

City of Northfield Planning Board
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Minutes: March 12, 2015

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.

This REGULAR rescheduled meeting of the Northfield Planning Board, held on Thursday, March 12, 2015 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:

Timothy Anderson-absent
Mark Bruno
Mayor Erland Chau
Jim Leeds
Dr. Richard Levitt
Lou Milone
Chief Paul Newman
Henry Notaro-absent
Councilman Frank Perri
Ron Roegiers
Derek Rowe
Clem Scharff-absent
Jim Shippen

Matthew Doran, Professional Engineer
Norman Zlotnick, Solicitor

The meeting opened with the roll call. Mayor Chau appointed a replacement for Denise Kintish for 2nd Alternate and Mark Bruno was sworn in and took a seat on the dais. Dr. Levitt instructed Mr. Bruno about the required NJ State course that must be completed within 18 months of appointment, the importance of the Land Use Code Book, and to notify the secretary if you cannot attend a meeting.

There were two applications on the agenda this evening and the first to be heard was Cellco Partnership d/b/a Verizon Wireless, for the property located at 2605 Shore Road, Block 78, Lot 14 in the R-B Zone. The existing use is a mixed use of Office/Retail & Medical. The application is for a "C" Variance, "D" Variance, and various waivers to construct a telecommunications pole.

The attorney for the application was Warren Stilwell of Cooper Levenson of Atlantic City. Mr. Stilwell commented that the meeting had to be rescheduled one week due to a snowstorm and was properly noticed in City Hall and in The Press and no further noticing was necessary.

Mr. Stilwell addressed the Board and said this is an application to construct a cell tower at the Coastal Design/Urgent Care site and he noted that he has been before the Board twice for the same approval for telecommunication towers at this site. The last approval in 2011 for T-Mobile was not developed. The proposed tower will be the same height at 65 ft. with a lightning rod at 71 ft. The difference with this application is the antennas will be on the outside and Verizon needs a generator located in a compound within fencing. The applicant's engineer will address generator noise. The zone is Residential Business and the tower will require a D1 variance and also a D6 variance for height. Dr. Levitt swore in the witnesses together. Sworn in were Andrew Petersohn, James Kyle, and Petros Tsoukalas.

The first witness to testify for the application was Andrew Petersohn, a New Jersey licensed telecommunications engineer. Mr. Petersohn described the cell phone, telecommunications, and networking trends that are not slowing down and increased device use puts strain on Verizon networks. There is a tidal wave of data demand and the increase is a universal thing. Even with the latest equipment, there is a need to increase offload capacity to other sources due to data usage increase and continued growth. Offloading is the most viable solution to alleviate network congestion and ensure seamless delivery of broadband services and to improve building penetration. Mr. Petersohn displayed Exhibit A showing area coverage layers as they currently exist. The exhibit showed the best server coverage at this time. He stated it is a view of a typical map showing the location of the Verizon towers as black dots with the colored sections representing areas being served. Mr. Petersohn described the area sites and said there is a guy tower in the Birch Grove Park area at almost 400 ft. tall, the Blueberry site is a monopole is located at the Days Farm near the Parkway in Egg Harbor Township, and the Somers Point site is a lattice pole. The fourth site is the proposed site at 2605 Shore Road.

Mr. Stilwell and Mr. Petersohn discussed the proposed site as being on the edge of several sites and there is not a dominant coverage site in the area. Radiofrequency will be improved with the proposed tower. Mr. Stilwell said Verizon has been looking for a site in this area for a long time. Mr. Petersohn described Exhibit A-2 which showed the same map as Exhibit A-1, but showed what the service coverage would look like with the proposed facility activated. The exhibit showed better service and coverage. Exhibit A-3 showed a graph displaying affected sectors with data added daily between the dates of 2/12/15 and 3/2/15 which are to be considered off-season times rather than peak summertime data usage. During peak times, the sectors would be more negatively affected. The three sectors examined were the Somers Point, Blueberry, and Birch Grove Park sectors. Whenever data rates fall below 3000 kilobits per second, which are used to describe data rates, this is an indication of data exhaustion. This can be remedied by constructing a new facility as is the case with this application. A height of 65 feet will achieve the goals proposed. It is the minimum height Verizon needs to offload effectively.

