no cell towers and no guide lines and it was decided to consider the site plan issues as part of the site plan waiver. Mr. Zlotnick said there will be one resolution completed after the continuation meeting.

Mr. Shippen made the motion for the “C” Variances for a side yard setback where 15 ft. is required and 10 ft. is proposed and a rear yard setback where 30 ft. is required and 10 ft. is proposed. Mr. Scharff seconded.

The roll call vote was as follows:

Mrs. Dyrek-absent, Mrs. Kintish-absent, Mayor Mazzeo-yes, Mr. Milone-yes, Sgt. Newman-yes, Mr. Notaro-yes, Councilman Perri-no vote-it was not realized until the end of the meeting that Mr. Perri was present and his name was not called, Mr. Roegiers-yes, Mr. Rowe-yes, Mr. Scharff-yes, Mr. Shippen-yes, Chairman Levitt-yes. The motion to approve the “C” variances for side yard and rear yard setbacks carries.

The motion for the D6 variance for height and the D1 variance for two uses on one Lot 29 was made by Mr. Scharff. It was seconded by Mr. Shippen.

The roll call vote was as follows:

Mrs. Dyrek-absent, Mrs. Kintish-absent, Mayor Mazzeo-no vote as elected official, Mr. Milone-yes, Sgt. Newman-yes, Mr. Notaro-yes, Councilman Perri-no vote as elected official, Mr. Roegiers-yes, Mr. Rowe-yes, Mr. Scharff-yes, Mr. Shippen-yes, Chairman Levitt-yes. The motion to approve the “D” variances carries.

The next meeting will be Thursday, March 7, 2013 and will begin with the continuation of Townsquare Media and the easement presentation and site plan waiver vote. It was decided to begin the regular meeting at 6:30 p.m. since there is already a full agenda scheduled. This early start time will not affect the noticing for the other applications since they will begin at 7:00 p.m. The secretary will advertise this 6:30 p.m. start time in The Press within 10 days of the hearing.

Mr. Shippen made the motion to close the meeting with a second from Mr. Roegiers. Chairman Levitt closed the meeting at 8:25 p.m.

Respectfully submitted,

Robin Atlas, Secretary to the Board