

WHARTON PLANNING BOARD  
REGULARLY SCHEDULED MEETING  
June 11, 2019

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, Ms. Charlotte Kelly, Mr. Roger Steele, Mr. Mark Harris, Mr. Peter Rathjens, Mr. Patrick O'Brien and Mr. Brian Bosworth. Also, present were Attorney Alan Zakin, Planner Max Vandervliet, Engineer Christopher Borinski and Secretary Patricia Craven. Excused were Mayor William J. Chegwiddden, Councilman Thomas Yeager and Mr. Christopher Fleischman.

The Pledge Allegiance to the Flag was next.

The reading of the bills was next. A Motion was made by Charlotte Kelly and Seconded by Marc Harris to approve the bills as read. YEA – 7 NAY – 0

The Minutes of the May 14, 2019 Planning Board Meeting was next. A Motion was made by Charlotte Kelly and Seconded by Roger Steele to approve the Minutes.  
YEA - 7 NAY- 0

First under New Business was the request to carry the DePiano application to the August 13, 2019 Planning Board Meeting. A Motion was made by Brian Bosworth and Seconded by Patrick O'Brien to carry it to the August 13, 2019 meeting. YEA – 7 NAY – 0

Next, under New Business was the Update on Wharton Industrial by Engineer Christopher Borinski. He stated the rock crushing is still going on and is about 2/3 of the way done. The west driveway is open. They should be starting the final paving on that driveway and buildings E & F within the next 2 weeks and should take about 2 weeks to finish. In about a month that side of the site should be done. The east driveway is on schedule for September 1<sup>st</sup> but may start that earlier. They have received DEP conditional approval on the conservational easement. One comment from DEP was about not removing stumps and guaranteeing that over 85% of the plant material put in will survive. This will be done by annual inspections by the Board Engineer. Attorney Zakin asked for specific target dates, Engineer Borinski agreed.

Attorney John Wyciskala representing Equinet properties addressed the Board with a short history of the application. They started with 2 building consisting of 82 units. They have reduced it to 1 building and proposing a maximum of 71 units. They eliminated the D variance for 2 buildings on 1 site and for parking. The site is fully compliant with RSIS standards. The Fire Chief was satisfied with the revised plans because they were able to change the geometries relative to the driveway, curbing and other elements to provide better access to the building.

Building 1 is the same footprint as the original plans. This remains a bifurcated application and if approved they would have to come back to the Board with a Site Plan. They are looking for variances for use, density, impervious coverage and height. What they are now proposing is 6 stories over sub grade level of parking.

A-14 Updated Conceptual Site Plan (5/1/19 revision date) 6/11/19 – was marked into evidence. This is the same plan as the one in the Board members packets.

Mr. Mark Gimigliano, who was still under oath, addressed the Board with the changes they are submitting. He stated that they have

1. Removed Building #2 and replaced it with parking and now the parking complies with RSIS standards.
2. They eliminated the parallel parking behind the Orchard Street homes. By doing this they can provide evergreen screening in that area.
3. They are keeping the same footprint of Building 1.
4. The north side of the building is 5 stories of residential apartments over the garage level and the south side is 6 stories over the garage level. The 6<sup>th</sup> story is tucked into the roof line. There is only a 5-foot increase in building height on the north side and 10-foot increase on the south side. The height of the building is 62 ½ feet
5. 71 total units, 51 – 1-bedroom units, 17 – 2-bedroom units and 2 – 3-bedroom units.
6. They are proposing 133 parking spaces and 133 are required.
7. New front yard setback is 178.2 ft where before it was 17.6 and required a variance
8. They have increased the side yard setback to 31.6 ft.
9. Building coverage is 19% where previously it was 30% and required a variance
10. Impervious coverage is reduced from 81% to 71%
11. Fencing around the perimeter of the property

Landscaping will be in more detail on the site plan.

A-13 shows the 5 ft and 10 ft increase in the height of the building and the 5<sup>th</sup> and 6<sup>th</sup> levels. The parking level is below grade.

Engineer Borinski stated there are some parking design waivers for side yard and front yard setbacks and if they are not granted there would be less than the required parking spaces. They are existing non-conforming. He mentioned the column parking spaces and asked if the columns would interfere with the parking. Mr. Gimigliano stated they would not. There are 4 smaller spaces that are 8 ½ ft spaces where the others are all 9 ft space. They will be designated as compact.

Attorney Zakin mentioned the conditions relating to parking, that were previously discussed. One was no charge for parking on the site. Tandem parking would be for the same units.