Mr. Petersohn discussed the antennas and said it is now an industry standard to construct them on the outside of the towers and it is an efficient use of vertical landscape. Each server will occupy one centerline on the pole. Dr. Levitt asked for more of a description and Mr. Petersohn said there will be several racks of antennas on a triangular platform. Verizon and other carriers will attach to that structure. He added that 10 ft. is the industry standard for separation of carriers. He noted that the previous approval was for a flagless flagpole design, but that has proven to be a poor design for sharing resources and is outdated. The antennas are not huge, but they do occupy space. They are about one foot wide and one foot deep and are four to eight feet in length. Verizon is proposing twelve antennas at one centerline. On a flagpole type design, they would need to occupy four centerlines and the proposed 70 ft. pole would need to be over 100 ft. high to accommodate their needs. The proposed design is ideal because carriers will occupy one centerline.

Dr. Levitt commented that this is a residential area and one of the elements that Mr. Stilwell previously advocated was that the flagpole would be aesthetic. He had concerns with mission creep and felt that with the additional hardware, the pole would be less visually appealing. Mr. Petersohn said that with the modernization of equipment, the radio heads or brains of the system, are now mounted at the antenna level and are connected to the bay station using fiber optics rather than the methods used as recently as five years ago using co-axial cables. Dr. Levitt said the design is bad looking for a residential area and asked if they could lower the height to minimize impact. Mr. Petersohn addressed cluster mounting and said they looked into this option of having six antennas at each centerline instead of twelve. This would increase the height of the tower by at least ten ft. and if they add centerlines, they would have to grow upward. Dr. Levitt asked if the new radio antenna on Tilton Road would be suitable. Mr. Petersohn said it was marked on the first exhibit and is one mile north of the proposed location. It already has two carriers located on it and where Verizon would want to be located; it would be in the tree line and would be too low for their needs. Dr. Levitt asked about possibility of locating on the City of Linwood water tower and Mr. Leeds asked about other sites which have been looked into. Mr. Petersohn said they looked at all available sites. Mr. Bruno asked about the safety factor and said he had concerns about radiation and the effects on children since this is a residential area. Mr. Petersohn said he has studied this issue and it is very safe by FCC standards and any possible exposure is twenty times less than the safety threshold set by the FCC. New Jersey has less stringent standards, but they are also very safe. Mr. Stilwell said that it is the burden of any applicant in this type of hearing to prove that they satisfy the FCC requirements and once satisfied, it puts to bed any health issues. Dr. Levitt agreed and said the Board has heard many hearings of this type and is convinced that the safety issues are minor. Mr. Leeds asked about the 1500 Zion Road tower and was told that the Zion Road tower is higher at about 80 ft. Mr. Petersohn said that pole has two platforms and there are presently two carriers. The 2605 Shore Road proposed tower has much less in the antenna area. Chief Newman asked if the tower could be made more aesthetically pleasing. Mr. Petersohn said that as an RF guy, he cringes at flag pole and tree pole designs. He personally thinks the new galvanized steel designs blend in more naturally with surrounding areas. Dr. Levitt commented that there is an approval to demolish the end store on Oakcrest Avenue and Shore Road to be used as a parking lot. He suggested when this happens; it will open up the area more and will allow the tower to be more in view. Mr. Doran commented that the pet grooming shop building will remain and the tower is right up against the building. Mr. Shippen added

that Lot 20 is the lot with the building which will remain and the tower won't be visible until well onto Oakcrest Avenue. Mr. Doran said that the visual environment is upwards anyway and he felt that the tower would blend in with the building.

