

WHARTON PLANNING BOARD
SPECIAL MEETING
September 2, 2021

The Special 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. Patrick O'Brien, 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 William Chegwiddden and Councilwoman Nicole Wickenheisser.

The Pledge of Allegiance was next.

The reading of the bills was next. A Motion was made by Patrick O'Brien and Seconded by Christopher Fleischman to approve the bills as read. YEA – 7 NAY – 0 ABST – (Kelly & Rathjens)

The Minutes of the August 10, 2021 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 Barb Chiappa and Seconded by Brian Bosworth to approve the Minutes with the changes.

YEA – 7 NAY – 0 ABST – (Kelly & Rathjens)

Next on the agenda was the continuation of the application for Wharton Woods. Chairman Ken Loury stated that Planning Board members Charlotte Kelly and Peter Rathjens read the transcripts of the previous meetings where they were not in attendance and have signed the affidavit stating so.

Attorney Wyciskala addressed the Board and stated that they have submitted and published the notice for this special meeting. Mr. Michael Bezney continued with the public testimony with his witness. Mr. Bezney requested clarity about the closed drainage system. Mr. Crimi stated that it has been closed and will not be open until the roads are in. They don't want silt or other foreign matter to go in there until the proper roads and drainage are put in. Mr. Bezney stated that when he saw the pipe being put into the temporary basin which runs down into the north side, he thought it was open because he did not see any seal on it.

Mr. Salvatore Cittadino, a licensed real estate broker and certified appraiser was sworn in. He was qualified at the last meeting. Mr. Bezney presented to the Board, 5 comparable condos/townhouses in the area which were marked into evidence as P-6, 9-2-21. Mr. Bezney stated that the testimony was that there is no need for anything smaller than the type of units that they were previously going to build in the approved 67 unit plan. Chairman Loury stated that the testimony of the applicant was that the 3000 sq. ft. units were not marketable, that they were

making them smaller. Mr. Bezney stated that they were going up 3 stories and making them narrower.

Attorney Zakin stated for the record that the marketability is not something on its own that can be a consideration for approval of the site plan, bulk "c" and use "d" variances, by the Board. The reason that this expert is able to testify about this is because the applicant did testify about marketability. So, the extent the expert witness wants to rebut his testimony is specific to what the applicant testified about, that is relevant.

Mr. Bezney stated that there was concern from the Board of why they are proposing all three bedrooms units and the testimony was that there is a demand for three bedrooms versus two-bedroom units. His witness is going to testify about what the demand really is out there.

Mr. Cittadino explained each one of the comparables to the Board.

1. 20130 Westview in Overlook Village which has 6 rooms, 2 bedrooms, 1 ½ bath, fireplace and finished basement. Sold 2/24/21 for \$297,000.00. This property has a better location, wider roads, Closer to Route 80 and Route 15 without having to go through the town, more amenities such as a pool, tennis courts, meeting room and play area.
2. 214 E. View in Overlook Village which is 2 bedrooms, 1 ½ bath and unfinished basement. It sold for \$302,000 on April 15, 2021. Mr. Bosworth stated that the square footage on this one is 1762. All are about 1700 to 1800 sq. ft. Mr. Cittadino stated that they are all about the same size.
3. 1696 Top Side in Overlook Village has 6 rooms, 2 bedrooms, 1 ½ bath, half-finished basement and a 1 car garage –

They all have a 1 car garage. On each street they have 7 extra parking spaces for guests. There are also extra spaces by the swimming pool. They all have the same amenities.

4. 961 Treetops in Overlook Village has 6 rooms, 2 bedrooms, 1 ½ bath and finished basement and the same amenities. It sold on August 6, 2021.

Mr. Loury stated that it seems to him like the witness is corroborating what the applicant is saying that the smaller units are more marketable. They are all about 1700 sq. ft. which is what the applicant is saying. They are small. Mr. Steele doesn't think that is the square footage. Mr. Fleischman stated that 4 of them list the square footage. Mr. Bezney stated that the bedroom sizes are 27 x 14, 19 x 18, 17 x 13 which is not a bad size for a 2 bedroom.

Mr. Cittadino agreed, when questioned by Mr. Bezney that these were all older units that sold in under 15 days.

