

WHARTON PLANNING BOARD
REGULAR MEETING
October 8, 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, Mayor Ms. Charlotte Kelly, Mr. Roger Steele, Mr. Mark Harris, Mr. Peter Rathjens, Mr. Patrick O'Brien, Mr. Brian Bosworth, Mr. Christopher Fleischman and Ms. Barb Chiappa. Also present were Attorney Alan Zakin, Planner Jessica Caldwell, Engineer Christopher Borinski and Secretary Patricia Craven. Excused were Mayor William J. Chegwiddden and Councilman Thomas Yeager.

The Pledge Allegiance to the Flag was next.

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

Next, was the approval of the August 13, 2019 minutes. A Motion was made by Roger Steele and Seconded by Christopher Fleischman to approve the minutes. YEA - 9 NAY- 0

A letter from the Attorney for Green Homes asked that their application be carried to the December 10, 2019 Planning Board meeting, without further notice. A Motion was made by Christopher Fleischman and Seconded by Charlotte Kelly to carry the application to the December 10 meeting. YEA – 9 NAY – 0

Next, under old business was the Equinet Properties Resolution. A Motion was made by Mark Harris and Seconded by Brian Bosworth to reject the reading of the resolution
YEA – 9 NAY – 0

Attorney Zakin stated, for the record, that Equinet Properties noticed that they would be making a presentation tonight with new information. Attorney Wyciskala addressed the Board. He stated that they are here tonight to present additional information with respect to the project. He stated that they previously presented to the Board a multi residential project that would redevelop this site. The site has an antiquated restaurant and residential units associated with it. There have been issues with law enforcement and other things with this property. They view this as a beneficial redevelopment with a modern multifamily project.

A-17, 10-8-19 – Public Records of Police and Emergency Incident Report of the site from the 2017 – 2019, was marked into evidence. It shows over 100 incidences of various activities as well as fire and medical calls.

Mr. Wyciskala gave a brief history of the application. They started with 2 buildings. They reduced the size of Building #2, then eliminated Building #2 and proposing only Building #1.

Exhibit A-14 is from the last hearing and shows Building #1 which is a 6-story building with 71 units, that they had proposed. This is what the Board acted upon at the last meeting. Attorney Wyciskala stated that they heard the comments regarding the size and the scale. What they are proposing now is a reduction in size and scale to a 4-story building over the sublevel parking. Basically, it is the same as the original Building #1, with a reduction in height after hearing the Fire Chief's comments. The general layout will remain the same. They satisfy the RSIS parking and will have a maximum of 60 units. If approved they would still have to come back for Site Plan approval. They would agree with all the prior conditions and items they had talked about. This new plan shows a reduction in height and intensity on the site. They have eliminated a number of the bulk variances. They still need variances for use, height and density. The impervious coverage has not changed.

Mr. Harris questioned if there would be background checks on all the new tenants. Mr. Wyciskala stated that this applicant has a similar property in Morristown and over 10 years they have had only 12 incidents of medical calls, false alarms, etc. and 1 of which was for trespassing. They do not expect that the new tenants that will occupy the building, will have the same type of incident calls as are there now. Mr. Reimers state that they brought this report to the Board because one of the neighbors was concerned for the safety of their children. They feel that what they are proposing will be much safer.

Mr. Reimers gave a history of the application to show how they got to the plan of the original 4 story building that they are presenting here tonight.

Engineer Mark Gimigliano stated that in June they had proposed a 71-unit, 6 story, 62.5 ft tall building with 133 parking spaces that backs up to the industrial park on the east side of the property. The main change is the height of the building and the density of the project. The building they are proposing, in the same spot, will be a 48 ft, 4 story building over a garage that is entirely below grade and accessible from the back of the building only. The building will have 60 units and be required to have 112 parking spaces. They will eliminate some of the parking in front of the building and create some green space as well as change some of the turning aisles to make it easier for emergency vehicles to access the site. They are proposing 120 spaces. They will still need a variance for impervious coverage at 78%. They will fully comply with the fire chief and police chief's requirements. They will have a fully designed stormwater management system when they come in for site approval and will be a big improvement to what is out there today. They will have fencing around the property, landscaping and down facing lighting so that it does not impact any neighboring properties. Attorney Wyciskala stated that when they come in for site plan approval there may be some additional green space added to other areas of the site.

