

WHARTON PLANNING BOARD  
REGULARLY SCHEDULED MEETING  
March 10, 2020

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, Mr. Roger Steele, Ms. Charlotte Kelly, Mr. Marc Harris, Mr. Peter Rathjens, 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 Chegwidde, Councilwoman Wickenheisser and Mr. Patrick O'Brian.

The pledge allegiance to the American Flag was next.

The reading of the bills was next. There were no bills to be read.

Next, under Old Business was the minutes of the February 11, 2020 Planning Board meeting. A Motion was made by Roger Steele and Seconded by Peter Rathjens to approve the bills.

YEA – 8    NAY – 0

Engineer Borinski updated the Board on Wharton Industrial. They are moving along with the East driveway; the storm sewers have been installed. They are working on the curbs and manholes have been delivered and will be installed. They will need to put in the utilities for Building G before they pave. The trees should be delivered by the end of the month or early April and then they will start plantings in the easement. They should have the foundation for Building G started by the summer. While they are under construction the traffic flow is only 1 way. Once the east driveway is done it will be 2 way traffic. They are still looking for the one species of trees, but the bulk of the material to be planted has been ordered.

Next on the agenda was Chet Mosko from Port Oram with an update. He presented the Board members with copies of the parklet that had been emailed to them with their packets.

Attorney Zakin explained to the Board that what we are doing is making sure that this plan is in keeping with the aesthetics that were determined in the Resolution or is comparable aesthetically in order for it to be considered a field change. If not then they would have to come back before the Board. At the last meeting the Board considered it a field change but since then the plan has changed.

Planner Caldwell stated that the new plan is in a different location with a smaller seating area and is now closer to Main Street. She felt that the Board should really look at the changes and decide if it is a field change or an amendment to the original plans.

Mr. Mosko explained that the first rendering was based on January's presentation. Since Jessica's review, the wall needs to be 29 feet wide which is shown in the second picture.

It shows the corner columns being the same height as the cap of the fence which is 8ft. 2". The balance of the wall will be 6ft 10 ½ "and matches up with the start of the pickets on the fence. The radius is there but the top of the fence is straight. In the picture it does look curved but it is not. Jessica stated that in the original rendering the fence and the wall did not meet up at the same height on the ends. So, in order to have them meet up you lose the curve. She feels this is a good trade off. The Board felt the same.

Mr. Mosko stated that he can build the wall out of brick because of the new location. The paver layout is now more symmetrical and is about 460 sq. ft. of pavers. It is now centralized with the crosswalks. He has the 2 benches, shown in the picture, in stock. They will lose 2 plantings. After some discussion it was decided to have a brick wall with stucco inlay where the writing will be and also limestone caps. The writing will be raised metal letters saying Downtown Wharton. It was decided that this was a field change with final approval by Planner Caldwell.

A Motion was made by Roger Steele and seconded by Peter Rathjens to approve these design changes for the parklet as a field change comparable to the original intent, with final approval by our Planner. YEA – 8 NAY - 0

After a lengthy discussion on the putting louvers on the 1 side window of the parking garage it was decided that the metal screening that they have there is sufficient but the Board would like them to plant a large arborvitaes in that corner area large enough so that you do not see the screening or into the garage.

The applicant was looking for their C/O. Their TCO expires April 30<sup>th</sup>. Engineer Borinski stated that most of the work on his punch list, in his memo dated 11/13/19, is done or on schedule. After some discussion it was decided that they either return on 4/14/20 which is our next meeting or let our professionals know their progress and they will report back to the Board with a recommendation.

Under New Business was the application for DePiano. Attorney Berndt Hefele on behalf of the applicant Rino DiPiano owner of 49 N. Main St. They are proposing an expansion of the pizzeria to add a dining room and 2<sup>nd</sup> apartment above it. The business has been in the DiPiano family for 33 years and hasn't changed much in the 33 years. It is not a modern business and is very hard to operate. With the growth the town is seeing their business needs to move along with this growth. They are looking for a number of variances.

