

WHARTON PLANNING BOARD
SPECIAL MEETING
August 4, 2020

The Special meeting of the Wharton Planning Board was done virtually and was called to order with Chairman Ken Loury reading the Open Meeting Statement as required by law as well as a statement regarding allowing the remote meeting due to COVID-19 pandemic protocols and the Judicial Proceeding Statement. Chairman Loury also stated that the meeting was noticed in 2 local newspapers.

ROLL CALL was taken and the following members were present: Chairman Ken Loury, Mr. Roger Steele, Ms. Charlotte Kelly, Mr. Marc Harris, 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 was Mayor Chegwiddden, Councilwoman Wickenheisser and Mr. Peter Rathjens.

The pledge allegiance to the American Flag was next.

The reading of the bills was next. A Motion was made by Mr. Harris and Seconded by Ms. Kelly to approve the bills. YEA - 8 NAY - 0

Next, under Old Business was the minutes of the April 14, 2020 Planning Board meeting. A Motion was made by Roger Steele and Seconded by Marc Harris to approve the minutes.
YEA – 7 NAY – 0 ABST – 1 (Kelly)

The minutes of the July 14, 2020 Planning Board Meeting were next. Attorney Zakin had sent over to the secretary some changes to the minutes. A Motion was made by Roger Steele and Seconded by Patrick O'Brien to approve the minutes with the changes YEA – 8 NAY – 0

Next, on the agenda, was the continuation of the application for Wharton CHA Urban Renewal, LLC. Chairman Loury stated that no anonymous questions would be taken and the witnesses must give their full name and address.

Attorney Lisa John-Basta for the applicant addressed the Board. This meeting is a continuation of the July 14, 2020 Planning Board Meeting. They will have 3 of their experts testify, their civil engineer, planner and architect. They have revised the site plan and signage plans which have been posted on the Borough's website.

Civil Engineer Robert Freud, still under oath, addressed the Board. He presented Exhibit A-1, 8-4-20 – Revised colorized Site Plan Rendering with landscaping superimposed dated 7-14-20 and revised 7-31-20. Mr. Freud explained the revisions. At the north side of the Main Street building they moved the driveway 6 ft. over from the building and added the 6 ft. wide sidewalk along the north side of the building. The driveway remains 24 ft wide. The door on that side of the building now comes onto the sidewalk and not the driveway. This was revised because of comments from the Board at our last meeting. They also added a note on the plan for the waiver relief requested for the sidewalk on the parking lot side of the Second Street building.

Mr. Freud stated that he spoke to the adjacent property owner of Lot 5 on the Central Ave. frontage. This property owner requested that the 8 ft fence that runs along the common property line be pulled back to the front line of his house. This is consistent with where the chain length fence is today which will be about 15 to 18 feet. The chain length fence will be removed and replace with the solid 8 ft. vinyl fence.

Next, Mr. Freud addressed the 2-page letter from the Wharton Fire Chief Brian Cronin (not dated) and a follow up letter dated August 3, 2020. Chief Cronin was on the zoom call. The follow up letter states that they will meet with the applicant on August 10, 2020. Mr. Freud stated that they are agreeable to meeting and going through their concerns. Mr. Freud summarized their response to the 8 concerns listed in the letter from Chief Cronin. The architect followed the building and fire codes for this type of structure. Some of the safety features in the building to prevent fire, smoke and collapse of the building will be sprinklers, alarms, additional fire ratings on the walls, compartmentalization of various areas of the building and draft stopping in open spaces are just a few of the tools utilized in accordance with the code.

The site layout and design are in accordance with the redevelopment plans and local zoning which considers zero lot line setbacks. In some areas they have exceeded the zero-lot line. Along Second Street there is a 10 ft. setback and along the north side of the driveway is much more than that. There is a lot of open space in the middle. As far as access, they generally run a ladder fire truck through the site to make sure they have adequate circulation for the fire apparatus, which they will be happy to share with the Fire Dept at the August 10th meeting. The fire apparatus does circulate through the site with no conflict with any of the parking spaces or any of the curbed islands. There is safe and adequate movement into the site from Main Street. They modelled a right turn into the site considering the location of the Fire House. They also considered the on-street parking on Main Street and Second Street in the circulation pattern. There is plenty of movement throughout the site. The site is unique with a lot of open space and 2 access point to the site for emergency vehicles. If one access drive is compromised, they still have another 24 ft wide access drive available.

