

WHARTON PLANNING BOARD  
ANNUAL REORGANIZATION MEETING  
January 30, 2018

The Annual Reorganization Meeting of the Wharton Planning Board was called to order at 6:30p.m. with Attorney Alan Zakin reading the Open Meeting Statement as required by law.

Attorney Zakin swore in Member Charlotte Kelly.

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

Attorney Alan Zakin led those present in the Pledge of Allegiance to the Flag.

A Motion was made by Roger Steele and Seconded by Charlotte Kelly to nominate Ken Loury as Planning Board Chairman. YEA - 9 NAY - 0

A Motion was made by Mark Harris and Seconded by Peter Rathjens to nominate Roger Steele as Vice Chairman. YEA - 9 NAY - 0

Chairman Ken Loury read the following appointments: Planning Board Attorney - Steve Azzolini, Planner - J. Caldwell and Assoc., Engineer - CHA, Secretary - Patricia Craven  
A Motion was made by Brian Bosworth and Seconded by Mayor Chegwiddden to approve the appointments YEA - 9 NAY - 0

Chairman Ken Loury read the following designations: Official Paper - Star Ledger Second Official Paper - Daily Record. A Motion was made by Peter Rathjens and Seconded by Brian Bosworth to approve the designation. YEA - 9 NAY - 0

The Resolution for the Meeting Dates for February 2017 through January 2018 was read. A Motion was made by Brian Bosworth and Seconded by Roger Steele to approve the dates. YEA - 9 NAY - 0

A Motion was made by Roger Steele and Seconded by Peter Rathjens to adjourn the reorganization meeting. YEA - 9 NAY - 0

WHARTON PLANNING BOARD  
SPECIAL MEETING  
January 30, 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: Mayor William J. Chegwiddden, Chairman Ken Loury, Mr. Roger Steele, Ms. Charlotte Kelly, Mr. Mark Harris, Mr. Patrick O'Brien, Ms. Jennifer O'Malley-Dorr, Mr. Brian Bosworth and Mr. Peter Rathjens. Also present were Attorney Alan Zakin, Planner Jessica Caldwell, Engineer Christopher Borinski and Secretary Patricia Craven. Excused were Councilman Tom Yeager and Mr. Jared Coursen.

The reading of the bills was next. A Motion was made by Brian Bosworth and Seconded by Patrick O'Brien to approve the bills as read. YEA – 9 NAY – 0

The Minutes of the December Planning Board Meeting was next. A Motion was made by Peter Rathjens and Seconded by Brian Bosworth to approve the Minutes.  
YEA -4 NAY- 0 ABST - 5

The Resolution for Stillman was read. The following corrections were made:

1 – Page 1 – paragraph 1 – and page 2 - Item #5 and page 5 paragraph 1 – the address should be 45 S. Main St.

2 - Page 1 – 5<sup>th</sup> paragraph – All Exhibits should be dated 12-12-17

3 - Page 5 – Item #4 – should be Wharton Fire Chief

A Motion was made by Roger Steele and Seconded by Brian Bosworth to approve the Resolution as amended. YEA – 4 NAY – 0 ABST – 5

Next under new business was the Application for Wharton Industrial Center. Attorney Karen Ermel addressed the Board. She stated that the Wharton Industrial Center is actually 2 lots they are here for: Lot 501, Block 20 which is owned by CCKK, LLC and Lot 501, Block 23 which is owned by JRBN7, LLC. CCKK, LLC is a NJ limited liability company whose sole member is Ruby Pacheco who is the wife of Joseph Bonanno. JRBN7, LLC is also a NJ limited liability company whose sole member is the Ruby Pacheco 2015 Trust who Ruby Pacheco and Joseph Bonanno are the trustees. They are related entities but now have 2 different owners. There is no cross easements at this time but they will address that later in the meeting. She stated that CCKK, LLC sold Lot 23 about a year ago to JRBN7, LLC. She pointed out on the map the delineation of the 2 companies. She also pointed out the conservation easement that is located by the water tower and stated that it is not part of this application. This map was labeled: Exhibit A-1, 1-30-18, and is a color rendition of the Overall Site Layout Exhibit of Wharton Industrial Center. Dated 1-30-18 by Dykstra Walker. Wharton Industrial Center encompasses Lot 501 Block 20 and 23. They are not looking to change the conservation easement but to restore it. They received a memo from CHA and will need to have Dykstra Walker do more work out there as well as have a forester and mine expert. They will then file this additional information with the Borough's Attorney.

