

WHARTON PLANNING BOARD
ANNUAL REORGANIZATION MEETING
January 12, 2010

The Annual Reorganization Meeting of the Wharton Planning Board was called to order at 7:00 p.m. with Attorney James McCarthy reading the Open Meeting Statement as required by law.

ROLL CALL was taken and the following members were present: Mr. Ken Loury, Mayor William J. Chegwiddden, Councilman Vince Binkoski, Ms. Charlotte Kelly, Mr. Rob Geary, Ms. Nicole DeChiaro and Mr. Mark Harris. Also present were Attorney James McCarthy, Planner Donna Holmqvist, Engineer Dave Battaglia and Secretary Patricia Craven. Excused were Ms. Sandy Hayes, Mr. Roger Steele and Ms. Nicole Wickenheisser. Absent was Ms. Jan Manisera.

Attorney McCarthy swore in Class IV member Charlotte Kelly and Class III member Councilman Vince Binkoski.

Attorney James McCarthy led those present in the Pledge of Allegiance to the Flag.

A Motion was made by William Chegwiddden and Seconded by Mark Harris to nominate Ken Loury as Planning Board Chairman. YEA - 7 - NAY - 0 -

The Meeting was turned over to the chairman.

A Motion was made by Charlotte Kelly and Seconded by Rob Geary to nominate Roger Steele as Vice Chairman. YEA - 7 - NAY - 0 -

Chairman Loury appointed the following:
Planning Board Attorney -James McCarthy,
Planner - Burgis Assoc.
Engineer - CMX and Assoc.

Chairman Loury read the Professional Service Contract Resolution. A Motion was made by Charlotte Kelly and Seconded by Nicole DeChiaro to approve the Resolution as read.
YEA - 7 - NAY - 0 -

Secretary Patricia Craven was designated as the Planning Board Secretary. A Motion was made by Ken Loury and Seconded by Charlotte Kelly to approve the designation.
YEA - 7 - NAY - 0 -

The Resolution for the Daily Record was read next. A Motion was made by Nicole DeChiaro and Seconded by Charlotte Kelly to approve the Resolution as read.
YEA - 7 - NAY - 0 -

Secretary Patricia Craven asked if the October 12, 2010 Planning Board meeting could be changed to October 19, 2010. She is not available the second Tuesday of October and asked that the meeting for October be on the 3rd Tuesday. The Board and Professionals had no problem with the change in date. The Resolution for the Meeting Date Schedule was read by the

Chairman. A Motion was made by Nicole DeChiaro and Seconded by Mark Harris to approve the Resolution as read.

YEA – 7 NAY – 0

A Motion was made by Mark Harris and Seconded by Rob Geary to adjourn the reorganization meeting.

YEA – 7 NAY – 0

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.

ROLL CALL was taken and the following members were present: Chairman Ken Loury, Mayor William J. Chegwiddden, Councilman Vince Binkoski, Ms. Charlotte Kelly, Mr. Rob Geary, Ms. Nicole DeChiaro and Mr. Mark Harris. Also present were Attorney James McCarthy, Planner Donna Holmqvist, Engineer Dave Battaglia and Secretary Patricia Craven. Excused were Ms. Sandy Hayes, Mr. Roger Steele and Ms. Nicole Wickenheisser. Absent was Ms. Jan Manisera.

The reading of the bills was next. A Motion was made by William Chegwiddden and Seconded by Charlotte Kelly to approve the bills. YEA – 7 NAY – 0

The approval of the Minutes of the December 8, 2009 Planning Board Meeting was next. A Motion was made by Rob Geary and Seconded by William Chegwiddden to approve the minutes.

YEA – 4 - NAY – 0 ABST – 3 (Binkoski, DeChiaro and Geary)

The Resolution for Escrow Refund for Cumberland Farms was read. A Motion was made by William Chegwiddden and Seconded by Nicole DeChiaro to approve the resolution as read.

YEA – 7 - NAY - 0 -

Under New Business was the application for Lewthwaite. Attorney Thomas Brady addressed the Board. Mayor Chegwiddden and Councilman Binkoski stepped down at this time. Mr. Brady stated that they are proposing to turn the old Birmingham Funeral Home on Main Street into a doctor's office for Doctor Ortiz, an obstetrician/gynecologist. They are seeking a D1 use variance for a commercial use in a residential zone. They are also seeking a C variance for the building coverage and maximum impervious coverage. They are seeking several design waivers for parking, lighting and landscaping.

