

City of Northfield Planning Board
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January 16, 2020

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 **RE-ORGANIZATION** meeting of the Northfield Planning Board held on Thursday, January 16, 2020 in Council Chambers, City Hall, Northfield, was opened by Chairman Richard Levitt at 7:01 p.m. with the reading of the Sunshine Law and the following members present or absent as noted:

Mayor Erland Chau
Jim Leeds
Dr. Richard Levitt
Chief Paul Newman
Henry Notaro-absent
Ron Roegiers
Derek Rowe
Clem Scharff
Jim Shippen
Councilman Paul Utts
Steve Vain

Matthew Doran, PE, PP-Planning Board Engineer
Willis F. Flower, Esq.-Temporary Planning Board Solicitor

As a Notary Public, Robin Atlas read the Oaths of Office to the present Planning Board members who were re-appointed. Sworn in to Office were Ron Roegiers and Clem Scharff as Planning Board Class IV members for a four year term, Chief Paul Newman as Planning Board Class II City Official member for a one year term and Paul Utts as Planning Board Class III Council Liaison member for a one year term. Henry Notaro was absent and will be sworn in as Alternate #1 for a two year term at a later date. Peter Brophy was absent and will be sworn in as Alternate #3 for a two year term at a later date.

The next order of business was to the yearly appointments. Mr. Shippen made the motion to nominate Dr. Richard Levitt as Chairman of the Planning Board. Mr. Scharff seconded the motion. There were no other nominations. The Board voted by voice vote unanimously in favor. Mr. Shippen made the motion to nominate Clem Scharff as Vice Chairman of the Planning Board. Mr. Rowe seconded the motion. There were no other nominations. The Board voted by voice vote unanimously in favor. Mr. Scharff nominated Robin Atlas as Board Secretary. Mr. Shippen seconded. There were no other nominations. The Board voted by voice vote unanimously in favor. Mr. Shippen made the motion to nominate Matthew Doran, PE, PP as Board Engineer. Mr. Scharff seconded the motion. The Board voted by voice

vote unanimously in favor. Mark H. Stein, Esq. will be unable to be nominated as Board Solicitor since he has been appointed City Solicitor by the City of Northfield. Willis F. Flowers, Esq. was present this evening as temporary Solicitor. A Planning Board Solicitor will hopefully be appointed at the February meeting.

There were two applications on the agenda. The first was from Maikel M. Henin, Block 130, Lot 13, 418 Dolphin Avenue in the R-2 zone, for a Minor Subdivision with "C" variance for an existing non-conforming setback. Dr. Levitt swore in Mr. Henin and Michael McKenzie, his Realtor.

Mr. Henin explained that he wants to subdivide his property into two buildable lots and is requesting a Minor Subdivision. Dr. Levitt clarified that the application was properly advertised and noticed and that the taxes are current. The subdivision will create two conforming lots and the existing house will remain on Lot 13. Mr. Henin said he plans to sell the proposed Lot 13.01. Dr. Levitt asked for testimony and impact of the variance. Mr. McKenzie said the original house was built in 1956 or 1958 and is next to an Auto Repair shop on the corner of Dolphin Avenue and New Road. The house is about 10 ft. from that property line and the rest of the lot is vacant land and trees. The variance involves the existing house rear setback which is 7.5 ft. from the rear property line where 25 ft. is required. Dr. Levitt noted that the house sits back about 40 ft. from the front property line which is quite a distance. Mr. McKenzie said the lot is 183 ft. wide. Dr. Levitt noted that all the other setbacks conform.

