

WHARTON PLANNING BOARD
REGULARLY SCHEDULED MEETING
August 10, 2021

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, 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 were Mayor William Chegwiddden, Councilwoman Nicole Wickenheisser, Ms. Charlotte Kelly and Mr. Peter Rathjens.

The Pledge of Allegiance was next.

The reading of the bills was next. A Motion was made by Brian Bosworth and Seconded by Patrick O'Brien to approve the bills as read. YEA – 7 NAY – 0

The Minutes of the July 13, 2021 Special Planning Board Meeting was next. Mr. Zakin had sent some non-material changes to the Secretary prior to the meeting. A Motion was made by Roger Steele and Seconded by Brian Bosworth to approve the Minutes with the changes. YEA – 7 NAY – 0

After some minor changes to the Resolution for Frank Smith, a Motion was made by Brian Bosworth and Seconded by Patrick O'Brien to approve the Resolution with the changes.
YEA – 7 NAY – 0

The Continuation of the Application for Wharton Woods was next. Attorney John Wyciskala stated that they will work with Engineer Borinski to provide buffering for Mr. Bezney that was proposed with respect to the original application.

John McDonough, was previously qualified as a Professional Planner and was still under oath. He had previously testified 2 months ago and tonight he gave a summary of the application.

A-20, 8-10-21, Aerial Drone Photo of the subject property was marked into evidence. The exhibit indicates the present condition of the site. The footprint is not changing. The developer is ready to complete this project. Mr. McDonough focused on the negative criteria because they are here for a density variance. Can the site accommodate the density and can the site work efficiently? Mr. McDonough is also a Landscape architect and has reviewed the plans and finds it to be a very good plan maintaining sensitivity to the neighbors. They are not expanding the site; they are infilling the space that you see as previously disturbed. They are looking at a single tax lot, Block 1603, Lot 14. Even though it has 2 wings it is interconnected. The 9.3 acres was cleared in 2014. They are proposing a 2-phase townhouse development with 90 – 3 bedrooms units on their own lots with a 1 car garage. There are 11 buildings. The testimony from the

architect, the owner and the developer is that this is a well-tested and thought-out model. These units are marketable and viable and will sell and provide an opportunity for affordable housing. The roads will mimic the prior approval. They are including 49 common parking spaces on site with heavy perimeter plantings. The 18 affordable units will be off site at 67 S. Main St., and goes towards the 2016 Fair Share Housing Element which is an occurring theme and focus of this particular site to provide for affordable housing. They are in the AH-2 district, specifically aimed at this site and townhouse development and will help the town meet its fair share housing obligation. The primary relief here is the D-5 density variance and equates to the 9.7 dwellings units per acre vs. the 8 units per acre. They are proposing smaller units than previously approved. The 9.7 units is still within the presumptive density that they see in the COAH round two rules which is 6 – 10 units per acre. They will need C relief because of all the individual lots. The other relief is the same as what was previously approved. While the density has changed, the overall form of the development remains substantially in conformance with what was previously approved. For their justification for the D-5 variance Mr. McDonough sited the Grubbs Case - can this site accommodate or has the capacity to accommodate 90 units. From the extensive testimony, the applicant has answered that questions that it can accommodate 90 units.

Mr. McDonough stated that as far as the positive criteria they look to the Land Use Law:

Purpose A – Promotes the general welfare – they are proposing new housing stock

Purpose M – Planning goal for the efficient use of land – there is a scarcity of land in New Jersey. They are putting stagnant land back to functional use and finishing incomplete project construction.

Purpose I – Aesthetics to promote a desirable, visual environment – current site looks unfinished which has a negative public perception. They have an opportunity to put in a well-tested market prototype, something that looks appealing with attractive buildings and landscaping.

Chairman Loury, referencing Purpose I and stated that the reason it is not appealing is because of what the developer did to the site. He stated that, that it is not the natural state of that area. He doesn't feel they can take that into account because it is the developer that did that to the site.

Mr. McDonough stated duly noted and that he will strike that from his testimony and stated that the Board can rest on the fact that these will be attractive buildings and won't use the existing conditions as a bench mark. He stated that it will beautify and add value to the area.

Purpose G – Provide for a variety of uses – the multi family, single family 3 bedroom provides a need for all New Jersey citizens.

Mr. McDonough stated that the site is well suited for this type of density because it is in the same basic configuration as the previous approved site.