Engineer Thomas Graham of Dykstra Walker was sworn in and qualified as an expert in Engineering. The Borough professionals were also sworn in at this time. Engineer Graham stated that the former Birmingham Funeral home is located on Block 1901, Lot 5. Lot 4 has a residential structure on it and is also part of this application because the 2 lots have a common access driveway to the parking area behind both buildings. They will be removing the steps from the back of the building on Lot 5 and adding a handicap access ramp. They will be removing some pavement and the existing garages. They are trying to create a yard area behind the residential building. They are proposing an enclosed trash waste area and a board on board fence along the perimeter of the building and along the west of Lot 5. They are proposing 1 light fixture on the proposed medical office building to illuminate the 2 parking spaces associated with the medical building. The residential parking spaces will not be illuminated. Mr. Lewthwaite had

met with the Main Street Commission who wanted him to keep the parking for the residential on their own lot and the parking for the medical building on their lot. There will be a cross easement on the 2 properties that will allow each one to access the parking spaces at the rear of the lots. The site is located on S. Main St. in the R75 zone. Both lots have a number of existing, non conformities to our zoning ordinances and are listed on their cover sheet. They are not moving the buildings so the side, front and rear yards will not change. They are taking down the garage which will eliminate those variances. There will also be a net reduction to the impervious coverage by the removal of the pavement and the garage. It will be a greener project when it is complete.

Engineer Graham addressed the CMX report.

Item #1 – Parking – based on the Borough ordinance they are required to have 25 parking space, 1space per 25 sq. ft of floor area. They are proposing 5 spaces on site and they would utilize the existing on street parking on both sides of S. Main St. Their use would be much less intense than the former funeral home. The doctor's hours are during the day with patients times staggered. They looked into the trip generation as pointed out in Ms. Holmqvist memo. If this was a permitted single family residence it would generate 10 vehicle trips per day. For a medical office building they estimate that this would generate 26.7 trips per day or a little bit less than 3 times as much activity as if it was a single family house. They looked at what the former funeral home would have generated and found a church would be a similar type of activity which would generate anywhere from 34.1(on a week day) to 137 trips (on a Sunday) a day. The intensity of a funeral home was greater than what they are proposing.

A-1, 1/12/10 – marked into evidence was a color rendition, dated 1/12/10, of the plan that was included in the packets. Engineer Graham stated that they have off street parking on both sides of S. Main St. He testified that he passed through that area in the middle of the day and Main Street was empty. He felt that there should be plenty of parking when the doctor's office is open.

A-2, 1/12/10 – marked into evidence was the site layout plan dated 1/12/10 shows 2 triangles which have to do with site distance. Engineer Graham explained the site layout plan in detail to the Board. He pointed out that the proposed sign is located behind the line of site, so the sign location is appropriate. He also pointed out that the site distance to the left, when exiting the driveway is blocked by the existing house. Borough Engineer Buczynski stated that the closer you come to the curb as you are pulling out of the driveway; you have no problem with the site distance. Engineer Graham stated that he had no problem with site distance when he exited the property.

Engineer Graham stated that the existing pavement will be striped and wheel stops. They chose not to provide curbing as required by Borough ordinance and instead provide wheel stops so that the surface water would flow better. They are proposing board on board fencing for screening. They will revise the note and arrow on the plan to show the areas of pavement to be removed. They have 1 handicap space, which by ordinance has to be 8 ft. and they will widen the space to 8 ft.

Item #2 - Curbs – the sidewalks and curbing are in excellent shape so they are not proposing any changes. As he stated earlier they are requesting not to provide curbing around the parking area but to use the wheel stops instead.

Item #3 – Drainage – because they are reducing the overall impervious coverage there is no drainage improvements required.

Item #4 – Lighting – they have 1 light in the rear of the building to illuminate the parking spaces in the rear. The detail is on their plan. Their light fixture is a little too intense and they will correct this, meet all requirements and submit updated plans. They will be installing a timer on the light so that it will go off ½ hour after the office closes.

Item #5 & #6 - Natural Features & Landscaping - the trees on the site will remain but they will be removing the pond. They will be adding some green space behind the building.

Item #7 – Site Triangles – the Borough Ordinance on site triangles is more appropriate for new construction. He pointed out and explained to the Board the 2 different site triangles shown on exhibit A-2. They are not proposing any new vegetation in the site triangles and will maintain any existing vegetation. This will also be noted on the plans. Engineer Buczynski stated that noting on the plans that there would be no future planting of excessive height within that area would be adequate. They cannot do anything about the buildings. Again he stated that there is no problem with the site distance at the end of the driveway.

Items #8 & #9 – no need to comment.

Item #10 – Yard Regulations - The existing buildings on Lots 4 & 5 are pre existing.

Item #11 – Buffering – The proposed fence along the rear and the south will serve as a buffer. There is not enough room for any landscaping along the fence. They cannot buffer between the existing buildings because of the access driveway.

Item #12 – Performance Standards – The business will meet the performance standards.