Mr. Doran referred to his Engineer's letter. He agreed the lots conform except the rear setback of the existing house. The minimum requirement for the lots is 7500 sf and Lot 13 is 10,893 sf and proposed Lot 13.01 is 8,982 sf. The house has been there a long time and there is no way to know if the rear setback would have been allowed at that time. Curbs are existing and any damaged curbs should be replaced during construction of the new home. Sidewalks shall be shown on the plan or a waiver granted by the Board. Also, the new home will require two parking spaces. Dr. Levitt commented that the construction of sidewalks can be deferred until the new lot is sold, but both properties will require sidewalks. Mr. Shippen asked if there were any sidewalks in the neighborhood. This was discussed. It was determined that sidewalks on the Henin side start after the Second Street intersection. There are sidewalks across the street along Dolphin Avenue between New Road and Shore Road. There are no sidewalks from Second Street to New Road on the Henin side of the street. Mr. Leeds noted that sidewalks are a requirement. Mr. Shippen said the Board can waive them. Mr. Flower added that they can also be a condition of approval. Mr. McKenzie said it would be a huge cost if Mr. Henin had to put in 100 ft. of sidewalk. Mr. Scharff said it would affect the Auto Repair shop as well. Dr. Levitt noted that there is a bus stop on New Road and Mr. Scharff said pedestrians can use the sidewalk on the County Facilities side across the street. Dr. Levitt verified the sidewalk information on Google Earth. Dr. Levitt took a poll of the Board members concerning the sidewalk requirement. Mr. Shippen and Mr. Vain agreed that they are not in favor of sidewalks to nowhere. Mr. Leeds felt they should install the sidewalks. Dr. Levitt said to be consistent with the Ordinance, the sidewalks should be required, but the installation can be delayed until the new lot is sold or when permits are applied for. The sidewalks can be required at the time of construction and 183 ft. of sidewalks will need to be installed. Mr. Doran estimated that 200 ft. of concrete sidewalk would cost \$3,500 to \$5,000. Mr. Shippen added that the purchaser of the lot would have to pay for his section and Mr. Henin would be responsible for sidewalks on his lot. This would help with the cost.

Mr. Doran also noted that a Road Opening Permit would be required for any utilities and driveways and he noted that Dolphin Avenue is a County Road. The application also needs to be submitted to the County for Minor Subdivision approval. Specimen trees on the plans and street trees were discussed. Dr.

Levitt asked if they would agree to preserve the trees unless they are in the building footprint. The applicant agreed. Mr. Doran said the applicant will be required to pay an appropriate COAH fee prior to issuance of a building permit. Dr. Levitt said that a variance is needed for the 7.5 ft. setback of the house from the rear property line.

Dr. Levitt opened the public session. Terri Reese of 400 Dolphin Avenue addressed the Board. She said she lives next door to Mr. Henin on the vacant lot side going east on the corner of Dolphin and Second Street. She is in opposition of the application. She had privacy concerns. A new house could be setback 10 ft. from her fence. She has her mother living with her and she has a dog. She said windows would look into her yard and house. She also had runoff issues as her house is situated on a decline. She said she is the second owner of the home and the house previously belonged to her parents. Mr. McKenzie said they will require that there is no increase in runoff as part of the deed. Mr. Doran said it is important to file conditions as approved as part of the deed of sale. Mr. McKenzie said Mr. Henin agrees with this and will certify that there will be no increased runoff to the neighbor's property. Mr. Flower said a Deed Restriction will be necessary as part of the subdivision deed. Ms. Reese asked how the privacy issue will be addressed. Dr. Levitt asked if the applicant would agree to a 15 ft. setback instead of a 10 ft. setback. He added that both of the proposed lots are oversized lots. The lots are required to have 70 ft. frontage and they have 90 ft. This is technically a By-right subdivision if it were not for the existing 7.5 ft. rear setback of the house. The overall impact would not justify not approving this application especially considering that the Reese house is on the other side of the new lot and not the lot with the variance. Ms. Reese also had concerns about the sidewalk leading to nowhere. She said that her property doesn't have sidewalks and she thought people would use the new sidewalk and then walk onto her property. Dr. Levitt said her new neighbor may want sidewalks. Ms. Reese said she is a lifelong resident and felt that her opinion isn't being taken into consideration.

Dr. Levitt closed the public session seeing no one else who wished to speak.

