

WHARTON PLANNING BOARD
REGULAR SCHEDULED MEETING
December 13, 2016

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

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

The approval of the bills was next. A Motion was made by Brian Bosworth and Seconded by Jared Coursen to approve the bills that were read. YEA – 6 NAY – 0

The Minutes of the September 13, 2016 Planning Board Meeting was next. A Motion was made by Peter Rathjens and Seconded by Brian Bosworth to approve the minutes.

YEA -3 NAY- 0 ABST – 3 (Coursen, O'Brien and Bosworth)

Next on the agenda was the application for Wingz 1, LLC. Attorney for the applicant, Matthew Posado of Inglesino, Webster, Wyciskala and Taylor of Parsippany, N.J. addressed the Board. The application is for an internally illuminated wall mounted sign for the Wingz Style Restaurant in Busy Lady Plaza, 321 Route 15, Block 402, Lot 3, which is in the B-2 zone. The applicant intends to open a Wingz Style Restaurant which is new to the New Jersey area. They need a variance for the internally illuminated wall mounted sign. Due to the perpendicular nature of the existing shopping center on Route 15 they need the internally illuminated sign to draw attention to their business.

Rohul Patel, a member of Wingz 1 LLC, was sworn in at this time. He testified that Wingz Stop restaurant is a limited service restaurant not a full service restaurant. It is a franchise that sells both boneless wings and wings with the bone in. It is new to the northeast area. There are about 1000 of them across the United States. They have opened one in Union, N.J. and Wharton is their second location. Their hours of operation per the franchise hours are from 11 am to midnight. The signage is important because the Wingz Stop brand is not very well known, they are new to the area and for the public safety, seeing it from Route 15. The illuminated sign on the front of the store is a franchise requirement. He feels that goose neck external lighting would not be as effective and not enough illumination to be seen from the street with them being perpendicular to Route 15 and almost to the end of the shopping center. There are other internally illuminated signs on the building such as the Laundromat, Manhattan Bagel, the dry cleaners and Dunkin Donuts. He presented into evidence- A-1, 12/13/16 – a photo of the back of the shopping center that you can see from the Costco parking lot as well as southbound Route 15. It shows the illuminated signs of Great Clips and Manhattan Bagel. They are proposing LED lighting that will be consistent with the other signs in the shopping center. The sign will only be lit at night and then will be off when they close at midnight. The colors of the sign are green and white. The roof on the building is pitched back and the sign would have to be put on a backer. The backer will be beige to match the roof. He believes the backer counts as a sign color. The slanted roof impacts the projection of the sign and the dimensions of the projection. Mr. Patel explained that the sign will sit perpendicular to the floor and the roof slats backwards. The distance from the roof at the bottom will be about 2 inches and as you go up the sign it will be more than the 6 inches allowed by ordinance because of the pitch of the roof. Their sign will be consistent with the other signs in the shopping

center as well as others across the street such as Shop Rite, the liquor store, the laundromat, the nail salon, Bob's Furniture and the diner. That specific area has a lot of lighting in general and he does not believe that their lighting would be inconsistent with the area.

Attorney Posado stated that they believe that their proposed sign is consistent with other signs in the area. They believe the (third background) color of the sign is technical in nature and there are other signs with more colors. They are proposing to blend their sign with the roof to make it less of a distraction. They are asking to be open for 1 more hour than what the ordinance allows. They feel their hours of operation are consist with others in the area. They feel that with the testimony and evidence provided their variance can be granted under both the C-1 and C-2 and feel that the positive outweigh the detriment and the variance can be granted without any substantial detriment to the public good and without impairing the intent of the zoning ordinance. The perpendicular nature of the shopping center creates a hardship for the site layout and visibility perspective.

Mr. Patel pointed out their unit #5 on the plans. He stated that only the letters are back lit not the backing, it is a channel letter sign that is back lit and internally lit. Chairman Loury asked if the sign could be any smaller. The size of the sign is the default sign for Wingz. Jared Coursen felt that with the backing it makes the sign look better compared to the Great Clips sign with no backing. Mr. Patel stated that if they decide to do a sign in the back of the building it would be one with goose neck lighting. He also stated that there is not a public entrance in the back. Mr. Patel stated that the signage for all 1000 or so Wingz across the country are all the same. Their company is big on signage as they do not advertise on t.v.