Item #13 – Sign - The architect prepared a sign plan dated 1/11/10 that was marked into evidence as A-3, 1-12-10. It shows 2 views of the building; one is the rear of the building with the proposed ramp and the second view shows the proposed sign which will comply with the ordinance.

Item #14 – they have not received approval from the Police or Fire Dept. but will follow up.

Engineer Graham pointed out the existing wooden fence along the rear and also where the proposed 6 ft. board on board fence will continue along the rear and around the side of the building to the ramp. There will be separate residential and business parking areas. Lot 5 will have 2 parking spaces with one being a handicap parking space. The existing garage will be removed. The dumpster for the business will be enclosed with a 6 ft. board on board fence and will be located on Lot 4 where the single family dwelling is located. The Board was concerned

with the fact that the dumpster was not on Lot 5 with the business. Engineer Graham testified that there really is no other place to put the dumpster because of the ramp on the medical building. Both front and back entrances will be used by the patients. The owner, Bermingham trust, owns both lots. Mr. Lewthwaite is planning on purchasing both lots from Bermingham trust and is under contract to selling Lot 5 to Dr. Ortiz and retain the single family dwelling. Mr. Lewthwaite will provide an easement for the driveway and the dumpster. Both lots will have an easement. The easement is not for shared parking. Zoning and the Main St. Committee both suggested that they maintain 2 separate lots for parking, one for the doctor's office and one for the residential dwelling. Engineer Graham stated that they can put signs on the residential parking spots saying private parking and also put signs along the side of the medical building stating no parking.

The meeting was now opened and then closed to the public.

Dr Guillermo Ortiz was sworn in by Attorney McCarthy. He is an OBGYN who is proposing to have his practice at this location. His office is now at 60 Broadway, Denville, N.J and presently at this location he has 3 parking spaces and his patient's park on the street. A large part of his patients are Hispanic. 75 – 80% of his patients come from Dover, Wharton, Parsippany and Hopatcong. Some patients drive but the majority of his patients come from the Dover and Wharton area and arrive by public transportation, bus and taxi. Usually the maximum number of patients in his office is 6, 3 in the exam room and 2-3 in the waiting room. He has 4 staff employees, 2 full time and 2 part time, as well as himself. Office hours are 3 to 3 ½ days a week from 10 am to 5:30 pm. In cases of an emergency he might have to extend the hours to 7:30 pm. Regularly they do not work weekends, occasionally they might work ½ day on a Saturday; again only if he has to cancel office hours during the week. Dr. Ortiz is the only doctor and at this point he has no plans of expanding his practice. He has been a solo practitioner for 12 years; previously he had been with a larger practice but prefers a solo practice. He has 2 part time employees and there are never more than 3 employees and himself at one time. The main floor of the proposed doctors office is going to be used for office hours and the lower floor will be for record storage.

The meeting was opened and then closed to the public.

Planner William Denzler was sworn in and qualified as an expert witness in planning. He stated they are seeking a D1 use variance; a medical office use is not permitted in the R-75 single family zone. They are proposing to convert the structure into office use, they are removing an existing garage with an attached shed, removal of excessive impervious coverage and including new off street parking areas. They are also seeking several bulk variances for building coverage and imperious coverage including waivers for parking and landscaping.

A-4, 1/12/10 was marked into evidence. It is a photo exhibit taken by Planner Denzler on 1/11/10 except for the 2007 DEP aerials which show the site and the surrounding area.

- 1 – Shows the 2 existing structures as they are today.
- 2 – View of Main Street to the south – which shows adequate parking on the street.
- 3 – View of Main Street to the north - which shows adequate parking on the street.

Planner Denzler talked about the positive criteria and special reasons. This neighborhood is a mix of residential and business, their site is very close to the B-1 business district and there are other new businesses such as the new Birmingham funeral home in this R-75 residential zone. Their application provides a redevelopment of a commercial site, which contributes to the overall vitality of the Borough by the occupation of a former funeral home. They are also retaining the character of the neighborhood. He finds no substantial detriment to the public good. They are occupying an existing non conforming structure within a residential zone. It is a relatively low impact facility, residential in character and is not a boxy office building being propped in the middle of a residential zone. The proposal is consistent with the goal of the land use plan element found in the 2005 re-examination report. This is a unique situation in that it is a pre existing non conforming commercial property within a residential district with other commercial uses in the area which provides a mix use character along Main St.

They need 2 bulk variances for building coverage and impervious coverage which Planner Denzler explained to the Board. There will not be a detriment to the public good; they are improving the esthetics of the 2 lots in keeping with the residential character of the neighborhood while still providing the low intensity office proposed.