Wharton Borough Fire Chief Brian Cronin of 18 Lowry stated that their committee looked at the plans and put these concerns together just from what they saw. His committee consists of 3 chiefs and 3 fire dept. members that could not meet with the applicant until August 10th. Parking is a concern; On paper it looks great and would work out great when no one is in the parking lot. They always prefer more parking than less parking. He is also concerned with the curbed areas in the parking lot and access for the Fire trucks. The curbs, trees, fencing and parked cars are a concern and can get in the way of the Fire apparatus when responding to a fire.

Lisa John-Basta stated that they did agree to Title 39 enforcement on the site.

Mr. Freud stated that they have run a truck through the site and found they have enough room to circulate through the site. They will be share that at the August 10th meeting. The interior curbs are mountable curbs on the site and they will move trees if need be. Mr. Freud is very confident that they can satisfy the concerns of the Fire Chief. As a condition of approval, it would allow the fire department to agree with that.

Mr. Cronin stated that the building is so close to Main Street with no room for a collapse zone. He stated that they have to plan for the worst-case scenario.

Mr. Freud stated that he is not qualified on the specifics of that but that they would have the architect at the August 10th meeting.

Ms. John-Basta stated that they would go over all the details, to the Chief's satisfaction, at the August 10th meeting and would be agreeable to that as a condition of approval.

Ken Loury asked that they have a truck template overlay on the site plan for the meeting on August 10th. Ms. John-Basta agreed.

Mr. Cronin stated that there is no access to the Second Street building on the south side of the building.

Mr. Freud stated that the building is only 2 stories and not as deep as the building on Main St. Zero setback is allowed on that side and they are providing a 10 ft. setback on that side which provides some ability to move around the building. There is no access around that side of the building.

Mr. Loury asked Planner Caldwell if a 24 ft. driveway at both the Main Street and Second Street entrances is enough for a development of this size. Is the site distance enough coming out onto Main Street. Ms. Caldwell believed that 24 ft is enough.

Mr. Freud stated that there is a clear site line to the left and right coming out onto Main Street and matches what the County requires on Main St. The County site triangle is shown on the plan.

Attorney Zakin asked if they are asking for a 1 ½ ft waiver, where 2 ½ ft. is required on the overhang of the sidewalk behind the Second St. building. Mr. Freud stated that that was correct.

Chief Young stated that he had a concern with the site distance on Main Street because there is a utility pole on the North side of the property. He would like to be on site and do some test runs. He would also like to see striping on the exit on Second Street, not the whole street, only on the egress coming in and out. This will be consistent with what they are doing on Main Street. Chief Young is very pleased with the change of sidewalk on the north side of the building.

Mr. Freud would be happy to work with Chief Young and the Board Engineer on these issues.

Ms. Caldwell and Mr. Borinski both agreed that it was a huge improvement to change the sidewalk on the north side of the building and are in favor of the changes. Mr. Borinski will work with the Chief and applicant on the site distance and striping.

Mr. Borinski noticed that on the plans there is one area of sidewalk in front of the Main Street building that has no brick. Mr. Freud stated that it was an oversight and will include the brick to match the rest of the sidewalk.

The meeting was now open to the public.

Mr. Cronin thought that the prior testimony stated that the utilities would be underground. This would affect their ladder positioning because of the high tension wires.

Mr. Freud stated that there will be no changes to the existing utilities, the new utilities to this building will be underground.

The meeting was now closed to the public.

Mr. Loury asked that it be a condition of approval that all parties, at the August 10th meeting, are in agreement. If not, then the applicant would have to come back before the Board. Ms. John-Basta was in agreement with that condition.

