FEBRUARY 10, 2009 MINUTES
OAKLAND BOARD OF ADJUSTMENT
OAKLAND COUNCIL CHAMBERS – 7:45 P.M.
PUBLIC MEETING

Pursuant to Chapter 231, Public Law 1975 (Open Public Meetings Act) adequate notice of this meeting has been provided by:

- Adoption of an annual schedule of meetings
- Posting a copy of same at Borough Hall
- Forwarding a copy of same to the Record
- Mailing a copy to any person requesting same

FLAG SALUTE, MEETING OPENED AT 8:02 P.M.

ROLL CALL: Present: Messrs. Chadwick, Haas, Smid, Schneeweiss, Jensen and Chairman Lepre.
Absent: Messrs. Wegman and Johnson.

Also in attendance, Mr. Joseph Russo, Esq., (substituting Board Attorney Matthew Cavaliere, Esq.) Mr. Kevin Tichacek (Board Engineer) and Steve Lydon (Board Planner)

APPOINTMENT OF PROFESSIONALS TO THE BOARD:

Chairman Lepre noted for the record that three different committees were formed to review the Requests for Qualification forms (RFQ's) to determine who will be appointed as Board professionals.

Chairman Lepre entertained a motion to appoint Board Attorney.

Motioned by Mr. Smid and seconded by Mr. Schneeweiss, to appoint Mr. Matthew Cavaliere, Esq. as Board Attorney for 2009.

Roll Call Vote: Ayes: Messrs. Chadwick, Haas, Smid, Schneeweiss, Jensen and Chairman Lepre.
Nays: None
Abstain: None
Absent: Messrs. Wegman and Johnson.

Chairman Lepre entertained a motion to appoint Board Engineer.

Motioned by Mr. Haas and seconded by Mr. Jensen, to appoint Boswell Engineering as Board Engineer for 2009.

Roll Call Vote: Ayes: Messrs. Chadwick, Haas, Smid, Schneeweiss, Jensen and Chairman Lepre.
Nays: None
Abstain: None
Absent: Messrs. Wegman and Johnson.

Chairman Lepre entertained a motion to appoint Board Planner.

Motioned by Mr. Chadwick and seconded by Mr. Jensen, to appoint Burgis Associates as Board Planner for 2009.

Roll Call Vote: Ayes: Messrs. Chadwick, Haas, Smid, Schneeweiss, Jensen and Chairman Lepre.
Nays: None
Abstain: None
Absent: Messrs. Wegman and Johnson.

PUBLIC MEETING BEGINS:

Mr. Chadwick sitting in for Mr. Wegman.

1. **Sullivan** – 26 Park Drive, Block 2001, Lot 18. Public hearing for two side yard setbacks.

Chairman Lepre announced that due to insufficient noticing this application would be carried to the March 10, 2009 public hearing.

2. **Fanale -** 127A & 127B McCoy Road, Block 4202, Lot 1, 2 & 3 (f.k.a. 3416/1.02, 1 & 1.01). Public hearing for a preliminary and final major subdivision and use variance.

The Board members conducted a site inspection. Chairman Lepre reported the neighborhood, in a Corporate Office zone, light to moderate in traffic. He reviewed the reports from the various departments. The property is a substantial sized lot situated between Indian Hills High School, a horse farm and the railroad.

Mr. Gregory D. Meese, Esq. with Price, Meese, Shulman & D'Arminio located in Montvale, New Jersey was before the Board to represent the application.

The application is in the name of the property owner, Estate of Salvatore J. Fanale. The vacant property is approximately 40 acres in size consisting of three lots in the Corporate Office zone. The application proposes a major subdivision of 24 residential lots, twenty-two lots would be used for residential homes and two lots would be vacant for detention basins.

Mr. Meese explained that a two-family and a three-family home would be proposed to satisfy the Borough's Affordable Housing obligation. These homes would have the appearance of a residential home consisting of five bedrooms.

The property is zoned Corporate Office allowing professional and business office buildings which would require a use variance. The proposed use of the property would be based on the requirements of a RA-2 Residential zone but would also require variances for minimum lot area, minimum yard frontage, open space and steep slopes.