Mr. McDonough spoke about the negative criteria as it relates to the density. He stated that the traffic engineer testified that the site will function safely and efficiently, has adequate parking capacity and will not erode the levels of service on the surrounding roadways based on his traffic study. Mr. McDonough stated that visually the development is substantially the same as what was previously approved and functionally all the indicators of demand are met. There was testimony from Mr. Hanson as far as adequate sewer and water being available. The conclusion

is that the density can be met without substantial detriment to the public or the zoning plan. Mr. McDonough stated that in 2014 it was found that the environmental impact would be minimal and the same applies now.

Mr. McDonough spoke about the negative criteria as it relates to the C variances. In terms of the positive criteria, he looked at the benefits of the application outweighing the detriments. He stated that all of the D variances benefits would carry down to the C variances relief as well.

He spoke about the **C variances**:

Building Height – 37. ft vs 35 ft. – a diminimus overage- buildings will be tasteful, not overpowering or unsightly – Attorney Wyciskala stated that this only applies to two of the buildings #6 and #7 and is driven by the topography and the existing walls that cannot be changed. Mr. McDonough stated that none of the planning purposes of height control are being violated, will not cause negative shadowing effects on neighboring properties or an unfair height advantage with neighboring lands. It will not cause stormwater to be redirected onto neighboring lands. It will not block any scenic views.

Stories – 3.5 vs 2.5 – typical for new construction of this housing type

Length – 60 ft. vs 72 ft. – similar relief to what was previously approved.

Separation of buildings – 20 ft vs 37.47 ft– adequate for fire access and similar to prior plan

Affordable Housing – off site not on site – similar relief to prior approval

SITE RELATED RELIEF:

Rite of way relief – 45 ft. vs. 50ft

Center line radius – 37 vs 100 ft. – RSIS related

Lot & yard dimensions – invisible lot line – each unit on its own lot

Coverage overall of the entire development – complies – individual lots do not comply

Recreation – 0 vs 15% similar to prior plan – they are close to open space and the park. A physical connection close to the open space and park. Attorney Wyciskala stated that they will be providing access to the trail and public parking. They have also added a tot lot to the site near building #5.

DESIGN RELATED RELIEF:

Wall fence heights – 18.1 vs. 6 ft. similar to prior approval

Wall terracing – none provided – same as prior approval

Buffer width – less than 25 ft. – similar to prior approval- will work with Board Professionals for the right type of plantings.

Lighting illuminates' levels - 2.5-foot candles vs 1.0 – Mr. Hansen had testified that that is reasonable and meets acceptable design standards. outside shields, no sky glow and glare on neighbors. Mr. Harris thought this could be mitigated by making sure the light was passed downward onto the spaces and not outward onto neighboring properties. Mr. McDonough agreed and also to mitigate any sky glow.

Slope disturbance – less than originally approved.

Mr. Bosworth asked about variety of housing that Mr. McDonough mentioned. How many 2 bedrooms units do they have. Mr. McDonough stated that they are all 3-bedroom units. Variety meaning townhomes, rental, apartments and single-family homes.

Chairman Loury asked about the slope disturbance being less than what was originally approved. Mr. McDonough stated that his notes say that it was less than what was previously approved.

Engineer Borinski stated that he does not remember that, the plans they submitted showed the area that was disturbed. They were going to revise the plans but have not done that yet. He does not think it will be more than what has already been disturbed. Mr. McDonough stated that that was accurate. The general footprint of the development is going to stay within the confines of what you see on that plan.

Chairman Loury asked Planner Caldwell about the Grubbs Case and if the site could handle this density of 90 units. Ms. Caldwell stated that Grubbs is part of the test and also does it serve the purposes of the Municipal Land Use Law? You still have the positive and the negative criteria. With respect to its being accommodated on the site you have several variances related to accommodating the density on the site, having off site recreation, the lengths of the buildings, the landscape buffers and the building separations. It is arguable to whether its accommodating for these issues on the site.

Chairman Loury also stated that our Master Plan calls for 15% of the site for recreation and they have almost 10 acres and really no recreation. The total lot really amount to zero or 1%.

Mr. McDonough stated that from a recreation stand point they are in close proximity to the park. Some space is being provided on site and the applicant has found a balance of on-site vs nearby. He thinks it meets the Master Plan intent to provide for recreation amenities for its population.