Mr. Bruno asked for more information on the Somers Point tower. Mr. Petersohn said that it is the direction of the sectors, which are highly directional, that dictates the coverage and this tower will not help with the area they are trying to cover. Dr. Levitt asked if landscaping or trees could be added. Mr. Petersohn said that question should be directed to one of the other professionals. Mayor Chau asked about noise created by the structure, electronics, or machinery. Mr. Petersohn said only the generator, which is a stand-by generator, will contribute any noise and he noted that one of the other professionals will address this. Mayor Chau asked about testing on a regular basis. Mr. Petersohn said testing usually occurs once a week according to a set schedule. Mayor Chau asked due to the height, would there be any required lighting attached to the pole. Mr. Petersohn said no, there is none required. Mayor Chau asked due to the concentration of the residential area, would there be any electronic frequency interference. Mr. Peterson said there would not be any and he has a letter he can enter as an exhibit stating this. Mayor Chau asked if there is any possibility in the future of the tower being extended higher than 65 ft. Mr. Petersohn said the tower is built to be extended. Mr. Stilwell added that the Ordinance encourages other carriers to co-locate on existing towers rather than build a new tower, but that is not the application here. Mr. Petersohn said Verizon would not spend the money to extend the pole. Mr. Doran addressed the fact that the applicant is applying for a "D" Variance for a specific height and questioned whether the FCC would allow them to extend without another variance. Mr. Stilwell said new regulations were adopted in October and will take effect in April that if facilities exist, a carrier can co-locate, with application, if they don't substantially increase the size or dimension of the tower. Mr. Perri asked about the distance in feet of the proposed tower to the nearest resident. Mr. Petersohn said another witness will address that concern. Mr. Leeds asked if the same height was available on the Birch Grove pole or if they could co-locate on that pole at another level. Mr. Petersohn answered that no, they could not. Due to technology, they have leveraged the existing assets they have on the ground. They would rather add radios and antennas to split sectors. It is faster to market and much cheaper. They would always do that first, but it is not the case here.

The next witness to testify was Marco Peredes. He works for Verizon and has been in the industry for 15 years. He has been involved in the construction of 1,000 towers and has been involved in building installations in Philadelphia and Washington. He is now responsible for Atlantic County and has been working on this site for ten years due to the gap in coverage. They initially looked at Linwood Country Club, and they were aware of the T-Mobile approval for the monopole, but that type of pole would be difficult for their business to co-locate on. They looked into Hackney's Boatyard, but there were financial issues. They also looked at the Methodist Church steeple, but there was no interest there. Dr. Levitt said the Board is very familiar with this from the prior applications. Mr. Peredes summed up that there is definitely a need in this area.

The next witness was Petro Tsoukalas, a New Jersey licensed Engineer, who was present at the previous three meetings for T-Mobile. The tower will still be located at the rear of the building with the equipment located inside and the site consists of Urgent care and various stores. A difference involves a new fiber cabinet which

previously was a copper cabinet. The new fiber cabinets are now used for faster speed. The required 30 kilowatt generator gets exercised and tested about 20 to 40 minutes per week, usually on a Tuesday during the day when people are typically at work. It will only be functional when there is no power and all the workings are on the inside. There is a flood light on a timer if needed by a technician and it will be pointed down and shielded.

Mr. Tsoukalas addressed generator noise and presented Exhibit A-4 which is a design of the generator and Exhibit A-5 which is a letter about decibel levels. The generator will produce decibel levels close to 54 and 55 which is similar to conversation and speech. Decibel levels of 65 are standard when testing. The generator will make sure that if you have no power, your cell phone will work. Mr. Roegiers asked about the fuel source. Mr. Tsoukalas said natural gas.