The meeting was now open to the public.

Bill Skewes, 120 E. Central Ave. asked about adequate water supply. Chairman Loury stated that that had been discussed several times during the hearings. Engineer Borinski stated that there is

an 8" water main in Kossuth Street and there should be adequate water for the site. Mr. Skewes other concern is sight distance at the corner of Kossuth and Main Street because of the new building that is being built. He would like to see a traffic light there because he feels it is dangerous and is only going to get worse. Chairman Loury stated that they had the applicant revise their traffic study twice. Our Planner and Engineer both corroborated what their traffic expert had testified to. Roger Steele added that the Board had sent a letter to the Mayor and Council to look at this entire area. He spoke to Acting Chief Young last week who said they are looking at the parking and traffic flow in this area. We have traffic in Wharton but the evidence showed that this project is not going to make it that much worse and our expert corroborated it. Brian Bosworth stated that because of the construction you have a limited sight line but that will go away once the construction is done and the barriers come down. Alan Zakin stated that this is a bifurcated application and if approved one of the conditions that the applicant agreed with was that both the police and engineer have to approve the plans for safety.

Jen Parcels – 10 Orchard St. presented photos of the trees behind her home, when they are in full bloom. They were marked into evidence as P-1, 6-11-19. She asked if they would consider allowing the trees to remain and reconfigure the tandem parking spots. The photos show how old large the trees are. When they are in full bloom, they will block most of the proposed new building. Mr. Gimigliano stated that they will try and make every effort to save the trees. There are a couple that will have to come down and replace with evergreen trees that can mature to 30 – 40 ft. high. They will offer, where there is an opening, to plant the trees on the homeowner's property to help with the screening.

Roger Steele asked if they took away ½ of the tandem spaces and needed a variance for parking, would that make a difference with saving some trees. Mr. Gimigliano stated that they would prefer to leave the parking as is and meet the parking requirements.

Rick Reimers marked into evidence:

A-15, 6-11-19 – 2 photos taken by Equinet reflecting property at the rear of homes on Orchard Street. He pointed out 1 tree behind Ms. Parcels home that is on the applicant's property that will have to come down because it is leaning. One heavy snowstorm and the tree would fall down. He stated that he could save 2 of the 4 trees that are behind her house. They will also replace the 2 trees that are coming down with something similar. They would prefer evergreens but will work with her.

Paula Biseglia – 2 Orchard St. was concerned with the headlights from the parking lot hitting her house. Mr. Gimigliano stated that the 8 ft fence will definitely block the headlights and the lights in the parking lot will all have shields and will face down. They will illuminate the parking lot and will not light up her yard. She feels they are underestimating the traffic problems that this application will create. It will impact traffic. She feels that even though they are only 3 houses they forget that this is a residential area and it is not fair to expect a 6-story high building in a residential area.

Chairman Loury asked that they make it a condition that the lights from this project will shine down.

The meeting was now closed to the public.

Chairman Ken Loury stated that when you turn down Kossuth Street all you're going to see is this mammoth building.

Peter Rathjens asked if they had the information about the height of the building compared to the surrounding buildings. He stated that he can see Avalon Bay from his house, that's how massive that building is and it's on the other side of town.

Mr. Gimigliano presented:

A-16 Building - cross section exhibit 6/11/19 – he stated that they eliminated Building #2 which was the building closest to the homes along Fern Ave. The closest buildings to Building #1 are the last 2 homes on Fern Ave. They show on the exhibit as Block 1212, Lot 7 – 61-63 Fern Ave. which is 15 ft higher than the parking lot around the Canal House. Building 1 is 90 feet away from the 2-story building on Block 1212 Lot 7 and not more than 2 stories higher. This exhibit shows how their building relates to the closest home on Block 1212, Lot 7. The homes on Orchard are about 130 ft. away.