Mr. Freud explained, when asked by Mr. Steele, that they flipped the sidewalk and driveway on the north side of the building so that the sidewalk will run along the side the building.

Architect Christine D. Bartolo, still under oath, addressed the Board. She stated that the door on the north side of the building would no longer be an emergency exit but a residential access door. Also, the HVAC units that were to be installed on the façade of the building will now be split systems including condenser units that will be at the center line of the roof. The condenser units will be screened, have no impact to the maximum height of the building and will not be visible from the street.

Ms. Bartolo presented the sign revisions and marked them into evidence:

A-2, 8-4-20 – sign plan Sheet A-4 revise on 7-31-20 Sign schematic

They reduced the total number of blade signs from 18 to 9, and the number of tenant blade signs from 10 to 4 which are shown on the plans as sign #2 in red. The individual sign area is 10 sq. ft. and the total sign area is 40 sq. ft. The project blade signs were reduced from 8 to 5 and are shown on the plans as sign #1 in green. The individual sign area is 15 sq. ft and the total sign 225 sq. ft. There are 3 tenant façade signs. The line of site being parallel to the street warrants the blade signs and perpendicular to the site warrants wall mounted signs. You won't be able to see both of these signs at the same time, as you are moving. You would be able to see only ½ of what is shown here. She feels it is aesthetically pleasing and is appropriate for the size and scope of the building.

Ms. Bartolo explained the reason for the variance for sign height.

A-3- 8-4-20 Elevation Sheet A-2 revised on 7-31-20 – the variance is for the tenant blade signs. She pointed out how the grade drops by about 5 – 6 ft from the south side to the north side. The blade sign by tenant #2 is about 8 ft. and that is because of the shelf that delineates the retail from the residential parts of the building. If they complied with the minimum height of 12 ft. it would interfere with the horizontal shelf.

Mr. Loury stated that his plan page A-4 is different than what Ms. Bartolo is showing. Ms. Bartolo stated that the plan Mr. Loury has is correct. Mr. Loury questioned 3 tenants? They had previously testified to only having 2 tenants. Ms. Bartolo stated there is a chance that they may have 3 tenants. Ms. John-Basta stated they have included an additional tenant sign anticipating that they may have 3 tenants. Ms. Bartolo and Ms. John-Basta both stated that they would have to come back before the Board if they wanted more blade signs for a 3rd tenant.

Ms. Craven stated that the plans the Board is looking at are not a color version, as is being presented at the hearing. Ms. Bartolo stated that she sent one smaller set of the colorized version.

Ms. Craven will check on that If the color version has not been submitted, it will have to be entered as an Exhibit.

Ms. Caldwell stated that the reduction in the overall number of signs and the way it is presented benefits the project and is appropriate for the size and scope of the building. The 3rd tenant sign and coming back to the Board if need be for additional blade signs is a good approach for that issue. The fire escape door on the side is appropriate.

Mr. Borinski had no comments for the architect.

The meeting was now open to the public. Mr. Loury stated that if you are calling in please press *9 and you will be able to ask a question. No public had any questions and it was closed to the public.

Professional Planner Mr. Robert Freud, still under oath, addressed the Board. Mr. Freud stated that he had reviewed our Borough Master Plan, Zoning Ordinances and Redevelopment plan. They are looking for a C-2 variance for signage and are looking at both the negative and positive criteria. The development has been designed in compliance with the redevelopment plan. They have presented aesthetically appropriate signs. As the architect mentioned, with a zero-lot line setback you have multiple site lines that you are looking at. You have the wall mounted business signs over the storefronts that identify the entry to the stores and are visible from across the street and for pedestrians. The blade type sign is visible more from the north, south passing motorists. You have different lines of site and you won't see all the signs at the same time and they serve multiple purposes. The ordinance allows 10% of the façade for wall mounted signs which on this building would be 446 sq. ft. of area. All of the signs proposed here total 436 sq. ft. In aggregate they have less sign area than would be allowed if they were just façade signs on the wall. The way it has been designed you are not going to see all the signs at once. They meet the intent of the ordinance but because the blade signs exceed the area allowed for projecting signs, they are requesting that relief. They are allowed 1 sign for business and they have 3. Instead of having large wall mounted signs they have provided diverse styles of signs that are viewable from different vantage points and provide better aesthetics on the building. From a sign perspective this advances the purposes of the Municipal Land Use Law. Purpose H- they have the zero-lot line setback so you need the blade signs for the north south motoring public. Purpose I – by braking up the number of signs into diverse styles of signs it is more aesthetically pleasing and promotes a desirable visual environment. There is no negative impact on the adjacent property owners or the character of the neighborhood and no detriment to the Master and Zoning Plan. The benefits substantially outweigh any detriment.

