

WHARTON PLANNING BOARD  
REGULARLY SCHEDULED MEETING  
March 9, 2021

The regularly scheduled meeting of the Wharton Planning Board was held virtually and was called to order with Chairman Ken Loury reading the Open Meeting Statement as required by law as well as a statement regarding allowing the remote meeting and the Judicial Proceeding Statement.

ROLL CALL was taken and the following members were present: Chairman Ken Loury, Mr. Roger Steele, Mr. Marc Harris, Mr. Patrick O'Brien, Mr. Peter Rathjens, Mr. Brian Bosworth, Mr. Christopher Fleischman and Ms. Chiappa. Also present were Attorney Alan Zakin, Planner Jessica Caldwell, Engineer Christopher Borinski and Secretary Patricia Craven. Ms. Charlotte Kelly arrived after roll call.

The Pledge of Allegiance was next.

The reading of the bills was next. A Motion was made by Brian Bosworth and Seconded by Marc Harris to approve the bills as read.

YEA – 8    NAY – 0

The Minutes of the February 9, 2021 Regular Scheduled Planning Board Meeting was next. A Motion was made by Roger Steele and Seconded by Barb Chiappa to approve the Minutes.

YEA -8    NAY- 0

Board member Charlotte Kelly arrived on the zoom call.

Next, under New Business, was the application for Klein Outdoor Advertising, LLC. Attorney Peter Wolfson of Day Pitney addressed the Board. Mr. Wolfson was assisted by his colleague Attorney Nicole Magdziak. They are seeking preliminary and final site plan approval as well as use and bulk variances related to property located at 320 Route 15, Block 801 Lot 7.01. The property is occupied by the Townsquare Diner. The property includes a freestanding sign for the diner and a freestanding sign for the neighboring Bob's Furniture store, which signage was approved by this board by resolution dated 11/24/2015. The property is located in the B-2 Regional Business Zone. The applicant is seeking approval to erect a 2 sided 38.5 ft high, 396 sq. ft., LED variable message billboard sign fronting on Route 15. The sign face will be 11 ft x 36 ft and sits above a 2 ft high apron which contains the KLEIN logo. The sign will be placed on a steel support column which in total will create a sign height of 38.5ft. The application shows a 40 ft. high sign which they have modified to 38.5ft. after receiving Ms. Caldwell's memo. They have eliminated the use variance for the height. They have received the necessary sign permit from the NJDOT. The Borough of Wharton will have regular access to the use of the sign for public service announcements as well as unlimited access for public health and safety emergency messages.

The following professionals for the applicant were sworn in at this time. David Klein, Brett Skapinetz, Mr. Staigar and Christine Nazzaro Capone and will be qualified at the time of their testimony.

David Klein, 54 Broad St., Suite L107, Red Bank, N.J., managing member of Klein Outdoor Advertising addressed the Board. Klein Outdoor Advertising designs billboards throughout Northern New Jersey. He has received the NJDOT permit for this billboard which was submitted to the Board as part of the application packet. It is valid from May 16, 2020 through May 15, 2021 and is automatically renewed upon paying the yearly fee. The DOT inspects the site for spacing, zoning, and safety and by issuance of the permit they meet all the requirements. The type of advertising permitted on these signs are commercial messages, small businesses, local businesses and any type of business that would like to promote their business. In his experience this type of sign would likely be local businesses. This billboard is much smaller than those on an interstate highway and is more cost efficient. This would be marketed towards local businesses. Within his advertising contract he can reject any advertising before or after it is displayed if it is immoral, indecent or offensive. The billboard is multi message which is a static or still billboard that changes instantly. There is a 64 second loop, no animation and no flashing parts. Each image is on the billboard for a minimum of 8 seconds which is a DOT standard.

Exhibit A-1, 3-9-21 – PSA Example Packet was presented. Mr. Klein stated that some advertisers want the same content on both sides but more often than not it will be different content on both sides. They have lowered the height of the sign to 38.5 ft.

