

PLANNING BOARD MINUTES  
**PUBLIC MEETING**  
DECEMBER 9, 2021 - 7:00 P.M.  
HELD AT THE OAKLAND SENIOR CENTER  
20 Lawlor Drive, Oakland, NJ  
[www.oakland-nj.org](http://www.oakland-nj.org)

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 and the Borough's website
- ❑ Advertised in The Record more than 48 hours in advance of the meeting
- ❑ Mailing a copy to any person requesting same

\*\* MEETINGS CONCLUDE AT 10:30 P.M., THEREFORE, NO TESTIMONY WILL BE TAKEN AFTER 10:00 P.M.

PLANNING BOARD MEMBERS:

Andrea Levy, Gregory Liss, Joseph Marscovetra, Michael Rose, Thomas Connolly, Lee Haymon, John Morris, Councilman Kulmala, Mayor Linda H. Schwager and Chairman Thomas Potash.

FLAG SALUTE, MEETING OPENED AT 7:06 P.M., ROLL CALL:

Present Members: Ms. Levy Messrs. Liss, Rose, Marscovetra, Connolly, Haymon, Morris, Councilman Kulmala and Chairman Potash  
Absent Members: Mayor Schwager\*

EXCUSE ABSENCES:

Motioned by Mr. Connolly and seconded by Councilman Kulmala, to excuse the absence of Mayor Schwager.\*

Mr. Joseph Russo, Esq., Board Attorney, Mr. John Yakimik, Boswell Engineering and Mr. Steve Lydon were in attendance.

BOARD PROFESSIONALS SWORN IN:

Mr. Lydon and Mr. Yakimik were sworn in.

Chairman Potash announced that Mr. Liss will sit for the vacant seat and Ms. Levy will sit for Mayor Schwager until she arrives to the meeting.

OPEN MEETING TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA.

Motioned by Mr. Rose and seconded by Mr. Liss, to open the meeting to the public regarding matters not on the agenda was voted unanimously by the Board.

No comments.

CLOSE MEETING TO THE PUBLIC FOR MATTERS NOT ON THE AGENDA.

Motioned by Mr. Connolly and seconded by Mr. Rose, to close the meeting to the public regarding matters not on the agenda was voted unanimously by the Board.

PUBLIC HEARING:

1. Karni – 637 Ramapo Valley Road, Block 1301, Lot 40. Public hearing for a major subdivision.

Mr. Morris announced that Chairman Potash and Mr. Rose have to recuse themselves from the application. Mr. Cascio, Esq. continued with the application. He reminded the Board that this application is a continuation from the October meeting. At the Board's request, the applicant agreed to eliminate access to a right of way for the rear lot and relocated the access between the two front lots facing 202.

\*Mayor Schwager entered the meeting at 7:09. Ms. Levy will now sit in for Mr. Rose.

Mr. Cascio offered Mr. Tyler Vandervalk's testimony explaining the changes. He was sworn in again by Mr. Russo. Mr. Vandervalk reviewed the variances for steep slopes, density and lack of frontage. He informed the Board that they took the advice of the Board and made changes which were submitted.

Exhibit A-5, Revised Plans.

There were no changes to lot configurations. The rear driveway accessing the right of way out to Apache Drive was eliminated and relocated between and through lot 40.01 and 40.02 leading out to Ramapo Valley Road. The width of that driveway will be 40-feet which is made up of 20-feet from each of the 2 front lots.

The location of the house on the rear lot was moved back slightly. With these revisions, the disturbance to steep slope will increase by 439 square feet. Approximately 63.8% of the disturbance is in the 25%-35% category, 22% in the 15%-25% and 41% in the 35% and greater slope category. Due to the access change, they decided to move the location of the house on the

rear lot closer to the center of the property where the existing barn is located. This too will disturb steep slopes but he reminded the Board that most of the slopes are manmade.

Variations are as follows: Lot 40.03 lacks the 50-foot width fronting an approved street. The parcel is just under the density requirement at 2.9 dwelling units for the site however, the proposal is just over with the request of 3 dwelling units. Disturbance of 41% in the 35% or greater category where no disturbance is permitted and 63.8% in the 25%-30% category where only transitional grading is permitted. Mr. Vandervalk expressed that since the changes were at the Board's request, he hopes that they will consider these variations.

