

SEPTEMBER 9, 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 8:06 P.M.

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

Also in attendance, Mr. Matthew Cavaliere, Esq., (Board Attorney) Mr. Kevin Tichacek (Board Engineer), Kevin Kain ( Board Planner) and John Castiglione, Board CSR.

**PUBLIC MEETING BEGINS:**

Mr. Chadwick sitting in for Mr. Wagoner.

1. Verbrugge – 34 Roth Avenue, Block 3703, Lot 77 (f.k.a.3310/4). Public hearing for a two sides and front yard setback.

Chairman Lepre announced that due to insufficient noticing, the application would need to re-notice and reschedule for the next available hearing.

2. Quiles – 69 Manito Avenue, Block 5401, Lot 42 (f.k.a. 3611/43). Public Hearing for a one-extension.

Chairman Lepre informed the Board that Governor Corzine passed the Permit Extension Act bill that would extend the life of permits and approvals due to a nationwide mortgage crisis affecting the real estate and construction.

A discussion ensued concerning this Act and whether it would apply to this application. Mr. Cavaliere suggested that the extension be granted anyway since the bill was just passed.

Motioned by Mr. Johnson and seconded by Mr. Smid, to grant a one-year extension for the Quiles application.

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

3. Hakins – 17 Silver Birch Avenue, Block 1702, Lot 14 (f.k.a. 2307/18, 19, 20 & 21.) 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. Hakins was sworn in as owner of the home and testified that he is proposing to remove and enlarge the second floor of their home. The proposed second floor would consist of a master bedroom, second bedroom and full bathroom. The changes on the first floor would include using one of the bedrooms to enlarge the kitchen and turn the existing second bedroom into an office. In addition, a new roof and siding would be installed.

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

No comments.

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

A discussion ensued concerning the possibility of turning one of the bedrooms into two bedrooms. Chairman Lepre questioned if Mr. Hakins would agree to stipulate that the home would remain a three-bedroom dwelling. Mr. Hakins responded that he would agree to the stipulation.

Mr. Cavaliere confirmed with Mr. Hakins that a licensed surveyor had prepared the property survey and that the setbacks were correct.

Motioned by Mr. Jensen and seconded by Mr. Smid, to approve the Hakins application contingent to the home remaining three-bedrooms, the front bedroom not to be split into two bedrooms and the front steps not to encroach any further.

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

3. Verizon Wireless – 93 Thornton Road, Block 3301, Lot 5 (f.k.a. 3204/7.01)  
Public hearing for a use variance.

The Board members conducted a site inspection. Mr. Wegman reported the neighborhood, in an I-P Industrial Park zone, light in traffic. Chairman Lepre reviewed the reports from the various departments.

Mr. Richard Stanzione, Esq., from Heiring, Dupignac, Stanzione & Dunn located in Toms River, New Jersey was before the Board to represent the Verizon Wireless application.

Mr. Stanzione explained that this application is for preliminary and final site plan, bulk and use variance relief for a wireless communications facility to extend the existing tower height by ten feet to improve service to residents in Oakland.

Chairman Lepre informed the Board that this application has already received a lease agreement by Mayor and Council.

Mr. James Murawski with E 2 Project Management, LLC located in Parsippany was sworn in and reviewed his credentials and the Board accepted his qualifications.

Mr. Murawski explained that Verizon Wireless proposes a 10' extension to the existing tower height of 130' to 140.' In addition, an 8' lightning rod on top for a total height of 148', a 12' X 30' equipment shelter and an extension of a 7' security fence.

The existing monopole leases to four existing carriers. Mr. Murawski entered Exhibit A-1 into evidence.

Exhibit A-1, Structure analysis.

Chairman Lepre recommended that Mr. Tichacek review comments made in the engineering report.

Mr. Tichacek reviewed the variances requested and observed that there were no site modifications. Chairman Lepre questioned Mr. Tichacek on whether these are all pre-existing variances. Mr. Tichacek responded all but the stealth requirements that are not included in this application.

A discussion ensued concerning the fall zone with regard to surrounding residential properties and the Borough's water tower. Mr. Stanzione responded that the structures

are reinforced at approximately 95' so if the structure were to fail, the breaking point would still be at the midway point of the monopole, approximately 70.' Therefore, it would not jeopardize the area beyond 70' of the monopole. The Board questioned if there would be added stress at the location of the reinforcement of the pole. Mr. Murawski responded that what they use to reinforce the monopole weighs very little and would not add more stress.

