

FEBRUARY 9, 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 8:02 P.M.

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

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

PUBLIC MEETING BEGINS:

Mr. Cavaliere informed the Board that Mayor and Council have re-appointed Fred Schneeweiss and Richard Lepre to the Board. Both members were sworn in by Mr. Cavaliere.

Chairman Lepre explained that appointments for Board professionals were postponed last month to allow for a review of the RFQ's forms (Request for Qualifications). He added that the Board appointed committees to review the RFQ's forms for Board Engineering, Planner and Attorney and have decided.

Chairman Lepre entertained a motion to appoint a Board Attorney.

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

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

Chairman Lepre entertained a motion to appoint Board Engineer.

Motioned by Mr. Jensen and seconded by Mr. Schneeweiss, to appoint Boswell McClave Engineering as Board Engineer.

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

Chairman Lepre announced that Mr. Haas, who was on the committee to review RFQ's for Planner, was not present to announce his decision so the appointment of Board Planner would be postponed to next month's meeting.

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

Chairman Lepre announced that the applicant wishes to withdraw their application. Mr. Cavaliere informed the Board that typically it is required by the applicant to submit a letter explaining reasons for the withdrawal of their application. The Board questioned the Secretary if a letter was submitted.

Kathy Gurney informed the Board that she notified the applicant on two occasions requesting that a letter of withdrawal be submitted to the Board. This letter has not yet been received.

Mr. Cavaliere suggested since there is no letter or no Applicant here to request the withdrawal of the application, the Board could dismiss the application without prejudice. Chairman Lepre entertained a motion.

Motioned by Mr. Smid and seconded by Mr. Wegman, to dismiss the Solomon application without prejudice.

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

2. **Weidmuller** – 214 Manito Avenue, Block 3304, Lot 4. Public hearing for a rear yard setback.

Chairman Lepre announced that due to an error made by The Record in advertising, the above referenced application would need to be carried to the March 9, 2010 public hearing. He entertained a motion.

Motioned by Mr. Johnson and seconded by Mr. Smid, to carry the Weidmuller application to the March 9, 2010 public hearing with no further notice.

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

3. **Dautaj** – 125 Lakeshore Drive, Block 1501, Lot 29. Public hearing for two side yard setbacks.

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. Dautaj was sworn in and testified that he is proposing an addition to the rear of his home expanding the first and second floor. The expansion would include enlarging both second floor master bedroom and the first floor living area. He expressed that this improvement would benefit the neighborhood's home values.

Mr. Dautaj informed the Board that the Health Department did not approve his first set of plans due to an error on behalf his architect. He submitted revised plans to the Health Department along with an affidavit attesting to the fourth bedroom on the first floor would be used as an office only.

Exhibit A-1, Revised plans dated February 9, 2010 and affidavit stating the fourth bedroom would be used as an office.

A discussion ensued concerning interior work going at the site with no building permits to be found. The Board expressed that it appeared that interior walls were being removed. Mr. Dautaj responded that he was doing some interior improvements but was unaware he needed permits for this. He expressed that he would go to the Building Department and get the necessary permits needed.

The Board questioned a stove that was in the lower level kitchen. Chairman Lepre expressed that contingent to approval the stove would need to be removed from this second kitchen so that it would not be used as a multi-family home. Mr. Dautaj agreed to remove the stove from the basement level kitchen.

Chairman Lepre expressed that contingent to approval the Applicant would need to testify that the home would remain a three-bedroom home. Mr. Dautaj agreed that the home would remain three-bedroom.

Motion by Mr. Johnson and seconded by Mr. Jensen, to open the meeting to the public regarding matters concerning the Dautaj application was voted unanimously by the Board.

No comments.

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

Chairman Lepre expressed that it is against the zoning ordinance in town to convert a single-family home into a multi-family home. He stated his concerns were that this could easily be converted after approval or with the sale of the home. He entertained a motion.

Motioned by Mr. Jensen and seconded by Mr. Wegman, to approve the Dautaj application contingent upon the applicant removing the stove from the lower level kitchen and the dwelling to remain a three-bedroom home.

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

4. **Lovell** – 13 Ryerson Avenue, Block 3806, Lot 20. Public hearing for a rear yard setback.