Exhibit A-3, 3-9-21 Aesthetic Design Options – this is a conceptual modification to the original submission after feedback from Board Planner Caldwell. The black pole was part of the original application. They are planning to add brick and landscaping and will work with Ms. Caldwell on the design to make it aesthetically pleasing. Originally the hours of illumination were 24/7 but that has been revised to the hours of 6 am to 1 am which are also the non-COVID hours of the diner. The Borough will have unlimited usage for emergency notices and for community public service announcements they will be one every 2 minutes.

Exhibit A-2, 3-9-21, Wharton PSA Example Package – Mr. Klein will work with the Borough representative to design and display their community events. This package shows some samples of the designs. In answer to Borough Engineer's comment #6 about the maintenance of the sign, Mr. Klein stated that it would be a few times a year with a pick-up truck. Planner Caldwell's memo comment 7C about the lighting Mr. Klein stated that it is a static sign that changes instantly with no animation, no flashing, no scrolling and no moving parts.

Chairman Loury would like Planner Caldwell to comment on the reduction in height, it is a lot of sign? He would think the higher the better especially because you have so many other large signs in that area. Mr. Loury was also concerned with the billboard being so close to the intersections on Route 15, all the turning lanes and people being distracted trying to read the sign he was concerned that there will be accidents. Attorney Wolfson stated that the engineer and traffic engineer will address both issues.

Chairman Loury asked how they get around the first amendment issue with restricting the advertising and is there any liability to the town. Attorney Wolfson stated that to the extent that this is commercial private speech, it is not the same level of protection of the first amendment. If the Borough is concerned with liability, they can provide assurances. Chairman Loury thought that that should be a condition of approval.

Chairman Loury asked if the Klein logo had to be on the billboard and if so, did it need to be that big or in that location. Mr. Klein stated that it identifies the sign for future advertising and that

per DOT standards the sign needs to have the name and be visible from the road. Mr. Loury asked our professionals to address that as well.

Chairman Loury asked who defines what emergency use is such as a water main break. Also is there a restriction on community events. Mr. Klein stated that he is looking for a good working relationship with the town and would consider a water main break an emergency. There are no restrictions for the Borough on community events. The Borough has a dedicated spot that is always available to the Borough for their use.

Chairman Loury asked about long-term maintenance, what happens 50 years from now if the technology changes or if the sign is not used anymore. Mr. Klein stated that he takes pride in his signs and takes care of them. Attorney Wolfson stated that as a condition of approval maintenance of the sign would not be an unusual condition. Mr. Loury added that if years from now it is not working or in use anymore then it will be removed. Attorney Zakin stated that there also be, at the approval of the engineer, a schedule of maintenance.

Mr. Klein stated that he will work together with an appointed person in the Borough to create artwork for the sign at no cost to the Borough. It is not limited to 1 event; it is unlimited events. They would be 1 every 2 minutes and each would last 8 seconds on one of the 2 signs or 30 an hour. Within their one spot the Borough can have up to 30 events posted. They would have a rotation within a rotation which he explained in more detail.

Mr. Steele stated that it is his understanding that on any application, especially a commercial application that the Board would never consider anything that might benefit the town or the perception of what that might mean. He wants to be cautious in the perception. Now it sounds like we are negotiating time on a pending application for the benefit of the town. Is that inappropriate? Attorney Zakin stated that it is not a benefit for the town but it is a benefit for the community. He was not negotiating; he was just clarifying the logistics of the sign. We did not impose this as a condition, the applicant offered it which is standard for these types of billboards.

Planner Caldwell agreed that it is standard for these types of billboards to offer this to the town. For a D-1 use variance you need to show a public benefit and serving the general welfare. This does provide a community benefit and also the emergency service is a public benefit. There is no monetary contribution and she does not think there is an issue with it. She will defer to the attorneys as far as a legal aspect.

Mr. Steele assumes that this variance will continue with the land indefinitely. Is this on the diner's property? He is concerned if the technology changes years down the road and would like to have as a condition that the town have some say, if the technology of the sign changes. Mr. Klein would agree to that. Mr. Klein stated that it is on the diner property. They lease the space from the diner and the lease would go with the land. Their lease is a 20-year lease with the option to renew, the lease is not an automatic renewal. Mr. Steele asked if the use on the property changes can they still have this sign. Attorney Zakin stated that if the use changes they would have to come before the Board.