The Board questioned if it is common to extend the height of a monopole. Mr. Stanzione responded that extensions and other unique designs are commonly used throughout the country.

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

Mr. Alvaro Vidal employed by Verizon Wireless as a Radio Frequency Engineer located in Branchburg, New Jersey was sworn in. He reviewed his credentials and the Board accepted his qualifications.

Mr. Vidal entered an exhibit into evidence.

Exhibit A-2, Radio Frequency map with overlay dated September 9, 2008.

Mr. Vidal explained the exhibit showing existing site and proposed site located on Borough property. He indicated that the owner of the pole was Sprint Spectrum.

Mr. Vidal reviewed similar monopoles in surrounding towns.

A green overlay showed sites in Oakland that are affected by unreliable services due to the mountains and hills in the area. A purple overlay showed sites in surrounding towns that would benefit from the improvement to the proposed monopole as well as Oakland.

Mr. Vidal informed the Board that if the extension to the monopole would not be approved at this location, it would require the installation of another monopole at a different location in the Borough.

The Board questioned the amount of radio frequency emissions involved with the extension. Mr. Vidal responded that the emissions would be within the F.C.C. limitations.

Motioned by Mr. Smid and seconded by Mr. Wegman, to open the meeting to the public regarding the testimony of Mr. Vidal was voted unanimously by the Board.

No comments.

Motioned by Mr. Wegman and seconded by Mr. Jensen, to close the meeting to the public regarding the testimony of Mr. Vidal was voted unanimously by the Board.

Mr. Cavaliere verified with Mr. Vidal that there is a gap of cell phone coverage within the Borough and that the extension would close the gap. He also verified that if approval for the monopole extension were not granted, it would require another monopole to be located in the Borough of Oakland. Mr. Vidal responded that this was correct.

Mr. William Masters, a professional planner, located in Morris Plains was sworn in. He reviewed his credentials and the Board accepted his qualifications.

Mr. Masters explained the conditions of the existing site and the variances being requested. He offered photos as evidence.

Exhibit A-3, 6 photos of existing and proposed conditions dated 9-9-08.

Exhibit A-4, 4 photos of existing and proposed conditions dated 9-9-08.

Mr. Masters testified that computer enhanced photographs show the existing and the proposed monopole. He explained that the difference in height is minimal in comparison to an additional monopole in another Borough location.

A discussion ensued concerning reinforcement calculations that were handed out during the hearing. Mr. Masters reaffirmed that they are confident that the reinforcement calculations result in secure measurement which is used throughout the nation. Mr. Tichacek expressed that a review of these calculations would be done as a procedure before any permits were to be issued by the Building Department.

Motioned by Mr. Jensen and seconded by Mr. Smid, to approve the Verizon Wireless application contingent upon a complete review of reinforcement calculations done by the Board Engineer.

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

Meeting recessed at 9:25 p.m.

Meeting resumed at 9:38 p.m.

4. Ropper Oakland, LLC – Elm Street and Terhune Drive, Block 1802, Lot 1 (f.k.a. Block 2318, Lot 1). Public hearing for a use and bulk variances.

Mr. Jerome Vogel from Jeffer, Hopkinson & Vogel located in Hawthorne, New Jersey was before the Board to represent the application.

He explained that the location of the property is a parcel of land between Elm Street and Terhune Drive back near the railroad. The property is approximately 4.37 acres in size and is a permitted use in the RA-MD (Multiple-family Residence), accessed by Terhune Drive.

The application before the Board is requesting relief for the height, density, lot area and lot width of the building. The Borough requires a maximum of 8 units per acre and this application is requesting 19 units per acre.

Mr. Vogel explained that his client was waiting for the Borough to revise their Master Plan recommending a need for a mixed use of residential and commercial in the downtown area.

This project would be provided with sanitary sewers which would run along the Susquehanna Railroad easement into and connect with Pompton Lakes sewer system. By providing this project with sewers, the increase in density of the building acceptable.

Mr. Vogel expressed that it would impact surrounding residential homes, but the applicant has agreed to provide adequate buffering from the building and lighting. Mr. Vogel informed the Board that if this project was not approved, it could result in another project, such as a shopping center or another strip mall.