1. Addition of an upstairs apartment
2. Roof over hang
3. Rear yard
4. Building coverage
5. Parking space variance
6. Off-site parking

The property is an unusual pie shape property with enough room for a decent expansion. Parking is an issue and a parking study was requested by the professionals. They have submitted a parking analysis which they did themselves. After their testimony he feels that the Board will

feel comfortable with how they will handle the parking without a parking study. If not, they can have a parking study done.

Owner and applicant Elberino DiPiano, of 16 Stowe Ct., Ledgewood, N.J. was sworn in at this time. Mr. DiPiano has owned the business for the last 5 years but it was owned by his mother and father since 1987. Before that it was a diner. Mr. DiPiano stated that his restaurant is a staple on Main Street, they serve Italian food. They serve to local folks, many of whom walk to the restaurant. They have issues with the kitchen, it is very tight, very narrow and no work room. They have no room to work correctly and keep the workers safe. The door leading to the basement is in the floor of the kitchen, which is a problem. Over the last 33 years they kept remodeling but it is really just a band aid. The business is successful and growing. The expansion they are proposing includes a new kitchen, which will make them function healthier, properly and safer. The larger dining room they are proposing will give their customers a better dining experience from a pizzeria to an Italian restaurant. They have 13 part time employees and 4 full time employees. They will keep the same staff but probably have to add 1 more waitress. The hours of operation will stay the same. They get deliveries on Tuesday mornings on Main Street and that will not change. They are there about 15 minutes and there has not been any issues with this delivery time and day. They have 1 residential apartment on the second floor now.

Currently they have 3 parking spaces on site, 1 for the tenant, 1 for the owner and 1 for the customer. Their customers, for the past 33 years, park on the street and now they can also park in the municipal lot just up the street on Main Street. Many of their customers walk to the restaurant. He has paid for 4 municipal parking lot spots for their tenants, which he has to renew and pay for yearly. When they eliminate the 3 onsite parking spots, they will gain 2 more on street parking spots. He anticipates his additional patrons will come from a 2-mile radius of Wharton. Many of them will walk there and the others will drive. Their patrons are not coming in and sitting for 3 hours, they come in and sit for 15 minutes to ½ hour. They will park on the street, in the liquor store parking lot next door or in the Municipal parking lots. Mr. Hefele stated that they believe that most of the customers that will be coming to eat in the new dining area will be locals who will be walking there. The tenants from the 2 newly approved apartment building can walk to the restaurant. This restaurant is not a destination restaurant, it is a local pizzeria that wants to add an additional dining area. Mr. Hefele believes that they are going to attract a lot of walking traffic and have a lesser parking demand. He doesn't feel there will be an issue with parking especially with the municipal lot.

Marc Harris felt that their parking and traffic report is misleading and misrepresenting of what it is. Their seating capacity will be increased by 141% which will increase the parking spaces as well to 160%, which is massive. He doesn't feel it is reasonably represented here. Mr. Hefele stated that the report was not meant to be misleading. The percentages give it a little different spin than the actual number, which is 28 parking spaces under the ordinance and 4 spaces for the apartments which equals 32 total spaces required. They are willing to do a parking study if the Board feels it is necessary but he feels a study would give the same results as his report that it is going to get absorbed by the local pedestrian traffic. The increase in residential dwellings is calling for this, a place that they can walk to.

Chairman Loury stated that the municipal parking lot is part of the Redevelopment Zone in town and he is concerned with where the tenants will park if that parking lot is developed. Where will the tenants park then? Parking has always been tough for Wharton and now we are going to add 4 more resident parking on Main Street. Rino stated that they will be adding 2 spaces on Main Street once they eliminate the 3 spots on site. Mr. Loury stated that they would still need 2 more on Main Street.

