

JUNE 10, 2008 MINUTES  
OAKLAND BOARD OF ADJUSTMENT  
OAKLAND COUNCIL CHAMBERS – 8:00 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 8:03 P.M.

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

Also in attendance, Mr. Matthew Cavaliere, Esq., Board Attorney

**PUBLIC MEETING BEGINS:**

1. **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.

Chairman Lepre announced that the Applicant has requested that their public hearing be adjourned to next month's meeting. The Board questioned the upcoming agenda for July with the Board Secretary. Due to a full agenda for July, it was determined that the Captive Fasteners, Inc. application would be carried to the August meeting with no further notice.

Motioned by Mr. Jensen and seconded by Mr. Wegman, to carry the Captive Fasteners, Inc. application to the August 12, 2008 public hearing with no further notice was voted unanimously by the Board.

ROLL CALL VOTE: Ayes: Messrs. Johnson, Haas, Smid, Wegman,  
Schneeweiss, Jensen and Chairman Lepre.  
Nays: None  
Abstain: None  
Absent: Mr. Wagoner

2. **Lawson** – 61 Calumet Avenue, Block 4801, Lot 42 (f.k.a. Block 3520, Lot 48). Public hearing for two side yard setbacks.

Chairman Lepre announced that notice to The Record had not been completed in the required timeframe. The Lawson application would need to be carried the July 8, 2008 public hearing with no further notice.

3. **Finale** – 52 Bannehr Street, Block 3804, Lot 19. Public hearing for a five foot solid fence.

The Board members conducted a site inspection. Mr. Wegman reported the neighborhood, in a RA-3 residential zone, a heavy amount of traffic. Chairman Lepre reviewed the reports from the various departments.

Chairman Lepre explained that the Applicant was scheduled to appear before the Board last May but had noticed incorrectly. It was suggested by the Board that the Applicant go back to the Zoning Officer to verify the need for a variance.

Chairman Lepre explained that the Zoning Officer had verified that the corner property has to front yards setbacks requiring the Applicant seek a variance for the fence.

Mr. Finale was sworn in and testified that he proposes the installation of a five-foot solid brown PVC fence which would maintain a required distance of 10-feet from the street.

During a site inspection, the Board observed that the fence is in character with the fences in the neighborhood. The Board questioned if plantings would be included along the fence. Mr. Finale responded that plantings would be included and no trees would be removed.

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

No Comment

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

Motioned by Mr. Schneeweiss and seconded by Mr. Johnson, to approve the Finale application.

ROLL CALL VOTE:           Ayes: Messrs. Chadwick, Johnson, Smid, Haas, Wegman,  
  Schneeweiss, Jensen and Chairman Lepre.  
  Nays: None  
  Abstain: None  
  Absent: Mr. Wagoner

**4. Krause** – 22 Hickory Drive, Block 3801, Lot 90 (f.k.a. Block 3305, Lot 11).  
Public hearing for a rear yard setback.

The Board members conducted a site inspection. Mr. Wegman reported the neighborhood, in a RA-2 residential zone, light in traffic. Chairman Lepre reviewed the reports from the various departments.

Mrs. Krause was sworn in and testified that she is proposing to add a second level with no addition to the footprint. Mrs. Krause explained that the new addition would be in character of other additions in the neighborhood.

The Board questioned if there would be more than three bedrooms. Mrs. Krause responded that it would remain a three-bedroom home. The Board questioned if Mrs. Krause would agree that it be stipulated in the resolution that the home would remain a three-bedroom. She agreed to the Board's request.

A discussion ensued concerning the correct elevation of the house. Chairman Lepre explained that the elevations taken in the rear measure 27 feet but the site plan indicates the highest peak to be 23 feet.

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

No comment.

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

Mr. Cavaliere questioned if there were alternate plans for the garage. Mrs. Krause responded that they are omitting the two-car garage and leaving it a one-car garage.

Mr. Krause entered the meeting and was sworn in.

The Board questioned stairs in the rear yard leading to a breezeway. Mr. Krause explained that the existing stairs that lead to the dining room were inadvertently left off the plans.

Motioned by Mr. Smid and seconded by Mr. Jensen, to approve the Krause application contingent upon the home remaining a three-bedroom home.

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

Nays: None

Abstain: None

Absent: Mr. Wagoner.

**5. Dauster** – 39 Minnehaha Boulevard, Block 4701, Lot 53 (f.k.a. Block 3517, Lot 1). Public hearing for a front and side yard setback.

The Board members conducted a site inspection. Mr. Wegman reported the neighborhood, in a RA-3 residential zone, light in traffic. Chairman Lepre reviewed the reports from the various departments.

Mr. and Mrs. Dauster were sworn in. The Dausters testified that they are proposing to add a second car garage, open up the footprint of the first floor to enlarge living and dining area and add a family room. They would be adding a second level with two bedrooms. They are also proposing electrical upgrades and a central air conditioning system.

The Board questioned the location of the air conditioning units. Mr. Dauster responded that the air conditioning units would be located in the rear yard behind the garage.

The Board expressed that the proposed addition would be in character to the other improvements of the neighborhood.

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

Chairman Lepre noted that interior stairs could be removed and a door installed in the back making the basement an apartment which are not permitted in the Borough of Oakland.

The Board questioned if the home would remain a three-bedroom home. The Dausters responded that it would.

Motioned by Mr. Smid and seconded by Mr. Jensen, to approve the Dausters application contingent upon the residence remain three-bedrooms.