Mr. Tsoukalas displayed Exhibit A-6 which is a design of the 66.6 ft. tower with the addition of a 5 ft. lightning rod which goes down through the ground system and is about 2 inches in diameter. He said the entire system will be grounded. The tower will have 12 antennas facing in three directions and from the center line, the extent is 6.5 ft. The main difference from previously is that the antennas will have fiber radios on top and there will be no co-axial cables. There will be a board on board fence for privacy and he does not recommend the addition of any trees. The area is a parking lot and the trees will not survive as the roots will not get the water they need. He feels they would die within a year. Dr. Levitt said that trees survive in curb strips and would like to see a softening to this area. Mr. Tsoukalas recommended a PC or board on board fence. Dr. Levitt agreed that would be better than a chain link structure. Mr. Stilwell had no objection. They all agreed to a 10 ft. high fence as anything higher would need reinforcement. Mr. Tsoukalas said there would be no increase in noise except for the generator as discussed and the fencing would make that quieter. He added that there is an existing generator, but they cannot use it for their purposes. There is also a dumpster there and they intend to relocate it. There are no designated parking spaces. Mr. Doran commented that the Palombo's plan does anticipate some parking back there. Mr. Stilwell noted that they would be willing to provide some landscaping if the landlord allows. Mr. Tsoukalas said since this is an unmanned facility, there will be a required trip every four to six weeks by a technician. Mr. Perri asked how far away the nearest resident is from the pole. His concern was if the pole were to fall down. Mr. Tsoukalas said 125 ft. from the monopole to the property line. Mr. Doran said that the engineers answered all of the comments in his review.

James Kyle, a New Jersey licensed planner, said that he reviewed the plans and the City Zoning Ordinance, which includes a Wireless Ordinance, visited the site and conducted a balloon test. He distributed Exhibit A-7, showing aerial photos of cluster mounts with antennas grouped together. The variance approvals being sought are D1 for the use variance and D6 for height. The photos show simulations with and without antenna mountings.

Mr. Kyle described the process. Balloons were floated at 70 ft. and he drove around and took the pictures at the two measurements simulating the areas on the pole. The bulk relief involves the setback requirement to any property line of 66.5 ft. where 34 ft. is proposed and distance to any residence where 100 ft. is required and 117 ft. is proposed and that is to the property line, not to the structure. Mr. Kyle testified as to

the variances. They have exhausted all potential sites in the area and there is a need for other carriers as well. He discussed the positives and negatives and stated he used balancing tests. There is a capacity need for resources to make a cell call. He noted that 44% of Americans have gotten rid of their land lines and with emergency responders using this technology, the public need is compelling. The site is a commercial use on a busy corridor. The courts have determined if an applicant has an identified gap, they are allowed to seek an opportunity to fill that gap in some measure. This site is on the fringe of all other nearby sites and this site is located where all the other sites come together. The site is ideal to offload the other sites. The company has exhausted all other potential locations in the area.

He discussed the detriments as being mainly the visual impact. Compared with T-Mobile and AT&T, Verizon operates on four frequencies and this requires higher and more difficult technical equipment. Mr. Kyle said he believes the tower at Zion Road is 90 ft. and has two carriers which is considerably higher than this tower. Mr. Stilwell commented that he spoke with one of the owners of 2605 Shore Road, Mr. Drobonick, and he agreed to landscaping. Mr. Kyle continued by saying that the buildings will mask much of the tower and the visual impact will be mitigated by vegetation in the neighborhood. Mr. Kyle said he can't do much at the top of the tower, but the Board can impose landscaping for less visual impact from the ground. He stated that the positives outweigh any negative impact and the bulk variances do not affect the visual impact.

Mayor Chau commented on aesthetic and visual appearance and asked if there was any potential of soliciting any additional things on the tower. Mr. Stilwell said they are only bound by other carriers to co-locate. Dr. Levitt asked if the array can be condensed and felt that the antenna ears are substantially sticking out. Mr. Petersohn said that if they attempted that, they would only be able to have two antennas and it is important that they are spatially set on the pole. Dr. Levitt said he had concerns that another carrier would cause the pole to be higher and asked how this can be addressed. Mr. Stilwell said they would have to come before the Board and at this time, the authority is questionable.