A discussion ensued concerning the number of driveways leading out to Ramapo Valley Road. Mr. Vandervalk responded that 3 driveways leading out to Ramapo Valley Road are being proposed. It was questioned if the applicant considered having the driveways for the two front lots spill out onto the driveway for 40.03. This would leave only one driveway leading out to Ramapo Valley Road. Mr. Vandervalk responded that they did consider this but then it brings up the issue of who maintains the driveway. Since there is already curb-cuts for the 2 front properties, they felt this was a cleaner approach.

The Board questioned the total square footage of steep slope disturbance and how much of the steep slope is manmade. Mr. Vandervalk responded that there is approximately 1025 square feet being disturbed. Where they are proposing to place the driveway down the middle of the two front lots, a total of 40-feet in width, the slope is not so bad. He also explained that the steep slope in the 35% category is mostly manmade due to a swimming pool and retaining walls on the property.

Mr. Yakimik reviewed with Mr. Vandervalk his report dated December 3<sup>rd</sup> and suggested that these things be recorded in the resolution, the applicant will be required to submit a soil movement application to move 855 cubic yards and eliminate the use of the private easement from plans to prevent any future access from lot 40.03 to Apache Drive. Mr. Vandervalk agreed to expunge the use of the easement from their proposal. Mr. Yakimik questioned if the applicant has filed an application with Bergen County and if so, was there any comments. Mr. Vandervalk responded that they did reach out but there has been no response. They will file a formal application once they know the outcome of this application. Mr. Yakimik expressed that the applicant will need to work out drainage details and submit them for engineering review. In addition, at the last meeting, the applicant was supposed to supply the Board with an exhibit demonstrating adequate room for a fire truck's access. Mr. Vandervalk entered an exhibit.

Exhibit A-6, Emergency Vehicle Access.

The exhibit shows a fire truck turning into the driveway for 40.03. A utility pole will need to be removed but there is plenty of room for the fire truck to access all properties. The vehicle will not be able to turn around but will be able to back out.

A discussion ensued concerning the installation of sidewalks and curbing along the Ramapo Valley Road frontage. Mr. Vandervalk responded that the applicant will have sidewalks installed. He was not sure about curbing but it may be required by the County. Mr. Yakimik expressed that the Borough would prefer curbing. This will help reroute runoff from entering on the properties. There was discussion concerning detailed drainage plans. Mr. Yakimik reiterated that after the applicant receives approval, they are required to submit detail drainage plans. This review is worked out between the engineer and applicant. No further questions. Mr. Morris entertained a motion to open the meeting to the public.

Motioned by Mr. Connolly and seconded by Councilman Kulmala, to open the meeting to the public regarding matters concerning the testimony of Mr. Vandervalk was unanimously voted by the Board.

No comments.

Motioned by Mr. Connolly and seconded by Councilman Kulmala, to close the meeting to the public regarding matters concerning the testimony of Mr. Vandervalk was unanimously voted by the Board.

Mr. Cascio introduced the applicant's planner. Mr. Charles Heydt offered his credentials and the Board accepted his qualifications.

Mr. Heydt entered an exhibit.

Exhibit A-7, 10 Photos.

Mr. Heydt described the existing conditions of the property. In this neighborhood it seems that many of the subdivisions share a commonness amongst the properties by sharing driveways. The size of the existing property is 147,929 square feet and the length of the frontage along Ramapo Valley Road is 295.27 feet. Currently on the property is a 2 story dwelling set back approximately 79.2-feet. The lot has 2 easements, one for access and the other for drainage. The property is located in a RA-1 Residential zone and NW of the Ramapo River. Mr. Heydt entered an exhibit.

Exhibit A-8, Tax Map of the property.

Mr. Heydt referred to the tax map which depicts the 2 easements. One of the variance being sought is for lot 40.03 for no frontage. At the last meeting it was suggested that the access to that property be placed in between the two front lots to allow emergency access to larger vehicles and to cause less of an impact on the neighboring properties. This home is 250-feet away from the closest home. Other homes in this area are landlocked and share that hideaway characteristics.

