

City of Northfield Planning Board
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Minutes: August 1, 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, August 1, 2013 in Council Chambers, City Hall, Northfield, was opened by Chairman Richard Levitt at 6:59 p.m. and the following members were present or absent as noted:

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

Matthew Doran, Professional Engineer
Norman Zlotnick, Solicitor

There was one application on the agenda this evening represented by Michael Rann, Esquire of Linwood. The applicant was Riska Partners 1622, L.L.C. also known as Global Risk Partners, L.L.C. of 1622 Tilton Road in Northfield. The locations involve Block 97, Lot 12.01, 1622 Tilton Road in the N-B zone, and Block 97, lot 15.01, 1415 Wabash Avenue in the R-2 zone. Chairman Levitt swore in the professionals present for the testimony. They were Guy Riska, the business owner and applicant, Robert Bruce, the Engineer, and Thomas Darcy, Esq., the Professional Planner for the application.

Mr. Rann addressed the Board and noted the addresses and related Block and Lot numbers, fees and escrow have been paid, noticing and publication has been completed and taxes are current on the properties. He said there is a purchase agreement contract conditional upon approval of the sale of 1415 Wabash Avenue to Riska. He added that they intend to consolidate the lots upon all approvals and to construct a parking lot on Lot 15.01 to service the businesses at Lot 12.01. The lot will be used for patrons of Global Risk and the tenant who leases the first floor which is a

similar business. They intend to make improvements and renovations to the existing structure at 1622 Tilton Road. They will require a "D" Use variance for 1415 Wabash Avenue including bulk variances and design waivers and a D4 variance for floor ratio for 1622 Tilton Road. The Tilton Road site is in the N-B Zone and the Wabash Avenue property is in the R-2 Zone.

Mr. Rann called Robert Bruce to discuss the project. Mr. Bruce has been before the Board many times and his qualifications were accepted. He described the proposed improvements to both sites. Riska is located next to Dino's Subs and Pizza. Behind the business on Lot 15.01 there is an existing single family dwelling. They want to demolish the house and build a parking lot to provide additional parking for the businesses. They are required to have 31 spaces at 1 space per 200 ft. They will be able to provide 26 spaces including 2 handicapped spaces. The businesses operate Monday to Friday from 8:30 a.m. to 4:30 p.m. and a few hours Saturday mornings. Mr. Riska and Mr. Leap work at night and use the front lot on Tilton Road. The proposed lot will be used mainly for employee parking. The spaces next to the building are primarily for clients. They are proposing a new two story enclosed stairwell and will demolish the stairs that are on the outside of the building. The rear lot will provide storm water management with stone encased piping designed for a 10-year storm. Mr. Doran suggested in his letter that they address the 100-year storm and they will need to add another chamber which will allow them to meet the requirements. The volume and rate of runoff will not be increased and will be directed to Tilton Road through the Riska property. They plan to add landscaping and plantings on the Tilton Road side. The lot is 65 ft. wide, but due to the parking spaces and the drive aisle, they only have 4 ft. on the perimeter to provide a buffer. The Dry Cleaners is located to the east of the Riska property and his parking lot abuts this property. Dr. Levitt asked if 4 ft. is adequate for a landscaping strip and if they could provide a landscaping strip separating the businesses from the residential neighbors and suggested a discussion after hearing from the public. Mr. Bruce said Mr. Riska wants to put up a fence in that area.

Mr. Bruce continued by addressing the architectural plans and said they will be adding office space and a new stairwell to the front of the building. Dr. Levitt had concerns about the basic footprint of the building changing. Mr. Bruce said that they are only changing the basic footprint by 8 inches toward Tilton Road due to the stairwell addition and they are keeping the original building line. Mr. Rann noted that the current stairwell is an open area and there is no building there. Dr. Levitt said he has concerns with the front landscaping which is nicely landscaped at present. Mr., Bruce said they may lose a few plantings in front, but basically they will be keeping the landscaped area the same. Dr. Levitt asked that they discuss the additional office space on the second floor. Mr. Bruce said they have 140 sf of office space, 90 sf of restroom area, 70 sf of storage. The proposed total building gross area is 6200 sf and this is what the parking ratio is based on. Dr. Levitt suggested restricting the building to non-medical uses. Mr. Riska commented that he has no plans of vacating the building in the future. Dr. Levitt said that everyone leaves eventually and noted that the ratio for medical parking is 150 sf per parking space. Mr. Rann said he will discuss this with his client as the issue was unexpected. Dr. Levitt noted that when tenants change, parking issues occur.