Mr. Caldwell will leave it to the Board but obviously they have not provided what was contemplated by the Master Plan or the Ordinance. Also, they chose the affordable housing to be off site as well as proposed to be group home units vs family units. This is the one project that had family units. She thinks there is some definite variation from what was contemplated by the Housing and Fair Share Plan for this site.

Attorney Zakin stated that the consideration on the D5 variance for density, is it suitable for the zone. The Board would look at the benefits and the negative criteria that were discussed to see if it is suitable for the zone. Ms. Caldwell agreed with Attorney Zakin. She stated that the recreation is an issue, some of the decreased landscaping, decreased buffers, increase impacts. and several of the variances that result from the fact that they have increased density on the site and do not meet what you think is accommodated on the site, then you can find that the variance isn't justifiable.

Attorney Wyciskala asked about the decreased buffers, he thought they were within the same footprint. They still have buffers and have agreed to increase buffers around Mr. Lance's property. He doesn't know that that's a consideration that the Board should make. The testimony from their professionals is relative to the building lengths and that the site works.

Attorney Zakin stated that part of the Master Plan is to try to facilitate patronage of the town center, to populate it and have a community that would patronize that area. That is something to take into consideration, weighing that with all the other issues, is that suitable or not.

Chairman Loury stated that the original plan was for 13 on site affordable housing units. Attorney Wyciskala stated that there is land on Main Street that has a pending application by

CPNJ, the Pillars, which is a nonprofit, for housing for special needs. This project would be tied to that application for affordable housing. Chairman Loury asked how they can approve this application when we haven't seen the other application for the affordable housing. Attorney Wyciskala suggested that there be no COs issued for Phase 2 of the development unless and until those units are actually built on Main St. If they aren't approved then 18 units will be constructed in Phase 2, interspersed within the development. Chairman Loury asked for the number of units in each Phase. Attorney Wyciskala stated that there are 36 units in Phase 1 and the balance of 54 in Phase 2. Chairman Loury stated that 33 percent of those units in Phase 2 will be low income and this is a concern to him. Will they have the same HOA? Attorney Wyciskala stated that the 33% was correct and they would have the same HOA. Chairman Loury would like a condition that the affordable housing will not be separate from the others.

Planner Caldwell's recommendation was to require as part of Phase 2 the 18 units, which would satisfy the requirements for this project. Chairman Loury asked Ms. Caldwell if she had a concern with having a third of the affordable housing units in Phase 2. Planner Caldwell did not, she said that they may have to switch up the units. That would be a question for the applicant if there's an easy unit switch. Attorney Wyciskala stated that if there were going to be any changes they would have to come back before the Board. He stated that they think it is a great project and a great housing type for adults with special needs. There is a demand in Wharton, statewide and nationwide for it.

Secretary Craven stated that the application for the affordable housing project is on the agenda for September.

Mr. Steele asked Mr. McDonough about his statement that this property was previously targeted for redevelopment. Mr. McDonough stated that redevelopment was the wrong word and he should have said that this site has been targeted for this type of development by the town for a long time. Chairman Loury stated that the testimony was that this is the only buildable part of the larger parcel that Mr. Crimi owned. Mr. Crimi stated that it was not. Mr. McDonough stated that his notes from the 2014 hearing said that development was targeted since 1988, 25 years ago. Attorney Wyciskala stated that this was part of a much larger tract and this parcel was specifically zoned well preceding 2014 as an affordable housing and multi family zone.

Chairman Loury opened it up to our professionals at this time.

Planner Caldwell stated that she had previously listed her concerns about variances associated with the density on the site, including the recreation and lengths of buildings. There are requests for variances for decreased landscape buffers and decreased building separation. She has concerns about the off-site affordable housing and the fact that density is being requested on the site without a nexus to affordable housing units on the site. A lot of times density with respect to affordable housing is to allow for the units to accommodate the units on the site. In this case there is a request for an increase in density and moving the units off the site. Chairman Loury stated that he struggles with that as well. She stated that these were her concerns from a planning perspective.

Engineer Borinski thinks that the thought for the trail head was that it would be used by the residents more than the general public and he thinks that the three spaces are appropriate for the nature of that use. Attorney Wyciskala stated that the 3 spaces were in addition to the 49 existing spaces and are fully RSIS compliant. He thinks they actually exceed the RSIS with respect to parking.