Planner Caldwell asked Mr. Klein how he came up with the size of the sign. She stated that the sign is quite large for this area and is there a study or science behind this size sign. Mr. Klein stated that the size is appropriate size for a 2-way highway in both directions at such a location. It is smaller than what you would see on Route 80. It is 11 ft high x 36 ft wide and is industry

standard size. The decision to put this size sign on a 27 ft. pole is done by evaluating the area and what is in the area. They also do not want to block anything. Their simulation shows the height of this sign, 38.5ft. compared to the other 2 signs on the property. Ms. Caldwell asked if they had considered incorporating the diner sign into their new sign given that they will now have 3 signs on the 175 ft. frontage of this property. Mr. Klein stated that they did not. Typically, their signs stand alone. He feels the signs would be competing against each other. He's seen other signs as part of the base but not on the pole. Mr. Klein stated that within 30 days of the sign being built they have to notify the DOT who then comes out and inspects it.

Engineer Borinski asked how many other signs is Mr. Klein's company involved in throughout the area. Mr. Klein stated that they have about 50 billboards in Monmouth County.

Chairman Loury brought up the Klein logo sign. He feels there is a lot going on in that area and doesn't feel they need another sign on the billboard. After much discussion Mr. Klein stated that the logo helps bring in new customers. Per DOT standards it does have to be there. The logo is about 9 ft x 20". He will work with our professionals to try and reduce the size. Mr. Loury asked that our professionals look into the DOT requirement and also does it have to be on the sign or can it be on the pole. Attorney Zakin stated that it could be a condition that Mr. Klein work with our professionals to reduce the size of the logo and be compliant with the DOT standards. Mr. Klein agreed but again stated that the logo is important for people to see because that is how he gets a lot of his business. Mr. Steele had no issue with the logo being on the sign and was in agreement with deferring this to our experts.

The meeting was now open to the public, Mr. Peter Sederes, 11 Nina Place, Randolph, stated that the Mr. Klein's lease is with Townsquare Investments, who owns the property. The diner leases the property as well and is owned by Townsquare Investment. Mr. Klein confirmed this. The meeting was now closed to the public

Brett Skapinetz, project Engineer, was qualified as an expert in engineering. He presented Exhibit A-4, 3-9-21 – Aerial Map – This is an overview of property and shows the location of the sign. Mr. Skapinetz described to the Board the surrounding area. The billboard is located at the SE corner of the property in an existing, just under 30 ft x 30 ft., grassed, curbed island. The sign is a flag configuration where the pole is set off center of the board itself with the pole favoring the interior or away from Route 15. The pole is located about 25 ft. from the right of way and about 35 ft. from the roadway. The edges of the sign are 5 ft off the front setback line and 5 ft off the side set back line. They will be adding landscaping around the base of the sign.

Mr. Skapinetz addressed the Engineer's memo as far as improvements to the site. They will take care of the improvements listed in the memo. They will also be adding 2 additional ADA handicap spaces. They have 2 now and are required to have 4 spaces. Mr. Skapinetz stated that the sign does not impact any utilities, light fixtures or the movement of vehicles around the diner site. The sign is not near any parking stalls. The sign is 38.5 ft high and 11 ft down from that is the bottom of the digital face. 2 ft down from that is the band that has the Klein Logo. The pole is 25.5ft high which extends down to the ground. Exhibit A-3 shows the features of the brick and the proposed wrap around the pole. The pole will be about 4-5 ft in diameter going into the ground with a concrete base. There is minimal disturbance and should be contained within the landscaped island so they do not need any soil conservation permits. They already have the DOT permit.

Mr. Skapinetz stated that it is a digital billboard with an overall 11 ft. x 36 ft. LED panel made up of red, green and blue. The digital face is directed light with louvers that help direct the light towards the drivers. There is no sky glow from this type of lighting. The standard, for this size board, states that at 150 ft away you can begin to see the image of the sign which he explained in more detail for the Board. They have the ability to fine tune and monitor the brightness of the sign based on ambient light. They have 24-hour monitoring. The nearest residential property to this sign is about 1300 ft. away in Dover. The billboard is all within a commercial setting.