ROLL CALL VOTE:           Ayes: Messrs. Chadwick, Johnson, Haas, Smid, Wegman,  
                                      Schneeweiss, Jensen and Chairman Lepre.  
                                      Nays: None  
                                      Abstain: None  
                                      Absent: Mr. Wagoner

**6. Bell/DeRoda** – 57 Walnut Street, Block 3903, Lot 60 (f.k.a. Block 3312, Lot 17. Public hearing for a side yard setback.

The Board members conducted a site inspection. Mr. Wegman reported the neighborhood, in a RA-3 residential zone, light in traffic. Chairman Lepre reviewed the reports from the various departments.

Ms. Bell and Mr. DeRoda were sworn in. Mr. DeRoda testified that they are proposing to replace and increase the size of an existing deck.

The Board questioned if there would be railings and lattice. Mr. DeRoda responded that there would be.

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

No comments.

Motioned by Mr. Wegman and seconded by Mr. Johnson, to close the meeting to the public regarding matters concerning the Bell/DeRoda application was voted unanimously by the Board.

Motioned by Mr. Jensen and seconded by Mr. Smid, to approve the Bell/DeRoda application.

ROLL CALL VOTE:           Ayes: Messrs. Chadwick, Johnson, Haas, Smid, Wegman,  
                                      Schneeweiss, Jensen and Chairman Lepre.  
                                      Nays: None  
                                      Abstain: None  
                                      Absent: Mr. Wagoner

**7. Chadwick** - 129 Yawpo Avenue, Block 4101, Lot 7. Continued public hearing for two side yard setbacks.

Mr. Chadwick recused himself to become the applicant.

Chairman Lepre reviewed with the Board that last month the application left off with Mr. Kimbel, the neighbor, requesting that the proposed entry landing be moved more north on the property to alleviate the noise distraction from his home and he was also going to have a survey done on his property.

In addition, there was still question on whether the soil tests done approximately 10 years ago for Mr. Chadwick septic system were still viable.

Exhibit OK-1, Survey of Kimbel's property.

As a result of the survey, a discussion ensued concerning a contradiction of boundaries on the survey and revised plans.

Mr. Regan, Mr. Kimbel's attorney, expressed that the concerns of his client's remain the same which is the distance between his house and the proposed entry stairs to the Chadwick's home.

Mr. Regan explained that the revised drawings of the relocation of the entry stairs received from the Chadwick were difficult to read and it appeared that the stairs were moved only slightly. Mr. Chadwick responded that there was no specific distance agreed upon and he moved the stairs forward as much as possible.

The Board questioned how far forward Mr. Chadwick moved the stairs. Mr. Chadwick responded that he moved the stairs forward approximately four feet. The Board questioned Mr. Kimbel if his only objection was the entry stairs and not the rest of the addition. Mr. Kimbel responded that he only objects to the location of the stairs.

Mr. Chadwick informed the Board that he would be eliminating the fourth bedroom due to a lack of time to do a soil assessment.

Mr. Regan questioned Mr. Chadwick on the number of entrances to his home and if they plan to screen the landing and stairwell. Mr. Chadwick responded that he did not have plans to do any screening because it would cut off access to the Kimbel's side yard.

The Board questioned again if Mr. Kimbel opposed to anything other than the location of the stairs. Mr. Kimbel responded that he did not object to any other portion of the addition except for the location of the stairs.

A discussion ensued concerning the legal definition of a variance. The Board's decision is based upon a hardship with the property. In the event of a hardship, the Board can permit the Applicant to deviate from zoning ordinances. If the stairs and landing leading to that doorway were the only access to the house, the situation would become a hardship.

The Board advised Mr. Chadwick that the location of the stairs were minor in comparison to the entire addition and that he may want to reconsider. Mr. Chadwick responded that he and his wife have always had an entry door through the kitchen. The Board expressed that Mr. Chadwick could run the risk of his total application being rejected if the stairs were not relocated.

Chairman Lepre suggested that the hearing recess so that the two neighbors can discuss a compromise.

Meeting recessed at 9:30 p.m.

Meeting resumed at 9:40 p.m.

Mr. Chadwick expressed that he would agree to remove the side entryway. The Board commented that the property and placement of the home was irregular in shape. The Board expressed appreciation to both neighbors for working it out.

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

Motioned by Mr. Schneeweiss and seconded by Mr. Haas, to approve the Chadwick application contingent upon the home remaining a three-bedroom home and the removal of the entrance way and stairs on the north-face of the home.

ROLL CALL VOTE:           Ayes: Messrs. Johnson, Haas, Smid, Wegman,  
                                      Schneeweiss, Jensen and Chairman Lepre.  
                                      Nays: None  
                                      Abstain: None  
                                      Absent: Mr. Wagoner

**MEMORIALIZATIONS:**

1. **Phillips** – 38 Chuckanutt Drive, Block 5303, Lot 11. Approval for a front yard setback.
2. **Moese** - 12 Heath Road, Block 1002.02, Lot 9. Approval for a rear yard Setback.

**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. Wegman to approve the May13, 2008 Minutes was voted unanimously by the Board.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

Chairman Lepre announced that the Planning Board recommended a new Bulk Chart for zoning to be adopted by Mayor and Council. The new Bulk Chart would give a better understanding to the maximum coverage for building and lot area.

Chairman Lepre announced that requests for reservations for the League of Municipalities have been offered to the Chairman of each Board. He informed the Board that he would not be attending.

**MEETING ADJOURNED:**

Motioned by Mr. Jensen and seconded by Mr. Johnson, to adjourn the public meeting at 10:05 p.m. was voted unanimously by the Board.

Respectfully submitted by,

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Kathlyn Gurney/Board Administrative Assistant