Ms. Ermel stated that they are here today to address the changes to Lots 20 and 23. They share a common driveway. They received Engineer Borinski memo on Friday which was 9 pages and had 62 items in it. She worked on it with their 2 Engineers, Ms. Pacheco and the property manager Pat Turzi for about 5 hours. Engineer Mark Walker of Dykstra Walker is the Engineer in regards to Lot 20.

Attorney Alan Zakin gave a history of the site. He referenced Engineer Borinski's 9 page report which discussed a lot of the history of the site. Mr. Zakin prepared a chronological summary of some of the recent actions the Board has taken with CCKK, LLC. He gave a copy to the applicant at this time. He stated that this site is an Industrial site and because of the change in the economy, recreation has become a new use on the site. With recreation there has to be more safety considerations and with children on the site now, there is a higher burden to meet in terms of safety. He listed in his chronology the conditions of approval for the different recreational approved uses such as a baseball facility, shooting range and haunted house. On January 12, 2016 another application for a gymnastics facility came before the Board. At that time, they noticed that some of the prior conditions had not been met, particularly #9 on page 3 and #14 of page 4 of his chronology. The Board sent out a letter to CCKK, LLC. in February 2016 that the conditions still had not been met. A year later in June 2017 they learned from the Borough Attorney that there was a violation of the conservation easement and other disturbances that violated the approved site plan. The Borough Attorney had sent the applicant a letter in May 2017 and the Borough Engineer sent out a letter to them in June 2017. In August 2017 there was a new recreational use application before the Board for a Health and Fitness facility. In October 2017 a suit was filed by the Borough Attorney in order to remedy the numerous violations. In December there was a settlement reached. It was a 2-part settlement. One was with the Borough to remedy the conservation easement violations and the Second was for CCKK, LLC to submit an amended site plan for Lot 20 & 23 to the Board by 1/5/18 and to come before the Board by 1/31/18 and if a second meeting is necessary before 2/28/18. The settlement of this suit is dependent on the Board agreeing to and the applicant, within a reasonable amount of time, implementing the conditions that are agreed to and the Borough coming to an agreement on the conservation easement and the applicant, within a reasonable amount of time, implementing those changes. That is why they are here tonight. Because of the suit the Board must make sure that the conditions are met and met in a reasonable time especially because of the history of this applicant over several years of violations and conditions not being met.

Wharton Administrator Jon Rheinhardt stated that they are working with the applicant right now who has submitted a plan. The Borough has commented on the plan and now they are waiting for a response to their comments.

Engineers Mr. Mark Walker and Mr. Fantina were both sworn in and qualified at this time. Mr. Walker prepared the original 2000 plan for this site and Mr. Fantina prepared the plans for building G.

Mr. Walker explained the Exhibit A-1, 1/30/18 – which is a color rendition of the site. The light colors are the areas that have been constructed, buildings A, B, C, & D. The blue lines represent the property line. To the West is Buildings E & F in Rockaway Township Block 2, Lot 11504,