Mr. Rann asked Mr. Bruce to discuss Mr. Doran's comments in his report concerning landscaping and the fencing along the neighbor's side. Mr. Bruce said the applicant

wants to install a 6 ft. high board on board fence the length of the property. Dr. Levitt added that the fence would be to the 25 ft. setback and then go down to 4 ft. in the front. Lighting was discussed next. Mr. Bruce said there is no proposed change in the lighting as it is well established. They have pole lighting on the lot and they provide low non-glare lighting. Dr. Levitt had concerns that there was no access between the two lots. Mr. Bruce clarified that there is access by way of a drive aisle between the two lots. Dr. Levitt asked about the mechanicals and Mr. Bruce said they would be staying the way they are. Mayor Mazzeo asked about signage for the parking lot. Mr. Bruce said they could add a sign that says 'right turn only' under the stop sign. Mr. Shippen asked about the area to the left of the driveway, which is a 22 ft. wide section, and the reason that area is not used for parking. Mr. Bruce said that could create congestion, but possibly they could use it for parking spaces, but it would be better used for maneuverability. Dr. Levitt suggested using it as a de facto parking spot if the site is fully used in the future. Mr. Scharff asked what the second floor is currently being used for. Mr. Bruce said office space. Mr. Rann commented that they are adding 242 sf of office space plus the stairwell. Mr. Bruce said the project will flatten the roof and add 700 sf to 800 sf in total by raising the roof and constructing this area. Dr. Levitt said he remembered when the building was housed by Merrill Lynch and cars were previously parked up and down Wabash Avenue. This ended Mr. Bruce's testimony and Mr. Rann called Mr. Tom Darcy, an attorney and planner. He will testify as the planner for the project.

Mr. Darcy stated that he has reviewed the plans and application and has visited the site on four occasions. From a planning perspective and in review of the context of the project he feels there are justifications to grant a "D" variance in the R-2 district. The project does not put a principle non-conforming use in this central zone surrounded by residential uses. The site is on the cusp of two zones; the N-B zone and R-2 zone. Mr. Darcy said it is important to recognize that an increase in office space is relatively minor; about 100 sf of office space generates half of a parking space. The new stairwell will be an access way and does not generate parking. Neither does the bathroom or storage areas.

The "D" variance requires special reasons to justify granting the variance and the purposes of zoning must be advanced as well the improvement of the general welfare of the public. This site is particularly well suited as an accessory use to the Tilton Road business. The area provides access to both residential and commercial uses and provides a mix of the two uses. There is a law office, insurance business, dry cleaners, pizza shop and real estate office with a service station on the corner along this section of Tilton Road. Lot 15.01 is directly adjacent to the N-B district; it is not across the street and there is no disconnection. Therefore, there is not a new principle non-conforming use being created. The parking lot will be an accessory use to the commercial site. The main access to the parking lot will not be on the residential side. Access will be from the Tilton Road side and Wabash Avenue will be used only when necessary. When leaving the site, Wabash Avenue will be used. There is no northbound access as this section of Wabash Avenue is a dead end street. Cars will make a right turn toward Tilton Road and will not travel into the residential neighborhood.

Mr. Darcy continued describing the special reasons and said the east and west components of Wabash Avenue are separated by the Bike Path which is a unique situation. There are only five properties on Block 97, Lots 16,17,18,19 and 4 and 5,

which is one property, whose owners use this section of Wabash Avenue. This segment of Wabash Avenue is isolated and does not lead into the main Wabash Avenue. There is one property on the corner which involves three lots at the address of 1400 Zion Road, fronting on Zion Road, which could possibly use this portion of Wabash Avenue as they have a driveway off Wabash Avenue.

Mr. Darcy discussed the suitability of Lot 15.01 for this project. Wabash Avenue is a paved roadway with a cart way width of 24 ft. to accommodate commercial traffic. It is not a rural lane which is 14 ft. to 16 ft. wide. Lot 15.01 has a lot width of 65 ft. which is wide enough to create an industry standard parking lot with an aisle width of 25 ft. and parking stall depths of 18 ft. Lot 15.01 is suitable as an accessory to the Tilton Road property.

