

WHARTON PLANNING BOARD
REGULARLY SCHEDULED MEETING
July10, 2018

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 as well as the Judicial Proceeding Statement

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

The Pledge Allegiance to the flag was next.

Next, was the reading of the bills, A Motion was made by Thomas Yeager and Seconded by Jared Coursen to approve the bills as read. YEA – 9 NAY – 0

The Minutes of the June 12, 2018 Planning Board Meeting was next. 3 typing errors were noted. A Motion was made by Thomas Yeager and Seconded by Brian Bosworth to approve the Minutes subject to the corrections

YEA - 7 NAY- 0 ABST – 2 (Steele & O'Malley-Dorr)

The Minutes of the June 28, 2018 Special Planning Board Meeting was next. Attorney Zakin added the word potentially before the word subpoena on Page 4, Paragraph 3. A Motion was made by Thomas Yeager and Seconded by Peter Rathjens to approve the Minutes subject to the addition. YEA – 6 NAY – 0 ABST – (Steele, Coursen & O'Malley-Dorr)

Next, was the Resolution for escrow refund for Rey and Kernier. A Motion was made by Roger Steele and Seconded by Jared Coursen to approve the Resolution as read. YEA – 9 NAY – 0

The Resolution for Redevelopment was next. A Motion was made by Thomas Yeager and Seconded by Peter Rathjens to approve the Resolution as read. YEA – 9 NAY – 0

Under New Business was the continuation of the Application for CCKK, LLC and JR BON 7.

Attorney Zakin stated that Secretary Craven circulated a memo to the Board tonight that he prepared. It is a history of Wharton Industrial Center Land Use Applications 2000 – 2012 which he summarized for the Board. He pointed out some of the variances and conditions of each application. He would like a condition of approval to be that our professionals look back to the beginning, look at all the conditions and be sure they are up to date and in compliance. He asked that the applicant be very mindful of these conditions going forward. He asked about the Operation & Maintenance Manual on page 3 and if it is up to date?

Ms. Caldwell stated that the large sign with the map of the site that is at the entrance is 90 sq. ft., larger than what was approved and will need a variance. Mr. Zakin stated that it should be larger for safety reasons but how large needs to be determined.

Mr. Zakin stated as far as the Haunted Scarehouse, it was in violation until a new ordinance was passed allowing recreational facilities on the site. He did suggest that all conditions of prior recreational approvals be maintained. Ms. Caldwell stated that any new recreational facilities would have to come back before the Board with a new site plan for their areas. Some discussion followed about conditions of the site being brought up during a tenant's application before the Board and the owner not being in attendance or notified.

Attorney Ermel addressed the Board stating that Mr. Turzi, Mr. Robine and Mr. Fantina would be testifying tonight.

Mr. Kevin Robine presented to the Board the revisions that have been made to the CCKK, LLC plans and the variances that will be needed.

Revision in Reference to Engineer Borinski's June 12th memo

1. They have revised the lighting plan on Sheet #7 of the site plan.
2. On the cover sheet they have revised the parking count – 4 additional spaces on the westerly side of Building C
3. Sheet #4 – corrected the typo error related to directional sign #6
4. Sheet #4 – on the north east side of Building E they shifted the access drive 10 ft. further from the parking spaces.
5. Additional stop bar has been added at the end of the one-way that wraps around Building C where it intersects with the easterly access drive.
6. Sheet #6 – soil erosion stabilization calculations will be provided.
7. Sheet #4 – Details for the Wayfinding Signs were updated – 2 ft clear opening was added to the bottom of each sign. Added to the plan was the location of exit signs. They were not added to the back of the wayfinding signs given the location of the wayfinding signs.
8. Directory Sign at the entrance – they added detail to that sign with it's current dimensions.

Variances: Mr. Robine and Planner Caldwell listed the variances.

1. **Building Mounted internally illuminated signs.** 3 of the Buildings are in Rockaway Twp., 4 buildings will need variances for the internally illuminated signs.
2. **Wayfinding signs** – are they directional or freestanding signs. Some discussion followed. The benefits of these signs far outweigh the any disadvantages to the signs. Planner Caldwell determined that they are directional signs and would need variances for their size. She stated that we are asking them to put in these signs, the Board is pleased with the signs and this is a unique situation for both these signs and the Directional sign. They both will be very helpful for patrons visiting the site.
 - a – Area - 8 directional (wayfinding) signs on the site – 1 is in Rockaway Township and 1 is less than 4 sq. ft. so they will need area variances for only 6 of the signs
 - b – Colors – they have more than the permitted number of colors.