the center lot is in Wharton Block 501, Lot 20 and to the East is Wharton Block 501, Lot 23 which Mr. Fantina will address. There are 3 small detention basins to the front of the property. Access to the property is from W. Dewey Ave. through an access easement through the GPU access road. They have frontage on Route 80 but it is not accessible. There is a water tower on the property. The billboard is in Rockaway Township. building G has been approved but is not yet constructed. There is a 30 ft. utility easement on the property which services Pond View Estates in Rockaway Township. He pointed out grey dots in the conservation easement which are the mines. Behr Dolbear is the mine expert that located those mines for the original site plan. As far as the conservation easement they have a restoration plan and a 4-page report from the Borough's engineer. The report asks for a tree plan and asks that they hire a forester and mine expert. Their field crew will be out at the restoration area next week working on the trees. The applicant wants to get this done as quickly as possible and cooperate with the town. Mr. Dykstra, at the request of the Chairman, pointed out the disturbance area on the plans. He stated that the light areas on the plans are the already built areas and the dark grey and orange are the areas to be built or under construction.

Mr. Dykstra stated that they are here tonight because they are proposing modifications to access up to the upper level of the site. building A, B and C are all on one level and D, E and F are at another level. In the original plan there was circulation to the upper level from the west of building C to access buildings D, E and F. There are a lot of recreational uses on the site which involves parents dropping off their children. Their thought was to have an alternate access to building G and the commercial area of building D which would segregate the commercial traffic from some of the pedestrian traffic. On the original plan all of the commercial traffic would have to go through the parking lot of building D. Their plan is 2-way access to the east of building C to get to buildings D & G. The site for buildings E & F in Rockaway Township was raised up to be on the same level as building D, which affected the driveway to the west of building C. The plans submitted reflect the changes to this driveway as well as the driveway going to the upper level.

They are also reviewing the entire site plan.

Mr. Dykstra went over the waiver requests from the Site Plan Submission Details for Lot 20.

Item #18 – will be provided

Item #19 - will be provided

Item #21 – will be providing existing and proposed.

Item #22 – will be provided

Item #23 - will be provided

Item #24 – requesting a waiver – dumpster requirement change from tenant to tenant

Item #25 – no roof top equipment

Item #26 – trying to modify current plan – will provide

Item #27 – requesting a waiver

Item # 29 – updating their permits with soil erosion

Item # 30 – requesting a waiver – site manager will give testimony about circulation on the site.

Item #31 – requesting a waiver – they will be restoring the conservation easement area.

They are requesting 4 waivers – Items 24, 27, 30 and 31 for Lot 20.

Engineer Borinski asked for more testimony and explanation needed about the following:

Item #24 - He stated that the plans show dumpsters in parking spaces and if they are going to remain, if so then the parking count needs to be redone.

Item #27 – More testimony and explanation.

Item #30 - More testimony and explanation about the traffic circulation.

Item #31 – More testimony and explanation on what has been done and what is proposed.

Attorney Ermel stated that because they just received the detailed report from the Borough's Engineer they would like to revise the plans and come back before the Board at the next meeting with testimony and explanations. They can, if the Board would like, have general testimony on the refuse and the circulation. Chairman Loury would like to hear the testimony tonight if they are prepared and go over the revised site plan at the next meeting.

In reference to the plans for Lot 20 which has 5 pages Attorney Ermel stated for the record that this Board was given Sheets 1 thru 4 only. Sheet 5 was the Restoration Plan of the Conservation Easement and not part of this application.

Patrick Turzi, Property Manager of CCKK, LLC and JR Bon was sworn in at this time. He has been involved since they contracted to purchase the property in September 1999 and is familiar with the site. Their offices are located in building B of the site. Using Exhibit 1 he explained the traffic flow on the site. He stated that the only access to the site is from the GPU entrance road and off of that is 4 access points into the site which he pointed out to the Board. The original site plan had access to buildings D, E, F & G from one access road which was the westerly access road. Getting to building G & D all the traffic, including the trucks, would have to go through the top parking lot of building D. The new access road that they are proposing to the easterly side of building C would take the truck traffic away from the front of building D and the pedestrian traffic. There will be signage for the truck traffic. This will be tremendous benefit and improvement for the site.