Chairman Loury was concerned about the foot candles and how does the town measure that. Ms. Caldwell stated that it could be measured as a condition. For reference  $\frac{1}{2}$  a foot candle is for a sidewalk. Mr. Skapinetz brought up A-5, 3-9-21 which is the levels of footcandles coming off of the Board. Working with the manufacturer Watchfire out of Illinois, they created this exhibit which shows what the levels coming off the board will be at different locations. Looking directly out from the face of the board at 100 ft is .35 ft candles and at 200 ft. they are at .09 ft. candles. Off to the side is less candles where straight out is more ft. candles.

Mr. Harris asked about the turnaround time to fix the sign. Mr. Klein stated that the billboard is state of the art which he monitors and if a module is out, he gets notified and he can shut it down and have it repaired withing 24 hours.

Ms. Caldwell had a question in her report about the colors. She stated that the white or lighter colors in a sign are sometimes blinding, very bright and an eyesore. Can they guarantee that this will not happen with this sign? Mr. Skapinetz stated that most messages only have 20- 40% of white. It comes back to the monitoring; adjustments can be made right away to fix it. There are also adjustments that need to be made between night and day. They can work with Mr. Borinski on the settings for the sign.

Mr. Borinski asked about the adjustment period of the sign once it's set up. Mr. Skapinetz stated that once its set, its at that point in time, there is no break-in period.

The meeting was now open to the public and then closed to the public.

Joseph Staigar, principal of Dynamic Traffic was qualified as an expert Traffic Engineer. Mr. Staigar prepared the 2/9/21 Traffic Study. The sign is located so that it is visible primarily from Route 15 and travelling westbound on Mt. Pleasant Ave. He referred to A-8, 3-9-21 Site visibility study to show the site visibility from Route 15 north and south and also Mt. Pleasant Ave. traveling west. Travelling southbound on Route 15 the sign is first visible from 650 ft. away. The cone of vision is 40 degrees and is very clear, which he explained to the Board. The sign will stay within the cone of vision for another 562 feet. The speed limit is 40 mph in this area of Route 15. The distance of 562 ft at 40 mph or 58.7 feet per second allows you to see this sign for 9.6 seconds. In the para-peripheral vision outside the 40 degrees to approximately 80 degrees, distinguishing detail and shape, is weak but the ability to distinguish lights and movement, such as brake lights and objects moving in the path of the vehicle, is strong. In terms of outdoor advertising there is no reaction that has to be made by the driver. The sign is there providing general information but doesn't need a reaction such as a stop sign or red light would. The more the sign is in your site of vision the more valuable it is. Drivers do not stare at the sign; they take short glances at them as they travel along with the focus on the road ahead of them.

Traveling north bound on Route 15 the sign is first visible from 450 ft. away and is within the cone of vision for about 283 feet. The distance of 283 ft at 40 mph allows you to see this sign for 4.8 seconds. Traveling west on Mt. Pleasant the sign is visible essentially the same amount of time as it is traveling Route 15 northbound. The traffic light at that location will also increase the timing of seeing the sign from both Route 15 northbound and Mt. Pleasant Ave.

Mr. Staigar stated that the Federal Highway Administration conducted 2 humanistic studies that concluded that variable message signs are not a distraction to motorists, that motorists do not take their eyes off the road for any length of time. The average fixation time on such a sign is 0.379 seconds which is much less than the 2 seconds the National Highway Transportation Safety Administration recognizes as the threshold of a hazardous situation. The study found that drivers do not take long glances at these signs and maintain their focus and concentration on the road. The Tantalala Study, concluded that there is not a statistically significant relationship associated with billboards and accident occurrences. The conclusion is that these signs do not cause accidents or distractions. This is a primary concern of the DOT who permits these types of signs.

Mr. Loury asked if any of the studies done by Tantalala were done near a major busy intersection similar to the Mt. Pleasant and Route 15 intersection. Mr. Staigar stated that there was a study done where there was an intersection with turning lanes. It was at the Blue Claws Stadium in Lakewood. The sign was a triple sided LED digital sign. That study showed that there was no increase in accidents at that intersection. Several of the Tantalala studies did include signalized intersections in close proximity to the signs as well as freeway and found no difference.