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

Mr. Lovell was sworn in and testified that he and his wife propose to add a second floor addition consisting of two-bedrooms and a full bathroom.

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

No comments.

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

The Board suggested the approval be contingent upon the porch remaining open and the home not to exceed four-bedrooms. Mr. Lovell agreed to the Board's request.

Chairman Lepre entertained a motion.

Motioned by Mr. Jensen and seconded by Mr. Schneeweiss, to approve the Lovell application contingent upon the home not exceeding four-bedrooms.

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

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

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

Mr. Christopher Minks, Esq. with Winne, Banta, Hetherington, Basralian & Kahn located in Hackensack, New Jersey was before the Board to represent Ultimate Sports America, LLC.

He explained that the building in question is a warehouse building to be used for offices and a “state of the art” athletic training facility. He introduced his first witness, Mr. Barry Poskanzer from Poskanzer Skott Architects located in Ridgewood, New Jersey.

Mr. Poskanzer was sworn in and reviewed his credentials. The Board accepted his qualifications.

Mr. Poskanzer reviewed with the Board that the application was for a use variance for an existing industrial building. He explained that all setbacks were and would continue to be conforming. He informed that there were 115 existing parking spaces which would be sufficient for their use.

Loading docks that are there currently for the prior use of the building would be converted into windows and a new entrance are being proposed. Mr. Poskanzer entered an exhibit into evidence.

Exhibit A-1, Existing site plan dated February 9, 2010.

Mr. Poskanzer explained that they would be eliminating two of the parking spaces in order to make room for a “drop off” and “turn around area.” He informed the Board that six additional spaces near the front door would be added as well as re-striping to include handicapped accessible spaces.

The facility would include the largest indoor field, batting cages, pitching area, large track, pole vault and long jump pits as well as a fitness and weight training room. In order to accommodate the field, they would need to eliminate six existing columns which would be re-placed by steel ceiling beams.

In addition, they are proposing a rehab center with a receptionist desk at the entry, a pro shop, a small lounge area and a bathroom area without showers.

Upstairs would consist of, auxiliary space to be used by trainers for offices, a juice bar, equipment storage area and a meeting area.

They would be adding a dumpster. All improvements would be influenced by a preferred green friendly development.

The Board questioned where the loading space would be located. Mr. Poskanzer responded that they would not be expecting deliveries other than the initial set up for the business.

The Board questioned how the Applicant has figured out parking calculations for the business. Mr. Poskanzer responded that he reviewed the ordinance and found it difficult to find calculations that would specifically fit their type of business. However, Mr. Poskanzer expressed that they would have more than enough parking. If more parking were needed, they have permission from the company adjacent to their property for the use of some of their parking area.

A discussion ensued with Mr. Poskanzer and Mr. Tichacek concerning the parking requirements. Mr. Tichacek informed Mr. Poskanzer that based on parking calculations for similar uses, the Applicant would require 152 parking spaces. Mr. Poskanzer expressed that 152 parking spaces were based upon the industrial park use. Mr. Minks assured the Board with the 115 existing parking spaces and the additional 50 spaces at the neighboring property would be plenty of parking.

Mr. Lydon questioned if there would be any modification to the lighting on site and if the lighting would be sufficient at night. Mr. Poskanzer responded that there are no modifications to the lighting and believes that the lighting would be sufficient for the evening hours. Mr. Lydon commented that there were no specific landscaping plans included.

Mr. Poskanzer reviewed the positive and negative criteria for the application. He explained that this facility would be filling a vacant building and would reduce truck traffic generated from an industrial business.

Mr. Mark McGuire was sworn and testified that he owns and operates the sports training facility. He explained that he has three children that are competitive athletes and found that New Jersey lacks facilities like this for kids wanting to excel in their preferred sport.

He decided to open a facility like this in Waldwick. In time the business expanded and now he is moving his facility to Oakland where there is more room to increase and specialize in other areas.

Mr. McGuire explained that during the winter months, children need a place to train to improve in their sports. In the warmer weather they do take their training to other outdoors facilities so the facility would become a bit slower during the summer.

They plan to offer CPR – Defibrillator training along with other specialized camps to train athletes. The Board questioned if outdoor camps would be held at the site. Mr. McGuire responded that outdoor camps would be offered and conducted off the premises at another location.