Mr. Darcy referred to the Cox/Koenig manual for Zoning and Land Use in New Jersey, Chapter 7, Section 5.2, and discussed the free flow of traffic and reduction of congestion. He commented that the benefits provided promote the purposes and advancement of zoning. He noted that Riska is protected as having a non-conforming condition of being short 18 parking spaces and this condition has existed for more than 40 years since 1971. They intend to bring the site into a more conforming nature. He added that the N-B zone is very small, including only those lots fronting on Tilton Road including ReMax, Dino's, a Law Office, Dry Cleaners, and a Gas Station. Mr. Darcy described the parking situation at these sites to demonstrate that deficiencies exist. The Law Office has 3070 sf and 15 spaces would be required at one space per 200 sf and they have 11 spaces which is deficient. The Dry Cleaners is 2352 sf and he was unsure how to calculate since there are not specifics for this type of business in the Ordinance. Using the same calculation, 12 spaces would be required and they have undersized spaces in front and two in back. Dino's is 2400 sf and the parking depends on seat capacity. They have 11 spaces which may be sufficient. ReMax is 2160 sf and they require 11 spaces and have 15 which are sufficient. The gas station facility is 1890 sf and is so old that they do not have a designated parking area. Mr. Darcy said his point was to show that there is not excess parking in this N-B zoning district and there are deficiencies that exist, which adds to reasoning.

Mr. Darcy continued with the third special reason. Tilton Road is a major connector. He compared it with New Jersey Avenue in Absecon which is also a County Road. New Jersey Avenue has two sides of parking which is an advantage since on-street parking is permitted. Tilton Road is different. The County made the decision to make Tilton Road a three lane roadway with one of the lanes being a center turn lane. There is no parking allowed along Tilton Road. There is a distance of 40 ft. between curbs. The County could have chosen to provide for two lanes and parking, but the nature and character of the road does not lend to this and would have caused congestion. There is no advantage of this to businesses which do not have adequate parking. He again referred to the Cox manual and referred to an older case, *Mistretta vs. the City of Newark*, which dealt with just this issue of inadequate on-street parking due to congestion. The goal related to advancing the purpose of zoning is to create off-street parking to provide more adequate parking. The final special reason point is that there are no public parking facilities available in the immediate area. There are two handicapped parking spots on Wabash Avenue, but they are to be utilized for the Bike Path. Mr. Darcy felt that the D1 variance criteria are satisfied.

Mr. Darcy continued by discussing the second "D" Variance request which is a D4 variance for floor coverage. A Floor Area Ratio of .25 is required. At 5542 sf, .55 is existing, which is non-conforming. The proposed 6200 sf is divided by 17,749 sf for Total Area which gives a Floor Area Ratio of .35 which is a significant reduction. Mr. Darcy said the applicant is doing what Municipal Land Use Law says you should do which is to reduce a non-conformity where possible.

They are also requesting a "C" Variance for the front setback on Tilton Road. The existing setback is 16.1 ft. and 14.7 ft. is proposed. They intend to remove a little of the landscaping, but this won't be noticeable. The setback will be lined up with the other business and will generally line up with the development pattern. There is no detriment to granting this variance.

A variance for building coverage of 33% on lot 12.01 is being requested where 25% is allowed. Once the lots are consolidated, the building coverage will be reduced to 19% which is bettered by the application. Again there is a minimization of a non-conforming condition. Parking, Floor Area Ratio and Building Coverage will all be improved by this application.

The fifth variance is for total coverage of 85% where 75% is permitted. This should not present an issue with adequate buffering and storm water management.

The sixth variance is for parking. They will have 26 spaces where 31 are required. They will be improving the current situation of an 18 space deficiency to a 5 space deficit.

The seventh variance is a 15 ft. buffer variance required along all properties adjacent to a residential site. Lot 15.01 is especially narrow. Mr. Darcy recommended installing a 6 ft. white vinyl fence to eliminate any possibility of glare.

There are a number of design waivers being requested for landscape buffering of three ft. around the perimeter of the site adjacent to surrounding commercial sites, a driveway located in the side yard setback, various landscaping waivers involving percentage of landscaping on site, street trees, and shade trees, lack of a loading area, and parking within 50 ft. of a residential use.