Mr. Steele stated that we all want to grow Main Street and parking is an issue with every single retail establishment in town. It's only 2 spots.

Mr. Loury's issue was that they are residential spots. In bad winters when they cannot park on the street, where do they park. Rino stated that it has been working like this for all these years. Mr. Hefele stated that they are presenting this application with what they have today. This is an issue for them too, with having no parking spots for tenants. Mr. Loury is not so worried about the customer parking as he is about the tenants.

Mr. Bosworth stated that he has not heard how this second apartment is going to be good for the town and why the Board should allow this with not enough parking. Mr. Hefele stated that they are adding 1 more apartment and when they are building the addition, they want it to look correctly, that it works aesthetically and functions properly. He feels that 1 additional residential unit, when you look at the densities that the Board has approved on other properties is really negligent and that is what is important. For the applicants purposes it allows the building to function the way it should. It is one additional parking space that at the end of the day on a cost benefit, is it really going to hurt anybody. It will substantially help the building and the structure, for that business to function there. That is the benefit and the detriment is diminimus. It doesn't amount to anything with 1 additional apartment.

Mr. Loury stated that they are creating a detriment of 2 parking spaces on Main Street and what Mr. Hefele just said is not a benefit to the town. Ken stated that they want the restaurant in town but don't talk about a benefit when you now have 2 less spaces on Main St.

Attorney Zakin stated that most of what they are asking for is bulk variances. In terms of the residential as opposed to the restaurant that is the one D variance for density. There are different criteria for a D variances and requirements. He asked our Planner for her comments.

Planner Caldwell stated that it is a D5 density variance, which is one of the use variances that requires a higher level of scrutiny by the Board. There is a positive and negative criteria which she explained. Mr. Hefele stated that they will address the D variance later in the meeting.

Peter Rathjens is concerned with the on-street parking. He stated that when the old Hot Rods was on Main Street the parking on both sides was chaos. That was before the municipal lot. His concern is if the municipal lot goes away is there enough parking spaces on Main Street. He hopes his business will improve and becomes a destination but will there be enough parking spaces to handle that without a municipal lot.

Brian Bosworth stated that the Board raked, the recently approved apartment complexes, over the coals to make sure they have enough parking spaces and then we have this application that needs 32 spaces and has none. He is concerned with the amount of weight we are putting on the end of the street with what is planned across the street, at the Canal House, taking away the 2 spots that they have and if the municipal lot goes away. This is really significant, 32 spaces is significant. Mr. Hefele stated that they do not believe this restaurant will ever be a destination place and that it will be a local restaurant that most of their customers will walk to. He would like more information on the parking in the area and if the municipal lot will be eliminated if they redevelop that area. Mr. Bosworth stated that he does want this restaurant to prosper and grow but is concerned with the parking. With the new developments they have changed the traffic pattern significantly in that area.

Roger Steele stated that both new developments, that Brian mentioned, satisfied their parking requirements. He doesn't feel they have contributed to any parking issues in this area. He doesn't see any of the residents from these buildings driving to Maria's, they would definitely be walking to the restaurant. He doesn't feel these developments will affect the parking and doesn't feel that 4 parking spots is going to make an impact and is significant. The restaurant parking is different. He feels the positive effect of the restaurant helping the downtown far outweighs 4 parking spots. Hopefully the new Redevelopment will bring more parking areas to the downtown. He feels it is not as big an issue overall.

Marc Harris stated that they need 32 spaces, 4 for the residents but what about employee parking He would like to see their data be more realistic to the situation as it is now. He stated that there are 9 spots between Youngs gas station intersection and the Liquor Store entrance and 6 more past that. Many of those businesses past that have parking in the back so most, if not all the spots on Main Street are available. Marc pointed out that this reflects the reality of the parking.

Brian Bosworth stated that they don't need to present a parking study but just say, for example, there are 14 parking spaces withing 150 ft. of the front door, that would give the Board a better feel for the parking in that area. Mr. Hefele stated that they could supply more specifics in regard to the parking.