5. Unit located in Randolph is a very massive 9 room, 2 bedroom, 2 ½ bath with family room and 2 car garage unit in a very small townhome community. It is a 2-story unit. This also backs up to a park but has more amenities. This sold in less than 20 days. If this size unit were located in Wharton it would see for about 25% less than in Randolph. Mr. Bosworth stated that they are comparing apples to oranges because this unit is 3 bedrooms and in a 55 and older community. It says 2 bedrooms but shows 3 bedrooms. It also does not have the square footage. It is a large property but he doesn't see that this is comparable to the others.

Mr. Cittadino stated that a 2-story unit will sell quicker than a 3-story unit especially for older people who don't want to climb stairs. He also stated that a 3-bedroom unit does not give you less impact on schools.

Chairman Loury opened the meeting up to the public for questions for Mr. Cittadino.

Mr. Bosworth asked if they found any 3-bedroom comps in Wharton or surrounding towns. Mr. Cittadino stated that they did not find any in Wharton. They found some in other towns but they were not for sale or sold recently. Mr. Bosworth stated that what is selling is smaller two-bedrooms and is it because there is a demand or supply? Mr. Cittadino stated that it is demand, his experience is that it is more desirable to have a 2 bedroom than 3-bedrooms for age 50 and up. Mr. Cittadino stated that the average age in Wharton is 65 to 70 years old. He also stated that 2 bedrooms are considered starter units. Mr. Loury stated that there was testimony that these are marketed to a younger clientele as starter homes. Mr. Steele agreed that they are less likely to have children in a 2-bedroom unit and would be more couples. He stated that the applicant testified about a lot of people want that extra bedroom for an office which means the density of that particular unit isn't greater and sometimes people who aren't older buy those units and don't have children.

Mr. Harris stated the most significant thing that he got from the witness' testimony is that there are amenities in other locations that this one does not offer and would make those other locations more attractive and drive the prices in those areas. He doesn't know how that would impact the pricing and the valuation on these lots. What it does bring into light and then to question that if these are going to be more of a family-type situation, which is a lower age and younger families they might need a lot of 3-bedrooms, then the lack of amenities might not be as appealing because you don't have a place where the kids can go and play. If they were running into an older clientele maybe it is not necessary to have a tot lot or other amenities.

Our professionals and the applicant had no questions for this witness.

Mr. Bezney gave testimony as to his opinion on the variances the applicant is asking for.

Density – they are about 20 to 25% more.

Building Height – they are only including from the floor and not including from the back slope – the back slope of the foundation where it overlooks other properties the way Building 5 does.

Overall Site Plan – 50 ft right of way is required and they are proposing 45 which is a 10 percent reduction.

Site Lighting – they are proposing 1 foot candle average, 2-foot candles maximum in drive aisles and parking areas. It seems they are doubling the lighting which he feels is ridiculous.

Side Yard Setbacks – what they are proposing is a 50% reduction.

Side Yard Setbacks with decks – they are proposing 45% reduction

Side Yard Setback for Building 15 – 30 ft required, 28.9 percent – you're not looking at another 10 or 15 percent.

Building Coverage – 25% permitted – 55 % for several in respect to the individual townhomes.

They are asking for a very high number of percentages as far as setbacks and side yard

Retaining walls – excess of 60 were to be terraced.

Mr. Bezney stated that they have at least 15 specifications that need variances which he feels is a lot of variances. If anyone else came before the Board with this many variances the Board would turn them down.

Chairman Loury asked Mr. Crimi if the walls have been built already and Mr. Crimi stated that they were. Mr. Bezney stated that they are still asking for a variance on the walls and other things that have been done already. They are asking for a large percentage of variances, not just 10 to 15 % but 50% on some.

Mr. Bezney pointed out to the Board the south side entrance that faces directly into his house. He stated that he spoke to Engineer Borinski about bringing the road straight out to avoid the headlights shining on his and his neighbor's property. It would also solve the traffic problem on Old Irondale and Bartek Lanes because they only have 18 feet in that area. That intersection is going to be a nightmare.

Mr. Hansen, when asked by Chairman Loury, stated that both the north and south driveways are exactly the same location they were on the previous approval. Mr. Wyciskala stated that they think it's appropriately designed and had presented significant testimony. They agreed to do landscape planting mitigation.

Attorney Zakin stated that a condition was landscaping that Mr. Wyciskala just stated as well as certain buffer areas subject to the approval of our Engineer and Planner. Also, all reasonable repairs and revisions will be made to adjacent properties currently owned by Bryan Lance and Michael Bezney for reasonable restoration of any material damage or disturbance due to construction by the applicant as agreed to by the Board Engineer and Board Planner.