Dr. Levitt asked for Board questions. It was determined that the deed with restrictions would be filed when the subdivision is filed as stated in the Resolution prepared by the Planning Board Solicitor. Mr. Flower had a few questions for Mr. Henin. He asked how long Mr. Henin has lived at the property. He answered 4 years. Mr. Flower asked if he was familiar with the neighborhood and if his lot was consistent with others in the immediate area. Mr. Henin said yes, there are others setback as far as his. Mr. McKenzie said the Auto Shop is on the corner and Mr. Henin's lot is about 200 ft. and then there is Ms. Reese's lot. The applicant wasn't sure about houses that are behind his lot on the other street. It was agreed that the minor subdivision won't affect Mr. Henin's house. Dr. Levitt added that this is a By-right minor subdivision with a rear yard setback requiring a variance that only affects a wooded rear lot behind Mr. Henin's house.

Dr. Levitt discussed the motion items including tree preservation unless within the building footprint of the new house, the 15 ft. setback on the neighbor's side yard, at the time that building permits are applied for, the sidewalks will be constructed, the applicant will certify that no construction will impact the adjacent property with any increase in runoff greater than what currently exists, and all items in the Engineer's letter are also included.

Mr. Scharff made the motion and Mr. Shippen seconded the motion. The roll call vote was as follows:
Mayor Chau-no vote; present at meeting 7:34 p.m.

Jim Leeds-yes

Chief Paul Newman-yes

Henry Notaro-absent
Dan Reardon-no vote as Alternate #4-9 voting members present
Ron Roegiers-yes
Derek Rowe-yes
Clem Scharff-yes
Jim Shippen-yes
Councilman Paul Utts-yes
Steve Vain-yes
Dr. Richard Levitt-yes
The motion carries.

Dr. Levitt wished the applicant good luck with his project and said he is sorry to see he will have a neighbor instead of a vacant wooded lot next door, but there are constraints according to law in speaking of his current neighbor and he said that he anticipated Mr. Henin will hopefully have a new friend.

The second application was presented by Keith A. Davis of Nehmad Perillo Davis & Goldstein of Egg Harbor Township and William McManus, Licensed Planner and Land Surveyor of Duffy Dolce & McManus of Galloway was also present. The applicant was Tilton Square Theater, LLC, Block 17, Lot 9.01, 331 Tilton Road, in the Tilton Shopping Center which is zoned R-C. The application is for variance relief for an Electronic Message Board denied by the Zoning Official and constructed without permits. There are three variances requiring relief. Mr. McManus was sworn in by Dr. Levitt and his credentials were accepted by the Board as he has been before the Board on many occasions as a professional.

Mr. Davis addressed the Board and said the LED sign currently displays what movies are showing in the movie theater. Mr. McManus presented Exhibit A-1 showing photographs of both the new LED sign and the old static sign. They will adhere to the Ordinance and the sign is permitted, but they do not meet the size requirements. They are proposing that the sign will change no more than every 60 seconds and the movies will change once a week.

Mr. McManus described the photos dated 1/16/20 in Exhibit A-1. The old sign was constructed in the late 1950's or early 1960's and was 494 sf with 388 sf representing the letter changing portion. The new sign is 499 sf which has increased by 5 sf and is a negligible increase. The new sign is an LED electronic message board. They have relocated a portion of the old sign to the left side of the building front and they added the words "square" and "theater". There are three variances. The first is the size of the façade sign where 100 sf maximum is permitted and 256 sf is proposed. The second involves the size of the electronic message board where 24 ft. is permitted and 256 sf is proposed. The third variance is for the vertical dimension of the sign. They are proposing 8 ft. and 5 ft. is the maximum allowed. Mr. McManus said he understands the Board is regulating the new LED signs and message boards and they are the wave of the future and he felt that the Ordinance incorporated the needs of the movie theater. He realizes that the façade size sounds like a large increase, but it is really a question of proportionality. This is not a use variance as it is allowed in the R-C zone. It is a flexible C(2) variance and is warranted in that it advances the purpose of zoning and the positives far outweigh any negatives. The changing of a letter board sign has become passé. This is the digital age and this type of sign is more desirable visually.

The total signage on the front of the movie theater is a combination of the old and the new. The theater is a nostalgic landmark and they have created a modern sign while preserving part of the old. This sign advances the general welfare and purpose of public safety. The sign advances the free flow of traffic

which is the purpose of traffic safety and the size and location is warranted in this fairly remote location at the far end corner of the shopping center. The sign will help people to get to the location. Exhibit A-2 is a site location plan. They enlarged the shopping center portion of a plan used for Cresson Hill. The LED sign is about 500 ft. from Tilton Road measured perpendicularly, 750 ft. from Cresson Avenue, and 1000 ft. from the intersection of Tilton Road and Cresson Avenue.