Planner Dave Carlback stated that there was a slight reduction in the density from the previous Submission, from 40.5 units per acre to 38.35 per acre. He explained that a 4-bedroom house is 1 dwelling unit and a studio apartment is also a 1 dwelling unit. He stated that you could put 4 of the 1-bedroom units into a 4-bedroom house. When you have 50- 1-bedroom apartments as you do in this building, he doesn't feel it is entirely accurate to use 38.35 units per acre. Density is not necessarily a bad thing. He feels it work in this particular location and that the residential population helps support the local businesses on Main Street and add vitality to the neighborhood. All his prior testimony on density still holds true. The parking variance has been eliminated as well as insufficient front yard setback, maximum building coverage and the number of principal buildings, which had support from some board members and the public. The only C variances would be for impervious coverage. 40% is permitted, 70% is existing and 78% is proposed. There may be some design waivers relative to parking stall size. As he explained in prior testimony, if the D variance is approved the C variances are subsumed under the D variance. He also believes that this application meets the Grasso standard, which he had explained in his prior testimony, as far as the height of the building. He feels the height of the building is appropriate for this site given generous building to building setbacks. He pointed out on Exhibit A-14, the building to building set back of 90 ft to the home on Block 1212, Lot 7 and the 130 ft setback to the homes on Block 1212, lot 14.01. They also have trees coupled with the proposed fencing and evergreens that will help buffer this building. They are not trying to hide the building but soften the appearance of the building. They are in the RM75 zone and are proposing generous setbacks. The under the building parking adds 10 feet to the overall building height. The height of the building does not disturb any important views but provides a nice physical barrier between the homes to the west and the industrial uses to the east. Some of the negative criteria related to all of the variances is that it will clean up the site and add an attractive building to the area. It will promote the public good by supporting the local businesses. There will be new lighting, landscaping, sidewalks and paving all of which will have an immediate impact on beautifying this site and better integrate it into the surroundings. It will eliminate a commercial use and replace it with an attractive residential use. The building has been placed at

the rear of the site away from area homes and more closely relates to the industrial area to the east. Parking is going to be adequate. It is a positive redevelopment of this site. Rental housing is good and provides an immediate housing for people who cannot afford a mortgage and for people who do not require large living areas, couples starting out and empty nesters. It provides walking wallets for the local businesses. This application also has the support of the local fire and police departments.

Chairman Loury did not agree with the Planner's comment that this building better relates to the industrial park than the residential area because you do not drive through the industrial park to get to this site, you drive through the residential homes to get to the site. Planner Carlbeck had stated that this building is an important barrier between the homes and the industrial park. Would Mr. Carlbeck want this barrier 90 to 120 ft. from his back yard. Mr. Carlbeck stated that he lives on the 47<sup>th</sup> floor of a building in Jersey City so it is probably not fair to ask him this question. Mr. Loury then asked Mr. Carlbeck if the building is perfectly placed why do you want to soften the appearance of the building. Mr. Carlbeck stated that with large buildings, no matter where the location is or the characteristics of the neighborhood, you want to soften the appearance. It is massive, anything you build 60 ft above the ground is visible but you try to integrate it. Attorney Wyciskala stated that they are proposing a variety of materials for the façade of the building. They will have a final design with their site plan. Mr. Loury stated that the Board knows that the applicant does good work, it's the mass that they are concerned about.

Attorney Wyciskala stated that they spoke about the drainage at a prior meeting and will have more detail on the sheet flow and drainage on their site plan. Attorney Zakin stated that the applicants agreed at the prior meeting, as a condition, to mitigate any flooding onto any residential areas. Mr. Gimigliano stated that the state has storm water management regulations that they will have to meet. There will be curbing and inlets that will pick up the sheet flow. There are no large areas of sheet flow on the site. There will be an actual decrease in runoff on the site after the construction compared to what is there today. No water will run off from the parking areas onto neighboring properties.

Planner Max Vandervliet asked if they will be satisfying the affordable housing. Attorney Zakin stated that that would be a condition. Chairman Loury asked Max what his thoughts were on the increased density. Does the 40.5 density really apply for this site. Mr. Vandervliet stated that there is a considerable number of 1-bedroom apartments and he doesn't think the 38.5 really reflects it. He does agree that density is not necessarily a bad thing especially in this instance. It does provide for a good infusion for the local businesses and that supports the local Master Plan. He feels the 38.5 is fair. It is a bigger development but he doesn't think it is too huge for the site, it's pretty adequate. Especially because it's not all 4-bedroom units it's mostly 1-bedroom units, more than most developments have.

The meeting was now open to the public.

William Skewes, 120 E. Central Ave., asked if the Fire Department has reviewed these amended plans. The applicant did meet with Fire Chief Dorr on these last amended plans and the Fire Chief approved the plans.