Mr. Bosworth referenced A-8 site visibility which shows the line of site traveling southbound and about  $\frac{1}{4}$  of the way thru is the Bob's Furniture sign. Now looking at A-7 - the line of site goes through the Bob's sign. Also back at 650 ft this line of site goes through the Bob's sign as well. Mr. Staigar stated that if they could raise their sign that would increase the visibility but they are sensitive to the Borough's height restrictions and trying to find a balance. He feels the further back you will be able to see over the Bob's sign and there may be a point, mid-range, that it may be blocked but as you pass that you will be able to see the billboard sign. Mr. Loury stated that there are a lot of signs in that area and would raising this sign be better?

Police Chief David Young did some research on accidents in that area over the last couple years and the data in this specific area in front of the diner doesn't show a lot of accidents. He feels the north bound traffic will not be distracted by the sign and will see the sign clearly prior to getting into Wharton because the border is at the bridge and by then they should be in the proper lane of travel. Travelling southbound they have plenty of time to see the sign before they are making any lane change. The only area that does not would be the driveway coming out between the Shop Rite and the Diner.

Mr. Loury asked what recourse they have if they find later on after the sign is installed that all the experts are wrong and the sign is causing a lot of accidents. Mr. Zakin stated that they have to rely on the experts for traffic safety. They can ask the applicant if they would be comfortable with a condition in the resolution. Mr. Wolfson stated that he would not see any liability for the Borough based upon an approval of the sign. He relies on the experts and also the statements from Police Chief Young. He would suggest that the Board and Municipality would have no exposure relative to any potential accidents that may take place as a condition. In terms of monitoring the performance of the sign, the DOT has an annual renewal process and the

concerns of the municipality could be expressed as part of that process. Mr. Loury was more concerned with public safety than liability. Mr. Zakin asked if the applicant was amenable to some sort of condition if it becomes a safety concern and consult with the police. Mr. Wolfson stated that they would be happy to consult with the police if after the sign is completed, they find it causes a markedly dramatic increase in accidents that can be tied directly to the sign's presence, and try to minimize any impact by the sign. Mr. Wolfson stated that they are confident in the conclusions from their experts and the fact that the DOT has already issued their permit.

Ms. Caldwell asked Mr. Staigar what impacts the distance, that you can see the sign from 650 ft. Is it the height, lighting, size of the sign or all of the above? Also, could the sign be smaller. Mr. Staigar stated that it is all of the above. Because of the curve in the road and the trees in front of Shop Rite it limits seeing the sign further away. It's when you get to 650 that you can see the sign and start to read it. As far as the size it is dependent on the message. If it's not a familiar logo then it will take more time to sink in and understand the message. In terms of traffic engineering, bigger is always better, it is more effective. The sign fits the characteristic of this roadway. 8 seconds is enough time to read the sign, again it depends on the simplicity of the message versus the size of the sign.

Ms. Caldwell asked Mr. Klein if there is an effort to simplify the messages. Mr. Klein stated that the design is based on less is better and keep it simple.

Ms. Caldwell asked what can be done if they find the sign is a safety issue. Mr. Staigar stated that they would first have to figure out what is causing the safety issue, is it too bright or is it detracting away from the other safety features. From the studies that they have seen these signs are not a distraction and people are not taking their eyes off the road for any length of time. He has never seen or heard of an instance where these billboards have been proven to cause an accident. It is not the nature of these types of sign. He feels the height is adequate, it will be blocked for a part of the 650 ft. traveling south on Route 15. For the effectiveness of the sign, it would be better if it were higher but not for safety.

Mr. Borinski asked if there was a standard for time of read. Mr. Staigar stated that the longer you are able to portray that advertisement the more effective it is as an advertising sign. He had heard the rule of thumb is 4 seconds of read time is a good time to portray a message. Like Mr. Klein stated, simpler is better. Mr. Staigar also stated that he does not know of any study done as to how many drivers pay attention to billboard signs.