Mr. Steele would like to nail down what the conditions and terms would be for the affordable housing as far as if the application gets approved or if it doesn't what will happen. A discussion followed and Attorney Wyciskala asked to speak to his client.

Mr. Bosworth asked if Phase 1 and Phase 2 are actually delineated in two parcels, they look the same. Attorney Wyciskala stated that it is and that the north piece is referred to as Phase 1 with 36 units and the south piece is referred to as Phase 2 with 54 units.

The meeting was now open to the public for questions for Mr. McDonough. (His prior testimony was interrupted before he could begin taking questions from the public)

Bryan Lance, 113 Old Irondale stated that there is a sewer cleanout and water shut off in front of his house that will need to be relocated because that is where the sidewalk will be coming through. Attorney Zakin suggested Mr. Lance bring this up in his testimony.

Michael Bezney, 1 Bartek Lane asked about the COAH units. Do they get two for one because they are units for disabled. Planner Caldwell stated that used to be that way for group homes but now you get two for one for a rental unit up to a certain amount. You get 25 percent for a rental unit, up to 25 percent of your obligation. So, to the extent that those units end up being part of that 25 percent of the rental, then we would get two for one, but she wouldn't bank on that. Attorney Wyciskala stated that they haven't counted on that.

The meeting was now closed to the public.

A recess was taken at the request of Attorney Wyciskala.

Roll call was taken and all were present.

Attorney Wyciskala asked to go over the issue of what happens if this Board doesn't approve the CPNJ project, et cetera. The application for the affordable housing site is going to be before the Board in September. Maybe they can extend that a little bit further. If the Board does not approve that project this applicant is going to have to fall back on the UHAC requirements relative to phasing in what you would have in place for a project where you have inclusionary housing. The way it works in terms of the uniform housing controls is a developer is entitled to build 25 percent of the units and get COs, but by the time they hit that point they have to have 10 percent of the affordable housing obligation built. Those units would be phased into both Phase 1 and Phase 2. If the obligation is to go forward, they would not be proposing to change out any of the market rate units for affordable units, meaning starting to downsize units or do anything different. The intention would be to intersperse them throughout the development. The obligation would be on site and follow the regulatory requirements to phase in. Mr. Steele stated

that this is an issue and he would like to see this in the resolution. Attorney Wyciskala stated that it would be a condition of approval. Planner Caldwell went over the specifics beyond 25 percent. Up to 25 is none. 25 plus 1 is 10 percent of the affordable. 50 percent, you have to have 50 percent, 75 you have to have 75 percent and 90 percent of market they you have to have 100 percent of affordable. This is a state regulation. Mr. Steele asked what happens if the 25 percent kicks in and then an off-site approval is gained; you don't have to satisfy the entire amount on site? Does the 25 percent requirement that's on site have to remain there or would there be an attrition? Attorney Wyciskala stated that what would happen is they build the 25 and then you have 25 plus 1, you would have to have 10 percent. Those 10 percent are sold and would have a 30-year deed restriction, so there is not a backtrack on it, but it's possible. Mr. Steel asked if those regulations govern the UHAC. Attorney Wyciskala stated that they would probably have to come back and speak to the Board just on that issue. Mr. Harris suggested that they comply with the UHAC provisions as they are currently written on the date of passage of the resolution. He would like to have it added as an appendix which would clarify all of this. Attorney Wyciskala did not have an issue with that, he doesn't imagine the UHAC regulations are going to change with respect to affordable housing phases or so forth. Planner Caldwell stated that they can just list the table.

At this time Attorney Wyciskala stated that they were done with their testimony.

Chairman Loury stated that at this time he will open up the floor to testimony on this application by members of the public.

Bryan Lance, 113 Old Irondale Rd, Wharton was sworn in. Mr. Lance read a list of items:

1. Construct a retaining wall in front of his house along the sidewalk.
2. Install a fence on top of the retaining wall.
3. Replace the mailbox
4. Replace the sewer clean out near the mailbox
5. Replace the main water shut off valve which is in line with where the sidewalk would be
This may be the town water department but he is listing it because he doesn't want to be charged for this.
6. Add drop down curbing
7. Plant arborvitae along the sides of property starting at 6 ft. High arborvitae
8. Install fencing on both sides of property on Wharton Woods property lines
9. 18-foot walls on both sides of the property

Mr. Lance asked if there was going to be any change to the slope of the driveway that is located on the south side of his property that would affect his property. Attorney Wyciskala does not expect anything that would unduly interfere with Mr. Lance's property in accessing the egress out. Mr. Lance stated that if there was a need, he would like to have more of a gradual slope. Mr. Harris suggested that it be written that no detrimental impact is made to Mr. Lance's existing driveway. Attorney Wyciskala stated that the plans do not show anything. Engineer Borinski stated that there is not a lot of detail on the plans, it only shows the new curbs and sidewalk. Attorney Zakin thought there should be something in the language about approval by the Board Engineer for any reasonable restoration of any damage due to construction by the applicant. Mr. Lance and Attorney Wyciskala both agreed.