Dr. Levitt opened the public session and seeing no one who wished to speak, he closed the public session. Mr. Doran and Mr. Stilwell summarized the variances to include the D1 variance for use and the D6 variance for height, and the setback variances for distance to a residence where 250 ft. is required and 117 ft. is proposed and for the enclosure where 250 ft. is allowed and 225 ft. is proposed for the fenced in area housing the generator. It was noted that a plan would be submitted for landscaping to Mr. Doran and the fence would be at a height of 8 ft. instead of 10 ft. as previously discussed.

The votes were taken separately. The first was for the "D" variances. Mr. Shippen made the motion and Mr. Milone seconded.

The roll call vote was as follows:

Mr. Anderson-absent, Mr. Bruno-no, Mayor Chau-no vote as elected official, Mr. Leeds-stated that based on previous approvals and the fact that no one from the public is present to object-yes, Chief Newman-yes, Mr. Milone-stated that in this technological

age, we had better get used to this-yes, Mr. Notaro-absent, Councilman Perri-no vote as elected public official, Mr. Roegiers-yes, Mr. Rowe-no, Mr. Scharff-absent, Mr. Shippen-yes, Chairman Levitt-yes. The motion to approve the “D” variances carries 7 to 2.

The second vote was for the “C” variances. Mr. Shippen made the motion and Mr. Milone seconded.

The roll call vote was as follows:

Mr. Anderson-absent, Mr. Bruno-no, Mayor Chau-yes, Mr. Leeds-yes, Chief Newman-yes, Mr. Milone-yes, Mr. Notaro-absent, Councilman Perri-yes, Mr. Roegiers-yes, Mr. Rowe-no vote as 9 voting member names were called, Mr. Scharff-absent, Mr. Shippen-yes, Chairman Levitt-yes. The motion to approve the “C” variances carries.

There was a brief break before the Board heard the second application. The meeting resumed at 8:41 p.m. The application was for Mason Properties, LLC, Block 92, Lots 25,28,29,33 & 34 and they are seeking Preliminary Major Subdivision approval. The attorney representing Mason Properties is Stephen Nehmad, Esq. of Nehmad Perillo & Davis in Egg Harbor Township. Robert Bruce is the Engineer for the project. Dr. Levitt offered to recuse himself since Mr. Bruce has done business for him in the past. Mr. Zlotnick said that would not pose a problem.

Mr. Nehmad addressed the Board and stated that Ralph Henry, Jr. and Ralph Henry, Sr. are present. The application involves a 6 to 7 acre lot which was originally founded in 1952 and operated as a construction yard for many years. The site has been non-conforming for many years. Arthur Henry & Co. is still involved in the business of constructing site improvements, utility contracting, and roads. They have relocated the business to Ocean Heights Avenue in Egg Harbor Township. The property is located in the R-1 zone and is surrounded by mostly residential areas. They are seeking preliminary approval to establish an 18 lot residential subdivision. They would be eliminating a non-conforming use and re-establishing a conforming use. Mr. Nehmad noted that Robert Bruce is also present and he has re-submitted the plans after addressing all of Mr. Doran’s conditions in his report. The new plans represent a fine plan to re-develop this site. Dr. Levitt swore in Mr. Bruce, Mr. Henry, Sr. & Mr. Henry, Jr. Mr. Nehmad commented that this hearing was rescheduled from last Thursday evening due to a snowstorm and Mr. Henry actually came to City Hall last week in case anyone from the public showed up. Mr. Bruce’s credentials were accepted by the Board. He has appeared before the Board on many occasions.