Mr. Bezney stated that he also brought up to Engineer Borinski about a storm drain on his side of the road as well as the trees and bushes.

Mr. Steele stated that when he looks at the plans, he doesn't see any way that any exiting vehicle lights would shine on Mr. Bezney's house. Mr. Bezney stated that he has a conforming lot in front of his property and this will be affecting his enjoyment of his property. He stated that if they every widen the road they will have to move the fire hydrant. His point is that it would be a better fit if they could change the entrance jug and make it straight. Mr. Loury stated that the applicant has already agreed to add landscaping so there will be no lights on his property.

Mr. Bezney stated that because the road is only 18 ft wide, he would like to see only curbing and storm drain and no sidewalk between the 2 sites. He suggested if residents need to walk from one side of the site to the other to get to the tot lot, they could use the trail behind Mr. Lances property and because there is a mine shaft on the Green Acres property, he suggested the mine shaft be fenced off. Chairman Loury stated that they cannot approve an application and have in the resolution where they have to use access through somebody else's property.

Mr. Bezney also stated that after the flooding issue years ago the applicant placed sand bags in front of his yard which are still there only busted apart and the applicant has never cleaned them up. With this last storm he did get some water on his property but it is 95% better. Mr. Bezney stated that there is a tar burr along his property which helps but they did not extend the tar burr along his neighbor's property on Old Irondale and they do get quite of bit of water. He has had water on his property before the excavation but not as bad as it was after they cleared the land. They did help remediate it temporarily.

Mr. Bezney stated, for the record, that if the town ever decides to widen the road at the corner of his property, he is not selling to the town.

Mr. Bezney stated that there are some wetlands on the applicants property which Engineer Borinski confirmed was on the bottom corner of the site and the applicant was proposing a conservation easement around it. Basically, they won't be disturbing inside that area.

The Board, Board professionals, the applicant and the public had no questions for Mr. Bezney.

Mr. Frank Smith, 128 Old Irondale Rd., Wharton was sworn in. He stated that Mr. Crimi has every right to develop his property. This has been going on for 5 years. It is time to close it out with either 60, 70 or 90 units. He wants it to get done. Chairman Loury asked what number would he prefer and Mr. Smith replied with 74. Chairman Loury explained that the only thing the Board can do tonight is to say yes to the 90 or no to the 90 and if it's a no, the former 67 units are still in effect. Mr. Smith responded with "so let's get it done"

The Board, Board professionals, the applicant and the public had no questions for Mr. Smith.

Sal Cittadino suggested that they have no parking on the Main Street going towards Route 46 between Central Ave. and Mill St. He stated that he had gotten his mirror knocked off by traffic coming through that area.

The Board, Board Professionals, the applicant and the public had no questions for Mr. Cittadino.

Mr. Bezney stated that it may result, depending on the traffic, that eventually they may have to open up the right of way off of Old Irondale Rd. going down to Kice Ave.

The Board, Board Professionals, the applicant and the public had no questions for Mr. Bezney.

The meeting was now closed to the public for public testimony.

Mr. Wyciskala thanked the Board, the Board professionals, the Police and Fire Chiefs as well as the public for their participation. They have tried to work throughout the proceeding to be respectful and work with some of the comments along the way. They are very excited at the prospect of bringing K. Hovnanian, a nationally renowned home builder, to Wharton. Wharton is a wonderful, great liveable community with a smart approach to development and redevelopment, that has been occurring over time. K. Hovnanian is very excited and looking forward to being a member of this community. Considerable time and energy went into this

design and plan and fitting this development within the cleared site. The current zoning does permit a density of 8 units per acre, which equates to 74 units, what is permitted. They are proposing 90 units which is 16 more units than the approved zone allows. They believe that this density works and the site can accommodate the development of the increased density. Their traffic consultant demonstrated that the increase would not have a detrimental impact or a more significant impact on the road system from a public safety and traffic generation prospective.

Mr. Wyciskala stated that if approved they will bring another for sale project to town in contrast to all the rental projects in town that have been approved. This provides a further opportunity for fee ownership in Wharton for young professionals, young couples, first time home owners as well as empty nesters and retirees here in Wharton.