3. **Directional Sign** is a freestanding sign at the entrance – they are changing the face of the sign which is 96 sq. ft. where 24 sq. ft. is permitted. Variance is needed.
 - a – Maximum number of colors
 - b – Maximum height – sign is 12 ft. 7 inches and 10 ft. is permitted.
 - c – Set back- 10 ft set back requirement

Mr. Turzi stated that the Directional Sign is not lit and has been there for about 6-7 months. Chairman Loury stated that this sign was changed, from the original one that was approved, without permission for the Planning Board. Mr. Turzi stated that there were at least 3 months of correspondence and meetings with the Chief of Police, the Lieutenant and the Zoning Officer about this sign and they approved the sign. Mayor Chegwiddden stated that it came from the Zoning Officer who was involved because it was a safety issue on that site. He stated that they worked with the Chief of Police on the sign. Mr. Borinski stated that he thought it had been erected more that 6 months ago. He stated that the Zoning Officer saw a similar sign and suggested that sign. There were meetings with the Zoning Officer and the police. Based upon the Resolution that said the sign must be approved by the Police it was decided that they did not have to go back to the Board. It was viewed as a directional sign. Planner Caldwell stated that they were looking for that type of sign in one of their approvals but it didn't come back for a review for size and slipped through the cracks and became bigger than it should have been. Chairman Loury stated that it is a good sign but he never remembered them coming back to the Board for that size sign.

Attorney Zakin stated for the record that there was an ordinance that solved some of the variation from the site plan that started in 2002. The ordinance is from 2008. The ordinance is not very specific. It did say there was a variance to allow free standing signs of greater than 20 ft. and another one to allow setbacks for signs from the street right of way lines and side yard lines of less than 10 ft. but it doesn't say how much less. Mr. Robine thought that that sign was from an amended 2008 site plan, it is not the directory sign but the sign that still exists there today as you pull into access drive of the site from W. Dewey. It is a site identification sign.

Ms. Ermel has 1 additional variance to add for a free-standing sign. 1 free standing sign is allowed per lot and they have 9 wayfinding signs and 1 free standing sign. Ms. Caldwell interpreted the 9 wayfinding signs as directional signs not free standing. The Wharton Industrial/JCP&L site identification sign at the entrance is another free-standing sign so they need 2 variances for free standing signs. They will also need variances for more than 4 sq. ft. Ms. Caldwell stated wayfinding signs 1 -6 all need a variance for size and color.

Mr. Zakin stated that they will memorialize that they have unique and special circumstances to allow variances for these signs which are important to the safety of particularly pedestrians and also vehicles.

Ms. Caldwell stated that the color schemes are a good idea and coordinates with the buildings which makes it easier for people to identify the buildings. Chairman Loury agreed.

Ms. Caldwell listed the variances:

2 free-standing signs

Sign area

Sign height

Sign color

Location for their ground sign

What was talked about for the Directional sign

Internally illuminated signs on the buildings

Letter signs on the buildings identifying the building not the business

Mr. Borinski stated that, as a condition of approval, the applicant must submit slope calculations.

The meeting was opened and then closed to the public.

Mr. Fantina, who was still under oath, addressed the Board in reference to JRBon-7 application for Lot 23, Building G. He has revised the plans. The Rockery walls will be dismantled. The upper parking lot will be put back to the same size as what was originally approved but they made it a more regular shape. They will add a fence and gate to the upper parking lot as well as an earthen berm to prevent spill runoff. The fence will not be added until the restoration of the conservation area is finished because this area is a staging area for the restoration. They added the road that goes around Building C which was not on the Building G plans. The plans look very much like the plans when Building G was approved. They received a memo from Mr. Borinski with a couple technical questions, none of which he has any problem complying with and agree to all of them. Mr. Borinski felt his comments and minor adjustments could be addressed on the plan. One of the big items is the drainage which he feels can also be worked out with his approval.

Mr. Borinski explained his review process after this application is approved. Chairman Loury asked that a final walk through of the site be done by Mr. Borinski after all the work is done on the site to make sure everything that was agreed upon is done. Mr. Borinski agreed to this.

