

WHARTON PLANNING BOARD  
REGULAR SCHEDULED MEETING  
December 8, 2015

The Regularly Scheduled Meeting of the Wharton Planning Board was called to order with Chairman Ken Loury reading the Open Meeting Statement as required by law.

ROLL CALL was taken and the following members were present: Chairman Ken Loury, Ms. Charlotte Kelly, Mr. Jared Coursen, Mr. Peter Rathjens, Ms. Jennifer O'Malley-Dorr and Mr. Brian Bosworth. Also present were Attorney Alan Zakin, Planner Jessica Caldwell and Secretary Patricia Craven. Excused were Mayor Chegwiddden, Councilman Yeager, Mr. Roger Steele, Mr. Patrick O'Brien, Mr. Mark Harris and Engineer Christopher Borinski.

The pledge of allegiance to the flag followed.

The approval of the bills was next. Added to the list of bills were 6 Bills for Azzolini. A Motion was made by Jared Coursen and Seconded by Peter Rathjens to approve the bills that were read.  
YEA – 6 NAY – 0

The Resolution for PMIG DPNJ, LLC was next. One correction was made on page 1 and 9 – Sunoco was changed to Gulf. A Motion was made by Brian Bosworth and Seconded by Jennifer O'Malley-Dorr to approve the resolution as corrected.

YEA – 6 NAY – 0

The Resolution for Morris Ventures, LLC was read. After some discussion an addition was added to the end of Item #1 on Page 7 to read “up to the required 16.” A Motion was made by Jared Coursen and Seconded by Peter Rathjens to approve the Resolution with the correction.

YEA – 6 NAY – 0

Under New Business was the application for Jersey Xtreme. Marcelo DeOliveira of 322 Devon Street, Kearny, N.J. was sworn in. He is proposing a gymnastic, tumbling and trampoline training center in the Wharton Industrial Center at 105 W. Dewey Ave. He is the sole proprietor of Jersey Xtreme and does not have an attorney with him. He will file and register with Morris County Clerk if his application is approved. He will also provide the Board with a notarized letter stating that he is a sole proprietor.

The facility is a 4000 sq. ft. warehouse with an open space, no columns and a high ceiling, which is what he needs to run a safe program. He is looking to bring in a new program of trampoline competition that is not found around northern New Jersey and stated that Trampolining is an Olympic sport.

He is proposing to be open 10 am – 9 pm weekdays and 10 am – 5pm on weekends. He marked into evidence:

A-1 12-8-15 which is a sample of his class schedule. The classes will be staggered. He will be offering to start with 1 class per time slot.

A-2 12-8-15 which is a Gym Layout/Floor Plan. It shows how the building suits his plan with open areas that are free of columns, flat concrete surfaces and high ceilings. The plan shows how they can have a maximum of 3 classes at a time with 7 students per class. He is proposing only 1 class right now and will increase as the demand requires. His peak hours are from 4:30 to 9 pm on weekdays and 9-12 on weekend with some Sundays for parties. The striping on the plans is spring flooring which he explained to the Board.

A-3 12-8-15 is a Rotation Schedule – He is a member of USAG which is a gymnastics federation in the United States and he follows their guidelines. Their guidelines are a maximum of 10 students per one instructor but Marcelo likes to give individual attention to his students so he has a maximum of 7 students per instructor or class. He offers 3 classes at a time that rotate. The maximum amount of students at any one time is 21 students and 3 instructors. His class age starts at 2 years old. The tot classes have the parents staying with the children, He will have a part time receptionist to greet the parents and students. He pointed out on the floor plan where the reception area and parent waiting area will be. It will be separated by a divider.

A-4, 12-8-15 is the parking analysis - There are 98 spaces and 4 handicap spaces. There are no assigned spots. His Unit 11 is mid center of the building. He said that the parents don't stay, they just come in and drop them off and leave. Many of his students' car pool. He does not encourage the parents to stay and watch because it is distracting for the students but he does have a surveillance camera hooked up to the tv in the waiting room so the parents can watch the classes.

They are not proposing any construction, there are 2 bathrooms already there. All there equipment is just put together and can be easily taken apart. None of it is permanent. His #1 concern is safety. He stated that it is hard to find a location that has open space and high ceilings and is this size. This location is perfect especially because he has specialty tumbling.

He believes he will be a benefit to the community. He promotes fitness, body awareness and building self-esteem. All the activities are held inside the building at all times. His hours are from 9 to 12 on Saturdays, peak hours during the week are 4:30 to 9. Birthday parties are offered on Sundays. He likes to be involved with community minded programs.

A-5, 12-8-15 is 4 pages of Charitable Initiatives. – Autism awareness, light it up blue, toys for tots and breast cancer awareness are some of the causes he and his students have been involved with. He likes to teach them to give back to the community.

He has students that come from different areas, some come from Montville and some from Lake Hopatcong. He has been a professional for over 23 years and has been a gymnast since age 5.

Attorney Zakin stated that he had found during some research a Jersey Xtreme Tumble and Cheer Limited. Mr. DeOliveira stated that that is not part of this project. He was involved with that but no longer.