Mr. Darcy continued his testimony by discussing negative criteria. The zone requires 10,000 sf lots and the lot created by this application will be the largest in the N-B zone at 17,749 sf. They are advancing the parking situation by proposing an accessory use in the R-2 zone. The zone will lose a dwelling, but it is a small one story house and is not a historical structure and will not be a detriment to historical resource inventory. The city will lose a lot by the consolidation, but losing one dwelling compared to the benefits derived is not an issue. There is no substantial detriment to the public good and they are not altering the character of the neighborhood by changing this lot to a parking lot. Commercial traffic will not pass by any residences. He added that there is a substantial distance from the parking lot to residential homes on the east side of Wabash Avenue which includes two Wabash Avenues which are oversized roads at 40 ft. and 50 ft. as well as the Bike Path. The use of the parking lot will be self-regulated as it is presently office use. The applicant will have the ability to direct employees to enter on Tilton Road and use the back lot allowing clients the opportunity to use the spaces closest to the entrance to the building. The hours would basically be Monday to

Friday, 9:00 a.m. to 5:00 p.m. with some Saturday morning hours. The granting of this use variance would be directly related to this office use and any other uses would have to come back to the Board because the use may require a different parking demand. Dr. Levitt asked about a possible retail use in the future. Mr. Darcy said the Board can put a condition in the resolution restricting this. Mr. Darcy said a deed restriction can cause complications and Dr. Levitt agreed. Dr. Levitt said he would like to see the resolution restricted to non-medical uses and that it be clearly stated. Mr. Rann agreed with this.

Mr. Darcy gave a summary of the positives and negatives and said that there is not a substantial detriment to the Zoning Ordinance or the neighborhood and the residential areas border the commercial areas and adequate buffering will compensate for the use.

Mr. Rann asked if the Board had any questions for the planner. Mr. Roegiers asked for verification of the number of parking spaces. Mr. Bruce answered that there will be 26 spaces. Mr. Roegiers discussed with Mr. Riska the JC Leap Insurance Company which operates at the site. The insurance company holds classes there and they consist of 4 to 5 people and last for about one week. The classes are three hours in length. Mr. Roegiers pointed out for the Board and the public that the classes are only part of the business operations. Dr. Levitt thanked Mr. Roegiers for his input on this. Mrs. Kintish asked about the hours of the classes. Mr. Riska said classes are usually during the day and this aspect of the business is not a necessity at this site. Mr. Roegiers added that the classes are usually held on Saturdays. Mr. Riska noted that this is an owner occupied building and he will control it as the owner. JC Leap is a health and life insurance business and Global Risk Partners is a property and casualty insurance company. Mr. Riska said they have formed a close working relationship. Mr. Riska discussed the number of employees. There are five upstairs, including himself, and one in each office downstairs except one for a total of 9 downstairs.

Dr. Levitt opened the public session at 8:11 p.m. Mrs. Anne Carney who resides at 1413 Wabash Avenue, Block 97, Lot 16, was sworn in first. She commented that this project would be an aggravation. Her husband was a fire chief in Northfield and her grandson is a firefighter as well. Her and her husband once owned the house they want to tear down. She said this would ruin her life. She shouldn't be forced to fight off cars in the lot and she felt that children could be hurt on the bike path. Dr. Levitt asked how the parking lot will affect her life. Mrs. Carney said it will have a negative effect. She is allergic to dust and has medical problems, She can't take all this and said that if they need a bigger place, they should leave as Glenn Insurance did previously. She felt that a parking lot shouldn't be near the bike path or children.

Mrs. Helen Camp of 1404 Wabash Avenue, Block 97, Lot 19, was sworn in next. She said her living room will face the parking lot. She described the effects of the dry cleaner patrons. She said there are to be no left turns and drivers come down her street anyway. She has seen them cut over the bike path to turn around. This section of Wabash is a dead end street and there shouldn't be any drive through areas. Parking on both sides of Wabash Avenue is causing problems.

Dr. Levitt suggested a landscape buffer on the other side of the proposed fence or landscaping added to her property. Mrs. Carney spoke again and said landscaping won't help with cars parking and starting up. Gas fumes are bad for children. Mrs.