Chairman Lepre reviewed a letter submitted to the Board by the Coordinator of Facilities and Operations. In the letter, it is explained that future residents should be made aware of all activities that could be considered a disturbance which are typically found living near a high school. There was also a concern about possible runoff due to the project.

Mr. Meese expressed that the Applicant did offer the high school two of the lots to improve their fields, but the high school declined their offer.

Mr. Jeremy Lange from Mazer Consulting located in Red Bank, New Jersey was sworn in. He reviewed his credentials as a Civil Engineer and the Board accepted his qualifications.

Mr. Meese entered exhibits into evidence.

Exhibit A-1, Colored aerial view of McCoy Farms which includes location of high school, horse farm and single-family homes.

Exhibit A-2, A larger rendering of A-1.

Mr. Lange explained that the property would consist of 24 lots with 22 residential homes which includes two multifamily homes. The multifamily homes would look like a single-family home with more parking. Two of the lots would be used for detention basins.

From the roadway, only five homes would be visible. The detention basin would be located near a large wetland area fully landscaped. Behind the proposed detention basin would be a recharge area which would lead to a break in the woods where a pipe would carry the excess flow.

Mr. Lange reviewed all the benefits of proposing a RA-2 zone in a Corporate Office zone. He explained that the project was consistent with the RA-2 zone standards as well as requirement for the Highlands Planning Area.

He explained that the Applicant met with horse farm owner on the adjacent property and has agreed to run the cul de sac of the project to the property line so that if future development of the horse farm were to occur, the owner would have access to a public road.

A discussion ensued concerning the extent of drainage during a big rain event. Mr. Lange responded that because the proposed development is located within the Highland's Planning Area, groundwater recharge requirements would apply to this project. He explained approximately a 359,000cf six foot deep infiltration/recharge basin would be required to meet NJDEP's annual standards. This is designed to reduce solids in storm water runoff by 80 percent which is anticipated annually. During a big rain event, the detention basin is designed to hold water up to 72 hours also relying on a large discharge pipe leading water away from the property. The Board questioned if the pipe would discharge runoff into the wetlands. Mr. Lange responded that it would not.

Mr. Russo questioned if the road to the project would be public and Mr. Lange responded that it would. Chairman Lepre questioned if there is no Homeowner's Association involved, who would be responsible for maintaining the detention basins. Mr. Lange responded that due to new NJDEP regulations and the number of inspections done by the state, the project would require a maintenance crew to be hired to oversee the detention basins.

Mr. Russo questioned if there would be streetlights. Mr. Lange responded that they have already contacted Public Service (PSE&G). The streetlights would be less invasive orange lighting approximately 100 watts.

Exhibit A-3, Overall Steep Slope Grading plan.

Mr. Lange explained there would be minimal disturbance to steep slopes in this project. The pipe used for stormwater management runoff would run through a portion of 35 percent steep slope and one of the driveways on a northerly lot would disturb approximately 15 percent.

A discussion ensued concerning compliance with the current COAH obligation. Mr. Lange responded that they would comply. The Board informed Mr. Lange that multifamily dwellings are not permitted in Oakland. Mr. Lange responded that this proposal is part of the use variance and that if this were a proposed corporate office, COAH units would have to be located elsewhere in the town.

Chairman Lepre informed Mr. Meese that these proposed dwellings would require a use variance for any improvements to be done. Mr. Meese acknowledged this.

The Board questioned if the Applicant proposes to clear-cut the trees on the property. Mr. Lange responded that the design would be to clear-cut the property and replant trees. However, it could

be arranged for trees to remain. The Board informed Mr. Lange that any removal of trees would need to be approved by Shade Tree Committee.

The Board expressed concerns with runoff having an adverse affect on Crystal Lake. Mr. Lange responded that a corporate office building with a larger roof area and parking would create more impervious coverage for runoff than the project being proposed. The proposed project would better handle the recharge of runoff. The Board questioned the size of the pipe being used for overflow runoff. Mr. Lange responded that the pipe 24 inches in diameter would be used to redirect runoff.