Mr. Turzi stated that there was a design change to the Rockaway Township plans which made it necessary to change the westerly access road going from Building C to Building D. While they were making these changes, they put in a temporary road to the east of Building C to get access to Buildings D & G while the other road was under construction. After seeing how this new easterly road worked they decided that they want to make it permanent. They also have a stone wall that was constructed by their personnel and equipment prior to this new access road which was done without plans or a permit. When they raised the Rockaway Site they had excess fill that they moved to this side of the site. They have hired a structural engineer to look at the rock wall but they haven't gotten any report back.

Mark Harris asked for a Phase 1. Mr. Turzi stated that when they received the initial site plan approval they had a Phase 1 and every time they have refinanced the bank requires a Phase 1 and the Phase 1 encompasses the entire site including Rockaway Township. He will give a copy to the Board. The most recent was completed about a year ago. Mr. Turzi stated that the only thing that was brought in from off site was millings. No soil was brought in from off site.

Engineer Borinski stated that the wall is about 15 to 20 ft along the side of building D. The acceptable height by ordinance is 8 ft. and above that it has to be steps. Fences are required over

4 ft. Mr. Turzi stated that the wall is about 4 to 6 ft. Mr. Borinski stated the wall on the Fantina plans is from 10 ft to 19.7 ft. Mr. Turzi stated that on the easterly and westerly walls they are proposing guardrails. Both walls are in Wharton and both have not been approved. The applicants Engineer will be reviewing the construction of both walls.

Attorney Karen Ermel stated that of the 62 items in the Engineer's report they have gone over, in the waiver section, about 12 items and there is a lot to go over. Chairman Loury stated that the reason there are 62 items is because we have been writing letters for probably 5 to 6 years as well as many other Borough agencies writing letters about all of these issues. Ms. Ermel stated that now they are trying to comply as quickly as they can to get these matters resolved. Roger Steele stated that a lot of the things that were not taken care are not new problems but specific conditions that were in many of the previous applications that were agreed upon but never taken care of. He is very skeptical as things are agreed to here tonight and we have to be very vigilant to make sure they are followed through on because in the past they were not. Attorney Zakin stated that he would like to see an aggressive timeline set on getting these conditions taken care of because of the applicant's past history.

Mr. Turzi stated that they have been working with the Police Chief for the last year and a half on the striping and signage. They have striped the site and added signage. As far as the gun range and baseball facility, the gun range has not been done so some of the conditions of that application were not completed. Mr. Zakin stated that the main focus is on the safety of the children since this is an industrial site with heavy equipment and no fences around it. Chairman Loury added that the latest application that was approved was for handicapped and physically impaired, which is even more concerning. Mr. Harris stated that this site has become an industrial site/recreational area so their site layout has to reflect that. Planner Caldwell state that she believes an ordinance was recently adopted that allows for recreational facilities on this site.

Mr. Turzi stated that there are not any recreational facilities in building D and building G has not been constructed. Mr. Turzi explained to the Board about the handling of the refuse and recycling on the site. Each tenant is responsible for their own trash and recycling so the sizes of the containers varies depending on the tenant. It is very hard to put a certain dimension and closure on the plan and stay with that dimension. They tried it at their Fairfield site and it did not work. They will try to move the smaller containers to areas that will not affect any parking spots. The larger ones will probably affect the parking counts so they will show that on the plans. It is very difficult because of all the different types of uses, some tenants don't utilize any trash or recycling where others do. They do not provide the refuse or recycling containers for their tenants. The dumpsters will not hinder the flow of traffic. Most of the traffic is smaller trucks and most of the tenants have small offices so there is plenty of parking on the site. They have no issue with parking spaces.

Planner Caldwell asked about the new access and signage to building D. Mr. Turzi stated that once approve they will have signage and will update the plans to reflect the signage.