Mr. Wyciskala was encouraged by the testimony of Mr. Cittadino that some of the units in the Overlook development, which is an aging development, have been moving. He thinks it demonstrates a need for additional for sale units. He also stated that the number of affordable off-site housing units would exceed what would otherwise be the 20 percent requirement. If for some reason this off-site housing application was not approved the affordable housing would be phased within this project itself. Another benefit of this project is it is going to lead to the ultimate improvement of this site. They have also included connectivity to Wharton's trail system through Wharton's Green Acres property, which they see as another benefit. They will be providing public access, in easements through the property, directly to the trailhead which not only benefits the residents but also the public. They have significant landscaping and other improvements that will benefit the neighbors located adjacent to the site. They also have agreements with Mr. Lance and Mr. Bezney as far as landscaping, fencing and various other items. They believe they have satisfied the criteria necessary for the granting of the requested d (5) relief, the height variance relief and the number of variances having to do with the subdivision of the lots. They respectfully request that the Board grant approval for this project, subject to all the various conditions that were agreed to, including bonding requirements.

Attorney Zakin summarized the application trying not to repeat what you've heard from Mr. Wyciskala. We do have an application for Aspire at Morris Woods, formerly Wharton Woods, a 90-unit condo development on 9.3 acres. It's located in the AH-2 affordable housing zone and is primarily a d (5) variance, which is for 9.7 dwelling units per acre where 8 dwelling units per acre was approved in the zone.

Attorney Zakin summarize the several pages of draft conditions.

1. There will be a ground depression inspection and subsequent construction approval by the Borough engineer, including geotechnical investigations by a licensed professional.
2. There's a number of issues regarding a homeowner's association document that will be approved by the Board Engineer, Board Planner, Board Attorney and the Borough professionals, the Borough Attorney and Administrator. It will include provisions relating to the maintenance and upkeep of the common areas; snow removal; maintenance of the internal roadways and driveways and assumption of all the associated costs; garbage and recycling; that the homeowner's association will assume all of these costs and responsibilities when they take over from the developer. That includes stormwater

management and water heaters, which will be individual and also utility and sewer access easements.

3. Title 39 for police access for enforcement.
4. Specifying the materials for the retaining wall, fencing of the units, approved materials and aesthetics initially and for repairs and renovations as well.
5. Then on landscaping specifically as was already discussed for Mr. Lance and Mr. Bezney's properties, which will be memorialize by the Block and Lot number in case there's a transfer of ownership, it will run with the land.
6. The applicant will assume the costs of roadways, damage to, required widening during the construction, widening that is grading construction of the project.
7. The applicant will post a performance bond to the Borough in an amount to be determined and acceptable to the Borough Engineer. This is something that the Borough will administer, but we're going to memorialize here. That will be a Borough issue in addition to any issues that occur prior to construction when it comes to any kind of flooding or issues that need to be addressed.
8. Applicant will connect and maintain the access point for the Gateway trail that was mentioned and will provide parking spaces for the public for the trail,
9. They will provide the tot lot.
10. They will provide the radius of all roadways and will be sufficient for the Borough's largest emergency vehicles.
11. As per the Police Chief's suggestion, there will be no parking on any of the internal roadways. That will also be in the HOA. And the Police Chief will approve signage and striping for traffic flow as appropriate.
12. Board Planner and Engineer will approve the outdoor lighting direction and sky glow.
13. Affordable housing is going to be either off-site as discussed or if that's not approved, then it will be on-site. There'll be a phasing according to the Uniform Housing Affordability Controls. If they change, we'll specify what they currently are, and then those will apply. We'll outline the specific percentages of how much needs to be built at each phase of completion of the certain number of units.
14. They'll comply with all laws and pay all fees.
15. We will memorialize and add a detailed policy that the applicants agreed to regarding protection of public and private properties during construction.
16. The bond that Mr. Wyciskala mentioned
17. There are a number of C variances that are subsumed in the D variance regarding minimum lot width; minimum lot area; minimum lot depth; minimum front yard, side yard, rear yard; building coverage; impervious coverage; building height, density and affordable housing set aside (Some of those variances are because they're each individual lots)
18. Fire Dept was asking for some of the trees on the curves to be relocated. The applicant will work with our Board professionals on that.