Attorney Wyciskala stated that, as far as the arborvitae along the sides of Mr. Lances property, there were some plantings that are already on the plans. There are some fairly big trees in that area. He thinks it's more of a matter of some spots where a little more infill could happen whether it's arborvitae or evergreen type it would be subject to review by Mr. Borinski.

Mr. Lance presented photo's that were marked into evidence:

P-1 - 8/10/21 – Lance 113 Irondale – front yard – This photo shows the front yard with the mailbox and where the retaining wall would be located on the slope below. It shows the current rock wall, where the retaining wall will go.

P-2- 8/10/21 - Lance 113 Irondale – side yard- south face view of the property- this is the property line along the driveway.

P-3 – 8/10/21 - Lance 113 Irondale – facing north yard view

P-4 – 8/10/21 - Lance 113 Irondale – shows the other driveway where they are asking for the drop-down curb.

Attorney Wyciskala stated for the record that they take no issue with any of Mr. Lance's comments and requests.

Mr. Lance wanted to put his view out there. He respects the landowner to want to build out the property as much as humanly possible or as much as they are entitled to. He is counting on the Board experts to take the time to go over this because he would love to see 70 units on this site. He wants it to get build because the site does look awful right now but he would like to see less units and more recreation to make it a nicer environment for the potential buyers. He feels a recreation center might make it more enticing. He is counting on the Board to mull it over, go over all the information and testimony before making a decision.

Chairman Loury opened it up to the Board and then our experts for questions for Mr. Lance.

Engineer Borinski would like to see all of the improvement of Mr. Lances that have been agreed to put onto a plan. Attorney Wyciskala state that this would be part of the resolution and also be subject to the professional's review and approval.

Mr. Bezney asked if Mr. Lance would like to see less than 67 units with amenities on the property if he could? Mr. Lance said yes.

Mr. Bezney was sworn in. He thanked Patty Craven, Jon Rheinhardt and the Board for their patience with him. He stated that he has a learning disability, his processing speed is in the low average. He commended the applicant for wanting to do something good for people with disabilities but we can't just say that is why we're going to do this project at 90 units. We have to figure out what is best for the whole town. He himself has 2 autistic children and a neighbor who has cerebral palsy and mental disabilities and he has a great appreciation for people with disabilities. Mr. Bezney had a petition signed by 150 people who could not be here tonight. Attorney Wyciskala objected to this petition which is not admissible before the Board. Attorney Zakin stated this would be hearsay and that this meeting has been advertised and that they had an opportunity to be here tonight to testify. Mr. Bezney was fine with that.

Mr. Bezney stated that many years ago this area was in a water preservation area which was shown of the Master Plan. The town never mentioned this years ago and if they had before the prior approval maybe there would have been a different outcome. He also stated that when the project was previously approved, they thought that this entire property was going to be COAH but that wasn't the case.

Mr. Bezney went over what has change since the approval of the 67 units. The size of the property has not changed. The applicant has not come to him or any of the neighbors asking if they would like to sell so that they would have more property to put 90 units on. The market has changed, it is a lot hotter market now. He has a witness that is going to testify about the market. With one tot lot on site the residents have to walk either on the sidewalk or behind Mr. Lances property through the area of test pits and a mine shaft. He would also like the Board to look at the original plan and ask themselves why it was knocked down to 67 units from 70. It was said that the maximum units were 72 and now the planner says the maximum is 74, this is something that he would like the Board to consider. They haven't eliminated any units to make it more aesthetically pleasing.