Mr. Gimigliano stated that the height at the front of the building is 45 ft. to the roof and from the grade in the back it will be about 50 ft in the back.

Attorney Wyciskala stated for parking that they will comply with whatever their requirement is and agree to the minimum parking requirement for that number.

Rick Reimers explained that with the 13 parking spaces removed from drawing A-14 they still will have 8 extra parking spots. The 13 that come off of the drawing will give them better

radius'. A-14 does not have the 13 parking spaces removed yet. There is no change to the footprint of this building. There is no ventilation in the front of the parking area. Everything is exactly the same as what the Fire Chief and Police Chief approved. There will be a great improvement to the radius up front.

Attorney Zakin stated that there would be a requirement for a developer's agreement to be approved by the Borough Attorney which would also address affordable housing. Attorney Wyciskala stated that they are good with the 15%.

Roger Steele asked about expected traffic volumes with this change. Attorney Wyciskala stated that in the Betsy Dolan report:

Trips based on 82 Units – 40 morning peak hour 50 evening peak hour

Trips based on 71 Units - 36 morning peak hour 45 evening peak hour

With 8 units less it should be 32 morning peak hour and 40 evening peak hours.

Mr. Steele stated that is roughly 50 % units to trips.

Mr. Wyciskala stated that the levels of service on the 12/31/18 report were all levels A & B.

Attorney Zakin read over the conditions that were in the Resolution of Denial. One of the items was the input from neighbors on the landscaping. Attorney Zakin stated that they would have input but the Planner and Engineer would make any final decisions. Attorney Wyciskala stated that the site plan would have a detailed landscaping plan as well as architectural plans. They will be including a mix of materials as shown on Building 2. The density of 32.87/acre was addressed in Ms. Caldwell's letter.

Engineer Gimigliano stated that the stormwater management system will be underground. It is a condition to be approved by the Borough Engineer as well as state requirements.

Rick Reimers stated that it was confirmed that the size of the water main was sufficient for both the fire hydrant and this site. Engineer Borinski agreed.

Attorney Zakin stated that because this is a bifurcated application, the second portion of the site plan presumes that there are no material changes to any of the approvals that we have today. If there are any material changes then they would have to come back for the variance approvals again.

Engineer Gimigliano stated that there are some homes on Orchard Street with grinder pumps and this project won't impact their pumps. Attorney Zakin read #14 from the conditions in the Resolution in reference to this and flooding. Mr. Gimigliano stated that there are some trees behind these properties and they agreed to adjust some of the parking and add some landscaping to screen those properties.

Rick Reimers stated that that is where the language came from that they would work with the neighbors on the type of shrubbery to be able to achieve the screening they were looking for.

Planner Caldwell asked if they were comfortable with the proposed 48 ft., being the average height, based on the ordinance. The applicant was comfortable with that.

Engineer Gimigliano stated that they will be eliminating some additional parking spaces to reduce the impervious coverage. 78% impervious coverage would be the max. Ms. Caldwell stated that the incentive is to reduce the impervious coverage and add more green space. Mr. Gimigliano was also in agreement that they will meet the RSIS of 112 up to 120 parking spaces.

Ms. Caldwell was fine with the Affordable Housing discussion. They will need a variance for density and use.

Engineer Borinski would like to see revised plans as part of the site plan. Attorney Wyciskala stated that they will revise A-14 called updated conceptual site plan revised. Rick Reimers stated that they will be removing 13 spaces from this plan and try to increase the green space. The height will be less. Some of the radius will be less. They will not be adding to this plan. Everything will be less. By the time they do all those changes they will be very close to being ready for their application. Attorney Zakin stated that legally they can memorialize it from what we have here. We should make sure the key details of height, parking, density, number of units and affordable housing are memorialized in the Resolution. Engineer Borinski is in agreement with Mr. Reimers. Planner Caldwell asked that a condition be that the applicant is required, as part of the site plan approval, to update all of the plans to reflect what was agreed upon at the meetings.