Mr. Bruce said his role was to meet with the Henry’s and to lay out the plans. He has been familiar with the property for 15 to 20 years. He described the existing conditions using Exhibit A-2. The subdivision plan was displayed on Exhibit A-1. The property is approximately 7 acres. There are two buildings. One was used as an office building and the other was used for storage. The wooded area extends away from Wabash Avenue. The zoning is now R-1. The property was previously used by Arthur Henry as a utility construction yard. Mr. Bruce described Exhibit A-1 which is the subdivision plan that

worked best. The property would be entered from Wabash Avenue onto a cul-de-sac. Dr. Levitt asked about the 50 ft. wide city lot to the right of the property and asked if there is potential ingress or egress to the Library. Mr. Bruce said there is not; that is on the other end. The area being discussed goes into a residential lot on both ends and is land-locked by them. Mr. Nehmad explained that there is an out-parcel owned by a third party and they have an above-ground swimming pool on a corner of the property which is owned by Mason Properties. Rather than have them remove the pool, the Henry's have a nominal consideration lease with the property owner. Since this corner of land is part of one of the proposed lots, the pool will be removed and the lease will not be renewed should the subdivision be developed.

Mr. Bruce continued by describing the roads. There are two proposed roads, currently named Road A and Road B with both leading into cul-de-sacs. There are four lots which front on Wabash Avenue and all are greater than 10,000 sf and all have 100 ft. frontage. There are 18 buildable lots and all meet the zoning requirements. Mr. Nehmad questioned Mr. Bruce as to whether the site meets the NJ Residential Site Improvement Standards. Mr. Bruce said the plan does meet all requirements and deals with items such as width of roadways, sidewalks, and the diameter of the cul-de-sacs. He said that all aspects meet RSIS design standards.

Mr. Bruce discussed the drainage. The site slopes toward Mill Road and will have underground drainage. They intend to use the 19th lot, Lot 11, which is not buildable, and is located at the end of a cul-de-sac for this purpose. The Ordinance states that development must create an improved impervious coverage condition and improve runoff. They must improve runoff from a 21-year storm by 50%, a 10-year storm by 75%, and a 100 year storm by 80%. Mr. Nehmad said that runoff would be meaningfully reduced.

Mr. Nehmad asked Mr. Bruce if he had reviewed Mr. Doran's Engineer memo. He said he has reviewed the report, which requests plan revisions, and they have all been addressed by revising the initial preliminary approval plan.

Mr. Shippen questioned the drainage and asked that if all runoff water would be stored on-site, would it be allowed to collect and percolate. Mr. Bruce said it would be contained underground in 4 ft. pipes located in a stone bed. All water will be contained in Lot 11. Dr. Levitt asked if it would be a grass area. Mr. Bruce said it would. Dr. Levitt asked if asked why they are not using a retention basin. Mr. Nehmad said the Ordinance requires it. Mr. Nehmad said RSIS says you can use open retention and permits it, but underground is preferred and he is familiar with this from a legal standpoint. Mason Properties are actually in the business of installing these.

Mr. Nehmad discussed the idea of a homeowner's association. He does not recommend that in this case even though in many situations they are warranted. They can be an advantage if there is a significant amount of land and improvements to maintain; if there are such things as recreation buildings, parking lots, and snow removal. In this

case, an association would be limited basically to cutting the grass on Lot 11. Most of the costs will go to forming the association, accounting fees, and insurance. What typically happens is that the fees are so minimal that some homeowners stop paying them and this causes problems. Since the site accepts water from city streets, the city should maintain it.

Dr. Levitt asked about mechanical items associated with the drainage and who would maintain this. Mr. Bruce addressed this question and said there is a device to remove silt from the site and there are filters that need to be replaced on an annual basis. There is no utility or pumps involved. Dr. Levitt referred to the submitted Storm Water Plan and said it looks like it would cost an estimate of \$7,000 per year as part of a maintenance plan. Mr. Bruce said these are things the City would be doing anyway and the estimate is acceptable pricing for these events. Dr. Levitt said Mayor and Council should be made aware of these expenses.

