

**City of Northfield Planning Board**  
**1600 Shore Road**  
**Northfield, New Jersey 08225**  
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**Minutes: December 4, 2014**

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, December 4, 2014 in Council Chambers, City Hall, Northfield, was opened by Chairman Richard Levitt at 7:01 p.m. and the following members were present or absent as noted:

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

Matthew Doran, Professional Engineer  
Norman Zlotnick, Solicitor

The meeting opened with the swearing in by Dr. Levitt of Councilman Frank Perri who will serve as City Council Liaison for the month of December. Mayor Chau won his election for the unexpired Mayor term which went into effect after the election. This vacated the Council liaison seat which he held this year on the Planning Board.

Chairman Levitt took care of one order of business prior to the discussion of the proposed Ordinance. There was one resolution to memorialize for James Maga who was approved for an existing carport for a side yard setback at the November 6, 2014 meeting. Abstentions were Mayor Chau, Tim Anderson, Linda Dyrek and Denise Kintish.

Mr. Zlotnick addressed the Board and the public and began the discussion of the proposed affordable housing and zoning Ordinance which would designate Block 17,

Lots 4 and 7-12 as the Commercial Multi-Family Zone. He stated that City Council and the Planning Board are following court ordered requirements. The Planning Board can take up City Council's Ordinance proposal within 35 days or they also can do nothing. After the 35-day period, City Council can move forward with their second reading. The issue has been addressed in The Press and has made clear to the public what the vote is tonight which is to approve or disapprove of the Ordinance. The decision will go back to City Council through the City Clerk, Mary Canesi. He stressed that nothing is being passed tonight and any vote does not advance the Gurwicz project. All it does is deal with the Ordinance.

Mr. Zlotnick introduced Professional Planner Tiffany CuvIELLO who is available to deal with any issues that involve planning. Tonight is only a discussion and vote including a public session. There will be action tonight, and after the discussion, Mr. Zlotnick will counsel the Board and then there will be a vote. He added that in the entire process, from beginning to end, this is the least important and easiest part of the process. Dr. Levitt added that this enables legislation to have multi-planning housing and there is no site plan approval at this point. Details and locations are for a later time. Mr. Zlotnick stated that the process will progress. After tonight, the findings will go back to City Council and the Ordinance will be taken up under revision for a 2<sup>nd</sup> reading and the public will be heard at that time. City Council will then vote on the Ordinance. More time will be needed as publishing will take place. At that point, MGS, the developer, will have to make a formal application before this Board. This is if the zoning is allowed, and at that time the public will be heard on the actual application.

Dr. Levitt asked Ms. CuvIELLO if she would like to make a statement. She said that she agreed with Mr. Zlotnick's explanation and she has provided the Board with a Memorandum concerning Ordinance #7-2014-Commercial Multi-Family Zone. She summarized and addressed the Memorandum and read the highlights such that it is recommended that the Ordinance is consistent with the Master Plan and the proposed Ordinance will create a new C-MF zoning district on Block 17, Lots 4 and 7-12 with the intent to enable the development of up to 265 residential multi-family units with 15% set aside for affordable housing of up to 40 units. The existing commercial developments along Tilton Road would be incorporated for setback, buffers, and maximum lot coverage standards, but would not permit residential development and all other standards would remain consistent with the R-C Zone. The Master Plan and the proposed Ordinance must be consistent with the goal to identify and accommodate both senior housing and affordable housing within the City. Ms. CuvIELLO said she looked at Northfield's 2008 Master Plan and reviewed Objectives A & E for comparison consistency with the C-MF Zone. Objective A is to encourage appropriate use or development of land which promotes public health, safety, and general welfare of present and future residents. Objective E promotes population densities and concentrations of same. Goal A is to identify areas within the City to allow greater density and to accommodate the need for senior and affordable housing. Objective E allows density for 15 units per acre and eliminates the age restriction and lowers the units to 13. Ms. CuvIELLO said that the goal is substantiated by the need for senior and affordable housing. Dr. Levitt read through the proposed Ordinance and addressed the issues by topic headings and he stated that the Ordinance is public record and includes the purpose and intent, what is permitted in the zone, the types of uses and standards, and in this development, 15% of the units will be affordable housing which will involve 40 units.

