

JANUARY 19, 2010 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 8:01 P.M.

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

Also in attendance, Mr. Matthew Cavaliere, Esq. (Board Attorney), Mr. Steve Lydon, Burgis Associates (Board Planner) and Mr. Kevin Tichacek, Boswell Engineering (Board Engineer).

REORGANIZATION OF THE BOARD:

Mr. Cavaliere called the meeting to order. He explained that the Board of Adjustment's first meeting of the year is normally postponed to the third Tuesday of January in order for Mayor and Council to conduct Board re-appointments. However, Board re-appointments were not included during the last Mayor and Council meeting. Mr. Cavaliere informed the Board that he did discuss this matter with the Mayor and informed that his intentions were to re-appoint the same members whose terms are up.

Mr. Cavaliere reviewed the Municipal Land Use Laws (MLUL) pertaining to this situation. He advised the Board members that they have two options to follow. Option A, would be, that members whom need to be re-appointed (Rick Lepre and Fred Schneeweiss) withdraw from participating in the meeting and wait until they have been re-appointed by Mayor and Council at the January 27, 2010 meeting. Option B, would be, the remaining members take a vote on allowing these members to participate in the meeting and any action taken that evening, would be indicated in the preparation of the resolution and a revote would be taken at the next month's meeting. Mr. Cavaliere entertained a motion.

Motioned by Mr. Wegman and seconded by Mr. Smid, to go with option B and allow Board members, waiting to be re-appointed, to participate in the meeting was voted unanimously by the Board.

Mr. Cavaliere entertained a motion for the nomination of Chairman, Vice-Chairman and Secretary.

NOMINATIONS FOR CHAIRMAN, VICE CHAIRMAN AND SECRETARY OF THE BOARD:

Motioned by Mr. Jensen and Mr. Wegman and seconded by Mr. Smid, to nominate Rick Lepre as Chairman, Timothy Jensen as Vice-Chairman and Mr. Wegman as Secretary to the Board was voted unanimously by the Board.

Chairman Lepre informed the Board that the reappointments for Board professionals would be put off until the February 9, 2010 meeting. He explained that the Board has received Request for Qualifications (RFQ) for these positions and committees would need to be formed for each position. Committees were formed. Mr. Smid and Mr. Johnson would review RFQ's for Board Attorney, Mr. Schneeweiss and Mr. Wegman would review RFQ's for Board Engineer and Mr. Haas would review RFQ's for Board Planner. He explained that the committees formed this evening would need to report back to the Board at the next meeting with their suggestions.

NOMINATIONS BOARD ADMINISTRATIVE ASSISTANT:

Motioned by Mr. Jensen and seconded by Mr. Smid, to nominate Kathlyn Gurney as Board Administrative Assistant was voted unanimously by the Board.

NOMINATIONS FOR OFFICIAL NEWSPAPER:

Motioned by Mr. Wegman and seconded by Mr. Johnson, to nominate "The Record" as the official newspaper of the Board was voted unanimously by the Board.

ADOPT BY-LAWS:

Motioned by Mr. Johnson and seconded by Mr. Schneeweiss, to adopt By-Laws of the Board was voted unanimously by the Board.

PUBLIC MEETING BEGINS:

1. Nowatzky – 24 Cherokee Trail, Block 5302, Lot 3. Public hearing for a front, side and rear yard setback.

Members conducted a site inspection for the property. Mr. Wegman reported that the property, located in an RA-2 zone, was light in traffic. Chairman Lepre reviewed the comments from the various borough departments and reviewed zoning issues.

Mr. Robert Nowatsky was sworn in and testified that he is proposing a second floor addition to the right side his home. The addition would extend over the garage and provide a roof over the existing deck. In addition, a portico would be added over the

front entrance. He explained that this expansion would include an extension to the master bedroom and a full bathroom.

