

WHARTON PLANNING BOARD
SPECIAL MEETING
June 28, 2018

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

The Pledge Allegiance to the Flag was next.

The reading of the bills was next. A Motion was made by Thomas Yeager and Seconded by Brian Bosworth to approve the bills as read. YEA -7 NAY - 0

The presentation by Planner Caldwell of the Area in Need of Redevelopment Study was next. Ms. Caldwell introduced the redevelopment council to the Borough of Wharton, Attorney Matt Jessup of McManimon, Scotland & Baumann. He explained that on March 12, 2018 the Mayor and Council adopted a resolution referring property, to the Planning Board, to study as a non-condemnation area in need of redevelopment under the local redevelopment and housing law. The area is Block 1317, Lots 1-22 which is an entire block on N. Main St. He explained the process to the Board.

Planner Caldwell addressed the Board to explain her study for Block 1317, Lots 1 – 23, dated May 22, 2018. She explained that they look at the delineated area, examines existing land uses, did field studies and examination of the parcels, examined tax assessment data, looked at zoning and did a zoning analysis in terms of utilization of the property. They did a review of the relationship to the Master Plan and uses in the area. They also looked at police reports and zoning violations for this area. They then looked at the criteria from the Local Redevelopment and Housing Law. This study is bound by N. Main Street, Fern Ave. Second Street and East Central Ave. They went through each parcel and have photograph reviews of the exteriors of each property. They have a predominance of 2 and 3 family structures within the study area as well as some Municipal uses and 2 public parking areas. They have a couple of vacant parcels which are secondary parcels to a residential use. Along Main Street they have some commercial and mix use properties, some of which are vacant. In terms of the improvement to land value ratio, they are looking to see whether or not for a Central Business District the properties are meeting a standard that would make sense for a business district. They found that some of the parcels are less than a 2 to 1 ratio where you would expect them to be much higher within a Central Business District. In terms of the actual zoning violations they did find several zoning violations including property maintenance issues, illegal stacking and illegal construction as well as issues of complaints between neighbors. They also had some similar police violations.

She went over the “Criterion for Area in Need” on Page 7 and 8 of her report and the criteria by Block and Lot that each parcel meets as shown on the chart on page 33 of her report.

Her report recommended that the entire study area be deemed a non-condemnation area in need of redevelopment and that the recommendation from the Planning Board to the Mayor and Council be that.

Attorney Jessup stated that the redevelopment law requires that each parcel meet one criteria in the Redevelopment Law. As seen in the report and by Ms. Caldwell’s testimony each property seems to meet at least one, two, three or four criteria and the law only requires they meet one for the property to be qualified to be included as an area in need of redevelopment.

Attorney Jessup explained, for the record, that he referenced Block 1317 Lots 1-22 and the Borough’s Resolution references the same. Jessica’s report talks about Lots 1 – 23 and that is because, as noted in the report, Lot 23 has been incorporated into Lot 22. For their purposes they view that as part of Lot 22 and the official resolution designation references Lots 1-22. The Planner’s report, for clarity, references all 23 lots, but there is a note that Lot 23 was folded into Lot 22. He also stated that Lots 8 and 11 were folded into Lots 9 and 10 respectively.

Councilman Yeager asked Ms. Caldwell to give him an example of Criterion e. on page 31. Ms. Caldwell stated it’s essentially if there are title issues, diverse ownership, something that would impede land assemblage that creates a stagnant or unproductive condition of the land. A lot of times it’s when you have small lots adjacent to each other, it impedes assemblage because of the diverse title and ownership of those various lots. A lot of that came out of the economic reviewing of the building to land improvement ratios and the fact that some of them were very low which shows that there is underutilization of the properties.

Ms. Caldwell explained how they based the meeting of the criteria for each parcel. They did surveys of the property from the exterior, looked at property maintenance and zoning violations, looked at the building to land ratios which will show the building value to the land value which would show underutilization. They looked at the condition of the exteriors for dilapidation. The ration of building to land was 2 to 1 which shows the building values are worth twice what the land is worth and for a Central Business District you would expect that to be higher, about 3 to 4 times higher than the land. They also have 2 public parking lots that are in the heart of the down town that are underutilized. There could be a better scenario there such as structures over the parking areas.

Mayor Chegwiddden stated that they had strategic planning meetings where they had residents come in and the redevelopment of this area was brought up at those meetings. He also stated that the Borough is part of the Highlands Planning Area.