Dr. Levitt opened the public session. Bob McDonnell of 808 Maple Avenue addressed the Board first and was sworn in. He expressed his displeasure with the project, the law firm involved, and the Gurwicz organization. He felt Mr. Gurwicz is bullying Northfield and asked why they are developing here. Dr. Levitt said the City is being coerced into action, but the developer has the Supreme Court decision on their side regarding Builder's remedy. If there is no Ordinance in place and Northfield does not comply with the State, MGS can go before a Judge and say that they now want to build 400 units which would be a considerably worse situation and could end up costing the City millions in lawsuits. This very thing has occurred in other towns. Mr. McDonnell commented on London Court and that half of the units are empty and they can't sell them. He asked why they need to build more. Dr. Levitt noted that they are condominiums and townhomes which are not owned by an association and are not considered rental units.

Mr. Zlotnick commented that one thing the City cannot do is create a market. The law can require the City to have affordable housing or be sued. It is our responsibility to make it available if someone wants to develop it. The market itself will determine if in fact they are built. Mr. Zlotnick said he is very familiar with the situation that Somers Point dealt with and cities and towns must deal with the law. In the ten years since their process was completed, there has not been one project built there because of the market. Mr. McDonnell said things change all the time. Dr. Levitt said that they were initially approved for senior housing and it was zoned as such, but the developer has determined that there is no market for senior development. He discussed a similar development in Absecon which became a general rental development due to there not being a market for senior housing and he said that this development will also attract the rental market. Mr. McDonnell said he is afraid the units will wind up as Section 8 housing. Dr. Levitt commented that the development will be constructed in phases and that there is a huge demand for quality rentals. The developer will spend millions investing in the project and will need to see a return on the investment. He will not want to quickly build the development and have them remain empty while he pays a huge bank note. The State currently has a 200,000 rental deficit and will attract young people just starting out who cannot afford to obtain a mortgage such as new Police and Fire personnel and also those who don't have the need for a large home anymore and want to downsize. Mr. McDonnell said he does not agree with the 15% affordable housing figure and believes it will be higher. Dr. Levitt said there is no incentive for the developer to go higher as he won't make any money. His profits will be made on the market rate units and initially he planned 216 units. After the project was withdrawn, he came back with a higher density of 265 units to incorporate the affordable units. Mr. McDonnell said this kind of development will cause many problems and Dr. Levitt answered that the problems involve lawsuits and great deals of money to fight them. In Somers Point's case, they lost their lawsuit and the projects are allowed to be developed anyway. It is better to negotiate on our terms. Mr. Zlotnick added that he thinks the City has not been bullied and the only major change in the Ordinance is the elimination of senior housing. Ms. Cuviallo added that the developer originally wanted to build 330 units and this was negotiated down. Mr. McDonnell said he thinks that developers get away with murder and an example is the flooding he experiences in front of house. He feels that things just are not being done right.

Charlie McGilley of 18 Northfield Plaza spoke next. He had concerns that this is not the right economic time for this type of development in the County. He stated that the area is not even over the Casino closings yet and he has concerns about the effects on education. There is no restriction on the number of people per unit. He fears that people that couldn't afford their homes will move in there. He asked why no one else had made an offer to develop this area. If it has taken ten years to move on this, they should wait another 10 years. He asked that the City be allowed to recover. The Revel situation really hurt the area and this kind of development will hurt the City. He felt that the City could keep appealing any litigation and said it won't cost that much.

