

WHARTON PLANNING BOARD  
REGULAR SCHEDULED MEETING  
April 12, 2016

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, Mayor William J. Chegwiddden, Ms. Charlotte Kelly, Mr. Roger Steele, Mr. Mark Harris, Mr. Patrick O'Brien, Mr. Peter Rathjens, and Mr. Brian Bosworth. Also present were Attorney Alan Zakin, Planner Mika Apte and Secretary Patricia Craven. Excused were Councilman Thomas Yeager, Mr. Jared Coursen, Ms. Jennifer O'Malley-Dorr, and Engineer Christopher Borinski.

The approval of the bills was next. A Motion was made by Brian Bosworth and Seconded by Mark Harris to approve the bills that were read. YEA – 7 NAY – 0 ABST – 1 (O'Brien)

The Minutes of the February 9, 2016 Planning Board Meeting was next. A Motion was made by Roger Steele and Seconded by Peter Rathjens to approve the minutes.

YEA -5 NAY- 0 ABST – 3 (Chegwiddden, Kelly, O'Brien)

The Resolution for Escrow Refunds for Kardi & Mehta, TR Industries and Saltos was read. A Motion was made by Mark Harris and Seconded by Brian Bosworth to approve the resolution.

YEA- 7 NAY – 0 ABST – 1 (O'Brien)

The Application for PMG Sign Variance was next. Attorney for the applicant Jason Tuvel addressed the Board. He stated that the applicant is PMG New Jersey II, LLC and the location of the property is 217 S. Main St. Block 1801, Lot 19. The application is for a C variance, they are reimagining the existing freestanding sign with LED lighting in the place of the current price signage. Their goal is to upgrade the sign to the new industrial standards. It will make it easier to change the prices from inside the building and not have to go outside. It will be sharper and more easily readable for drivers which makes it safer. The size of the sign will remain the same only the face is changing. The business is not changing, the hours will remain the same. They are looking to replace the current paneling with LED paneling. The sign is internally illuminated now and will remain internally illuminated. It will make it sharper and more aesthetically pleasing.

Attorney Zakin stated that Board member Patrick O'Brien has to excuse himself from the Board tonight because his son works at the gas station. The Board still has 6 voting members.

Engineer/Planner Richard D. Kenderian of Maser Consulting was sworn in and qualified as an expert witness in Planning and Engineering. He has testified before this Board on a previous PMIG application. Mr. Kenderian marked into evidence:

A-1 – 4/12/16 - Sign Presentation Exhibit – Color version.

A-2 – 4/12/16 – Color Photo of Existing Sign.

Mr. Kenderian stated that the property is located at the intersection of S. Main and Hance St. as is a parcel of 1.25 acres. Less than a third of the site is developed. There is an existing gas station and existing free standing sign on the site.

Exhibit A-1 shows the proposed conditions – they will be replacing the internally illuminated section where they manually put up the pricing with an electronic LED display that can be changed from inside the station. The LED's are highly visible, the New Jersey state statutes requires visible signs. They believe the visibility and aesthetics of the new LED lights will be improved as well as the safety of changing the sign. They are only changing the face of the sign. The present sign is internally illuminated which is shown on A-2. The LED will illuminate themselves and will be make the sign highly visible at a good distance. They are designed to dim in accordance with the ambient light. The existing sign which is switching from Delta to Gulf has multiple colors and the proposed sign will have just orange and blue. The LED lights are more ambient efficient and environmentally friendly. As far as the positive criteria it promotes purpose A, H & I. He sees no substantial detriment to the public good. It is a preexisting sign and they are keeping the same size sign but just upgrading it to a more modern technology. The benefit of granting this variance substantially outweighs the detriment. They are just changing the price signs from manual to LED. The new sign will emit about the same lumens. The LED's do not emit light they just illuminate themselves. The difference will be unnoticeable but will be slightly less. From a distance the visibility will be better at all times. The bottom TBD area of the sign will not be LED. They have not decided what will be on the panel at the bottom, which will remain internally illuminated. The colors of the TBD section has not been determined at this time. Planner Apte stated that white and black are colors but if white is introduced it is approved as a third color. Mr. Kenderian stated there is a measurement for glare. LED light are the standard and all gas stations are converting to LED technology because it is safer, can be changed easier and because it does not cause any glare it is more readable. The LED is for the numbers only on the sign. He also explained the auto dimming feature. There is a photo cell that changes the intensity of the letters, brighter during the day in the direct sunlight and dimmer at night. It does not create a glare where you wouldn't be able to read the numbers. It automatically adjusts.

Attorney Zakin asked if they would be agreeable to having the Borough Officials approve the final TBD language scheme. They would like the Borough Planner to approve that.