Planner Caldwell stated that as far as parking, a survey showing what parking is available in neighborhood would be helpful like the one done for the recent 9<sup>th</sup> wave application. It wouldn't be such a concern if they knew what was happening with the Municipal parking lot.

Engineer Borinski asked how many cars do his tenants have now. Rino stated that they have 1 car. The tenants there now are not related to him and do not work for him. The apartment there now has 3 bedrooms.

The meeting was open to the public and having no public, it was closed.

Kenneth Fox of Fox Architects was sworn in and qualified as a Architect and Planner.

Z-3 dated 9-23-19 Floor Plan was the same as what was included in the packets. He stated that the pizzeria has a very tight kitchen which he described to the Board. The kitchen, because of the

tightness, becomes a very dangerous situation. The access to the basement to get supplies is through a door in the floor in the tight kitchen. They are proposing to make a bigger kitchen and add on a dining room. They are also moving the entrance between the new and old part to add a handicap accessibility ramp and stairs that will be parallel with the sidewalk. They are also adding a vestibule. Across the back of the building will be the kitchen and prep area. They are adding new stairs to the basement, a storage area and a handicap bathroom. The pizza ovens and existing dining room will stay in place.

In keeping with the look of the neighborhoods 2 story buildings, adding an apartment over the dining room addition makes sense aesthetically and is the best use for that space. They will have new stairs to the apartments in the rear of the building and remove the stairs on the side.

Z-4 is the same plan that was submitted in the packets. The addition will look the same as the original building and not look like an addition. They added a new roof overhang along the front. In the proposed dining room, they are adding railings with window doors that swing in and can open during the nicer weather. They are proposing signage over top of the front of the restaurant as well as signage on the right side of the building that can be seen by traffic coming from the north. The second sign will require a variance and is listed on the plans. The sign that now hangs over the sidewalk in the front of the building will be removed. They are adding goose neck lighting over the signs, which is not shown on the plans, as well as adding general lighting on the exits, the side of the building and the stairways. Ken stated that the balcony is a Juliet balcony.

A-1, 3-10-20 color rendition of Z-2 dated 5-23-19 proposed site plan was marked into evidence. He explained the plans to the Board. The existing building is a light beige and they are proposing a tan – 2 story addition set back from the street to be able to add a handicap ramp and stairs, which are on the property line. They are also close to the side property line, because of the addition of the dining area, which has the minimum size number of tables that they could fit to make this work. They will have a 6ft wide paved area on the side of the building to get to the enclosed dumpster in the rear of the building. There is no other access to this property. They will have to roll the dumpster out, by hand, to the drop curb at off hours in the morning to be picked up. They were unable to acquire any of the adjacent properties. The tenants will bring their garbage cans to the curb for pick up by the town. There will be a paved area on the side and the rear for the tenant access and seating and a grass area in the back of the building. There is a door from the proposed new dining area to access the back yard.

A-2, 3-10-20 - Series of 11 Photos of the property and surrounding area, taken by Fox Architecture. #5 & #10 show the back raised bed of the old railroad and drop off of the property. The property to the back and side are totally unusable properties. They have small setbacks to the property line but there is zero impact to any neighbors by being close to the property lines. The back area will be paved and grass area to be utilized by the tenants. He does not believe that additional landscaping would be of any benefit.

Mr. Harris stated that there is an increase in impervious coverage and asked if there would be a drainage plan. Mr. Fox stated that they are not changing the existing drainage pattern. They will provide our Engineer with any additional drainage. The existing impervious coverage is 54%, they are proposing 78% and 75% is what is allowed.

Mr. Fox went over the variances in Planner Caldwell's 11-8-19 report.

1 – Rear yard set back

2 – Max Building – irregular shaped lot, fits in with the character of the down town.