Mr. Zlotnick and Mr. McGilley discussed the Somers Point situation. Mr. Zlotnick said it was a very negative experience. Over a million dollars was spent and the City lost the case. Mr. Zlotnick said in terms of affordable housing, you can't fight it and the developer will win. He added that under Section 26, even if the Planning Board takes no action this evening, the approval can still be achieved after 35 days. Mr. McGilley suggested putting the responsibility on City Council. Dr. Levitt said that Mr. Gurwicz is not going to build something he believes he can't rent. Mr. McGilley said he wants to see this stretched out until the City can recover. Mr. Zlotnick said there is a court order for the City to comply with a plan by the end of January. Dr. Levitt added that we will be in contempt of court. Mr. Zlotnick said that the Fair Share Housing Center is watching every move the City makes and that the light is shining brightly.

Mr. McGilley suggested stalling, and that tax abatements must stop. Education will be affected as the City will need more teachers and eventually busing. Dr. Levitt assured him that busing would not be an issue as distance from the school is not an issue that would require busing. Mr. McGilley thinks it is a concern. Dr. Levitt said the City is not required to provide busing in Northfield according to State Statute. Mr. McGilley felt that part of the property is more than two miles from the school and shouldn't be on the tax shoulders of the residents. He asked that the Planning Board let it die in committee and to leave it to City Council to confront this. The timing is poor and he urged the Board to stall. Mr. McGilley added that he also has concerns for other open space areas in Northfield.

The next members of the public to speak were Matt Reynolds and Tim Reynolds who own the commercial property 332 Tilton Road, LLC located at 332 Tilton Road. The brothers reside in Linwood and Margate and they were present to express their concern with the Tilton Road Driving Range. They felt this was opening the door to problems. Ms. CuvIELLO said the door is already open and the City is required to look at possible affordable housing sites for up to 190 units by January 29<sup>th</sup>. Mr. Reynolds said they have 72 employees and pay over \$100,000 per year in taxes. They have spent over \$1,000,000 in improvements and have concerns due to the article in The Press which mentioned the Driving Range as a possible site for affordable housing. Dr. Levitt stressed that the City is required to come up with a plan to show possible sites in town where 190 affordable units could possibly be placed. It is unknown exactly what the final obligation will be as COAH could not come up with a number. The decision will be in Supreme Court and the City needs to be prepared for 190 units at this time. Dr. Levitt gave the opinion that he didn't think affordable housing would be built on Tilton Road. Mr. Reynolds expressed concerns that Mr. Gurwicz owns the driving range property. Dr. Levitt said that they may never have to use the pieces of land recognized as open space. It is necessary to know the ultimate number required and the market conditions. By the end of January 2015, the City must look at every piece of open land.

This is the reality of the court order. Mr. Reynolds said he has concerns that anyone could even think of putting residential housing on Tilton Road considering the effect on traffic flow. Dr. Levitt said there is a huge gulf between recognition and actuality. Mr. Zlotnick commented that the article Mr. Reynolds is referring to was misleading. Mr. Reynolds said the City can expect a huge lawsuit from his firm. Dr. Levitt reminded that the courts are very sympathetic to cities trying to be COAH compliant. Ms. CuvIELLO added that the City must look at every piece of open and under-utilized land and then look at what would be usable. Some of the possibilities may be zoned affordable housing and some may not. The Planning Board must address this at the January meeting and it will be noticed. The Board is required to discuss, evaluate, and act and there is a court-ordered deadline. Mr. Matt Reynolds said that he wants the Planning Board to worry about the businesses that pay taxes and not just the homeowners. Dr. Levitt invited all concerned to find open spaces for consideration. He said the work has been done and there are only so many areas available. Mr. Reynolds asked why cities such as Linwood and Margate are not being forced to do this. Mr. Zlotnick assured him that the axe will fall everywhere. There will be something that will precipitate it. Mr. Tom Reynolds said that the Gurwicz site was zoned for senior housing and now they are looking to change it. Dr. Levitt said it is important to look at the timeline. It was zoned commercial and in the 1990s it was zoned for Senior Housing when there was a market for it. There was never a market for commercial since there is no road frontage. Mr. Reynolds said he has heard that the units would have one and two bedrooms and he worries that people will move in there and put four children in one bedroom and he worries about the quality of people that would be attracted to this. Dr. Levitt asked what the alternative is. Mr. Tom Reynolds asked that the Board stretch it out. There will be litigation either way and he asked what is more important; homeowners or one businessman. He also noted that he will be in South America on the January 29<sup>th</sup> deadline. Ms. CuvIELLO said action will be taken prior to that date. Mr. Tom Reynolds asked that the Board be cognizant of the amount of taxes that businesses pay in the City. Dr. Levitt asked what would the impact be should the site be residentially developed. Mr. Matt Reynolds answered that Tilton Road is the busiest road in the County. Dr. Levitt said that the studies show that a shopping center or a fast food restaurant would have more in and out traffic than a residential development. Mr. Tom Reynolds said that they now have people and vagrants from Heathercroft coming into their back parking lot and he feels there would be an increase in crime. He felt that his property and the Jackpot property next door are the nicest looking properties along Tilton Road. Dr. Levitt said no one is questioning the quality of your citizenship or the quality of your business, but the City is under an obligation. Dr. Levitt said again that the City would be heavily fined, up to \$10,000 per day, if they are not compliant with the court order. The court gave the City protection from a Builder's remedy, which is subject to the Housing Element Plan submission, by the end of January.