Mr. Kenderian stated that about 1/3 of the property is the gas station. When the applicant purchased the property they did a full environmental review of the property. They can look into that if the Board wants, it is not part of the application. Mark Harris was concerned, there are a lot of junk vehicles stored on the property. Brian Bosworth stated that because it is a service station you expect some cars to be on the site, but there is a lot of stuff there that has been there for a long duration. You want the site to be aesthetically pleasing. Mr. Kenderian stated that the prior owner had some violation but the present owner has done a cleanup. He will be happy to speak to our zoning officer to see if there are any issues with the property and pass that along to his client. It was stated by Patrick O'Brien that Frank is the owner/operator of both the gas and garage. Mr. Harris would like them to clean up the site of junk cars. Mr. Kenderian stated that they are upgrading the site but with the LED lighting. Attorney Zakin stated that they can make it a condition that the applicant will address any code violations as far as storage and placement of

vehicles. Mr. Kenderian stated that he will speak to the property of and see if there is a way to store them in a way that would hide them from view. PMG is very responsive.

Planner Apte stated that they have addressed most of the issues in her memo dated April 6, 2016. She informed the Board that this is a preexisting, non-conforming use and a bulk variance. Mr. Kenderian stated that there is no other signage, no structural change, no change of hours and the type of activity on the site is not changing or intensifying. Anywhere there is Delta it will say Gulf.

John Regan of 198 S. Main St. Wharton was concerned about the lights and was told by Mr. Kenderian that they would not be any brighter than what is there now. The business hours will be from 6am to 9pm, 7 days a week. The lights will be off when the station is closed.

Roger Steele asked if the council was looking into changing the ordinance to allow LED lighting since this is what the gas stations are going to. Mayor Chegwidden said that they are not.

Attorney Zakin stated that the application is for a C variance for changing an already internally lit sign and a preexisting nonconforming use of a gas and service station.

2 conditions:

- 1- The Borough Planner will approve the TBD copy shown on Exhibit A – final approval for lettering, wording & coloring therein.
- 2- Storage and placement of vehicles is up to code and note that there is a concern and for the mutual benefit of all parties it is as aesthetically pleasing as possible. It was suggested that Mr. Kendarian reach out to the owner to see if they can configure a way to do that.
- 3- Hours of operation will be from 6 am to 9 pm – 7 days a week. Signs go off when the station is closed – by the time they close up it would be about 9:15.

A Motion was made by Brian Bosworth and Seconded by Peter Rathjens to approve the application with the variance and conditions discussed. YEA – 6 NAY – 0

Next on the agenda was the Presentation on the Housing Element and Fair Share Plan by Planner Apte. She gave the Board a history of the Housing Element and Fair Share Plan for Wharton Borough from 1990 to Present. She went on to talk about the Housing Element and Fair Share Plan presented to the Board dated April 12, 2016. She stated there is a report that provides the obligation of all the Municipalities in New Jersey. The latest version came out on March 24, 2016 and according to that report, Wharton's total obligation is 127 units which includes 42 prior, 85 present and prospective. She stated that from an analysis that was done they found that there is about 6.11 acres of developable land in the Borough. Applying the density of 12 dwellings in a unit to an acre Wharton's obligation is about 15 units. The Borough has to meet this obligation and fortunately Wharton has a lot of projects such as Centennial Court which gives us about 100 credits. River Place apartments which we get 14 credits and 2 group homes which provide the town with 7 credits. The newly approved development Wharton Woods gives us 15 credits. Rental units give us added bonus credits. The total credits from all of these is 205 which taking out our 15 unit obligation gives us an excess of 190.

Attorney Zakin stated that there has been so many changes in the rules and they may change again. This has to go before a judge who can also change it. He thinks the town is in great shape

and has made a very aggressive effort to comply. If the Planning Board approves this and states that it complies with the Land Use Law then it will go to the Mayor and Council for their approval and then be submitted to the courts for their review. Mayor Chegwidden stated that going into the Highlands helped them. Some discussion followed. Attorney Zakin stated that this plan conforms with our Master Plan and the Municipal Land Use Law and takes into account the Highlands Plan. If the Board agrees then he will draft a resolution and send a letter to the Mayor and Council stating that the Board has reviewed the plan and it does comply with the Municipal Land Use Law. That is what is needed to be able to submit it to the court.

Planner Apte stated that it will be submitted to the court as a draft with the intent of adopting it as a Housing Element and Fair Share Plan for the Borough of Wharton.

Brian Bosworth found an error on page 15 which had since been amended per Planner Apte. He also found an error on the top of the table on page 15 – cannot have 1,321 percent – should be changed to 100.

A Motion was made by Roger Steele and Seconded by Mark Harris to approve the draft of the Housing Element and Fair Share Plan of the Borough of Wharton and the Board believes it complies with the Municipal Land Use Law. YEA – 8 NAY – 0

Under Correspondence was the Emails from Chick Moreno in reference to CCKK, LLC. After some discussion it was decided that if the Board had any request for items that CCKK, LLC has not addressed they can ask the Secretary to pass those requests on to Mr. Moreno. At this time the Board did not.

A Motion was made by Peter Rathjens and Seconded by Brian Bosworth to adjourn. Meeting adjourned at 8:15 p.m.

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Patricia M. Craven – Secretary

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Ken Loury - Chairman