Planner Caldwell asked if the height variance was a d variance. Mr. Wyciskala stated that in his notice they called it out as a d at 38.67 feet but he thinks it may have come down. Ms. Caldwell stated that they are asking for 3 ½ stories vs. 2 ½ stories which is a c variance. Mr. Wyciskala stated that they are asking for 3 stories. Mr. Hansen stated that they have 37.47 ft.

as the calculated height. Ms. Caldwell stated that that would be a c variance, 38.5 ft. is where it would be a d variance.

Chairman Loury started the Board deliberation. He stated that he thought a lot of the testimony was disingenuous, at best misleading and it all goes back to the footprint and thank you Mr. Bezney for pointing that out. This plan is not built on the same footprint. There is no way that anybody could interpret that it was on the same footprint. He compared the 2 plans, the previously approved plan and the applicant's plan. They are adding 6 buildings, 2 new building on the north side and 4 new buildings on the south side. They are not on the same footprint. When they were called out on it, the applicant wanted to spin it and say that they were talking about the footprint of the whole plan. That was not the spirit of what "footprint" meant to him.

Chairman Loury stated that he went back to the transcripts, which were well done, well written and he found references to "footprint".

May 11th – he found 14 references to "footprint"

Page 7, line 6 – there was testimony that said we are going to build "within the same footprint.

Page 8, number 7 – testimony that said "existing building footprint"

There were 12 other times in the May 11th transcripts where the footprint was mentioned in regards to building on the footprint.

July 13th – 13 references to footprints, of building on a footprint, not the plan footprint.

Page 8, number 16, it says, "We've kept it exactly the footprint and have not changed one curb line." So that is completely a wrong statement. There's curb lines, there's new extensions of roads, there's cutouts, there's a lot of changes to curb lines. And that was the actual testimony that was in the transcript.

Page 57, number 4, "We didn't do anything to the footprint of our houses." Now that's clearly not true because I just told you they're adding six new ones.

In the July 13th transcripts there's 10 other times where footprints were mentioned.

August 10th - Page 8, number 2, it says "I'll say that the footprint isn't changing here." and that was from your planner, Mr. McDonough.

Page 9, number 22, "not expanding the development footprint."

Page 34 "Our surrounding buffers were withing the same footprint"

June 15th – Chairman Loury did not have the transcript of this meeting electronically so he got the print out which was a hundred pages long so he stopped at Page 5.

Page 5 - number 5, it says, "And, most significantly, the fact that we're really laying this project into the same, generally the same building footprint."

Chairman Loury stated that every reference of any testimony that was given was about building footprint, not overall footprint of the project. I think it was very misleading and not factual and they even changed the setbacks. Across Bartek Lane from where Mr. Bezney lives, the house with the in-ground pool that's along the paper road there, they've changed their setbacks on Building Number 8 which is across the street. The setback has been reduced by 15 feet which means it's closer to the property line by 15 feet.

Building Number 11, the setback is changed by 2 feet.

Building Number 15, the setback is change and has been reduced by 6 feet.

Building Number 4, the setback has been reduced by 8 feet.

Building Number 1 and Number 2, they actually added more setback by 2 feet for each of the buildings.

Chairman Loury stated that he is really frustrated about the whole misleading as to the whole footprint and just wanted to get it out there because it really bothered him. Just by the numbers that he just quoted, it's clearly not the same footprint, he doesn't see how they can say it was the same footprint.

Mr. Harris stated that there were calculations made as far as the traffic engineer's concern, but the most overwhelming question was: Where does the traffic go now? That was not fully examined because there was never a mention as to the New Irondale Road that comes down Bartek Lane. There wasn't a full exploration of that, which is important because the roads, there are not wide. He lives on Garden Ave., and that's a pretty wide road, you could probably fit four cars wide on his road. Up there, it's a totally different scenario. He is not talking about inclement weather, even in dry weather like today, it's not a flat road, there's significant elevation change, mostly downhill, and then it goes around a corner. When you add additional traffic, that's significant. The problem, which was never really approached and which was, again, he thinks was just omitted, willfully omitted, was: How many residences are there now that those roads serve? Plus, how many roads or how many residences do we plan to add to that load? That's really the question that he has. Because it's not a question of, it'll be a Level A or B or C or D. We don't live in New York City, we don't expect New York City traffic but what we do expect is if you have 20 homes that they've got, and he doesn't know because they never counted or did that type of diligence. But if there's 20 homes up there now and now, you're adding 90 homes, now you're increasing it by a factor of 4.5 and that's just guessing, but that's the approximate amount of impact that you're going to have. So, if you had one car there, now you're going to have four and-a-half cars there. If you're driving on New Irondale, you see that there's a lot of parking on one side of the road. It's because the road doesn't satisfy enough capacity to be able to pass with, 2 cars side by side, especially if you have parking on one side of the road or both. He thinks that was just omitted and was omitted willfully. He wishes they had just mentioned it and addressed it. That was probably one of my biggest issues. When it comes to traffic in this town, traffic plays into the parking, parking plays into the biggest issue that we have on Main Street. We have blind corners on Main Street as well because of where parking is allowed. It doesn't make for a really satisfying answer on how that's going to be resolved.