Engineer Borinski asked about the east driveway being restricted to trucks. Mr. Turzi stated it would not. The new proposed driveway along building D is 50 ft wide and wide enough for 2-

way traffic. He stated that it is not a high traffic area and the chance of traffic in both directions happening at the same time is slim. This will keep the truck traffic from the front of building D.

Mr. Turzi stated that there hasn't been a lot of turnover of tenants in the last 2 years. The Industrial market is very strong right now. They also provide and keep up to date with the police their rent rolls. Their occupancy rate is 100%, with more warehousing inquiries.

Mr. Turzi stated that the roadway for the JCP&L easement that was added on the Fantina plans will be eliminated.

Planner Caldwell asked for a parking plan and parking count. Mr. Turzi stated that they will add some extra spaces to accommodate any of the larger dumpsters for recycling and or refuse.

Mr. Turzi explained that for 6 six weeks of the year when the Haunted House is operating they stripe the parking lot in orange behind building A. There are also orange signs that say event parking. The owner of the Haunted House does a very good job policing the parking. He puts up barriers and directs the traffic to those spots. He utilizes the entire parking between building A & B. The tenant in building B, that has box trucks, parks them in front of building B for those 6 weeks. He is only open from Thursday to Sunday. They have never had any complaints.

Chief of Police Fernandez stated that they met with the owner of the Haunted House and Mr. Turzi to assist with the parking during those 6 weeks. They close the entrance for building A, nothing comes in that way except handicapped parking. The back lot is for event parking. They are happy with the parking. Mr. Turzi stated that they did add additional lighting on the back of building A and the front of building B.

The meeting was open to the public and then closed.

Engineer Fantina addressed the Board. He was involved with Lot 20 which is building G and was approved in 2012. This also includes the access way to the upper lot and conservation easement. He has prepared revised plans which include the retaining wall and proposed driveway to building G.

Mr. Fantina stated that Sheet 2 of 5 of his plans shows building G, the proposed road, the wall and the water tower. They show another driveway from building C to the upper truck parking lot, this will be removed from the plans. The upper truck parking area is larger than what was approved and will be put back to the size that was approved. The millings will be reduced and the area will be restored. Mr. Turzi stated that they use the upper parking area for parking their construction equipment. It is proposed to be used for additional parking building G. Chairman Loury stated that they have an issue with the construction equipment and have expressed that in previous letters. Mr. Turzi will address this issue.

Mr. Fantina addressed Engineer Borinski's memo dated 1/24/18.

Item # 8 – Signs - they will provide so no waiver requested.

#9 – Lighting - will update plan so no waiver requested.

#10 – Landscaping – will update plan no waiver requested.

#11- refuse and recycling – Prior testimony by Mr. Turzi – will request a waiver.

#12 – no rooftop appurtenances or screening – no need for waiver.

#13 – Traffic Study - prior testimony of Mr. Turzi – Mr. Fantina stated that he has been on the site hundreds of times over that last 7 – 8 years and stated that Mr. Turzi downplayed the amount of parking. There is ample parking – 70 to 90 percent of the parking is open anytime of the day or night when he has visited the site. Truck traffic is much less than expected seeing the number of loading docks. It is a very low traffic site. He doesn't think a formal traffic study is warranted. – A traffic engineer would base his finding on what is there on the site now and unless a new tenant with heavy, heavy truck traffic comes in he doesn't think they would come up with a different scenario than you see now. This site was designed for more traffic than what is there today. The Board felt that they have to take into consideration building G and also the egress and ingress from the 4 entrances and how the cars intermingle between industrial and recreational traffic. They still will request a waiver but will discuss with his tenant to come up with some more information. Mr. Harris would like a condition that the garbage and recycling placement does not block the traffic flow.