Mr. Leeds asked about the square footage of Lot 11 and about the tract headed out to Mill Road and if these areas would be deeded to the City. Mr. Nehmad said it absolutely would be deeded to the City and it is about 20,000 sf of land. Mr. Leeds commented that the City could possibly be laying off public workers and the supervisor has stated that they are at capacity now. He felt there could be an issue with additional work load. Dr. Levitt asked if the City has the expertise to maintain this drainage. Mr. Bruce said yes, they do. Mr. Leeds suggested having the Lot 10 homeowner maintain the grassy area. Mr. Zlotnick said that alternatives are limited and he agrees with Mr. Nehmad, but the Board can impose that a homeowner's association be formed for this subdivision. Dr. Levitt asked if here is a mechanism where the City could assess each homeowner for this maintenance. Mr. Nehmad said there are such things as special assessments and the City could move in that direction if need be. Mr. Bruno commented that he resides in The Woods community and they have an association and their maintenance is not an issue. Mr. Doran said the other community in town with an association is Burton Estates. Mr. Nehmad said if there is a small yearly charge there are times when it is not workable, but he by no means said it cannot be done. Dr. Levitt said that \$7,000 divided by 18 lots would be about \$300 per property owner. Mr. Nehmad thought that would be a high figure for homeowners to pay. Dr. Levitt said he did not want the maintenance to be problematic for the road crews. Mr. Perri said any additional costs would be frowned upon by the municipality. The department may be looking into regionalizing or consolidation. He noted that the impact to the school system would have to be a consideration also. Mr. Perri said the City has been looking at the easement right-of-way as a means of providing additional Library parking. If this project develops, the Library would be landlocked. Mr. Nehmad said it is no secret that the City has approached his client in an effort to acquire this property, but it has nothing to do with this application. He discussed RIGS and said Mr. Zlotnick would agree that any discussion about acquiring property can have no effect on deliberations on a development application. There may be continued discussions with the City, but they are only seeking preliminary approval tonight. Dr. Levitt said this will give the

City Fathers more time to consider this and the maintenance issue will be decided at time of application for final approval.

Dr. Levitt expressed other concerns about vacant property such as the 50 ft. City-owned strip of land where the tenancy is to extend your backyard when land is vacant. He would like to see that area maintained as a wild, natural setting. He would like to see a fence or the area deed restricted to alert the property owners not to disturb the foliage. He would like to see it kept as an urban wilderness and is open to ideas. Mr. Bruce said they have no intention of disturbing this area and Mr. Nehmad said they can add construction fencing when developing and corner mark each lot when plats are filed with monuments at each corner to delineate property lines. Dr. Levitt said that won't keep owners from clearing the back areas of their properties. Mr. Shippen said this sounds like a job for the Zoning Officer. Mr. Perri said that there was an Ordinance addressed at the previous City Council meeting concerning city right of ways. The land can be liquidated or vacated by Ordinance and adjacent property owners would have the opportunity to purchase it. Dr. Levitt thought that there was no incentive to purchase it if they can simply use it. Mr. Perri said the law is changing and if the property is landlocked and usable, it can be used by adjacent property owners. Dr. Levitt wanted to see the land naturally maintained and Mr. Perri said that is the City's problem to deal with. Mr. Nehmad reminded that this application is only seeking preliminary approval and with the current market, he doesn't expect the applicant to be coming in for final approval for a while. They have a three-year period to return and so much is unknown in the area of current and future markets as well as the senior housing market at this time.

Dr. Levitt noted that the property is in a messy state right now and asked if there is any intent to clean it up. Mr. Nehmad said his client spent years getting a 'No Further Action' letter from the DEP. Dr. Levitt said there are piles of dirt which are not contained and there are old, rickety buildings on site. Mr. Nehmad said if there is any violation of any maintenance code they will certainly address it. Mr. Henry said they are still using the site for some operations.