Mr. Bezney presented the site plan from the original approval as well as the applicants site plan. The plans show that the increase from 36 to 54 units is on the south side. Did the lot get any bigger? No. Now they want all three-bedroom units. On the original site plan the majority of all the units were three bedrooms except the COAH which were two bedrooms. The COAH units were all put in one area. Chairman Loury stated there was conversation about having delineation of the COAH units and wanting to mix them into and amongst all the other units. Mr. Harris stated that he thought they were separate because it was easier to accommodate the handicapped standards. Mr. Bezney stated that the number of COAH units in the previous approval was 14 and asked Planner Caldwell how many COAH units are required for 90 units. Ms. Caldwell stated 18.

Mr. Bezney pointed out that on the south side in the new plans there are 11 blocks of housing units. They are adding more blocks and pointed out on the originally approved plan there were only 7 blocks of housing. Mr. Steele stated that the applicant had testified that the footprint did not change. Mr. Bezney did not have the square footage but Mr. Harris stated that if you have more buildings the square footage should be more. Chairman Loury looked at the 2 sets of plans and agreed with Mr. Bezney that the plans and buildings are different. Attorney Wyciskala stated that they never said that it was a different building layout. What they have all said is that they have kept this project within the footprint of the site itself. He also stated that they maintained impervious coverage, in fact there is a decrease in impervious coverage from what was originally proposed. They recognize and understand that they have 54 units on the south side and the number on the north side that is being proposed but the general layout remains the same. The driveway locations and the entire loop of the north side remains the same but yes, it certainly has been modified.

Chairman Loury stated that they gave testimony last week that they had to do 90 units. That they made all the units smaller because you used the same footprint. They even testified that the Main Street commission instructed you to use the same footprint. Chairman Loury said shame on us for not comparing the two plans. He stated that there is testimony that they used the same

footprint. Attorney Wyciskala stated that it was the footprint of the site overall. Chairman Loury stated that that is not what he got from the testimony. The defense they used for the 90 units, was that they used the same footprint. Attorney Wyciskala stated that that was correct in not disturbing any additional areas and sticking within the scope of the site and the road system remaining the same. Mr. Crimi stated that the road system was the same. Mr. Bezney presented the two plans and showed the difference in the road system. Mr. Harris agreed. Attorney Wyciskala stated that they had testified with exhibits and discussed the differences between what was approved in 2014 and what was being proposed. Attorney Wyciskala apologized if the semantics are wrong but their positions is and has always been that they have designed this to stay within the limits of disturbance, the basic footprint of the overall site with the same basic roadway configurations. He doesn't know that it has changed at all on the north side but Mr. Hansen certainly went through the road circulation, the parking and all the details as they laid out on the southern portion as well. He also confirmed that they were able to do this and decrease the impervious coverage. They understand they are putting in 54 units on the south side which was testified to at both hearings and the plans were presented. Chairman Loury stated that there was also verbal testimony that they were using the same footprint and again shame on him for not comparing the two plans. Attorney Wyciskala stated they are talking about the site footprint and keeping it within this same scope. Chairman Loury asked the Board professionals for their thoughts.

Engineer Borinski stated that they have portrayed or presented this as being substantially the same footprint, and as a site design he would agree with that. "Footprint" meaning the overall limited disturbance of the work. Generally, the roadwork is roughly the same. Building locations are in the same general areas, especially on the south side. Yes, they are more separate buildings, but most of those were, on the previously approved plan, one long building with seven separate units. Now it's two separate buildings with five units each. That's roughly the same overall length. From a site engineering point it is the substantially the same footprint. "Footprint" meaning the layout, overall limit of disturbance. Not meaning the footprint of the actual building dimensions.

Attorney Zakin stated that the key element to review in terms of approval for the d (5) variance is the density, it is going to increase to 90 units and is that appropriate for the zone as apposed to the context of the footprint and the number of buildings.

Planner Caldwell feels like the word "footprint" has been thrown around a little too much. She agrees that it seemed to be a lot of discussion that the footprint we were talking about was building footprint. Particularly with respect to the number of units, because what we kept hearing was that that number of buildings fit into the footprint. She definitely was not thinking of overall site, she was thinking more of each building. They took the number of units, made them smaller and put them into the exact same footprint. They are similar, but you do have more buildings, broken apart. She feels like that testimony was misleading based on that and that's where the increased density comes from. From a density standpoint, maybe there was a missed opportunity because there are a lot of variances required with respect to things like lengths of buildings, space between the buildings and the recreation area that was granted before, they had the opportunity with smaller units to change that and they did not address it. Those are the things that she sees from a planning perspective with respect to the layout. Chairman Loury agreed.