The meeting was now opened and then closed to the public.

Lucky Wyrick, the senior territory manager at Watchfire digital was sworn in and qualified as an expert on the design and manufacturer of the sign and a representative of that manufacturer, Watchfire which is based in Danville, Illinois. The lighting study was performed by his company. Ray Digby, one of their team members, produced the light study.

Mr. Wyrick stated that, earlier, someone had asked what mechanisms they had in place to make sure the sign is not too bright. The sign is manufactured by Watchfire in the United States. It is shipped to the site, where it is erected and determined at that time what the brightness needs to be for that environment and based on ambient light. The brightness can be adjusted on site or remotely. Mr. Wyrick stated that he has 18-20 years' experience with billboards. He also stated

that the LED technology and louver technology was around when the studies from the earlier testimony were done.

Exhibit A-12 3-9-21 is a photo of the modules and shows the 12 x 12-inch modules. Mr. Wolfson will supply the Secretary with a copy of this photo.

Chief Young asked if it was possible to set the lighting pattern for certain times of the day. Mr. Wyrick in the technology today you don't need a schedule, all you need is a photo cell on the sign. The photo cell controls the hardware which controls the brightness setting in the sign. The brightness can also be adjusted through the master settings in the sign, through the software.

The meeting was now opened to the public and then closed.

Christine Nazzaro Cofone was qualified as an expert Planner. Ms. Nazzaro Cofone stated that they are seeking a D-1 Use Variance in a B-2 zone. In Ms. Caldwell's review letter there were other variances listed. When dealing with a D-1 variance, other ancillary bulk variances are subsumed into that. They are also seeking a height variance or C variance of 38.5 ft. She identified the ancillary bulk variances for front yard setback of 5 ft. and a side yard setback of 5 ft., max sign area of 24 ft., height of the sign of 10 ft., sign setbacks of 5 ft and front yard setback for the sign of 5 ft. They are also seeking a variance for the internal illumination as well as the multi colored LED. All of these variances are because of a sign that is not permitted in the zone. So, it would make sense to contemplate them as subsumed into the D variance. They must then show that this site is particularly suited for this use. The testimony shows that the sign will be visible for 100's of feet in both the north and southbound directions. They have a unique location in that the intersection gives you visibility from another directions as well. The zone requires 150 ft of frontage where they have 230 ft of frontage. Exhibit A-11, 3-9-21 Distance to Residences - demonstrates that they are 1350 feet from the closest residential neighbor. Ms. Nazzaro Cofone considers this site particularly suited for this proposed billboard sign because of these reasons.

Ms. Nazzaro Cofone went on to list and demonstrate special reasons and purpose from the Municipal Land Use Law to show the positive criteria.

- A- Promotes the general welfare – Benefit to the Borough especially in emergency situations. The Borough would be able to advertise any Borough emergencies and community events and that promotes the general welfare of the town.
- G – Providing Sufficient Space in appropriate locations – there is sufficient space and this is an appropriate location with access to the North and Southbound traffic on Route 15 and Mt. Pleasant Ave.
- I – Desirable Visual Environment - Provide Aesthetics – A-3 3/9/21 – shows the brick base and the wrap which is more decorative and sets them apart from other billboards.

This is the positive criteria and she feels criteria A, G and I will be advanced by this application.

Ms. Nazzaro Cofone stated that for the negative criteria they have to show that the benefit to the granting of this variance outweighs any detriment. She feels the testimony by their experts tonight and the studies done show that the safety concerns have been answered and that the sign is at a safe location. The testimony also stated that there will be no flashing, no animation and no scrolling on the sign and if years down the road they want to change this they would have to come back before the Board. She feels they have satisfied the negative criteria and they are not going to have a substantial detriment on the public good. She agrees with Mr. Klein that the

Klein logo is an important part of the billboard and needs to be on the sign. She is sure that they can work together on the size of the logo. She feels that they have provided an appropriately scaled billboard to the site and to the location that will represent a predominately local market. They want it to be seen and safe. It is a reasonably size billboard for this location. She also feels it reached the Borough's Master plan goal to bring a voice to the local businesses.