Mr. Perri asked about the lot with the pool on it and Mr. Nehmad said it actually sits on proposed Lot 1 which is on the corner of Wabash and the Henry site. Mr. Leeds asked if the sidewalk could be extended the length of Wabash from Tilton to Mill Road. Mr. Nehmad said there is a property in between which is not owned by Mason Properties. Dr. Levitt said these are site issues and these will be thought out and addressed through the final approval process. He asked that everyone keep in mind that the application was submitted before the COAH plan was finalized and in that aspect, it has been considered at a higher density for senior housing. Mr. Nehmad said Mason Properties will be looking at the site from a market standpoint. Dr. Levitt said the property has a lot going for it when considering it for senior housing as it is surrounded by the Public Library, the Bike and Pedestrian pathway, doctors' offices,

and Tilton Market. Mr. Nehmad said we just don't know what the market demand will be and Mr. Roegiers agreed and said it is a moving target.

Dr. Levitt opened the public session. Greg Digneo addressed the Board and stated he resides at 7 Birchfield Court across the street from the site. He was sworn in. He liked the idea of underwater detention and asked if there had been any thoughts to traffic as there are no traffic lights at the intersection of Wabash Avenue and Tilton Road. Mr. Nehmad said the plans included improvements to the street to include widening and overlaying where the utilities are and there will also be curbs and sidewalks. Mr. Roegiers asked about trees and Dr. Levitt commented that the City has a Landscaping Ordinance in effect and this issue will be dealt with a time of final approval.

Mr. Doran summarized his report and said they plan to improve the lighting and the intersection will be lit up. There are shade trees shown on the plans as required. Mr. Doran noted that the applicant and Engineer took the opportunity to address items in his report and to make the requested revisions in a one month time period. They took care of everything to present a clean plan this evening. Mr. Doran would like to see a little more detail for the water and sewer plan and also asked for a copy of the DEP Remediation plan for his file. Mr. Nehmad said he will get a copy of the DEP letter for the file. Dr. Levitt asked that they address buffers to existing backyards of residents and Mr. Doran asked that all easements and final corrections be dealt with before final approval so that the plan is clean and final approval can go smoothly. He would ideally like to see as little conditions as possible.

Dr. Levitt asked for a motion for preliminary approval for the by-right subdivision which will conform in all ways subject to future consideration of all items discussed. Mr. Shippen made the motion and Mr. Bruno seconded.

The roll call vote was as follows:

Mr. Anderson-absent, Mr. Bruno-yes, Mayor Chau-yes, Mr. Leeds- yes, Chief Newman-yes, Mr. Milone-yes, Mr. Notaro-absent, Councilman Perri-yes, Mr. Roegiers-yes, Mr. Rowe-no vote as more than 9 voting members present, Mr. Scharff-absent, Mr. Shippen-yes, Chairman Levitt-yes. The motion to approve the preliminary subdivision carries.

Councilman Perri asked if the Board would entertain an Ordinance for outside seating for restaurants and consider the effects on residents located nearby. City Council would like the Board's opinion and would like recommendations. Dr. Levitt commented that Roberta's Restaurant located in Center Point Plaza is a lovely outdoor area to dine, and as long as the restaurant is not right on the road and sidewalks are available, he thought it would be a nice idea. Mr. Perri thought it should be delineated in certain zones. Mr. Doran offered to obtain a copy of the Brigantine Ordinance dealing with this issue. Mr. Perri said hours of operation an important item to consider.

Councilman Perri also noted that he would like to present a courtesy overview for the Board at the next meeting concerning future development at the Veteran's Park on Oak

Avenue. The City needs to apply for a capital permit (CAFRA approval) and the committee has signed off on it, but they want the blessing of the Planning Board and they want to follow proper procedure and a lot of grant money is involved.

The only additional item was Mr. Perri referred to was instituting a recreation fee for a development such as was presented before the Board tonight and that is still not a legal option. Dr. Levitt said there is a possibility of COAH fees for applicable development within the city with the passing of an Ordinance.

The meeting was closed by Dr. Levitt at 9:38 p.m. with a motion from Mr. Shippen and a second from Mr. Rowe.

Respectfully submitted,

Robin Atlas, Secretary to the Board