Mr. Zakin asked if they can determine what can be stored in the upper parking lot. They agreed upon:

1. No stacking of trailers
2. Seasonal storage of equipment and vehicles— construction equipment used for site development and used in the operation of the site and tenant professionals. Not for equipment and vehicles that are used on a daily basis – to keep the noise level down. Examples – extra, empty fuel struck, Haunted Scarehouse bus, etc.
3. Seasonal storage of material- Non-Hazardous

Only items that are professionally used as part of the site plan.

The meeting was opened to the public.

Stuart Sansevere of 46 High St. addressed the Board. He asked why, if there is ample parking on the site do they need a variance for more parking on top of the hill. He stated that when he googles Wharton why would you want to see a construction yard at the bottom of the Water

Tower. Is that the face they are putting on the town? Chairman Loury stated that this parking was approved a part of Building G. They had made it larger than what was approved and will be making it smaller to comply with what was approved. Mr. Turzi stated that the area that has all the trucks now is where Building G will be built. Chairman Loury stated that he had the same concern at our last meeting. The new parking area behind the water tower will not be seen by the residents and will be fenced. Mayor Chegwidden stated that they have a plan to replace all the trees this fall that they knocked down. And also buried trees added Mr. Sansevere. He has video of this. His concern is that all of the past Resolutions do not mean a thing. Chairman Loury stated that the Board is just as frustrated. Mr. Zakin stated that hopefully we will impose conditions that will make the applicant more mindful of what needs to be done and we have the ability through the code enforcement officer to impose fines. Roger Steele stated that we never hear back on any of these projects and would like, especially for this applicant, to be kept up to date.

The meeting was closed to the public.

Mr. Patrick Turzi explained to the Board that at this time they do not have a plan prepared yet for the dismantling and removal of both the east and west rockery walls. As they dismantle the wall some of the boulders will be put into the crusher and screener and used on site. The remainder will be trucked off site. They are looking into possibly a deal with a developer to take some to use at their site. Large boulders will be stockpiled on site to be sold or hammered down and crushed. Right now, they are in the early stages of the plans to dismantle the walls. Mr. Turzi was not sure if they can be used in the conservation easement. What they have done in the past when excavating the site, they would find boulders, some of them they buried and some they crushed and utilized the stone throughout the site and some were sold. They never anticipated all the rocks that they found or the sizes of them. He stated that they will need DEP permits to crush the rock and then make a deal with the developer who wants the crushed stone. The DEP permit process might take a while. It is a quick process to crush the rocks. He thinks they can have the crushing done in less than 2 months. He feels, with winter coming, this might not be completed until the end of next year. After much discussion, in reference to the completion of this project, it was suggested by our Planner to have construction phasing. Create a phasing schedule where they can list the different items that they are going to complete within each phase and give each one of those phases a time frame. Once that is done then the Borough Engineer can follow up on the phasing schedule. She suggested too that the Borough Professionals work with their Professionals to come up with a phasing schedule and list, in conjunction with the conditions of approval that have been discussed throughout this application and put that into time frames. She suggested that this be put into the Resolution. Engineer Borinski would also like to see monthly updates on that schedule. Mayor Chegwidden suggested updates at our monthly meetings. Attorney Zakin stated that the public can also let the Board know if they see anything that should come to our attention.

Ms. Ermel and Mr. Turzi went over the basis for the variances they are requesting.

CCKK, LLC – Sign Variances
Directory Sign at the front of the property
Wayfinding signs - 4

Illuminated Building Signs

The use has changed over the years – more recreation which is limited to weekends, afternoons and evenings. These patrons are unfamiliar with the site and the signage will help them to find their locations and steer clear of the loading dock areas.

The unique characteristics of the Wharton Industrial Site is that it is made up of 3 lots with 7 buildings, no road frontage, access only through the private JCP&L road and limited entrances to each building. These unique characteristics are the reasons for the signs. The freestanding sign at the entrance is visible from W. Dewey Ave. The residents that live in the area of the conservation easement will not see any of the signs. The building signs will be illuminated.

They are also seeking a Variance for the storage area that is east of the water tower. Mr. Turzi stated that this area is not visible from any other part of the site or from off site. Right now, they have equipment, materials and vehicles scattered throughout the site. They will all be stored in this fenced and gated storage area. Ms. Ermel stated that it will improve the safety of visitors and unattended children and will also look much nicer.

Ms. Ermel went on to list the Variances by Article # and Sections:

CCKK –

Signs – 9 total

All Article 15

Section

165-105A1a

105A1b

105A1d

105A1e

105B1a

105B1b

109F1

103C1j

108E

Outdoor Storage area – Article 11 Section 165-88 Schedule 11-1

Waivers from Site Plan Requirements:

JRBon7 – 24 and 31

CCKK – 24, 25, 27 and 31

Preliminary and Final Site Plan approval:

CCKK – The realignment of the previously approved access drive to Building D & E.