Dr. Levitt commented that many movie theaters are closing these days and he felt this theater is an asset to the area. The sign is an exception in that it does not distract drivers and is not situated on the highway. He said the sign is appropriate for the shopping center, but is not happy that they put up the sign without approval. He respectfully requested they comply with proper sequences going forward. They should have applied for a permit ahead of the fact. Dr. Levitt deferred to Mr. Scharff to address sign brightness and technical issues.

Mr. Scharff said he has not completed any measurements, but the sign seems to comply with the Ordinance. There doesn't appear to be any undo distractions or problems affecting drivers. The Ordinance has a 50 nit requirement and in viewing the sign, it seems to comply. They also agreed to comply with the Ordinance. Mr. Davis apologized for the applicant and said the project was not done in an optimal way and noted that this was a tenant improvement and was not done by Mr. Gurwicz. Mr. Davis said he met before the hearing with Kevin Farnum of All Signs in Pleasantville who completed the sign plan and constructed the sign and he assured Mr. Davis that the sign would fully comply with the Ordinance. Mr. Farnum was not sworn in for testimony. Mr. Davis added that the sign has the ability to be adjusted. Dr. Levitt said the Ordinance prohibits moving animations. Mr. Davis said they are only seeking the size variances and there will be no scrolling or flashing content and the sign will change no more than every 60 seconds.

Dr. Levitt opened the public session and seeing no one who wished to comment, he closed the public session.

Mr. Doran said that a retroactive building permit is required and will need to be obtained. Everything else in his report has been addressed. Mr. Davis summarized the variances in his closing.

Mr. Scharff made the motion for the three variances needed for the LED sign as mentioned in the testimony and the Engineer's report.

Mr. Shippen seconded the motion. The roll call vote was as follows:

Mayor Chau-yes

Jim Leeds-yes

Chief Paul Newman-yes

Henry Notaro-absent

Dan Reardon-no vote as Alternate #4-9 voting members present

Ron Roegiers-yes

Derek Rowe-yes

Clem Scharff-yes

Jim Shippen-yes

Councilman Paul Utts-yes

Steve Vain-no vote as Alternate #2-9 voting members present

Dr. Richard Levitt-yes

The motion carries.

Dr. Levitt asked for any submissions for Planning Board Solicitor to be distributed to the Board members by email for discussion at the February 6th meeting.

There were two Resolutions to be approved for the 2020 Annual Schedule of Meetings and The Press designation for noticing, and the 2020 Appointments Resolution. The Solicitor appointment will be noticed at a later date. The resolutions were approved by voice vote and will be published January 24, 2020.

Mr. Leeds commented that he thought the Henin application was not sufficiently prepared. Dr. Levitt said the residential applicants do not always hire a lawyer or professionals and aren't always knowledgeable about everything involved. The applicants have a right to be heard and we have refined the application process in that our professionals are reviewing the applications for completeness. The Secretary also forwards the Engineer's report to the Board members for review. Mr. Leeds said he had a problem with the applicant not being aware that sidewalks were necessary by Ordinance. Dr. Levitt said the Board has consistently required sidewalks on all through street applications and he thanked Mr. Leeds for his comments. Mr. Shippen and Dr. Levitt continued discussing this and Mr. Shippen said sometimes strict adherence to the Ordinance doesn't always make sense and that is why there is a Board.

Mr. Shippen presented the Secretary with a bouquet of flowers and many kind words of thanks for her work on behalf of the Board. It was gratefully appreciated.

Dr. Levitt asked the Secretary to re-send the Electric Charging Station Ordinance example to the Board members for review and to save it to the Master Plan re-examination file. The Master Plan will be reviewed in 2022.

The meeting was closed at 8:16 p.m. by Chairman Levitt with a motion from Mr. Roegiers and seconded from Mr. Shippen.

Respectfully submitted,

Robin Atlas, Secretary to the Board