Linda Bencivenga, 39-41 Fern Ave., Asked how high the Canal House is. She is trying to get a visual of how much higher this building will be than the Canal House. Attorney Zakin read from the Planner's report that the Canal House is a 2-story structure under 30 feet. She asked if they will be adding shrubs behind the homes along Fern Ave. Attorney Wyciskala stated that when they come back with a site plan, they will consider that. Attorney Zakin stated that fencing and landscaping was a condition of the site plan approval and that the Planner would consult with the neighbors before a decision was made. There were 28 parking spaces underneath and a total of 133 parking spaces.

The meeting was now closed to the public.

Attorney Zakin gave a recap of the application. This is a bifurcated application for use variance and associated bulk variances. They have had 5 meetings and if approved they will be coming back with a full application for site plan approval.

They are in the RM-75 zone and proposing

1 – 62 ½ ft, 6 level building with 71 dwellings.

50 – 1 bedroom - 90 parking spaces

19 – 2 bedroom - 38 parking spaces

2 – 3 bedroom - 5 parking spaces

Total of 133 spaces is conforming to RSIS standards – No variance needed

Set backs are all conforming – No variance needed

**Variances needed for:**

Impervious Coverage – 40% max - they are requesting 78%

Building Height – 62 ½ ft – anything over 30 ft and 2 stories requires a D variance – this is up from 47 ft when they were proposing 2 buildings.

Density – 38.35 units more than the 40.8 max.

Multi Family Use – requires a D variance that is preexisting on the site

8 ft. fence around the property

**Conditions:**

Affordable Housing component – 15% affordable = 8 units based on the 50 new units.

Developers Agreement

Per the Borough Engineer approvals from the following:

NJDEP water treatment

MC Soil

MC Planning Board

Fire Dept

Police Dept

Comply with all Local, County, State and Federal Laws.

All Fees Due the Municipality to be paid

Ask the Council to consider parking on one side of Kossuth St.

Title 39 enforcement

Striping, Signage and traffic flow at the discretion of the Police

Egress windows in the stairwells.

All of the modifications in the 3/2/19 letter from Fire Chief Dorr

No charge for parking

Fire and Police emergency access from all sides of the building

Compressors will comply with the noise ordinance & approved by the Borough Planner and Engineer

Tandem spaces to be assigned to the same units.

Traffic turn radius to be approved by the Fire Dept.

Fencing, Screening and landscaping to have input from the neighbors and approved by the Borough Planner

Grinder pumps on Orchard Street to the satisfaction of the Borough Planner and Engineer

Stormwater plan – remediation of existing flooding of neighbors per approval of Borough Engineer and Planner

Building Material Façade per approval of Borough Engineer and Planner.

Safe sidewalks for children walking to and from school

The applicant has 4 years to come back with the site plan application.

Attorney Wyciskala stated that they will comply with the developer's fees per our ordinance

Attorney Zakin stated that for COAH - 15% rental for the new units = 8 units and will be outlined in the developer's agreement.

The meeting was now open to the public.

Jen Parcels of 10 Orchard St., Wharton was sworn in. she stated that she is not opposed to renovating the property. It would definitely help the community and town. The town slogan is "Tradition with Progress" A 71-unit, 6 story building in a residential neighborhood, which is traditional Wharton, in not keeping with that tradition. Our homes are 1900-year-old homes. The size of the building is overwhelming. She feels it can be achieved by decreasing it and keeping it a 3 or 4 story building. They can still have a young influx of new residence that can liven up Main St. but they don't have to overflow the neighborhood. You have Port Oram going in and then this development. It seems like a lot for this little block of our town.

Linda Bencivenga of 39-41 Fern Ave. was sworn in. She has lived in this town for 43 years and her husband's family has been here for over 65 years so her roots are firm. Her house is 119 years old. She told the Board about trying to get insurance for her home and was turned down by one insurance company because she had a parking lot behind her home. She is concerned that when her insurance company does a reevaluation on her home what they will say when they see she has a 62 ft apartment building and parking lot behind her property. She is also concerned with how long it will take to build this building, the noise, the dirt and the quality of life. It will be a disruption for the surrounding area as well as the town itself. How will these apartments and Port Oram affect the school system with all the families and children moving in. Will she get a tax incentive now that she has an apartment building behind her property, will her property value go down with an apartment building behind her property? Who is going to want to buy my house with an apartment building behind it? She wondered if they had considered any other properties in town such as Mill Street, LE Carpenters, Air Products or Harry Shupe Blvd. which all have easy access to them. The quality of life for all would be affected dearly but the privacy for

Orchard Street would be affected the most. All the members here tonight are going to make a decision on the quality of life for all the residence on Kossuth, Orchard, Washington St. and Fern Ave. No one else will have this problem in their back yard but all of us. She asked that they consider all the pros and cons of this project because this will affect the quality of life for all of your longtime residents. Consider us first before the new projects coming in. She understands they need new blood coming into town, "Tradition with progress" but not at the expense of the longtime residents and the quality of life.