Camp said it will be a mess. Mrs. Carney said she pay taxes and her husband has fought fires and she has lived in Northfield her entire married life. She has grandchildren and great grandchildren and will be worried about them with the parking lot. She said it will ruin Northfield.

Mike LaTorre of 1407 Wabash Avenue, Block 97, Lot 18 was sworn in next. He stated that he lives two doors down from Mrs. Carney toward Pleasantville. He stated that he looked up the word 'variance' and stated it is a license to do some act contrary to usual rule. The zoning rules were established for a reason. He said that this is a residential neighborhood. Mr. LaTorre said that this project will impact the neighborhood. He said to the Board that here are the faces of real people who would be affected by this project and it will yield a negative impact on the residents. This section of Wabash Avenue is a dead end cul-de-sac and this parking lot will increase auto traffic and cause safety concerns for residents and bike path users including bikers and walkers. He pointed to a little boy and said "little Aaron lives there..." He stated that he has had to come to an abrupt stop due to customers using the drive aisle and not yielding to traffic. He has concerns that a second egress on a dead end street will cause problems. He said that the business climate does not guarantee the same use, but is a guaranteed problem with the neighbors. He felt that there is a surplus of available commercial properties that would better serve the business and this private venture will cost the neighbors. Quality of life issues will be negatively impacted. The house, existing trees, and flora create a buffer from Tilton Road including auto emissions and ground litter. Aesthetics and curbside appeal will suffer. If the Board allows for this variance, he wondered where it would stop. He said the Board needs to set precedence. Mr. LaTorre said he and his wife MaryLou have lived in Northfield over 10 years. Hey have a well-kept home which has added value to the neighborhood. He is concerned that this will devalue his property and degrade the neighborhood. He pays his taxes on time and they are good law abiding citizens. He felt that zoning rules were established for a reason.

The next member of the public to speak was Agnes Bocelli of 12 Holly Drive, Block 103, Lot 12. She addressed the Board and said Mr. LaTorre summarized her own concerns. She moved into her home in June 1979 and takes pride in her home and has made many improvements. She aspires to live there for 20 more years and loves her home and neighborhood. She does not like their proposals and felt that gas emissions, noise pollution, and excess traffic will be the result. She commented that this is a residential neighborhood and the residents have put everything into their homes and she feels the homes will be worthless. She shares concerns with all the neighborhood, even those who are not within 200 ft. of the site and although she likes and applauds progress, she wants the residential neighborhood to remain quiet. She addressed Mr. Darcy and asked if she could review the plans up close.

Ms. Bocelli and Mr. LaTorre viewed the plans with Mr. Darcy and they commented that they do not oppose the building, but they oppose the parking lot. Ms. Bocelli addressed the professionals and said she is an interior designer and likes the building, but she doesn't like the effect on their livelihood and quality of life. Mr. LaTorre commented that Mrs. Carney deserves respect from the Board. Ms. Bocelli said she aspires to stay in her home and does not want to be driven away.

Dr. Levitt commented that Merrill Lynch had parking issues that involved Wabash Avenue. Dr. Levitt remembered complaints. Mrs. Carney noted that there was not a bike path then. Ms. Bocelli said that they love the bike path and the only change has been extra traffic on the bike path, which is fine, but she doesn't want it coming to her doorstep on the corner of Holly Drive and Wabash Avenue.

Mr. Rann said that Mr. Riska would like to respond and added that traffic can be forced to make a right turn and that the applicant would be receptive to that. Dr. Levitt asked if the parking lot could be moved southeast to increase the buffer. Mr. Rann said they would be on the dry cleaners' property line, but they could plant some evergreens. Mr. Rann said that Mr. Riska would also be receptive to plantings on the other side of the fence. They could have plants along the fence and they would be happy to plant them if the homeowner would maintain them.

Mr. Bruce and Dr. Levitt discussed the turn radius. Mr. Bruce said by increasing the landscaping, they could increase the arc for the right turn and Dr. Levitt said there would be more room for evergreens on the landscaped area of the Bike Path for buffering Holly Drive. Mr. Riska noted that they would be hard to maintain since there is no irrigation system. Dr. Levitt commented that most of the trees on the Bike Path have survived and have provided softening and buffering of noise. Mr. Perri said they would have to show the City a plan since the Bike Path has a pre-existing plan.