Mr. Lange informed the Board that there would be more of a buffer with residential homes versus a corporate office for the homes across the street in Franklin Lakes.

Motioned by Mr. Jensen and seconded by Mr. Schneeweiss, to open the meeting to the public regarding matters concerning the testimony of Mr. Jeremy Lange was voted unanimously by the Board.

No comments.

Motioned by Mr. Schneeweiss and seconded by Mr. Jensen to close the meeting to the public regarding matters concerning the testimony of Mr. Jeremy Lange was voted unanimously by the Board.

Mr. Meese introduced Ms. Elizabeth Dolan with Dolan & Dean Consulting Engineers located in Martinville, New Jersey as the Applicant's Traffic Engineer expert. Ms. Dolan was sworn in. She reviewed her credentials and the Board accepted her qualifications. Mr. Meese entered an exhibit into evidence.

Exhibit A-4, Traffic impact assessment study.

Ms. Dolan explained that a traffic study was conducted January 29, 2009 during the peak school hours, 7 – 9 a.m. and 1 – 6 p.m. She indicated that the proposed project anticipates total number of 30 trips generate in the morning and 32 trips generated in the evening.

In the event the proposed project was a corporate office of approximately 230,000 square feet, the number of anticipated trips generated would be 365 in the morning and 336 in the evening.

Ms. Dolan reviewed existing road and traffic conditions for the proposed site. She explained that the existing roadway would safely and efficiently accommodate new traffic generated.

She informed the Board that traffic would increase by 10 times the amount if this were a corporate office versus the proposed residential project. An estimated 2.25 percent traffic volume per year would be expected annually for this project.

The Board questioned the numbers of days needed to do the traffic study. Ms. Dolan responded that they are only required to observe traffic for one day.

Ms Dolan reviewed proposed roadway design of approximately 28 feet wide as being in compliance with the Residential Site Improvement Standards (RSIS). She indicated that this size would allow parking on one side of the street.

A discussion ensued concerning the parking on one side of the proposed street and interfernce with emergency vehicles.

Motioned by Mr. Smid and seconded by Mr. Jensen, to open the meeting to the public regarding matters concerning the testimony of Ms. Elizabeth Dolan was voted unanimously by the Board.

No comments.

Motioned by Mr. Smid and seconded by Mr. Jensen, to close the meeting to the public regarding matters concerning the testimony of Ms. Elizabeth Dolan was voted unanimously by the Board.

The Board questioned whether a horse trailer would be able to access the road. Ms. Dolan responded that it would and the road would be in much better condition than it currently is.

Chairman Lepre announced to the public that this matter would be carried to the March 10 public hearing with no further notice.

Meeting recessed at 9:18 p.m.
Meeting resumed at 9:26 p.m.

2. **Captive Fasteners, Inc**. – 19 Thornton Road, Block 3301, Lot 4 (f.k.a. Block 3207, Lot 1.01). Continued public hearing for a use variance.

Mr. Harold P. Cook, III, Esq. with Perconti & Cook located in North Haledon, New Jersey. He informed the Board that the last time the Applicant was before the Board, testimony from the engineer had almost concluded. He advised that the engineer start from the beginning since it has been months since the Board heard the engineer's testimony.

Mr. Cook reiterated that the Applicant is proposing to subdivide two lots from his property in the Industrial zone at the end of Page Drive. The Applicant proposes to extend the cul de sac on Page Drive with pavers in front of the two new homes. A use and bulk variances would be required to build two residential homes in an industrial zone.

If approval is granted for the use variance, the Applicant would come back before the Board of Adjustment with a site plan application that would thoroughly address drainage and grading issues.

Mr. Robert Weissman from Weissman Engineering Co., P.C. located in Midland Park, New Jersey was previously sworn in.

Mr. Tichacek expressed to Mr. Weissman that the last revised plans did not show plans for a cul de sac. Mr. Weissman indicated that this is not considered a cul de sac but a turn around. The grass pavers would be used between the two homes connecting the driveways.