Planner Denzler stated that they are seeking a design waiver for parking, 25 parking spaces are required and they are proposing 5 between the 2 lots. There is a limited number of employees as well as a maximum of 6 patients at a time and if each one drove there would be a need for 10 parking spaces. The photos showed adequate parking during the day on Main Street. During frequent visits to the site recently Planner Denzler found adequate on street parking at different times of the day and night. Mass transit options are also available; a N.J. Transit bus stop is located right down the street from the site. Many of the patients use mass transit.

Planner Denzler stated that they are also looking for design waivers for parking space set back, driveway aisle width and curbing. For driveway width they have no room to widen the driveway and are proposing a low intensity use. Because of the parking configuration they do not meet the 5 ft parking space setback to the adjacent lot. They are not proposing curbing around the parking area and driveway. It gives the site a more residential feel with no curbing in these areas. They are representing Lot 4 as a single family dwelling.

Mr. Lewthwaite, after some discussion, stated that he is in agreement to add 4 ft. shrubs between lot 4 and lot 3.

Mr. Denzler stated that the maximum number of people on site at one time would be about 10. 25 spaces are required. With 1 non handicap space on site they would need 9 spaces on the street and there is adequate on street parking. The structure, because of the subdivision of the rooms, would be conducive to the proposed office uses.

The meeting was opened and then closed to the public.

Mr. Kevin Lewthwaite was sworn in at this time. He stated that they are proposing new siding and roof, replacement of the deteriorated front stoop and addition of the handicap ramp. They will stain the new fencing. The dumpster fencing will match the other proposed new fencing.

Chairman Loury again asked if the dumpster can be placed anywhere else on the property because where it is located on the plans it can be seen from the street. Mr. Lewthwaite agreed and they did try to put it elsewhere on the site.

Engineer Buczynski suggested a red maple or another nice shade tree would look nice on Lot 4 in the back corner. Mr. Lewthwaite had no problem with that and will update the landscaping on the revised plans.

Attorney McCarthy explained to the Board what they will be voting on:

Variance:

D-1 Use variance for office use and

Bulk variances:

Maximum impervious coverage

Maximum building coverage

Waivers:

Aisle and drive width

Parking 5 ft. between each lot

Curbing - no curbing proposed – stripping and wheel stops instead

Site triangles

Driveway width

of parking spaces

Conditions:

No Parking Signs on the residential lot 4

No Parking Signs on the side of the office building

Easement for the shared drive and dumpster

Screening between lots 4 and lot 3 consisting of shrubbery

Shade tree at the northwest corner of lot 4

Timing on the lights

Revised plans to the Borough professionals

Chairman Loury stated that he was still struggling with the dumpster being on Lot 4 and suggested the ramp be put in the front of the building and then move the dumpster behind the building. He does not like that fact that they are putting a permanent easement, for perpetuity, on another piece of property for a dumpster that is being used by another building. Mr. Lewthwaite stated that his original plan was to have the ramp in the front of the building but the Main Street Commission discouraged him because they did not want to ruin the character of the neighborhood. After much discussion it was decided that between the applicant, his engineer, architect and the borough engineer they would try and see if they can reduce the size of the ramp so that the dumpster will fit on Lot 5. Mr. Lewthwaite stated that he is going to be the owner of Lot 4 and would like to see the dumpster on Lot 5 and not on his property. If it can't be worked out, they will leave it where it is with a board on board fence enclosure around it that will match the fence behind it and would help it blend in. The Board was in favor of changing the location of the dumpster. Engineer Buczynski stated that they will work it out and if so that it state in the resolution that revised plans, showing this change, will go to the building dept. Secretary Patricia Craven stated that Engineer Buczynski approves and signs the plans before they are submitted to the construction department.

Mr. Lewthwaite also stated that when he travels on South Main St. in this area there is no one parked on the street during the day and he does not feel that parking on the street in this area will be a big issue. He stated that in the Main Street Plan, North Main Street has a negative 220 parking spaces and South Main Street has a surplus of 1 parking space. He found that all of the improvements in the plan were for North Main Street and none for South Main Street which leads him to believe that they feel the biggest issue for parking tends to be on North Main Street rather than South Main Street. He does not feel it is going to negatively affect the quality of living for the neighbors or anyone travelling on Main Street.

Attorney McCarthy stated, when asked, that a variance and waiver runs with the land.

A Motion was made by Rob Geary and Seconded by Nicole DeChiaro to approve the application with the variances, conditions and waiver that were previously listed. YEA – 5 - NAY – 0 –

A Motion was made by Charlotte Kelly and Seconded by Rob Geary to adjourn
YEA – 5 - NAY – 0 –

Meeting adjourned at 8:45 pm.

Patricia M. Craven – Secretary

Ken Loury - Chairman