Mr. Loury asked if the 8 ft signs will be an attractive nuisance for kids. Planner Caldwell stated that they are not far out from the building and she doesn't think kids could reach the 8 ft. banners. The banners come out about 2 ft from the building. She doesn't think that it would be an issue.

Mr. Freud doesn't see it as an attractive nuisance. There are other features along Main Street that are at that same height. The mounting height is 8 ft because of the architectural feature on the building.

Ms. Caldwell stated that they are presenting this as a benefit, detriment variance request, where the benefits outweigh the detriment. We are looking at the visual appeal and the overall area for the signs does meet the ordinance. The visual appeal is so that people can identify the building. She agrees there is no negative impact to any adjacent properties or to the Zone and Master plans. She has no concerns with the testimonies presented.

Engineer Borinski had no comments on the Planning testimony.

The meeting was not open to the public.

Dharmesh Parikh of 22 N. Main St., Will they change the blade signs every time they get a new tenant? Asked about ice on the signs and also stated that the blade signs would block his pharmacy sign. Can they have both building signs and blade signs. They have 3 signs for one business?

Mr. Freud stated that the blade signs would follow the tenants. They will work with the professionals to come up with a material that would be resistant to ice and they do not feel that it would be an issue. The ordinance permits both signs. They meet the setback standards for the building and meet the projection standards for the signs that are proposed. Their sign would still be visible from Main Street depending on where you are. The line of site for the pharmacy sign is further out than their building.

Ms. Bartolo state that the tenant blade signs on the north side of the building are 5 ft. higher which is roughly 13 feet off the ground and wouldn't impede on the view of the pharmacy sign.

Ms. John-Basta stated that they are requesting a variance for the multiple signs.

Mr. Parikh asked - would a third business impede on the number of parking spaces.

Mr. Freud stated that parking goes by the square footage of the space for standard retail. If another tenant came in with a different parking standard such as a Dunkin Donuts, they would have to come back before the Board.

Ms. Caldwell stated that Mr. Freud is correct.

The meeting was now closed to the public.

Attorney Zakin summarized the application. This is the second hearing, the first being July 14, 2020. The application is for a 4-story mixed use with retail and 50 residential units and a second 2 story building with 16 residential townhouses. They are proposing 83 parking spaces total. This is part of the Redevelopment Plan with the applicant being the authorized developer. This plan was revised March 23, 2020 and approved by the Planning Board on April 14, 2020. They are compliant but are asking for several variances and waivers. The variances include the 3 sign variances that they just spoke about based on the size, location, height and quantity. There are also 2 waivers for sidewalk and driveway.

Mr. Zakin went over the conditions:

1. Affordable Housing review to show that the final approved housing conforms with the zone and the neighborhood prior to the issuance of a CO on this building.
2. Pictures taken by applicant – pre and post construction pictures of the Pharmacy property (with their consent)
3. Blade sign material to be recommended by the Board Professionals
4. Fires Dept – assurance at the August 10th meeting that the Fire Dept is satisfied with the plans. If not, the applicant will have to come back before the Board.
5. Fire Truck Template Overlay on the Plans.
6. Title 39 compliance
7. Site distance on Main St. and Second St. work with our Police Chief and Board Engineer
8. Striping Main Street entrance and Second Street entrance work with Police Chief and Board Engineer
9. HVAC units on the roof top properly screened and not visible from the street
10. No charge for parking
11. No reserve parking.
12. Sign on Main Street for Public Parking - work with our professionals on this.
13. Snow removal off site
14. Phone number posted for 24-hour access to the management for public complaints
15. 60% of spaces available for public use during general business hours which need to be defined by our professionals

Chief Young stated that the police will not be enforcing the 60% public parking. They will only enforce Title 39.