#14 – Environmental Impact Study – There was a study done on the overall plan and in 2011 and 2012 he submitted a modified plan for building G. There is going to be an environmental study done so he doesn't feel an environmental impact statement will be needed. They are requesting a waiver. The site is fully developed and the developed portion of the site is not going to be different. If they are focusing on the Conservation Easement the environmental part of that will be flushed out by the mining experts and forester's report. Mr. Steele asked if the areas that are outside the conservation easement would be included in the studies, which are the 2 green arms that are to the right of the conservation easement. Mr. Dykstra stated that when his crew goes out next week they will be locating the limit of disturbance and accurately show it on a map. The Mayor stated that there are residences here tonight that have had water come onto their properties and had never had a problem before all the trees were removed. Mr. Fantina stated that the answer is yes it will be addressed by the forester and the mine experts. The impact that they are describing will be addressed by Mr. Dykstra and himself for soil erosion and sediment control, drainage improvement, etc. They will address any offsite impacts.

Mr. Fantina stated that there was an endangered species study done in either 2000 or 2001 and was submitted. They will provide the study.

Mr. Fantina went over the waivers requested.

#### Application Checklist

#24 – Refuse and Recycling – based on testimony

#30 – Traffic Study – they will provide information on the circulation and the traffic – requesting waiver from a formal study. After some discussion it was decided that the concern of the Board is the movement throughout the site and not the off-site movement. Mr. Turzi stated that they will provide a traffic flow analysis of the on-site circulation with and without the new road. It will also show how the trucks traverse the site, where the recreational uses are and parking for those uses. The Police Chief Fernandez would like to see a traffic plan that includes all the signage such as stop signs, yield signs and speed signs as well as striping. He stated that the striping has to be updated. Mr. Turzi stated that the Board, the Chief and the professionals will have an opportunity to review and comment on the plan they will be submitting.



#31 – Environmental Impact Statement – they will provide information on the on-site and off-site impact – requesting a waiver from an Environmental Impact Statement.

Police Chief Fernandez would also like more lighting especially since they are adding recreation.

Mr. Fantina stated that the building G plans included an upper parking area. They will be taking the upper parking lot back to what was approved for building G. Mr. Steele asked how people are going to get from the upper parking lot to building G? Are they going to walk and are there going to be sidewalks? Mr. Turzi stated that the upper parking area was designed as a staging area for a potential tenant such as a trucking company in building G to park excess trailers. With the area reduced to the size that was approved there won't be room for that much of a staging area. The parking for building G is in front and will be sufficient. They were approved for 33 parking spaces and will remove the dumpster.

Mr. Fantina stated that they will be submitting a bat study, Phase One's, reports from a Mine Expert, a Forester, a drainage analysis from Mr. Walker and himself and any off-site impacts. If this is all submitted by the applicant then Engineer Borinski did not think a waiver for the Environmental Impact Statement was necessary. Mr. Fantina stated that they will give an analysis of how the site was originally, how it is today and how it will be once it's restored.

The meeting was open to the public at this time. Zoning Officer Chick Moreno questioned Mr. Turzi about the upper parking area and if they were planning on storing anything in the trucks or trailers which he stated is not allowed. Mr. Turzi stated that the upper lot is millings and not paved at this time but will have to be paved in the future. He also stated that they do have a few dump trucks that they would like to park in that area if that is allowed. Attorney Zakin will look into that before the next meeting.

The meeting was now closed to the public.

After some discussion it was decided that the application will be carried to the next regularly scheduled meeting of the Board which is March 13, 2018, which was fine with the applicant.

Attorney Ermel stated that according to the Judge they had to come back before the Board before February 28, 2018. Attorney Zakin stated that the Board wants to make sure that they are given enough time to reasonably respond and prepare a proper presentation. He is sure they can work with Attorney Johnson to work with the Judge and make sure that both parties have agreed to extend the time. Mr. Zakin will reach out to Mr. Johnson.

A Motion was made Roger Steele and Seconded by Mr. Rathjens to adjourn. YEA – 9 NAY – 0

Meeting adjourned 9:25 pm.

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Patricia M. Craven – Secretary

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Ken Loury - Chairman