Pat McCarthy of 2002 Bay Drive spoke next. He said he is a concerned citizen and stated that he feels the zone, which is age restricted now, is property zoned and questions why it can't be used for COAH credits. Ms. CuvIELLO said the zone has no affordable housing associated with it and the City has no plan in place which makes it vulnerable to the lawsuit. The City must enact this Ordinance. Dr. Levitt added that Mr. Gurwicz has stated that he cannot build senior housing. Mr. McCarthy noted that the senior housing at St. Peter's in Pleasantville has a current waiting list. Ms. CuvIELLO said that if Mr. Gurwicz must go back to court, he will seek 330 units and he will get it. Mr.

McCarthy said he is concerned with not having the age restricted protection. Mr. Zlotnick mentioned that statistics are ever-changing. Dr. Levitt added that the enrollment at the Northfield Community School is down 150 students from years past and the school can handle an increase. Mr. McCarthy asked why it was necessary to change the zoning. Mr. Zlotnick said that the City needs to take some action in a positive way or we will be out of the process and in the courts. Dr. Levitt said that he felt it will be an attractive project and not institutional. Mr. McCarthy asked where the renters would come from. Mr. Zlotnick said it will not be Section 8 housing. Mr. McCarthy asked what the current voucher rates were. Dr. Levitt said there are no vouchers as this is not Section 8 housing. Dr. Levitt also commented that when he first got out of school he had to rent an apartment and this type of development will be transitional housing for some and the renters will be coming from our own communities. Ms. CuvIELLO added that in order to qualify for affordable housing, a single person would need to earn \$25,000 and two people, which can also include a mother and child, would need to earn \$46,000 to qualify to rent the affordable housing. Dr. Levitt said these are working people and this is not free housing from welfare. The aim of COAH is to provide affordable housing for working people and the development would be paying taxes. Dr. Levitt added that the COAH number was higher 10 years ago. Ms. CuvIELLO said the City has to find 190 units. If the senior housing number at this site were used, it would eliminate senior housing numbers available in other areas which would be preferable in other areas of the city. Dr. Levitt added that the Ms. CuvIELLO is also looking into credits that can be used and is looking at all the options available. Mr. McCarthy concluded by saying he has concerns about the education costs associated with the additional residents in the City.