Mr. Cavaliere informed Mr. Vogel that the application for a big project like this one provided little information, such as a sketch plat. Mr. Vogel responded that this is a bifurcated application and if they received approval, the applicant would come back before the Board with a site plan application addressing all concerns.

Chairman Lepre expressed that the building appears to be a four-story building. Mr. Vogel responded that the proposed building would have three stories with a parking area underneath.

Mr. Roy Lobosco was sworn in. Mr. Lobosco located on 21 Raritan Road, Oakland, New Jersey informed the Board that he was one of the owners and developers of the property.

Mr. Lobosco explained the nature of the property as being triangular in shape bordered by the railroad, Elm Street and Terhune Drive. He expressed that this application complies with the Borough's Master Plan as to how the property should be developed.

Exhibit A-1, Sketch Plat received by Board members dated September 9, 2008.

The exhibit describes the building as a three-story apartment building with parking underneath. The shape and size of the building is dictated by, the shape of the property and the anticipated amendment to the zone.

Mr. Lobosco explained that the portion of the building creating the T-shape would be the proposed community center which would include a small gym and a storage area.

Currently, the property zoned RA-MD would permit 8 units per acre, 19 units are proposed. In order to develop the property as multi tenant use, the project would require sewers because the town does not favor the use of sewer package plants.

They have already received permission from the Susquehanna Railroad to purchase the railroad's easement to allow the applicant to run a sewer line approximately 1-¾ miles to connect to Pompton Lakes sewer system. In addition, the applicant has been in contact with Pompton Lakes to connect to their sewer line and they have agreed to accept this project as well as receive payment according to the MUA (Municipal Utilities Authority) fees of Pompton Lakes.

The sewer line would be gravity fed and at the point of where the sewer line reaches the river, a pump house would be constructed and the pipeline would go above and across the river. The sewer line would continue down West Oakland Avenue and onto Pool Hollow Road.

Chairman Lepre questioned whether the applicant has gotten approval to run a sewer line down West Oakland Avenue. Mr. Lobosco responded that have not yet approached the county but in the event the town does not grant approval, the sewer line would continue to run the line along the railroad easement.

Chairman Lepre questioned whether the project would be able to include the sewage of the downtown area. Mr. Vogel responded that this project would require a line of a 4-inch diameter that would be able to accept 20,000 gallons in volume a day for this project. The applicant has not been approached by the Borough to include the downtown area. However, this project would agree to allow the Borough to use the railroad easement that they have purchased to run their sewer line.

Chairman Lepre questioned what the COAH requirements would be and if the one and two-bedroom apartments would be age restricted. Mr. Vogel responded that there would be no age restriction and as far as COAH is concerned, Oakland is required to resubmit the municipalities plan for the Round Three COAH obligation by the year's end. When a determination by COAH has been completed, the applicant would be required by law to satisfy a portion of the Borough's requirements according to the size of the project.

Mr. Tichacek from Boswell Engineering questioned if the size of the proposed line would have the capacity to accommodate the Borough's downtown area. Mr. Lobosco responded that their engineer did not figure in the downtown area but would welcome the

additional review. Mr. Tichacek informed the Mr. Lobosco that the Borough would like the benefit to utilize the easement.

A discussion ensued concerning the sewer charges and maintenance. Mr. Vogel responded that there would be an inter-local agreement between the project and Pompton Lakes.

Mr. Cavaliere reminded the applicant that Waste Water Management Plan now prohibits sewer package plants and questioned the steps taken to have a sewer line approved. Mr. Lobosco responded that they would state, county and Mayor and Council.

The Board questioned whether the DEP (Department of Environmental Protection) gives permission to run a sewer line over the river. Mr. Lobosco responded that the Waste Water Management plan includes a main crossing the river and the size to be determined by the DEP.

The Board questioned if the Highlands Act has any impact on this project. Mr. Lobosco responded that the portion of the project falls within the Highlands Planning Area which is consistent with the Highland's Master Plan.

Mr. Cavaliere requested that Mr. Lobosco reiterate the route of the sewer line. Mr. Lobosco explained the direction of the sewer line to the Board and confirmed that it would not interrupt any private properties. Mr. Cavaliere confirmed with Mr. Lobosco that he would need Mayor and Council approval. Mr. Lobosco reminded the Board that if they do not receive the appropriate approvals they have the option to run the sewer line the length of the railroad easement.