Rick Reimers stated that in one of the Planner's memos they were asked to do different textures to the façade of the buildings. They did that to Building B and will apply those same changes to Building A. Planner Caldwell asked that that be a condition of approval. Attorney Zakin stated it would be in the resolution as a condition. A time limit of 4 years will also be in the Resolution. They have to be done in 4 years or come back to the Board for an extension.

Engineer Borinski explained that with the storm water management rules the applicant needs to meet the reductions; they have to reduce what the existing flow is on the site. Rick Reimers stated that none of the runoff now is going into the catch basins so it will be drastically better.

The meeting was now open to the public.

Paula Biseglia – 2-4 Orchard Street asked if when they are eliminating parking spots, they would consider eliminating 1 on the side of her house, which she pointed out on the plans. Mr. Reimers stated that they will be removing 13 spaces and they will take it into consideration and try if they can. They have removed the parallel spots in the back of her property. The units will be rental units.

Mr. Reimers stated that they have to bring the sewer line to their building and believe their building will need an ejector pump. One of the neighbors with a grinder pump had asked if they can be tied in with their system. Mr. Reimers explained that when they upgrade their system to connect with Kossuth Street or to Orchard Street and if a neighbor can tap into it and it doesn't change their design, they would not object to it. He does not know if the state allows for that. They are not making the statement that the residents on Orchard do not need pumps. If the

opportunity is there and does not make any drastic problem cost wise, they would not object to them tapping into the main that they will be putting in. Mr. Reimers stated that they will be going to sewers and may need a grinder pump.

Mr. Gimigliano explained how grinder pumps work. They had previously stated that their plan would have no impact to the grinder pump systems of the residents on Orchard Street.

Attorney Zakin stated that his comment in the Resolution was that the applicant was going to install grinder pumps on Orchard Street to the satisfaction of the Borough Engineer. Attorney Wyciskala stated the testimony was that they were not going to impact the grinder pumps on Orchard Street and their sewer system would not have a detrimental effect for them.

Engineer Borinski's understanding was that whatever they had to do on their site for their sewer would not negatively impact the pumps on Orchard Street.

Rick Reimers stated that they are going to run the main extension to their building and the manhole will have a grinder pump in it. The main will be new and may be a closer distance or higher or lower to the homes on Orchard Street. If when they design that and they want to shorten their run or possibly not need their grinder pumps, they would not be opposed to them tapping into their main. They certainly cannot design around that. If the opportunity arises that their new main creates a better opportunity for their pumps, they will allow them to tap in during construction. Rick stated that they will know what the elevations are when they come back before the Board with the second half of this application and what can be done. They would recommend that they use the same contractor and would be at the resident's expense. They are not obligated to hook in but it may better their system.

Chairman Loury stated that the contractors would have to comply with the ordinance as far as what time they can start and stop working.

Ms. Biseglia stated that she is fine with the 4 stories, it has to be better than what is there now. Her only concern is the parking situation along her property line. Mr. Reimers stated that he would work with her on that concern.

Rick Bencivenga of 41 Fern Ave. stated that there are 8 trees on the applicant's property that hang over onto his property that he would like removed. Rick Reimers stated that if the trees are on their property and are dead or in the way of their infrastructure they will be removed. Ms. Biseglia stated that there are trees hanging over her property as well.

The meeting was now closed to the public.

A 5-minute break was taken

ROLL CALL was taken and the following members were present: Chairman Ken Loury, Mayor William J. Chegwidde, Councilman Thomas Yeager, Ms. Charlotte Kelly, Mr. Roger Steele, Mr. Mark Harris, Mr. Peter Rathjens, Mr. Patrick O'Brien, Mr. Brian Bosworth, Mr. Christopher

Fleischman and Ms. Barb Chiappa. Also present were Attorney Alan Zakin, Planner Jessica Caldwell, Engineer Christopher Borinski and Secretary Patricia Craven.

The meeting was open to the public for testimony.