The meeting was open to the public.

Mr. Cronin was sworn in and asked what the minimum parking was, he didn't think there was enough parking for the tenants. Mr. Loury stated that they have over satisfied the parking by about 12 spaces. Ms. John-Basta stated that 83 are required and they are in compliance with that.

Mr. Dharmesh Parikh was sworn in. He asked Mr. Zakin to read his testimony that he emailed to him earlier today. Mr. Zakin read the testimony.

To Whom It May Concern

I, Dharmesh P Parikh, Managing Member of LIPRA, LLC and RIDHA, LLC DBA Wharton Pharmacy located at 22 N. Main St., Wharton N.J. 07885

1. By approving the application for site plan for CHA partner as they requested 4 story building will block my south side of the building that will affect our view, air and light and it will devalue my property. It will be an irreversible negative factor while renting or selling my property.
2. By approving requested various signs on the building and 8 feet tall fence and building not far from the side walk will block Wharton Pharmacy sign when prospective customers coming from the south side of the town and St. Clair Hospital Dover will not notice the pharmacy sign, that will affect my pharmacy business

All of the above statements are true to the best of my knowledge

Signed Dharmesh P. Parikh 8-4-20

Mr. Zakin after reading the testimony asked Mr. Parikh if what he read was his testimony and he replied yes. Mr. Zakin stated that the Board will consider his testimony when making their decision.

Marc Harris stated that we have to make sure we support our local businesses. Mr. Parikh's building is set back but you should be able to see his building. The banner signs do take away from the flash of his building. If we open up the opportunity for these banner signs other businesses might ask for something similar and then consider what that would look like.

Mr. Bosworth stated that all the new tenants moving in within crawling distance from the pharmacy would definitely help his business. Mr. Loury and Mr. Steele both agreed. Mr. Bosworth stated that you would literally have to be walking right next to the Main Street building for the banners to obstruct your view of the pharmacy. If you are driving down the street it will not obstruct your view of anything except their existing building. Mr. Bosworth stated that he would be able to touch the 8 ft. signs, and stated that there are other things along Main Street as well, that are reachable. Mr. Loury agreed.

Mr. Loury stated that even though the pharmacy building is set back their sign is right on the sidewalk, close to the road.

The meeting was now closed to the public.

Mr. Bosworth's only concern is that this is a behemoth of a building that is close to the road. The pictures they showed and the artist rendering don't make it seem as bad as it's going to be. Mr. Loury and Mr. Bosworth both stated that it looked like a 4-lane highway in front of the building. Mr. Bosworth stated that is not how Main Street actually appears, Main Street is actually very narrow, he has to bring his F-250 truck mirrors in when travelling on Main Street. Now they are adding a building that will block the sun. He understands they want to grow the town. He likes the idea of improving the aesthetics and likes the idea of apartments downtown but stated that this is a very big structure in a not so big town.

Mr. Steele stated that the Council has redeveloped this area for a reason, to revitalize the downtown and bring in new businesses. He is in favor of projects like this that revitalize the downtown as well as Second Street. He agrees with Mr. Bosworth's comments, it is bigger than he would have liked. He understands the concerns of the Pharmacy but feels the benefits for the Pharmacy of 66 residential units next door to them outweighs the detriment. Mr. Steele stated that the mixed use is great and he also likes the tenant/public parking.

Mr. Fleischman thought that Mr. Steele summed up many of the Board member's sentiments.

Mr. Loury also agrees with Mr. Steele and one of the elements he likes is the mixed-use component. He believes that it will revitalize the downtown with a nice restaurant and shops. He too believes this is bigger than any of them wanted but it complies with the redevelopment plan. He stated that the applicant worked to alleviate some of the concerns of the Board for example, adding the sidewalk and reducing the number of signs. He believes that the plan is tasteful and going to be a really nice project and one that will be great for the downtown. However, he did believe the change from 2 to 3 tenants was not transparent.