Mr. DeOliveira stated that the building area is very well lit at night and has its own entrance light. Most gyms are located in industrial buildings. This location is great and easy to get to.

There is no agency that certifies the facilities. He is a member of USGA, US Gymnastics Association and is safety certified. They require a full background check.

Brian Bosworth stated that the hours of operation in his justification letter are different than what was testified to. Mr. DeOliveira stated that the justification letter is correct. He also explained that he will have a receptionist there during peak times and while classes are going on. During the morning classes with the parents they do not need a receptionist. All employees will have background checks and have taken the safety course and will be members of USGA. He is insured and will provide that information to the Board. They will have no food preparation on site but can bring cake, cupcakes, etc.

Planner Caldwell asked about an open gym. Mr. DeOliveira explained that they do have a time when they open it to the public which would bring no more than 25 to 30 kids. They always have music but it will be at a level that he can speak over the music. It will not have any negative impact to the neighbors. They have more music in the evenings. He will have directions to his unit on his website.

Planner Caldwell stated that she spoke to Engineer Borinski today and he had stated that there were 2 previous applications for a use variance that had site improvement conditions in their Resolutions that have not been done. The conditions included striping and signage. Attorney Zakin stated that the other applications similar to this application were for a gun range and baseball facility. The concern was that this site is an industrial site with trucks and they were concerned with the safety of the children in the parking lots.

The meeting was opened and then closed to the public.

Mr. DeOliveira stated that he is the only owner.

Attorney Zakin stated that this is a D-1 use variance application and they need 5 votes and they have 6 voting members. He gave Mr. DeOliveira the option of coming back for a vote when there are more members and he chose to proceed.

Attorney Zakin stated that this application is for a use variance and listed the conditions:

Register with the county

Receptionist on site when there are group classes without parents

Insurance designated by our professionals

No Food Preparation on Site

Site Improvements by CCKK – work with our professionals to see that progress is being made.

Make sure that CCKK has an acceptable time line to do the improvements to the site that were a condition of the applications for the Gun Range and Baseball facility. Most of it is striping and signage. Planner Caldwell will speak with Engineer Borinski about this and see what they can do to move the site improvements along.

A Motion was made by Jared Coursen and Seconded by Brian Bosworth to approve the application with the conditions they spoke about. YEA - 6 NAY - 0

The application for Mech Managers Inc. was next. Attorney Nicole Magdziak of Day Pitney, Parsippany N.J. addressed the Board. She is representing Mech Managers, Inc. for a property located at 354 S. Main St. They are seeking site plan approval with a use variance. They would like to use the property for a multi family residence. It is in the B-1 business zone. Currently the house has a mixed use of apartment on the 2<sup>nd</sup> floor and 2 businesses on the first. They also have an accessory building which is a garage/barn and is currently used for storage. Their initial application was to convert all of it to residential but they have changed the plans to propose an office for Mech Managers Inc. in the accessory structure and 3 apartments in the main building.

Genaro DePalma of 73 Cedar St., E. Hanover, N.J. was sworn in. He is the owner of Mech Managers, Inc. He purchased the property in April of 2006 with the intent to rent out the large office on the first floor and the apartment upstairs. With the proximity to the hospital he thought he would be able to rent to some doctors. Ultimately he created 2 office on the first floor and the apartment on the second floor had been rented and was grandfathered in. In the years that have passed he has had 2 tenants in the offices that have stayed less than a year. In 2009 he moved his business into the one office space and has not been able to rent out the other. He is an electrical contractor. His plan is to move his business into the accessory building and convert the offices to apartments. He is full time with office hours 5 days a week from 8:00 to 6:00 with 2 part time employees. He has an occasional visitor mostly sales reps or manufacturers. He currently uses the barn for storage. The second level of the barn has an office on the second level which is how it was when he bought it.

Attorney Zakin stated that the original application was proposing residential in the accessory building and 4 residential units in the main building. Then the application was changed to keep an existing office in the accessory building but then it was stated that the accessory building was not used as an office but for storage. He asked the applicant to explain. Mr. DePalma stated that the barn has always been used for storage. The second level of the barn has been outfitted for an office, he bought it that way and has never used it as an office. Attorney Zakin asked this in reference to their notice and whether they can proceed with the accessory building as part of this applications. Planner Caldwell stated that it depends on if a variance is needed for the office, an office is permitted in this area but do they have enough parking for the office.