MaryLou LaTorre addressed the Board and said she doesn't think the buffer for Mrs. Carney would work. She also has issues with the dry cleaners and fences need repair on the Bike Path. Mr. LaTorre said she is referring to a picket fence which is City-owned on this area of the Wabash Avenue. He added that there is too much density for a dead-end street and rules were established to protect residential zones. They should not have to contend with this. Shrubbery will not alleviate Mrs. Carney's anxiety and he felt he spoke for the neighborhood and those affected. Ms. Bocelli said gas and noise pollution will not be alleviated by landscaping. Dr. Levitt said the applicant is trying to make the parking issue more conforming. Mr. LaTorre said they are fixing a past wrong while creating a new wrong. Mayor Mazzeo commented that the split rail fence will come down eventually. There is a capital plan to install curbing, but this must be approved by City Council.

Dr. Levitt closed the public session at 8:43 p.m.

At this point, Mr. Riska testified before the Board. He said he respects the wishes of the neighborhood. He is not operating an auto body or repair shop. He wants to park cars in the proper place and is cleaning up the situation; not adding to it. Mr., Riska said that traffic will not be increased and that his business is maximized at this time and he is trying to provide organization to the neighborhood. He provided a photograph and presented it to the Board. It provided a view from Mrs. Carney's house and showed an overgrown area with poison ivy and overgrown foliage. He has concerns with his own property's market value and the house currently existing on Lot 15.01 is bringing down area values. He wants to take cars off the street. The Fire and Police departments will not have cars to contend with when they use the road and they will have more of a clear view. He would like to give Mrs. Carney plantings to make her property look more beautiful. He noted that if somebody buys the existing house, they will tear it down and build something new. With improvements, there is construction

and there may be a little inconvenience, he will do what he can to make things more beautiful and cleaner. He feels this is a win-win proposition.

Mr. Roegiers asked Mr. Riska about his property and casualty insurance company and how many clients visit on a daily basis. Mr. Riska said he typically sees only one customer per day. The nature of his business is that he goes out to visit his clients; they normally don't come to see him. Mr. Riska said after 4:30 p.m., he does not anticipate any use of the back parking lot; only the front lot will be used.

Ms. Bocelli spoke from the public section and asked if a fence could be constructed along the bike path so they would not have to look at the parked cars. Mr. Shippen said that would not be possible since a fence would be in the site triangle.

Mr. Rann said this concludes his presentation. Dr. Levitt said this is a difficult application and there have been good cases presented on both sides. He didn't feel there to an impact from the dust and gas fumes issue, pollution, or an increase in traffic, but he understood there will be a visual impact and that is not without consequence. Dr. Levitt felt they would be improving an inadequate situation and the applicant has offered to do all he can to minimize the visual impact with additional landscaping on both the subject lot and the adjacent property and has even offered to add landscaping on the Bike Path.

Dr. Levitt asked the Board for comments. Mr. Zlotnick suggested a bifurcation of the "D" variances for voting purposes beginning with the "D1" Use Variance for Lot 15.01 as an accessory use for parking for the business in the N-B zone. Dr. Levitt asked Mr. Doran if the applicant covered everything in his Engineer's report. Mr. Doran stated that they did and he mentioned that Mr. Darcy did an excellent job in his testimony of presenting the positive aspects outweighing the negatives. He said that the Board must weigh under positive criteria to accept Mr. Darcy's arguments as being particularly suited for the free flow of traffic. Dr. Levitt said "D" Variances are always a balancing act. Mr. Zlotnick reminded that the motion should be made in the positive so that the Board members will clearly understand how they are voting.

Mr. Shippen made the motion and Mr. Roegiers seconded.

The roll call vote was as follows:

Mrs. Dyrek-absent, Mrs. Kintish-no, Mayor Mazzeo-no vote as elected official, Mr. Milone-yes, Sgt. Newman-no, Mr. Notaro-no, Councilman Perri-no vote as elected official, Mr. Roegiers-yes, Mr. Rowe-no, Mr. Scharff-no, Mr. Shippen-yes, Chairman Levitt-yes. The motion to approve the "D1" Use variance was denied by a vote of 5 negative votes to 4 affirmative votes.