The Board questioned what the business hours would be. Mr. McGuire responded that peak hours would be between 5:00 p.m. to 8 p.m. and the latest the facility would be opened to would be between 9:00 p.m. to 10:00 p.m. Saturday would be all day from 8:00 a.m. to 8:00 p.m.

The Board questioned if the business operated by an appointment only policy. Mr. McGuire responded yes for most of the activities. However, if the batting cages were available people would be able to go in without an appointment.

A discussion ensued concerning if the proposed Rehab facility on the premise would be creating a mixed use. The Board had concerns that this could be considered a professional use creating more visitors to the facility by prescriptions from doctors. Mr. McGuire responded that there would be a licensed physical therapist at the Rehab facility limited to athletes affiliated with their business. Mr. Minks added that the Applicant is unable to sub-lease to another business.

The Board questioned if there would be video games and birthday parties at the facility. Mr. McGuire responded that there would be no video games, however, there is a possibility that they would conduct birthday parties.

Chairman Lepre questioned what the maximum number of people in the building at one time would be. Mr. McGuire responded that, not all at once, but throughout the course of the day approximately 75 to 80 people would visit the site. The Board questioned the number of employees for the juice bar, pro shop and offices. Mr. McGuire responded that there would be no more than five employees there at once.

Mr. Tichacek stated for the record that he wanted testimony concerning his recommendation of parking. In his opinion, this application would require a variance for parking. He explained that he reviewed similar applications and the formula used was one parking space per 250 square feet requiring this facility an amount of 152 parking spaces.

Mr. Cavaliere informed Mr. Minks that if the Applicant could provide the Board with a lease agreement from the neighboring property for an additional 50 parking spaces, it would bring the total parking up and over the required number of spaces needed eliminating the need for a variance. Mr. McGuire expressed that 75 percent of the cars drop off and 25 percent of the cars stay. He believes they have plenty of parking.

The Board questioned a request from the Health Department for a water meter report on usage. They are in possession of the report but there were no comments from the Health Department. Approval would be contingent upon Health Department approval.

Motioned by Mr. Jensen and seconded by Mr. Smid, to open the meeting to the public regarding matters concerning Ultimate Sports America, LLC was voted unanimously by the Board.

No Comments

Motioned by Mr. Johnson and seconded by Mr. Jensen, to close the meeting to the public regarding matters concerning Ultimate Sports America, LLC was voted unanimously by the Board.

Mr. Minks informed the Board that this concluded his testimony on behalf of Ultimate Sports America, LLC. He expressed that the benefits outweigh the negative criteria in this use and the use would have a positive addition to the community.

Chairman Lepre expressed that this would be an appropriate use for the building. He added that this would be an improvement, during the current market and economic lull, to fill an unoccupied building. The consensus of the Board was the same.

Chairman Lepre reviewed the stipulations that would be condition upon approval. He explained that approval would be contingent upon Health Department approval, producing a lease agreement with the adjacent property and some added landscaping.

Motioned by Mr. Jensen and seconded by Mr. Smid, to approve the Ultimate Sports America LLC, application.

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

MEMORIALIZATIONS:

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

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

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

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. Schneeweiss and seconded by Mr. Smid, to approve the January 19, 2010 Minutes was voted unanimously by the Board.

OLD BUSINESS:

Chairman Lepre announced that the appointment of Board Planner would be done at the March 9, 2010 meeting when Mr. Haas is present to review the candidates.

Chairman Lepre reviewed a letter from the Bergen County Planning Board requesting a meeting with a previous applicant, Zohra, LLC.

NEW BUSINESS:

Mr. Smid expressed to the Board that he would be interested in some of the advanced training seminars advertised in the monthly planning pamphlet that the Board receives. He informed that he would propose this to the Borough Administrator.

In Addition, Mr. Smid expressed that his son-in-law is interested in becoming a member of the Board.

The Board commented that the Zoning Officer should be alerted that the Gulf station currently exceeds the number of signs (3) for a building in that zone.

MEETING ADJOURNED:

Motioned by Mr. Wegman and seconded by Mr. Jensen, to adjourn the public meeting at 10:15 p.m. was voted unanimously by the Board.

Respectfully submitted by,

Kathlyn Gurney/Board Administrative Assistant