Mr. Loury questioned the name on the application – Klein advertising and the owner is Mr. Sederes who signed the authorization. Mr. Zakin stated that they have a contract between them that they have submitted, so either of them can be the applicant.

Ms. Caldwell explained, because the sign is an odd use, the reason for all the variances and stated that she agreed with Ms. Nazzaro Cofone's testimony of the variances.

Mr. Harris mentioned the animated Lazy Boy sign at the Mt. Pleasant intersection and asked if they are putting to many eye-catching items in one spot. Ms. Nazzaro Cofone stated that the Board has already considered that when they have imposed on this application no flashing, no animation and no scrolling. This is also a commercial area and a great area for businesses to advertise. It's about balance and if there is a animated sign across the street then they will make sure they do not have that on their sign because it would detract from the site. Ms. Caldwell was not sure if you would see the 2 signs at the same time. She asked the traffic engineer to address this concern. Mr. Staigar stated that there is over 415 ft. between the 2 signs and are on opposite sides of the intersection. Their sign does not align with the traffic signals where the Lazy Boy sign does. When there are things going on in an area, people focus on the task at hand and the task at hand is getting through that roadway and intersection safely. All the studies clearly indicate there is no distraction. People don't stare at these signs and don't take away their concentration from traveling the road safely. The other thing, when you are sitting at an intersection, does the sign detract from the traffic signal. Their sign does not, it is far off the line of site at the traffic signal. This is not true for the Lazy Boy sign. He did notice that the Lazy Boy sign has no green, yellow or red. It only has white, black and blue. A-7, 3-9-21 Route 15 SB Photo Simulation shows both signs. The Lazy Boy sign is in line with the green traffic light and their sign is well above and to the right of the traffic signal and Lazy Boy sign. A-10 shows when traveling north bound you don't see their sign until you are in the intersection. A-9 shows traveling west on Mt. Pleasant and their sign is off to the right.

The meeting was open and then closed to the public.

Brian Bosworth asked if Mr. Staigar knew the standard deviation on the data for .379 second glance at the sign. Mr. Staigar did not see the data he only saw the results of the study which was an average but well below the 2 second standard.

Police Chief Young asked if there is a limit to emergency notices. Mr. Wolfson stated that there is no cap on emergency notices.

Mr. Zakin summed up the variances and conditions. They have an application for a Site Plan and Use Variance, Block 801, Lot 7.01, 320 Route 15 in the B-2 Regional Business Zone for a LED Variable message sign.

Conditions:

1. New design aesthetic implemented with the approval of the Board Planner
2. Illumination hours 6 am – 1 am

3. PSA available to the Borough every 2 minute for 8 seconds minimum.
4. Indemnification for any suits regarding speech if the Borough is sued.
5. Plan for maintenance approved by the Board Engineer.
6. No changes in technology without the Board approval including flashing lights, animation, scrolling or any other material change in the nature or form of transmission of the advertising.
7. Agreement as to the size of the sign owner logo, currently Klein. The logo will be compliant with DOT standards as agreed to by the Board Engineer and Planner.
8. 2 additional ADA parking spaces approved by the Board Planner and Engineer.
9. Photo cell controls hardware automatically for brightness based on ambient light.
10. Administrator in consultation with the Board Engineer and/or Police Chief can request that the specification of the photo cell controls be changed as appropriate for safety.
11. Billboard modification similar to the exhibit shown tonight, modifying the Klein logo and additional landscaping approved by the Board Planner

Chairman Loury asked about indemnification from accidents. After a brief discussion Mr. Wolfson will meet with his client Mr. Klein and have him check with his insurance company and they will get back to Mr. Zakin while he is drafting the resolution.

A Motion was made by Roger Steele and Seconded by Christopher Fleischman to approve the application with the listed conditions. YEA – 7 NAY – 2 (Peter Rathjens & Brian Bosworth)

A Motion was made by Charlotte Kelly and Seconded by Marc Harris to adjourn. Meeting adjourned at 10:38 pm YEA – 9 NAY – 0

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Patricia M. Craven – Secretary

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Ken Loury - Chairman