After some discussion, Mr. Rann asked the Board members who voted no to state a comment or reason for their negative vote. Mrs. Kintish commented that it was apparent that the neighborhood is upset. She said it was a tough call, but she felt for Mrs. Carney and didn't think she should have to look at a parking lot with a fence from her home. Mr. Perri asked if it was mandatory to comment on why a negative vote was cast and Dr. Levitt said no, but it is customary. Mr. Zlotnick said the dominant factor seems to be that there is substantial detriment to the public good. Mr. Riska commented that he felt that a difference in how the public may have commented was

due to the fact of the sequence in how this application was presented and that he spoke after the public session. Mr. Zlotnick commented that his rebuttal was very good. Mr. Notaro commented that he felt the Bike Path area is similar to a park and he didn't feel commercial uses should be expanded toward a park. Mr. Rowe said he had concerns with a residential zone losing a house and that property may become a different house in the future. Mr. Zlotnick answered a question posed by a member of the public about whether this could come back before the Board and Mr. Zlotnick said the vote is completed and there is no further dialog on the matter, but he said the applicant could appeal in Superior Court.

Mr. Rann stated that Mr. Riska wants a vote on the site plan. Dr. Levitt said the applicant is asking to enclose a stairwell, square of rooms for office use, and increase office space by less than 150 sf. There improvements will be on Lot 12.01 and there is to be no medical use. Mr. Zlotnick added that all variances in Mr. Doran's report would be included. Mr. Doran asked Mr. Bruce for the gross square footage of the addition. Mr. Bruce said 700 sf. Mr. Doran said he used 728 sf in his calculations. Mr. Riska asked if he was including the enclosed staircase. Mr. Doran said it is included by Ordinance in gross floor area calculations, but it won't affect the parking.

It was decided to proceed with a vote on the D4 Variance for the Floor area ratio under conditions of improvements as shown in the architectural drawings. Mr. Shippen made the motion and Mr. Roegiers seconded.

The roll call vote was as follows:

Mrs. Dyrek-absent, Mrs. Kintish-yes, 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-no vote; he had to leave to go to work, Mr. Shippen-yes, Chairman Levitt-yes. The motion to approve the "D4" variance for Floor Area Ratio was approved unanimously.

The third vote was for the bulk variances and waivers for parking, front setback, buffers, building coverage and total coverage. Mr. Milone made the motion and Mr. Notaro seconded.

The roll call vote was as follows:

Mrs. Dyrek-absent, Mrs. Kintish-not called, Mayor Mazzeo-yes, Mr. Milone-yes, Sgt. Newman-yes, Mr. Notaro-yes, Councilman Perri-yes, Mr. Roegiers-yes, Mr. Rowe-not called, Mr. Scharff-no vote; he had to leave to go to work, Mr. Shippen-yes, Chairman Levitt-yes. The motion to approve the bulk variances and waivers carries.

The final vote was for the site plan, preliminary and final. Mr. Milone made the motion and Mr. Shippen seconded.

The roll call vote was as follows:

Mrs. Dyrek-absent, Mrs. Kintish-yes, Mayor Mazzeo-yes, Mr. Milone-yes, Sgt. Newman-yes, Mr. Notaro-yes, Councilman Perri-yes, Mr. Roegiers-yes, Mr. Rowe-3rd alternate vote not needed, Mr. Scharff-no vote; he had to leave to go to work, Mr. Shippen-yes, Chairman Levitt-yes. The motion to approve the site plan carries.

There were three resolutions to memorialize. The first was for Margaret Dougherty, Block 70, Lots 11 & 12, 306 W. Oakcrest Avenue, approved for "C" variance relief for side yard setbacks for a residential addition. The voice vote was all in favor. The second was for John Mirenda, Block 71, Lots 1-3, and 26-28, 2600 New Road for Preliminary and Final site plan approval with "C" Variances. The voice vote was all in favor. The third was for Calvary Chapel Gateway, Inc., Block 16.01, Lot 47, 1631 Tilton Road in the Mainland Professional Plaza for a "D" Use Variance for a House of Worship. The voice vote was all in favor. All three applications were approved at the July 18, 2013 meeting. Abstentions were Linda Dyrek, Denise Kintish, Lou Milone, Henry Notaro and Clem Scharff.

The next regular meeting will be September 5, 2013.

Chairman Levitt closed the meeting at 9:13 p.m. with a motion from Mr. Shippen and a second from Mr. Rowe.

Respectfully submitted,

Robin Atlas, Secretary to the Board