Mr. Zakin stated that the idea is, from a macro prospective in Wharton, to increase, the quality of life for people in Wharton, the tax base for people in Wharton and specifically for those property owners in this study area to increase their property values and the surrounding property values.

Ms. Caldwell stated that it is a non-condemnation area. The redevelopment gives benefits to the Municipality in order to try and give incentive to development. There are long term tax abatements, they can create a specific plan for the property and it creates value for the properties. The property owners can voluntarily participate, they have a choice as to whether they want to sell or not sell their property. Mayor Chegwidden stated that the Mayor and Council did not want to condemn any properties. Attorney Jessup stated that non-condemnation was made clear in the Resolution as well as all the notices that went out to the property owners and that the power of emanate domain cannot not be exercised in connection with any of these properties.

Ms. Caldwell stated that for a developer there are tax abatements, redevelopment area bonding development agreements and long-term pilot which is a payment in Liew of taxes.

Mr. Jessup stated that once there is a redevelopment area and an adopted plan then the Municipality can enter into a contract directly with a redeveloper without having to go out for bid and they can also sell municipal land, at fair market price, to a developer without having to put it up for public sale. They can also modify height, parking, etc. specific to this block. There are short and long-term tax abatements. The municipality can also make loans to the developer through bonds, cash or grants.

The meeting was now open to the public. There were 12 people in attendance.

Darmesh Parik the owner of Lot 15 asked what type of redeveloping were they planning for public use. Ms. Caldwell stated that they do not have a specific plan yet. Mr. Jessup stated that the redevelopment doesn't require the properties to be used for public use, all or a portion of it can be used for public use but it can be used for private use as well. Currently they have no particular plan, that is a later stage in the process. Step 1 is to declare the area of redevelopment and Step 2 is to start the process of determining what the permitted uses would be on the property. There will be more public hearings in the future where the public can provide input.

The meeting was now closed to the public.

Attorney Zakin stated that Ms. Caldwell presented a very good plan. Ms. Caldwell stated that we can vote tonight to make the recommendation to the Mayor & Council and adopt the Resolution at the July 10, 2018 meeting. Mr. Jessup agreed.

A Motion was made by Brian Bosworth and Seconded by Peter Rathjens to Recommend the approval of the Redevelopment Plan to the Mayor and Council. YEA – 7 NAY – 0

Next, was the discussion of the Personal Land Use Liability by the Municipal Excess Liability Joint Insurance Fund. In attendance were Chairman Ken Loury, Mayor William J. Chegwidden, Councilman Thomas Yeager, Brian Bosworth, Charlotte Kelly, Patrick O'Brien, Peter Rathjens, Secretary Patricia Craven, Attorney Alan Zakin and Administrator Jon Rheinhardt.

Attorney Zakin stated that the members should have received from Secretary Craven the document from the Municipal Excess Liability Joint Insurance Fund dated June 11, 2018

Re: Land Use Liability. He stated that there is an opportunity for a liability insurance that personally covers all the Planning Board members up to \$50,000 in case you have to defend yourself in the very unlikely event you get sued personally. This seminar is to educate you to some of the risks.

Jon Rheinhardt stated that both Millburn and Bernards Township had gotten sued because of the way the Planning Board treated the applicants.

Attorney Zakin stated they can subpoena your personal and/or Wharton emails and text.

There was a question about the Board members getting tablets. Mr. Rheinhardt stated that they can entertain it.

Attorney Zakin went through the 59-page power point presentation titled 2018 Land Use Liability Seminar with the Board members present.

Attorney Zakin read a statement which he recommended to be read at the beginning of each meeting:

“This meeting is a judicial proceeding. Any question or comments must be limited to issues that are relevant to what the Board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all times”

A Motion was made by Brian Bosworth and Seconded by Patrick O’Brien to approve the statement to be read before every Planning Board Meeting. YEA – 7 NAY – 0

Jon Rheinhardt stated that the Board did not have to act on the Defense and Indemnification of Municipal Officials and Employees and that the Mayor and Council will be passing it. Attorney Zakin, for the record, stated that the Board did support it.

Jon Rheinhardt stated that the Board members that were here tonight for the seminar presentation are covered and the four members who were excused tonight are not covered. There will be some local and regional trainings available that they can attend. Attorney Zakin could also do the training for them after another meeting.

The members in attendance signed the sign in/out sheet and returned it to the Secretary.

A Motion was made by Brian Bosworth and Seconded by Charlotte Kelly to adjourn.

YEA – 7 NAY – 0

Meeting adjourned 8:31 p.m.

Patricia M. Craven – Secretary

Ken Loury - Chairman