Mr. Weissman explained that the two homes situated in the southerly portion of the property would comply with the neighboring RA-3 Residential zone requirements allowing each lot be 15,000 square feet in size which the Applicant is proposing more. The proposed homes would be similar in appearance to the existing homes in this area.

Mr. Weissman reviewed the steep slope analysis and areas of disturbance for both lots. He explained that seepage pits for roof drainage and garages situated underneath the homes would reduce runoff for the two lots. Mr. Tichacek questioned if there would be two seepage pits per lot. Mr. Weissman responded that there would be.

A discussion ensued between Mr. Weissman and Mr. Tichacek concerning the number of variances. Mr. Tichacek pointed out two additional variances for lot frontage on both lots.

Chairman Lepre recapped the steep slope disturbance. He verified with Mr. Weissman that homes no bigger than 3,500 square feet would be built. Mr. Weissman responded that this would be correct.

A discussion ensued concerning Mr. Lydon and Mr. Weissman regarding the number of trees to be removed and how that would affect the rate of storm water runoff. The Board informed Mr. Weissman that there would be no tree removal without Shade Tree Committee approval. Mr. Weissman responded that tree removal would be part of the site plan application.

Chairman Lepre stated for the record that they would not open the meeting to the public regarding Mr. Wiessman's testimony because there was no one in the audience.

Mr. Michael F. Kauker from Kauker and Kauker located in Wyckoff, New Jersey was sworn in. Mr. Kauker reviewed his credential and the Board accepted his credentials as a licensed Planner.

Mr. Kauker explained that this is a general use for this property influenced by the residential homes surrounding it. It is a part of the "McBride" Industrial Park. He entered exhibits into evidence.

Exhibit A-1, Document dated July 12, 2007.
Exhibit A-2, Steep Slope Analysis dated February 10, 2009. Prepared by Weissman Engineering Co.

Mr. Kauker reviewed the topography of the property. He indicated that from the homes on Page Drive the topography raises up approximately 44 feet buffering the residents from the industrial building.

Mr. Kauker pointed out that in Burgis Associates report it stated by reducing the viability for corporate and industrial properties to grow, it impacts commercial ratable in the town. He added that this property is not conducive or suited to extend commercially.

Exhibit A-3, Subdivision and grading plans revised March 27, 2008. Prepared by Weissman Engineering Co.

Mr. Kauker explained that a minimum of two acres is required for the Industrial zone. Captive Fasterners possess a total of 3.95 acres which will not diminish their requirements for further growth. A 144-foot transitional area of slope as well as a 94-foot buffer would provide the residential homes adequate separation. The variances associated with steep slope does not disturb more than the 15 percent category.

A discussion ensued concerning the validity of the steep slope variance. Mr. Kauker expressed that this would be considered hardship criteria since the property would not be suitable to expand an industrial building.

Mr. Kauker continued that a variance for a front yard setback would be required, RA-3 Residential requires 40 feet and the Industrial zone requires 50 feet. In front of the homes grass pavers would be placed for a turn around area providing safe ingress and egress for vehicles. However, he added that it is not the optimum plan for the access of emergency vehicles.

Exhibit A-4, Hand drawn rendering by Mr. Kauker of grade for proposed property.

Mr. Steve Lydon requested to be sworn in. Mr. Lydon testified that in Kaukers Planning report it indicates that there is a cul de sac at the end of Page Drive. Subdivision plans submitted had nothing referencing a cul de sac, turnaround, bulb or hammerhead used for "K" turn.

Mr. Lydon informed the Board that according to the site plan submitted, pages 4 and 5 show disturbances of steep slopes in the 25 – 35 percent range.

Mr. Lydon expressed that in the Kauker's analysis report it ignores the most recent Master Plan Land Use Element and the Reexamination report adopted 2008.

Mr. Lydon commented that in Kauker's report it indicates that the proposed home will support and enhance the existing character of the neighborhood. He expressed that a naturally wooded vacant piece of property is more of an enhancement to the neighborhood than more traffic, lights, noise and runoff on a disturbed hillside. Mr. Lydon expressed that Mr. Kauker's testimony contradicts his analysis.