Mr. Bosworth stated that we've heard a lot of traffic testimony recently on the apartment construction projects that have come before the Board. He always thinks back to when Avalon was built. There's 430 to 440 units there. He drives by that property 10 times, maybe 20 times a week and has never seen a car waiting to come out of there. At Christmastime rush, you know how backed up it gets there, that area is a zoo and he still never see cars waiting to get out. The part about the testimony that bothers him more than anything is, as Jessica was quick to point out, is when you want to talk about variances, you have to talk about the good to the community, the benefit to the community. To him if he was talking about benefiting the community, he would talk about the variety of the housing that we're offering. But we're not. Everything's a three-bedroom. There's no two-bedrooms. There's no four-bedrooms. So, much like Henry Ford, you can have any color you want as long as it's black.

Mr. Rathjens stated that of all the testimony the chief's letter hasn't been addressed for the streets around the site. Yes, there is great circulation within the site but if you have a car parked on either side of the street, a 16- or 18-foot, a 20-foot-wide street, you're not getting a fire truck through there. If your whole traffic study is based on flow, no one is getting out, so you won't have any flow, especially if cars are parked on the road. He doesn't know if it's up to the Board to say something about the roads around the project but it should be somewhere. Maybe in the resolution that they get approval of the chief of police and the fire department. Another thing is the fire department was asking for a buffer of like 90 feet on either side of the entrance, no parking on both sides of the road. Now, that's going to have an impact on the residents up there that want to put a car on the road.

Mr. Harris thought that maybe one of the solutions would be to widen the road. Mr. Rathjens stated that that would not be the Planning Board. That would be the Police Chief and our Professionals that could bring that to the people that can make that happen. The testimony was that the Chief has to approve the site circulation, but there was nothing about him approving the access to the site regarding parking on Bartek and Old Irondale and the same thing with the Fire Chief. He remembers hearing that and saw testimony that it was all resolved but he didn't see anything about that.

Mr. Steele stated that he appreciates all that testimony, and I agree generally but when we did the original application, it was 67 units. There was much discussion and as he remembers he thought they came in for more, and we reduced it a little bit. We were very concerned about density then. Now it's going from 67 smaller units, two- and three-bedroom units that included the COAH within it, to 90, all three-bedrooms. So, it's not footprint but volume footprint. The height went way up, and that's a big, a big thing for him. The square footage of what we're going from to is much bigger. I don't know the math on it but that density is a big concern for him, going from, 67 to 90 three-bedroom units and all that it entails. It does attract families. Avalon Bay, we had lots of testimony that "No kids are going to move in here. They're two-bedroom units, it's not going to attract people with kids, or maybe it's a starter." That seems to have proved out based on the nonimpact it's had with the schools, based on what he's heard. He doesn't see that here; he sees impact to the schools. If he was a starting family, a nice green area would be attractive to me with a master bedroom, and two others. So that's really what he sees, the bigger footprint overall and in a place that really isn't overly suited to handle the traffic, as we pointed out, and a lot of the other things. As he read through the D variances today and the definitions over this week, they have to demonstrate the positive criteria to the public good and he is struggling with some of those given the density and the number of people that it will bring to that fairly small area with minimal roads access.

Mr. Harris asked if there are any question or concern about the lack of amenities on the property or was that not an issue?

Chairman Loury stated that he has an issue with that. He was vocal about that in the testimony. He has a big issue with that and doesn't know how the rest of the Board feels.

Mr. Steele stated that to him it would be nicer, it makes it more attractive. To him the number of amenities doesn't have anything to do with his own approval or non-approval.