3 – Wall sign – 2<sup>nd</sup> sign- need to be seen from the north on Main Street.

4 – D-5 additional apartment

5 – Parking – 0 proposed, 32 required (28 for the restaurant and 4 for the apartments)

They are losing 3 existing on-site parking spaces but will gain 2 spaces on the street.

The Maximum Building coverage and the Minimum Lot Depth are both preexisting, non-conforming. The Minimum Lot Depth is not changing.

Mr. Fox stated that the overhang does not go over the sidewalk in the front and he will correct that on the plans.

Mr. Fox gave reasons for the variance - hardship because of the shape of the site. They have an undersized lot and feels their plans work with the site. Also, the CBD encourages development and maintaining of businesses in the downtown. There is no negative impact on the neighborhood and the zone plan. It creates the 2-story façade along N. Main St. and doesn't have any negative impact to any adjacent property owners.

As far as the D5 Variance there is a lot of different types of housing going on in Wharton. This apartment will have different types of tenants with zero to 1 car and is different than the tenants going into the new building across the street who have other amenities such as parking garages. The rents also reflect that. This creates an additional housing type that Wharton needs and adds to the general welfare of the community. As far as how to stop stacking they are proposing an open plan which limits the ability to have stacking. They also have a history with the existing apartment and the owner is at the location all the time because of the pizzeria. Mr. Fox stated that they will look at expanding the dumpster area but if need be, they can also increase the times a week the trash and recycling is picked up.

Mr. Fox spoke about the parking variance. They don't have the data on where the closest parking is. There is parking available on the side streets as well as the Municipal lot. He would think that if the parking in the lot changes there would be some type of accommodations by the Municipality. Wharton has been very pro active on downtown parking for the businesses over the last 10 years and would hope that that would continue. They do have the data on the apartment now which is zero or one car for many years. They have a similar apartment coming in and they anticipate zero to one car for them as well. They have the 4 parking spaces but feel that more than likely they will only need 2 spaces based on the history of the existing apartment. The worse time will be when the streets have snow. Right now, they have the parking for that but in the future, they will have to have emergency parking through their lease. They have no parking for handicap because there is no parking on site.

Roger Steele stated that, today especially going north on Main Street, there really is no competition for the parking spaces in this area. The liquor store on the other side has a parking lot for its customers.

Mr. Fox stated that the apartments will be sprinklered. Engineer Borinski stated they would need a new water service for that and that each apartment must have its own water meter. This is standard code and does not need a condition.

The meeting was now open to the public.

Antonette DiPiano, 16 Stone Court, Ledgewood, N.J. was sworn in. She is also an owner and wife of 25 years to Rino. She stated that this is a dream for Rino. There are great things happening in Wharton, she is a real estate agent and she sees this. Their business is growing. Yes, there are issues with parking but for the business to run efficiently and for the safety of their workers and patrons this has to happen. It's tight in there for their workers and even for their customers. It needs to be safe. The safety of her husband, his employees and their customers is a priority.

The meeting was closed to the public.

Attorney Hefele stated that this is a good addition to the town. The benefits outweigh any detriment and is a very positive improvement to the town. He believes that the parking will work out just fine.

Mr. Fox stated that they are proposing new stairs to the basement and will eliminate the trap door in the floor of the kitchen. There is also storage on the main floor.

Attorney Zakin went over the conditions:

1. No living in the basement
2. Drainage approved by the Board Engineer
3. Correction to the site plan – lighting and remove the overhang comment

Variances:

1. 1- D variance
2. 4 - Bulk variances.

A Motion was made by Marc Harris and Seconded by Christopher Fleischman to approve this application with the variances and conditions listed.

YEA – 8 NAY – 0

A Motion was made by Roger Steele and Seconded by Marc Harris to adjourn.

YEA – 8 NAY – 0

Meeting adjourned 9:40 p.m.

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Patricia M. Craven – Secretary

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Ken Loury - Chairman