A Motion was made by Roger Steele and Seconded by Christopher Fleischmann to approve the application with all the variances, waivers and conditions. YEA – 8 NAY – 0

Attorney Zakin stated that there will be the Regularly Scheduled meeting on August 11, 2020 when they will read the Resolution and also the discussion of new Redevelopment Plan.

Mr. Steele mentioned another condition of the timeline for this project. Mr. Zakin stated that that is a standard condition.

Mr. Loury stated that at the next meeting Ms. Caldwell will be walking the Board through the process of the Redevelopment Plan and Master Plan contingencies and then discussing the new Redevelopment Plan for 170 N. Main St. that was referred to the Board by the Mayor and Council. Mr. Zakin stated that this will be the Planning Boards opportunity to make their thoughts and opinions know to the Mayor and Council.

Mr. Parikh asked about the outcome of his building being blocked and how it would devalue his property. He did not hear anything about it.

Mr. Loury disagreed. He stated that some of the Board members brought it up in the discussion at the end of the meeting, and the applicant also had testimony on that. The testimony was that his signage would not be blocked and the benefit of 66 new residential units next door within a 3 second walk to his building would outweigh any detriment to his business. They gave Mr. Parikh ample time for questions and testimony. As far as devaluating the business, none of the Board members are real estate experts and cannot comment on whether it will or won't. They felt for the Pharmacy business having 66 units next door would be a benefit.

Mr. Zakin stated that Mr. Parikh's comments and questions were made. Mr. Zakin had stated earlier that the Board would consider them and they even discussed them. There were at least 5 members of the Board that mentioned the Pharmacy and considered things both positive and negative. The project is supposed to increase the value and marketability of the Main Street area which should help the value of their business.

Mr. Steele stated that the revitalizing the downtown can only help every business that is there and hopefully attract more businesses.

Mr. Loury stated that there will be an ample amount of space between the Pharmacy building and the new building.

Mr. Bosworth agreed with Mr. Steele that the best thing we can do for the business's downtown is to increase the businesses. Mr. Loury agreed.

Ms. Parikh asked what type of businesses would come to Wharton. There are so many vacant storefronts such as the one next door to her.

Mr. Steele stated that the applicant probably has no idea yet. The redevelopment is a step in the right direction of attracting businesses to the downtown.

Ms. Caldwell state that the area next to them was not part of this redevelopment plan. It could potentially be developed in the future but because this is non condemnation, the owners have to participate.

Mr. Parikh asked if the parking during the day was going to be shared with the residents of the building too? Who would maintain the parking lot and is the liability shared by the Borough?

Mr. Loury stated that 60% of the parking has to be available during the day for residents and local business. The parking lot has nothing to do with the Borough. Ms. Caldwell added that it would be for all businesses downtown and the developer would maintain the parking lot.

Mr. Cronin stated that he was pretty upset that they had this meeting tonight since there was a State of Emergency. A hurricane passed through and a resident lost their house today. They were running calls all day and they still had this meeting. He was trying to get his stuff together and it was unfair to him. He feels they should worry about the citizens that they have in town rather than have a meeting in the middle of this storm. He stated that when they have the meeting on the 10th he feels like the applicant is going to tell them that everything is up to code and nothing is going to change. One of the biggest issues is the power lines in front of the building. Their understanding was the utilities were going to be underground and tonight they find out that the existing utilities are not changing. That will affect their aerial operations.

Mr. Loury stated that his comments are duly noted. He stated that they had actually discussed cancelling and being that it was a special meeting they polled everyone to see who had power and they made the call to continue with the meeting. Mr. Loury stated that the existing Main Street utilities are not underground. He is not sure where Mr. Cronin got his information.

A Motion was made by Marc Harris and Seconded by Patrick O'Brien to adjourn.

YEA – 8 NAY – 0

Meeting adjourned at 9:20 p.m.

Patricia M. Craven – Secretary

Ken Loury - Chairman