Chairman Loury stated that they worked so hard on the Master Plan. Density is an issue and recreation. We were very clear in the Master Plan, and he doesn't see this application satisfying that.

Mr. O'Brien stated that for him, he doesn't think the testimony for the traffic adequately addressed the new developments in town. He wouldn't say it was disingenuous, He just doesn't think you could accurately calculate what the traffic's going to be because there's a lot of units going up in town. He thought we tried to ask them that, but I don't think they satisfied a response of what it was going to be. Chairman Loury definitely remember that it did come up, that the Board did ask that.

Chairman Loury asked if anyone had more testimony and hearing none, he stated that they can go to a vote. He asked if anyone needed clarity again on what they are voting on. He entertained a motion.

A Motion was made by Mr. Steele and Seconded by Mr. O'Brien to deny the application. Mr. Harris stated for clarification that a vote of yes means that we are denying the application. A vote of no does not mean that we are approving the application, it just doesn't mean that we are denying the application. So, a yes means a denial.

Ms. Kelly – yes

Mr. Steele – yes to deny

Mr. Harris – yes

Mr. O'Brien – yes

Mr. Rathjens – yes

Mr. Bosworth – no

Mr. Fleischman – no (alternate)

Ms. Chiappa – no (alternate)

Chairman Loury – yes- his reasons were that he does not think that the application is in line with the intent and purpose of the zone plan, the zoning ordinance for the reasons of density. Density is very important to us. We made it clear in the Master Plan as well as the upgrade aspect of the plan.

Mr. Fleischman and Ms. Chiappa are alternates so the final vote is 6 to 1 to deny the application. Attorney Wyciskala agreed.

Mr. Crimi addressed the Board. He stated that 15 years ago, when he tried to sell this property to the town and Mayor Shupe said, "You'll never build this property because of the mine shafts," and that's why he put the COAH units on there. Then he came back two other times to try to sell the property to the town after he made the deal with the Green Acres and the town to donate the property in the back and then he was stuck with this property. Then he came in with the 67 units, they worked really hard, never did this before, and then he couldn't sell it, couldn't market it, couldn't do anything with it. He then got K Hovnanian involved, first Ryan Homes and then K Hovnanian. He put millions of dollars into this 9.3 acres to make it safe with all the mines. He then bought the property on Baker Street and Main Street, to do all of this other work with the handicap and CPNJ. He has been guided by the town through this whole thing, whether you want

to hear that or not, he has been. He hasn't done one thing on his own. He finds this to be awful that you've now taken a situation which is going to kill the CPNJ project. This project will stay here the way it is because he can't sell it the way it is, and he has millions of dollars into the project already. All the undergrounds and sewers are in, all the things, and you make accusations that we misrepresented,

Chairman Loury stated that they weren't accusations. I just quoted --- .

Mr. Crimi stated that everything that he said here, he was told to keep all the units and the curb line the same as the 67 units. We did. Of course, we increased it to 90, so we had to have new buildings. What he was told to do wasn't part of the original footprint. He was given direction of what to do, and that's what my professionals have done. So, what you have done now is you caused this whole thing to die. So tomorrow, Pillar goes away. This all goes away, after all he spent, all the reliability. I think this is a terrible blow for Wharton Township and the relationship. That's all he has to say. He is very upset with this. You have now taken this ability to bring new housing into this town. You're all talking about a three-bedroom. A three-bedroom house is, with everybody working at home, the third room is going to be a den. It's not going to be a bedroom. All of you know it's going to be either a family room or a den. That's what they wanted to put in and he couldn't say no, and that's what they did. He has followed the complete direction for the last six years to get where we are tonight, through every one of these meetings. We laid everything out here to the best of our ability. There were no secrets, no misleading. We came here hat in hand, working collaboratively. He didn't pick the house on 57 Main Street. He got a call from the town, "That's the house we want to put the affordable housing units on." he didn't do it. He is a bricklayer and concrete guy. This was given, this was told to me by the town. He followed the directions. This is shameful and he is very upset with this. You all should be upset when you really think about what you've done. You've killed the project. You've stopped the development of CPNJ and all this coming together. He wished them all a good night, peace and health. Chairman Loury thanked him.

A Motion was made by Mr. Fleischman and Seconded by Mr. Harris to adjourn the meeting.

YEA - 9 NAY - 0

Meeting adjourned at 9:21 pm.

Patricia M. Craven – Secretary

Ken Loury - Chairman