Mr. Bezney asked the question, why do they want more units. Is it about how many units they can jam onto a property, that is not our problem? Our problem is what is good for the town.

Chairman Loury stated that the testimony from the K. Hovnanian market expert when asked other than profit what is the need, they said that the scale needed after market comparisons of 5 different towns.

Mr. Bezney stated that there is no hardship for the applicant, the market is not down. Building materials are up but are coming down a bit. You would think building amenities and less units would be beneficial. They are going roughly 20 to 25 percent up and above the zoning. You are looking at 40 percent increase on the south side alone and roughly 15 percent on the north side from the 72 that the property was originally zoned for. Chairman Loury stated that the original approval was for 67 not 72. Mr. Bezney asked them to look into why it was originally knocked down to 67.

Mr. Bezney stated that they are proposing 1 tot lot for 90 units. He owns an extra lot next to his front yard and he can just see himself having to tell the kids to stay off his property. He also spoke about the increase from 67 to 90 units and how that will affect our school system. Just because he reduced the size of the units doesn't mean there will be less people or less children. They can still have more children.

Mr. Bezney spoke about the building height of 34 or 34 ½. Attorney Wyciskala stated that they need variances for 2 of the buildings whose height is 38.6 feet because of the topographical conditions. Mr. Bezney spoke about the back side of the 2 buildings # 8 and # 11 that face 4 Bartek which are 15 ft away from his neighbor. It is approximately, from the foundation, 47 feet high with a deck that will be approximately 34 feet high overlooking his neighbor's yard and swimming pool. Would the Board members like that overlooking their yards with nothing to block it? There is also the DiLorenzo's property on the north side, that will be affect by these high units.

Mr. Harris asked the applicant if they have the deck and buildings that are adjacent to the existing residential properties and the height vs the horizontal distance to see how it would potentially impact their privacy. How do we design around that and is there a solution? If not, what is the ultimate impact of causing a privacy issue for them. Attorney Wyciskala will take a look at it.

Mr. Bezney asked about the drainage from the decks which may have an impact on neighboring properties. Mr. Harris also asked about patios. Chairman Loury asked if the runoff is self-contained on the parcel. Attorney Wyciskala said no, there is an entire stormwater management system to address grades and roads. Some discussion followed. Engineer Borinski believes the stormwater management report anticipated a deck or patio for each unit. He is pretty sure that was included in the impervious calculations but will check on that. A raised deck, theoretically, can be considered impervious coverage.

Attorney Wyciskala brought up Sheet 34 of 24 which shows the landscaping plan for the south Phase 2 and shows buildings 8 and 11. He stated that there is actually a pretty vibrant row of a mix of deciduous evergreen trees up to four levels of plantings that are between both of those buildings. It also noted that some additional berming may be provided to that location.

Mr. Bezney spoke about the traffic report. He said that the traffic expert stated there was no parking on both Irondale and Bartek Lanes which was incorrect and acknowledged at the last meeting. Mr. Bezney had serious doubts about the traffic engineer's information. The report did not include traffic from Smith farm which is an industrial, residential site that has landscaping and logging vehicles traveling on Old Irondale, Irondale and Bartek Lane. 98 % of the traffic in this area is directed down through Mill St. The first stop going down Mill St. is Robert St. where there is enough footage for cars to back up. His concern is in the winter when the road is icy. The next stop is on Main St. and there is no a lot of footage in the little stretch between Robert St. and Main St. for vehicles to back up which he feels is a problem. Most people will be turning left onto Main St. to access Route 80 and 15 and this intersection got a D rating from the expert which is another problem. It is very hard to see when you are pulling out onto Main Street because of cars parked on Main St. Travelling through town is also a problem with parking on both sides of Main Street and Main Street being very narrow. Eliminating parking on one side might help that but that would be something the business owners would not like. The Canal House development was not taken into consideration in the traffic report.

Mr. Bezney was also concerned if they ever widen Old Irondale or Bartek Lane that most of the homeowners would lose their front yards. Mr. Bezney stated for the record that he would not give up his corner property which comes right to the edge of the road.

Mr. Bezney showed the Board his property location on the site plan. He stated that the traffic coming out of the south side driveway would have their headlights shining directly into his neighbor's house and also if he, down the road, builds a house on his corner lot they would shine into that house as well. This is a problem. He spoke to Engineer Borinski about putting a row of arborvitaes along his property. There is also a small tree there that he thought the applicant would move to plant the arborvitaes. He spoke to Mr. Borinski about the south driveway coming straight out onto Old Irondale which would help that situation.