Inclusion of the additional access drives to Buildings D, E & G

Directory, Wayfinding Signs and Wall mounted internally lit identification signs

JRBon7 – Parking & loading areas of Building G put back to the original plan that was approved.

The outside storage area.

Building identification internally lit signs.

Additional access drive to Building G

The meeting was open to the public. Kathy Tinsman asked how far the storage area is from Main Street. Ms. Tinsman was worried about runoff from this area. Mr. Fantina pointed out the storage area and Main St. on the plans to Ms. Tinsman. Chairman Loury stated that there was testimony that there will be a berm around the storage area lot to contain any spills.

The meeting was now closed to the public.

Mr. Zakin stated that we have an Amended Site Plan Application for CCKK and JRBon7 which is the Wharton Industrial Site. This is a result of a legal settlement where there was a suit regarding the conservation easement. Both CCKK and JRBon7 were required to apply for an amended site plan because of their deviation from the originally approved site plans. He has reviewed the conditions from 2000 to the present. Part of the condition of approval is that our professionals review those conditions for any reasonable updates that need to be made to the past conditions or any compliance that needs to be made. Some of the conditions that were discussed in the recent meetings this year of January 30th, May 8th, May 15th and June 12th include:

1. Garbage and refuse locations should not inhibit traffic flow.
2. Removal of the millings and paving on site
3. Replacing the trees in a substantial way to become forest again so that you cannot see the upper parking lot storage area from Route 80, the neighboring homes and from the normal line of site.
4. Site must be cleared of debris, refuse, vehicles and non-approved materials to the satisfaction of the Board Engineer.
5. No stacking of trucks anywhere on the property.
6. For the storage –
 - a- no hazardous material and eye sores.
 - b- Fencing around the storage lot
 - c- Berm around the storage lot.
 - d- Storage of reasonable equipment for professional use of tenants and owner on the property.
 - e- Storage of long term professional vehicles – not for everyday use.
 - f- No fuel trucks with fuel.
7. Landscaping approval by the Borough Planner
8. Ballard around the propane tank storage for tenant and landlord equipment.
9. Review and repeat all prior conditions to make sure they are updated as necessary as appropriate per the current plan.
10. Periodic inspections regarding compliance with the Borough's ordinances and conditions. With appropriate and reasonable accountability from the landlord.
11. After a lengthy discussion it was decided that a compliance schedule and timeline be worked out amongst our Planning Board Professionals, Borough Professionals and Applicant's Professionals. This would be done before any final resolution and will be an attachment to the final resolution.
12. Amended Cross access easement which was approved by the Planning Board Professionals

Chairman Loury stated that his big concerns are removing the rock walls, millings in the parking lot and traffic flow including the signage and striping.

A Motion was made by Jarred Coursen and Seconded by Charlotte Kelly to approve this application with the variances and conditions that were discussed. YEA – 9 NAY – 0

Planner Caldwell discussed the Ordinances O-11-18 and O-12-18 with the Board. Both are on referral from the Mayor and Council related to the Housing Element and the Fair Share Plan that the Board adopted on December 2016.

The first Ordinance O-11-18 implements the 3 overlays zones that were in the plan. If these 3 areas are redeveloped they will have to provide housing and they will need to be inclusionary housing. If redevelopment occurs and its over a density of 6 units to the acre they need to provide affordable housing.

The other Ordinance O-12-18 is updating our development fee ordinance, which was out of date. It is increasing our fees for commercial to 2½ % and residential new construction to 1½ %. Any density increases on a development that is less than 16 units to the acre has a 6% fee to provide for affordable housing within the Borough.

Our review tonight is consistent with the Master Plan. It came out of the Housing Element and Fair Share Plan which is part of the Master Plan. She would recommend that it is consistent with the Master Plan and if there are any recommendations from the Board we can send them to the Mayor and Council for their consideration. She stated that the Secretary can write a letter to the Mayor and Council stating that the Board had reviewed both ordinances and found that they were not inconsistent with the Master Plan and recommend they adopt it.

A Motion was made by Roger Steele and Seconded by Charlotte Kelly to adjourn.

Meeting adjourned at 9:40 p.m.

Patricia M. Craven – Secretary

Ken Loury - Chairman