Dr. Levitt closed the public session seeing that no one else wished to speak. He asked the Board if they wished to pose any questions at this time. Mr. Roegiers said that all municipalities in the state are getting strong-armed with this issue and it is legal and we have to comply. He asked that the public keep in mind that we all live and some also work in this town. His own family has a business on Tilton Road and this is not a pleasant situation and no one is 100% in favor of it. We have to try to contain what is happening and avoid the risk of being sued. Dr. Levitt said the Board will have to come up with recommendations to City Council as to what is buildable and qualified and what areas would be considered wetlands. Feasibility for 190 units needs to be shown and it must be kept in mind that these units may never actually be built. No one is certain of the final number at this time and it is hoped that the number will come down. Dr. Levitt said that the Board has sworn an oath to due diligence and to do our best job. They cannot simply let it go and not act and must present a plan by order of the court. Mr. McGilley and Mr. Tom Reynolds added comments out of the public session. Mr. McGilley wanted the Board to not act and Mr. Reynolds said he does not want to see Tilton Road used in this manner. He recognized the good work the Board does, but in all their wisdom, does not see why they would even consider this.

Mr. Zlotnick summarized for the Board. He said pursuant to N.J.S.A 40:55D-26 of MLUL, which calls upon the Board to act, he has prepared a report which will be forwarded to Mary Canesi, Municipal Clerk, which referenced the property as Block 17, Lots 4,7,8,9,10,11 & 12 on the City of Northfield's Tax Map stating that public notice has been properly given and the Board has reviewed a Master Plan Consistency Memorandum from Tiffany A. CuvIELLO, PP, AICP and determined that the proposed Ordinance is consistent with the Master Plan of the City of Northfield. The Board

advises City Council that it has adopted the conclusions of Ms. CuvIELLO and reports favorably that the Ordinance is consistent with the Master Plan. This is all the Board is charged to do tonight.

Councilman Perri made the motion to reply to Council showing consistency of the proposed Ordinance with the Master Plan. Mr. Rowe seconded the motion.

The roll call vote was as follows:

Mr. Anderson-absent, Mrs. Dyrek-absent, Mrs. Kintish- absent, Mayor Chau-yes, Sgt. Newman-yes, Mr. Milone-absent, Mr. Notaro-absent, Councilman Perri-yes, Mr. Roegiers-yes, Mr. Rowe-yes, Mr. Scharff-absent, Mr. Shippen-absent, Chairman Levitt-yes. The motion to approve carries.

Councilman Perri said that Council will meet on December 16<sup>th</sup> and will vote to adopt the Rezoning Ordinance and stated that the public should attend. Dr. Levitt commented that the public thinks that if action had been taken on a COAH plan in 2008 we would not be in the situation we are facing now. He stated that this is not true. Our obligation would have been much higher at that time. COAH compliance is a City Council decision, not a Planning Board decision. In 2008, Council agreed at that time to not address the situation and it was the right decision. Ms. CuvIELLO added that the COAH units were 293 at that time. Mr. Zlotnick said that the January 8, 2015 re-organization meeting would be suitable to address the Housing Element and Fair Share Plan and Ms. CuvIELLO said that a special meeting before the holiday may be necessary to finalize. Dr. Levitt commented that Ms. CuvIELLO has done an incredible job formalizing the plan, working with the committee, and scouting the City for open and available space. Ms. CuvIELLO said the Planning Board will need to adopt the Housing Element Plan in that it is consistent with the Master Plan and the date to aim at is the re-organization meeting January 8, 2015. The plan will then be forwarded to City Council for endorsement. At that point it goes to the Courts for certification and then Council can fully adopt the Ordinance and the Master Plan that goes with it. At that point, the appeal process begins. She said she will continue to do her best to look into all available options remaining and said that there are not a lot of them. Councilman Perri asked if the Plan takes into consideration commercial retailables. Ms. CuvIELLO and Councilman Perri discussed the need for a balance between commercial and residential zones to offset the costs of the residential properties. There is a need for commercial retailables and to keep the tax base balanced within the City.

Councilman Perri made a motion to close the meeting and Mr. Rowe seconded. Chairman Levitt closed the meeting at 8:33 p.m.

Respectfully Submitted,

Robin Atlas, Secretary to the Board