Marked into evidence was P-5, 8/10/21 Tax assessment map page 13 dated 1/9/15. Mr. Bezney spoke to Mr. Borinski about possibly putting in a new road to go over to the water tower and connect with W. Sterling St. to help alleviate all the traffic going down Mill Street. Chairman Loury stated that the Planning Board does not have the authority to do that, that would be up to the Mayor and Council.

Mr. Bezney commended the applicant for wanting to do something for people with disabilities, especially because he has 2 autistic children. He does not like the idea of a group home especially when there are services that can come directly to them, He doesn't want them delineated in a group home, he thinks there is a better way.

Mr. Bezney brought up the height of the previously approve building and the height of the proposed buildings. Attorney Zakin stated that the previously approved buildings were 2 ½

stories and the new proposed buildings are 3 ½ stories. Attorney Wyciskala stated that it went up for 2 buildings. Mr. Bezney stated that they now have more living space on the third floor. He believes the bedrooms are on the 3rd floor. They are not going out but they are going up. They are increasing the size of the units. Chairman Loury stated that the square footage is lower in each unit. Mr. Bezney stated that they are still 3 bedrooms and just because they are smaller, you could still have the same amount of people in each unit. Chairman Loury stated that it is not more space, it is less square footage. Mr. Bezney's point is that the proposed buildings are higher than the approved ones were.

Mr. Bezney brought up the drainage and all the runoff that has come from this site since the clearing of the land. The runoff came across his yard and flooded his neighbors. After that they came up with a solution where they connected the south side to the north side through a 5 ft. right-of-way. Engineer Borinski stated that it was part of the original design. Mr. Bezney requested that they put curbing and a storm drain in front of his property because the runoff comes on his side of the road. Engineer Borinski stated that the stormwater management system for the site does have a storm pipe on the Wharton Woods side of Old Irondale Rd. It is potentially feasible to add an inlet to connect to that but it needs to be examined as part of the overall stormwater management model for the site to see what the effects would be. They would have to review the model to see if it can handle this. This is temporary right now during construction. Right now, the stormwater system is not functioning as it was designed. Because the runoff is not getting directed to the correct inlets it is flowing to areas where it's not supposed to flow. Eventually when the site is developed with curbing and pavement the runoff will be directed into the system. Most of the infrastructure has been installed but the site is not graded properly for the runoff to enter the system. They have temporary basins on site to handle the runoff temporarily. There was an issue a couple years ago when there were some very intense storms which we haven't had again but there is no way to say it won't happen again.

Mr. Crimi stated that the underground systems on the north and south sides are completely shut off and sealed with fabric. They cannot open them up to take one drop of water because they can't contaminate them. They had runoff problems in the beginning and fixed the problem temporarily. 90% of the underground is in on the north side, except one small basin. 50% of the underground is in on the south side. The catch basins are in and sealed. The system is self-penetrating and is self-contained. This has been overdesigned because they were very concerned about the water. They have fixed the issues.

Mr. Bezney's witness Mr. Salvatore Cittadino was sworn in. He is a licensed real estate broker for 60 years. He is a certified appraiser for 54 years and has done mass appraisals of development, whole development appraisals as well as commercial and industrial. He has an active broker's license and a certified appraiser's license in New Jersey. He has testified before boards many times. Attorney Zakin stated that he is qualified.

Chairman Loury stated that we will table this application and carry it to the September 14th or the next regularly scheduled meeting without notice. The Board professionals were not available for the meeting on September 14th so it was decided to have a special meeting on September 2, 2021.

All the Board members and Board Professionals are available for that night. Attorney Wyciskala asked that it be carried to September 14th. If they decide on a special meeting on September 2nd Attorney Wyciskala will re notice.

A Motion was made by Marc Harris and Seconded by Mr. Steele to carry the application to September 14th at 7 pm pending the special meeting that may supersede that. YEA 7 NAY 0 Ms. Craven will reach out to members Kelly and Rathjens to see if they are available on the 2nd of September

A Motion was made by Mr. Steele and Seconded by Mr. Bosworth to adjourn – meeting adjourned at 10:47 pm YEA – 7 NAY – 0

Patricia M. Craven – Secretary

Ken Loury - Chairman