A discussion ensued concerning the impact that the change of use would incur on ratable income for the Borough. Mr. Kauker responded that the subdivision would help to contribute to Boroughs COAH obligations.

The Board questioned where the benefits and hardship lies. The Borough's steep slope ordinance is written for instances such as this, where buildings cannot expand down a slope. Mr. Cook expressed that the owner of the property, at that time, created the zone and ordinance to construct a commercial building in that area. He expressed that to expand a commercial building into that area would be impossible and less pleasing to the residents.

Mr. Lydon commented that the commercial building has been built and has room to expand and the steep slope ordinance should hold. Mr. Cook expressed that the proposed subdivision and construction of two residential homes would be suited for this property.

Mr. Cook expressed that the Applicant would provide an easement for emergency vehicles so that they could easily turn around. The Board questioned who would be responsible for maintaining the easement. Mr. Cook responded that Captive Fasteners would maintain the easement.

A debate continued on the benefits and detriment. Mr. Cook explained that there is no stormwater management in place for this parcel and with the construction of the two homes it would be a requirement. These residential homes would create more of a buffer from the Industrial building.

Chairman Lepre noted for the record that no one was in the audience to open the meeting to the public regarding testimony of Mr. Kauker.

A discussion ensued concerning the two homes facing one and other. Mr. Cook responded that it could be addressed if the application comes back for site plan approval. The Board commented that it is hard to make a decision on concept drawings showing no detail.

The Board expressed the main concerns are with the construction in the steep slope and the fact that there is no hardship associated or benefit with the construction. Mr. Cook requested that the Board withhold a vote so that he could come back with some more detailed plans for the property.

The Board agreed to allow the Applicant to return to the Board with more detailed drawings. Chairman Lepre announced that this application would be carried to the April 14, 2009 public hearing with no further notice.

MEMORIALIZATIONS:

1 **Quiles –** 69 Manito Avenue, Block 5401, Lot 42. Approval for an amendment to prior approval.

Motioned by Mr. Smid and seconded by Mr. Chadwick, to approve the above mentioned resolution of approval.

Roll Call Vote: Ayes: Messrs. Chadwick, Haas and Chairman Lepre.
Nays: None
Abstain: None

Absent: Mr. Johnson.

2 **Kerin –** 11 Cedar Street, Block 4504, Lot 45 (f.k.a. 2402/4). Approval for a side yard setback.

Motioned by Mr. Chadwick and seconded by Mr. Jensen, to memorialize the above mentioned resolution of approval.

Roll Call Vote: Ayes: Messrs. Chadwick, Haas, Smid, Schneeweiss, Jensen, Chairman Lepre.
Nays: None
Abstain: None
Absent: Mr. Johnson.

3. **Maude –** 3 Minsi Place, Block 5603, Lot 27 (f.k.a. 3703.03/17). Approval for a side and rear yard setback.

Motioned by Mr. Smid and seconded by Mr. Jensen, to memorialize the above mentioned resolution of approval.

Roll Call Vote: Ayes: Messrs. Chadwick, Smid, Schneeweiss, Jensen and Chairman Lepre.
Nays: None
Abstain: None
Absent: Mr. Johnson

PAYMENT OF BILLS:

Motioned by Mr. Schneeweiss and seconded by Mr. Jensen, to pay bills subject to the availability of funds, was voted unanimously by the Board.

APPROVAL OF MINUTES:

Motioned by Mr. Smid and seconded by Mr. Schneeweiss to approve the January 20, 2009 Minutes, was voted unanimously by the Board.

OLD BUSINESS:

None

NEW BUSINESS:

None

MEETING ADJOURNED:

Motioned by Mr. Johnson and seconded by Mr. Schneeweiss, to adjourn the public meeting at 11:50 p.m. was voted unanimously by the Board.

Respectfully submitted by,

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Kathlyn Gurney/Board Administrative Assistant