The Board questioned if there would be any improvements done to the existing deck. Mr. Nowatsky responded that there would not. The Board questioned if Mr. Nowatsky would ever consider enclosing the roof-covered deck. Mr. Nowatsky responded that he had never thought about it but may at some point. The Board advised Mr. Nowatsky that if he does considering enclosing the deck in the future, then it would need to be requested at this point so he is not locked into a deck that can not be enclosed. Mr. Nowatsky responded that he would like to eventually to be able to make this a screened in porch.

Motioned by Mr. Jensen and seconded by Mr. Smid, to open the meeting to the public regarding matters concerning the Nowatsky application was voted unanimously by the Board.

No comments.

Motioned by Mr. Jensen and seconded by Mr. Schneeweiss, to close the meeting to the public regarding matters concerning the Nowatsky application was voted unanimously by the Board.

Motioned by Mr. Jensen and seconded by Mr. Johnson, to approve the Nowatsky application.

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

2. Solomon – 32 Silver Birch Avenue, Block 1703, Lot 4. Public hearing for a front and side yard setback.

Members conducted a site inspection for the property. Mr. Wegman reported that the property, located in a RA-3 zone, was light in traffic. Chairman Lepre reviewed the comments from the various departments and reviewed zoning issues.

Mr. and Mrs. Solomon were sworn in and testified that the architect made an error on the plans by labeling the proposed recreation room a guest room which would be replacing their garage.

The Board Secretary informed the Board that the notice required by the Applicant was insufficient. Mrs. Solomon explained that she did receive most of the green cards from the certified mailing. The Board Secretary informed the Applicant that she would still be required to provide the Board with the white postal receipts with the actual date of mailing. Mrs. Solomon explained that she lost the white postal receipts.

Mr. Cavaliere explained to the Applicant that the procedure of certified mailing is for their protection. In a normal application, the public has 45 days to contest an application if sufficient notice has been served. However, if notice is insufficient, the public could go

after the Applicant ten years from the time of application and make them reverse the changes. The Solomons expressed that they know the risk but were eager to move forward with the application anyway.

A discussion ensued concerning moving forward with the application or carrying the application to the February 9, 2010 meeting. Mr. Cavaliere suggested that a vote be taken by the Board to decide whether to move forward or to carry the application to the March 9, 2010 public hearing.

Motioned by Mr. Jensen and seconded by Mr. Johnson, to carry and have the Applicant re-notice for the February 9, 2010 public hearing.

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

3. Ultimate Sports America, LLC – 12 Wright Way, Block 3301, Lot 7. Public hearing for a use variance.

Mr. Cavaliere informed the Board that after a conversation with the Applicants Attorney late in the day, it was decided that the Applicant would carry to the February 9, 2010 since re-appointments to the Board were not made and there would be a lack of members to vote on the application.

Motioned by Mr. Jensen and seconded by Mr. Schneeweiss, to carry the Ultimate Sports America, LLC application to the February 9, 2010 public hearing.

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

MEMORIALIZATIONS:

1. Ludden – 62 Minnehaha Boulevard, Block 4702, Lot 23. Approval for a side yard setback.

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

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

PAYMENT OF BILLS:

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

APPROVAL OF MINUTES:

Motioned by Mr. Wegman and seconded by Mr. Smid, to approve the December 8, 2009 Minutes was voted unanimously by the Board.

ADOPT 2010 MEETING SCHEDULE:

Motioned by Mr. Smid and seconded by Mr. Wegman, to adopt the 2010 Board Meeting Schedule was voted unanimously by the Board.

OLD BUSINESS:

Chairman Lepre reviewed a letter of exemption from Berten Engineering to the Highlands Council.

NEW BUSINESS:

Chairman Lepre informed the Board that Trenton has extended the Permit Extension Act till 2012.

MEETING ADJOURNED:

Motioned by Mr. Wegman and seconded by Mr. Jensen, to adjourn the public meeting at 8:55 p.m. was voted unanimously by the Board.

Respectfully submitted by,

Kathlyn Gurney/Board Administrative Assistant