Planner Caldwell referred to her report dated 12/11/16. She confirmed the size of the sign as 15 ft. 9 inches wide x 30 inches tall and meets the sign area for the total building of the wall signage, meets the criteria of the ordinance as well as the individual sign area being within the ordinance.

The variances are for:

Sign projection of 6 inches which they explained,

Internal sign illumination

Time that the sign is lit, till midnight where the ordinance states 11 pm.

Sign colors – 2 colors is allowed by ordinance, they are asking for 3, the third being that cream background color that would blend with the roof color, which they explained.

Engineer Borinski had no comments.

The meeting was open and then closed to the public.

Attorney Zakin went over the conditions and variances.

Conditions:

1. Brightness of the sign would be consistent and not brighter than other signs in the shopping center and would be confirmed by our Planner.
2. Backer Board Color of the sign to match the roof color

Variances:

1. Back lighting as described
2. Colors of the sign – 3rd color is to match the roof color
3. Projection of the sign exceeds 6"
4. Lighting of the sign – from sunset to midnight. 1 hour more than Borough ordinance allows

A motion was made by Jared Coursen and Seconded by Brian Bosworth to approve the application with the Conditions and Variances just listed. YEA – 6 NAY – 0

Next on the agenda was the Public Hearing of the 2016 Housing Element and Fair Share Plan and the 2016 Master Plan Reexamination Report.

Planner Caldwell addressed the Board. She stated that drafts of this report were reviewed by the Board a few months back and that this plan has been approved by the courts. Attorney Zakin stated that the court recognize that the Borough has been proactive and complying and because of that they are giving the Borough credit for what has been done. Many other towns are fighting the COAH rules. The current governor is not taking any action on this so the courts are taking action. Attorney Zakin stated that it is good that we have a long standing settlement. Planner Caldwell stated that you want to be proactive so as not to lose control of your zoning.

Planner Caldwell stated that our prior round obligation, that we met, was for 42 units (page 30 of her report) which she explained in detail. She went on to explain the completed affordable housing project, the alternative living arrangements, new construction inclusionary housing, rehabilitation program, unmet need as well as the proposed affordable housing overlay zones and Borough wide overlay (pages 31-33 of her report). She stated that they are doing the reexamination report specifically because they are doing some rezoning which allows them to do that as part of the Master Plan reexamination without having to notice people within 200 feet of those properties. They are also allowed to do that because of the change in the rules and regulations of the affordable housing in the Supreme Court.

The Resolution adopting the Reexamination of the Borough of Wharton Master Plan and 2016 Housing Element and Fair Share Plan was read. 2 Typographical errors were corrected and in the initial paragraph the year should be 2005. A Motion was made by Peter Rathjens and Seconded by Brian Bosworth to approve the Resolution as corrected. YEA – 6 NAY - 0

Next was the discussion about time limits of approved variances applications referring to an email from Attorney Alan Zakin dated 12/12/16. This came about because of the Warehouse on W. Dewey Ave. that was approved in 2004 and came back to the Board in 2016. Attorney Zakin stated that the Board would like to discuss ways to sunset an approval where no action has been taken on it. After researching, Attorney Zakin stated that there is a ruling about that that it can be put as a condition of approval or as an ordinance. He feels an ordinance would be more prudent and make it clearer. He found ordinances from Harrison and Bernard's Township which were included in the email. A discussion followed and it was found that a year to commence construction is normal with a one year extension. They can always come back before the Board. They also agreed that an ordinance is better than a condition of approval. A Motion was made by Brian Bosworth and Seconded by Jared Coursen to have Attorney Zakin make a recommendation to the Mayor and Council to draft an ordinance about time limits to approved variances. He stated that he could draft a Resolution with all of the Boards recommendations including a 1 year extension with some flexibility on additional extensions. He will send it to the Mayor and Council for their approval and include with it the 2 sample Resolutions. YEA – 6 NAY – 0

A Motion was made by Brian Bosworth and Seconded by Jared Coursen to adjourn. YEA – 6 NAY - 0 Meeting adjourned at 8:10 pm.

Patricia M. Craven – Secretary

Ken Loury - Chairman