Joseph Babis, 17 Washington St. was sworn in. He was concerned with the traffic in that area and the parking. He stated that a family of 2 would have 2 cars. He also wondered what the time frame was for the construction. Mr. Reimers stated that they will have more parking than is needed. He estimated that it would be 1 ½ years of construction but the secondary approvals take about a year. He is not sure of the pitch of the sewer line. They will bring gas to the building for hot water, he is not sure about the heat. They do have the option of electric heat pumps. The water lines and gas lines are sufficient. All this is part of the secondary approvals. They will reach out to all the utility companies for this information. They will have backup generators.

The meeting was closed to the public.

Attorney Zakin stated that they have the same conditions as previously.

1 new condition: For the second and final phase of the bifurcated application the site plan will be updated to reflect the material and revisions including parking, height, density, number of units, affordable housing requirements and updated textures and materials.

Not a condition but will be put in with the conditions: if applicants new main sewer line can facilitate tie in with neighbors, reasonable consideration will be given by applicant to do so by mutual consent. This paragraph shall be further refined in the final application phase.

There are 3 variance – use and density, impervious coverage and building height.

Chairman Loury stated that they heard good things from the public tonight and that they like this, which is good to hear. Given the positive feedback from the public he would be inclined to probably vote yes.

Roger Steele agreed. His big concern had been density and traffic. He doesn't feel the 30 cars in and out during the morning is overly impactful. He feels it is suited for the spot. 2 buildings were not suited but this makes more sense and is much better suited for this property. As far as the violation list this will be less troublesome.

Brian Bosworth stated that Avalon Bay has 8 times the number of units and he drives by their everyday and has never seen a traffic jam. He has never waited for someone to come out of there or to turn into Avalon. That section of Dewey Ave is a mess but not because of Avalon. Roger Steele remember that when they did the traffic study for Avalon Bay their conclusion was – it's a mess there now and this will not contribute to that mess, it won't make it any worse.

Roger Steele also said you have to look at the big picture. You have Port Oram going in and the redevelopment coming in to our downtown. When he looks at the big picture it means revitalizing the downtown. This will bring more residents patronizing the downtown.

Mark Harris stated that the overall improvements are an improvement to the area and the use. They will be getting better storm water runoff and a safer, better, quieter and predictable environment. It is close enough to Main Street that it will drive foot traffic to the businesses.

Peter Rathjens hopes it doesn't overpower the neighborhood. This building is way out of place for a residential neighborhood. It's supposed to be 2 family homes, tops in that area which would have no impact on the neighborhood. Hopefully with the lower height, the trees will fill in and you won't be able to hear or see it from 2 blocks away or outside of the 200 ft list. He hears the blowers from the bottle company which is more than 200 ft from his home.

Chairman Loury stated that in the Planner's Memo it states, based on zone, there could be 10 ½ units on this site and you can have 10 ½- 2 family houses on the site which would have a big impact to the neighborhood.

A Motion was made by Brian Bosworth and Seconded by Mark Harris to approve the amended application with the adjusted conditions and additional information.

YEA – 8 NAY – 0 ABST – (1 – Chiappa)

Next, under New Business, was the update on Wharton Industrial. Engineer Borinski addressed the Board. He stated that as far as the East wall and the driveway they are getting the equipment repaired and should resume the rock crushing by the end of the week and should be complete in about 2-3 weeks. These rocks are stockpile by Building G. The ones at the top of the hill are sold to a private person who is removing them a few at a time. He will get a date for those to be removed.

Attorney Zakin stated that they were supposed to get us a completion deadline letter. This had been agreed upon at our last Planning Board meeting with Mr. Turzi. Attorney Zakin stated that he will send them a letter.

Engineer Borinski stated that Wharton Industrial has updated plans for the East driveway that they are reviewing with their contractor and hopefully he will have those plans in a week or 2. The West driveway is finished. All the fill from the easement area has been removed ahead of schedule. The soil has been decompacted and they are ready to install plantings. They have a planting plan for underbrush and trees. They are having trouble locating the trees at this date, the nurseries do not want to dig materials this late in the season. They were able to get some trees and the rest will be planted in the spring. DEP is involved and had been notified about a month ago that the fill has been removed but have not gotten out to the site to look at it. They really can't do anything until they get DEP approval. They are in the process of installing the way finding signs on Buildings E & F as well as the directional signs. The goose neck lighting should be done within a week or so. Buildings E & F are near completion. They need the East driveway done and the rock crushing complete before they can start Building G. The outdoor storage fence will be installed once the easement is done because of access.