Mr. Cavaliere questioned the number of trains that come through on the Sussquehanna railroad a day. Mr. Lobosco responded that usually two trains daily come through.

A discussion ensued concerning the need for 84 units. Mr. Lobosco explained that their plans were consistent with an amendment to the Master Plan that was never adopted, making this project variance free. Mr. Vogel explained that the amendment to this ordinance was drafted but held up for minor changes and for whatever reason the amended ordinance was never adopted. Consequently, his client has decided to move forward anyway. The need for more units would be to incur the expense of running a sewer line to Pompton Lakes.

Chairman Lepre reminded Messrs. Lobosco and Vogel that the Board is obligated to follow the Borough's Master Plan as adopted. Mr. Vogel explained that in Mr. Lydon's review of this ordinance, he reflects that in the Borough's Master Plan had recommended a housing project for the downtown area such as this. However, the review stalled due to questions with Waste Water Management Plan and whether Pompton Lakes would accept the sewer line connection for this project. Chairman Lepre, stated for the record, that he and other members of the Board of Adjustment attended the Master Plan hearings and expressed that the this use was considered for this property.

Motioned by Mr. Jensen and seconded by Mr. Wegman, to open the meeting to the public regarding matters concerning the testimony of Mr. Roy Lobosco was voted unanimously by the Board.

Mr. Shema, 35 Oak Street, expressed that the lot was not vacant that it was home to wildlife and that it provides residents with buffer. Mr. Vogel responded that the property is vacant, not developed and the parcel lies within the Highland's Planning area which is a mature portion consisting of homes and shops.

Mr. Jeff Petroski, 34 Oak Street, questioned if the greater density would cover the costs of the connection for the sewers and if the Borough were to connect to the sewer line would there be a fee. Mr. Vogel responded that the Borough has not approached them to hook into the sewer line.

Mr. Lobosco expressed that he and the owners of the property are incurring the costs of the sewer line. When working on the plans, the applicant indicated that it was not their place to include the Borough without their permission or participation.

Mr. Petroski questioned if the Borough were to take advantage of the opportunity to connect to the sewer line would there be a rental fee. Mr. Lobosco responded that the Borough would be charged by Pompton Lakes to connect and be required to pay a maintenance fee.

Mr. William Stellenwerf, representing his son and daughter-in-law located on 20 Oak Street, commented that the site should dictate the size, shape and density of the project. He indicated that from an economical point of view, the additional floor is for profit only. Chairman Lepre indicated that the Board is prohibited to consider economics with an application.

Richard Hughes, 32 Oak Street, questioned the borders of the property. He questioned what were the chances of spillage into the Ramapo River. Mr. Lobosco responded that the pump station is like a large sump pump with back up pumps and generators. Mr. Vogel added that the pump station would need DEP approval as well as the Borough's engineer.

A discussion ensued concerning runoff with additional macadam to be added as well as the possible affects on septic systems that border the property. Mr. Lobosco responded that by state statute, they would be obligated to follow Storm Water Management requirements and this would all be addressed in the site plan.

Mr. Trafuci, 21 Oak Street, questioned the Board whether or not they would like to live near an apartment complex with many people coming and going. Mr. Vogel responded that the property is zoned a multi-family use. The owner of this property has the right to develop the property in compliance with the zoning regulations.

Motioned by Mr. Jensen and seconded by Mr. Johnson, to close the meeting to the public regarding the testimony of Mr. Roy Lobosco, was voted unanimously by the Board.

The Board questioned the status of the drafted ordinance for this parcel of land. Mr. Kevin Kain from Burgis Associates, explained that he believes discussions have been ongoing with the Planning Board but is not sure of the status. The Board expressed that at this point they would refer to the current ordinance and zoning.

Chairman Lepre announced that the Ropper Oakland, LLC application would be carried to the October 14, 2008 public hearing with no further notice.

### **MEMORIALIZATIONS:**

**Mistretta** – 145 Lakeside Boulevard, Block 5002, Lot 32 (f.k.a. 3504/40 & 41.)  
Approval for a side yard setback.

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

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

**Burt** – 51 McNomee Street, Block 3801, Lot 48 (f.k.a. 3317/13.) Approval  
for a side yard setback.

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

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

**Loweth** – 36 River Street, Block 1805, Lot 15 (f.k.a. 2312/23). Approval  
for lot coverage, Lot size and side yard setback.

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

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