Ken Fox of 546 Rt. 10, Ledgewood, N.J. was sworn in and qualified as an expert Architect and Planner. Mr. Fox stated that they have changed and downsized the plans after some feedback from some of the reports they received from our Professionals. The original application showed 4 residential units in the main building and 1 residential in the accessory building. That was changed to 3 residential units in the main building, 1 on the upper and 2 on the lower floor and 1 office in the accessory building. They plan to remove the 2 offices on the lower floor of the main building and put in 2 apartments and keep the apartment on the 2<sup>nd</sup> floor. Mr. Fox stated that the total sq. footage of the accessory building is under 1000 sq. ft. which would equal 4 parking spaces. They are proposing 2 apartments on the lower level, 1 is a 1 bedroom and 1 is a 2 bedroom and 1 – 1 bedroom apartment on the upper level. They would need 4 spaces for the business and 5 spaces for the residential for a total of 9 parking spaces which they can provide. They are currently showing 8 spaces on the plans but Mr. Fox stated that they can provide 9 spaces. Mr. Fox has revised plans with him tonight. The Board was comfortable moving forward

with the application. Mr. DePalma stated that he has 2 part time employees that are not there at the same time.

The Meeting was opened up to the public for questions for Mr. DePalma and then closed to the public.

Mr. Fox marked into evidence 4 exhibits.

A-1 – 12/8/15 – Site Plan in Color

A-2 – 12/8/15 – 12 Photos of the site now and surrounding properties

A-3 – 12/8/15 – Revised Floor Plan reflecting their current application

A-4 – 12/8/15 – Floor Plan – Blowup of the house – he made smaller copies to pass out to the board.

Mr. Fox explained the exhibit A-1 – The house is in a residential area and was originally a 1 family home and later on an addition was added which became a commercial space. The 2 story barn at the rear is used for storage and has no plumbing. The upper level has been improved prior to his client's purchase of the building. They are not proposing any new construction. There is a concrete area in the back of the house as well as the area to the side which they are proposing to use for parking. There is residence all around this property.

Mr. Fox stated that they are proposing to renovate the first floor of the house to be able to rent it. Office and commercial uses are hard to rent in Morris County but there is a high need for quality apartments.

A-4 – shows the proposed 1<sup>st</sup> floor Plan which Mr. Fox passed out copies of to the Board and then explained. The building will be sprinklered.

A-3 – shows the barn with the office on both the upper and lower levels. It shows the handicapped bathroom with toilet and sink.

A-2 shows pictures of the house and property – He pointed out the paved area in the rear and the back of the house in pictures 3 and 4. The only access to the property is from Main St. There is no dumpster but an enclosed trash and recycling area in the back for the tenants and office. They do not think it needs screening. Office use would probably be less than 1 bag of garbage a week. There will be no cooking in the office area just a refrigerator, sink and area for microwave, it is a kitchenette. There are 2 lights on the side by the parking and they are proposing 1 motion light on the barn to shine in the rear of the house. They will have one down light and one to illuminate the back parking area. Mr. Fox pointed out photo #12 showing the large back yard and where the nearest neighbors are.

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

Mr. Fox testified as a planner and stated that they are in the B-1 zone where residential and multifamily are not allowed. Offices are allowed in this zone. So they are seeking a D-1 variance. The impact of the change is minor, there are 3 rental units on the site now and they are increasing that to 4. They are changing the character of it, making it more residential. The site is

unique in size, beautifully landscaped, has a park like setting and a residential look. The parking is well defined and well lit.

They feel it is an appropriate use in this area and will have no impact on the zone. There is a need for housing in the area. It also provides a desirable visual of a residential house with a residential use. Times have changed and more people work from home so there is less need for office space and more need for good housing. Over 9 years they have tried to rent the spaces out even promoting it at the hospital with flyers and contacting people at least 2 – 3 times and listing in the multiple listings 8 times with no takers. They believe it is a good use of the property. They feel there is no negative impact, they feel it has a residential feel and use. The deck on the second floor is only for that tenant.

Mr. DePalma stated that there are plenty of people who want a nice apartment which these are. He stated that he is open to Title 39. Mr. Fox stated that they will be renovating the barn, the upstairs need a little bit of work where the downstairs is a barn and will be updated. They will modify the plans.

Ms. Caldwell stated that they need to match up the square footage of the barn with the parking lot. Mr. Fox is confident that they can make it work and if not they will be back before the Board. Mr. Fox stated that he can restripe the parking lot for 9 spaces leaving enough room to turn around. He stated that all the adjacent properties are residential. To the left looking at the site there is an empty lot then a residence and followed by a strip of businesses. He feels it is a benefit to the neighborhood in that the renters will visit the businesses in the neighborhood

The meeting was opened and then closed to the public for Planner Fox.

Attorney Zakin explained to the Board that they are acting as a Board of Adjustment and voting on a D-1 use variance and need 5 affirmative votes. They are converting 2 offices to 2 residential apartments on the first floor of the main building which will need a variance. They are keeping the existing apartment on the second floor. As far as the accessory building they have a condition because the use is permitted as an office but that the square footage for the accessory building as an office allows sufficient parking with no variances. Another condition is 9 striped parking spaces. Also approval by appropriate Borough Officials.

A Motion was made by Peter Rathjens and Seconded by Jared Coursen to approve the application with the conditions that were discussed. YEA – 6 NAY – 0

A Motion was made by Charlotte Kelly and Seconded by Jared Coursen to adjourn. Meeting adjourned at 9:30 pm.

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Patricia M. Craven – Secretary

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Ken Loury - Chairman