Next on the agenda was the discussion on Port Oram. Planner Caldwell stated that Chris and she have been working with Chet at Port Oram, to address some of the outstanding items Chris has and also some of the concerns from the Board, in the completion of the project. They are down to

2 outstanding items: the window openings and the parklet at the northern side of the project. Chet had told her that they are not able to do the wall behind the sitting area for the parklet because of a gas main in that area. He submitted a rough sketch and was told by both Jessica and Chris that he needed to be clearer as to what is proposed and then the Board would have to approve it. Right now, there is a white vinyl fence between that area and the parking lot. Chairman Loury stated that the developer clearly knew that the gas lines were there and they were the ones who presented the ideas for the parklet. They also knew about the louvers. Ken does not want the bars. Mark Harris also agreed that they should have known about the gas main before they went for any building permits. He feels that they should comply or come back with a more superior plan.

Planner Caldwell stated that it is unclear what happened with the window coverings. The developers represented that she had approved them but she never did approve them. They had had a discussion about them and she had stated that the Board was open to other options but the screening part of the louvers was the important part. She thinks that Chet thought it was about the headlights and so he raised up the window sills so that the headlights wouldn't shine out but they never had any discussion about that. His proposal is for the squares instead of the bars. She and Chris have sent him pictures of the louvers because they had asked him to come up with ideas and the only idea he had was for the squares. When they did the site visit, they had told the developer that what was important was along Main Street and that the back of the property could be open to allow for ventilation. She and Chris have looked at other alternatives but it is really up to the developer to come up with a solution. When she spoke to the construction department, they also said that the developer needs to come up with a solution and do the calculations. She said that they might have to put in a ventilation system.

Andre Brezina, the Borough of Wharton Construction Official, explained to the Board that what Chet is saying is the exception to the code. The code says that you shall ventilate a garage, if its 40% open and that is 40% both sides, 20% in the front and 20% in the back. They might have exceeded that already; they have asked Chet for a survey of the area because when he raised the sills, he was right at the max at 40%. They cannot vent next to a window, which might be a problem. The ventilation system will be venting out the carbon dioxide by way of fans, which he explained to the Board. There is a drop ceiling in the garage.

Roger Steele said their options are:

1. Better looking louvers or whatever as long as they are acceptable to the Board.
2. Taking the sills down to what was there
3. Fans (ventilation system)

They want something that does not look like a jail.

Chairman Loury is all for requiring the louvers, it was what the Board wanted, they agreed to them and it was in the Resolution.

Planner Caldwell stated that what she presented to them was to give us the louvers or come back to the Board. It is really in their court to present something that works.

The Board would also like to see plans for the parklet. Planner Caldwell would like to see a real plan and not a sketch.

Mr. Brezini stated that he can let them use the outdoor parking and give a C/O based on only the outdoor parking area. He wouldn't let them use the garage.

Chairman Loury stated that he wants the louvers and the ventilation system or they come up with a better plan and not just the cross bars. Mr. Steele stated that there has to be more options than the bars that are there and the cross bars as well as the parklet. Ms. Caldwell also stated that they see a plan before they approve anything that was not in the Resolution.

Mr. Brezini stated, as far as the ventilation, that he spoke to their engineer and they know what needs to be done. Mr. Brezini works in Morristown, where there are a lot of garages with ventilation system, they are more common than not common.

Chairman Loury asked Planner Caldwell to reach out to Chet and let him know that the Board is requiring the louvers and if not, they have to come back to the Board. They also want a plan for the parklet. The Board agreed that if these both are not done; they will not get a C/O. Attorney Zakin asked that she explain to Chet that the parklet was one of the primary aesthetic motivations to approve the plan, was at the entrance to the downtown and an upgrade to the town. Chairman Loury stated again that this was there plan, not the Boards.

A Motion was made by Roger Steele and Seconded by Mark Harris to adjourn. Meeting adjourned at 9:15 p.m. YEA – 9 NAY – 0

Patricia M. Craven – Secretary

Ken Loury - Chairman