Attorney Wyciskala asked for a 10-minute break.

ROLL CALL was taken and the following members were present: Chairman Ken Loury, Ms. Charlotte Kelly, Mr. Roger Steele, Mr. Mark Harris, Mr. Peter Rathjens, Mr. Patrick O'Brien and Mr. Brian Bosworth. Also, present were Attorney Alan Zakin, Planner Max Vandervliet, Engineer Christopher Borinski and Secretary Patricia Craven.

Attorney John Wyciskala gave his closing statement. He thanked the Board Member, Professionals and Secretary. They originally proposed 2 buildings with 82 units and have reduced it to 1 building. They have also reduced the variance relief. He feels that with all the input from the residents, fire chief and police chief they have revised the plans and have made a better project. They are taking a fully non-conforming property with a restaurant that has had its hay day and 21 housing units, that have both had issues from law enforcement prospective and neighbors and replacing it with a new residential housing building. It is designed with unique features and a mix of materials. It will comply with parking and they have heard testimony from their traffic expert on the efficiency and adequacy of the road system in this area to handle this project. They do understand, change is hard to take. As both Planners had said this project will create additional residential density in this area that they believe will bolster the local economy particularly on Main Street. This is not the type of project that is going to generate a significant amount of school age children. It will be a terrific tax ratable for this community.

Attorney Wyciskala concluded his case.

Next was a discussion by the Board members.

Brian Bosworth asked how many apartments are in Avalon Bay, 468 Units. He stated that he drives by that property twice a day and has never seen more than 1 car waiting to go in or out. There is only one entrance in and out of Avalon and it exits to one of the busiest intersections in all of our area which is the intersection by Costco and Shop Rite. Ken Loury thought Avalon Bay is full and there is a waiting list to get an apartment. Brian is very concerned with traffic in town but said he never sees a huge amount of folks going in or out of Avalon, with over 400 units in the complex. You would think he would see that because he drives by there every day, twice a day. Ken Loury said that that is exactly what the testimony of their traffic expert and our experts said would happen. Brian doesn't see the traffic or parking as that big of an issue. He does understand their other concern such as privacy and height of the building.

Pat O'Brien stated that all the prior traffic studies were done based on empty projects and we have no idea what kind of impact this will have, it's all speculative.



Roger Steele stated that this project would be beneficial to the town but that even though traffic is a concern, his biggest concern is with the size and density and feels this building is too big. Chairman Loury agreed and stated that it would definitely have an impact on the immediate neighbors as well as the town.

Mark Harris stated that having the intensity match what the property is zoned for- residential – and that is suitable for this location is what we have here with this application. It is replacing the commercial side of it, where you see more intensity in the evenings when people want to wind down in the evening. He feels that this is a better proposal than another business. 50 – one-bedroom units identifies what the affordability is of these homes. By bringing in a new development you get an improved and better environment in your neighborhood. He still thinks the density is high and there are privacy issues but it is an improvement to the current condition of the property.

Roger Steele stated that he has lived in town for 25 years and is amazed at the development in town. They just rezoned one side of Main Street with a plan to redevelop it with residential above and retail below and on the other side it's nice to see the renaissance of the downtown area. There is more coming and he is mindful of that as he considers this application and asked that the other members consider it as well.

Planner Vandervliet stated that he sees this project as a pro. He is looking at this as Wharton as a whole rather than this specific property and adjacent properties. It will definitely help the down town and Wharton in general. The 50 – 1-bedroom apartments really adds to it and brings the right type of demographics and brings a little youth to the area. He feels Wharton needs to grow but not uncontrolled. The applicant has done a good job modifying the proposal to align with putting some controls on the growth and where Wharton needs to go.

A Motion was made by Mark Harris and Seconded by Brian Bosworth to approve the application with all the modifications, variances and conditions.

YEA – 3 (Steele, Harris, Bosworth) NAY – 4 (Kelly, O'Brien, Rathjens, Loury)  
Application is denied.

A Motion was made by Peter Rathjens and Seconded by Patrick O'Brien to adjourn

YEA – 7 NAY – 0

Meeting adjourned at 9:10 P.M.

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Patricia M. Craven – Secretary

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Ken Loury - Chairman