The applicant is proposing a variance for density of 2.9% where 30% is required. They tried to acquire more land from adjacent property owners with no luck. On each lot, a single family home

is being proposed. Most of the steep slopes being encroached upon is caused by the new location of the driveway.

A discussion ensued concerning changing the location of the home on lot 40.02 to avoid encroaching on the steep slope. Mr. Heydt responded that most of the slopes are manmade and along the driveway.

Mr. Heydt reviewed the positive criteria of the C2 and bulk variances being requested. He explained that there is little negative with the property except for a hardship due to the steep slopes. The subdivision will create 3 large properties providing light, air and open space. A discussion ensued concerning sidewalks and that the applicant did not propose to include curbing. Mr. Yakimik informed Mr. Heydt that the County may require the applicant to add the curbing. The County will do a review and give their findings.

Mr. Heydt reviewed the negative criteria which again is the steep slopes. They have complied with the Board's request to add an access that can accommodate an emergency vehicle and fire truck. Utilities will be easily connected out to Ramapo Valley Road. There will be no change to the topography of the property so the drainage should remain the same. He confirmed that this property is not within the floodplain. Septic plans will be issued and will meet all lawful requirements.

Mr. Heydt stated that this application does not impair the ordinance for this zone since residential homes are being proposed meeting most of the criteria. This is a suburban residential development proposing minor disturbance and preserving the master plan's goal for this area.

A discussion ensued again concerning the location of the proposed home on lot 40.02. It was suggested by the Board that the home be moved further back from the access and closer to Ramapo Valley Road to avoid the steep slope. Mr. Heydt responded that it is a narrow band of steep slopes and they would like to preserve the existing driveway for that lot and keep the 2 homes facing Ramapo Valley Road consistent. It was verified that the steep slope on lot 40.03 was also manmade. No further discussion. Mr. Morris entertained a motion to open the meeting to the public.

Motioned by Mr. Connolly and seconded by Mayor Schwager, to open the meeting to the public regarding matters concerning the testimony of Mr. Heydt was voted unanimously by the Board.

No comments.

Motioned by Mr. Connolly and seconded by Councilman Kulmala, to close the meeting to the public regarding matters concerning the testimony of Mr. Heydt was voted unanimously by the Board.

Mr. Russo suggested that the Board authorize him to draft a resolution in the affirmative so he can receive and review conditions discussed this evening. Approval will be subject to County

approval, removing the easement access from the plans for lot 40.03 since it will no longer be needed and amend the zoning table on the plans. Mr. Morris entertained a motion.

Motioned by Mr. Connolly and seconded by Mr. Liss, to authorize Mr. Russo to draft a resolution in the affirmative subject to County approval, removing the easement access for lot 40.03 and amend the zoning table on the plans.

Roll Call Vote:           Ayes: Ms. Levy, Messrs. Liss, Marscovetra, Connolly, Haymon, Councilman Kulmala and Mr. Morris  
                              Nays: Mayor Schwager  
                              Abstain: None  
                              Absent: None

Meeting recessed at 8:24pm  
Meeting resumed at 8:30pm

Roll Call:           Present: Ms. Levy, Messrs. Liss, Marscovetra, Rose, Connolly, Haymon, Morris, Councilman Kulmala, Mayor Schwager and Chairman Potash.  
                              Absent: None

## 2. Review and possible adoption of the Amended Housing Element and Fair Share Plan.

Mr. Lydon explained to the Board that after working with the Court Master to draft the Housing Element and Fair Share Plan back in February 2021, we received a memo advising the Borough to amend and adopt the plan to include comments and recommendation along with ordinances specific to the plan.

The draft is not much different but includes more detail on the individual sites than the previous plan. Further, the plan adds detail on implementation matters. This required hiring an affordable housing Administrative Agent, Community Grants, Planning and Housing to implement these tasks.

Timeframe and estimate of construction costs for the proposed municipal construction at 277 Ramapo Valley Road has been added. This is a rough estimate since the building has not been designed yet and construction of this site is not expected for several years. Also included is the Roper site and the property adjacent to Walgreens.

Since the Housing Element and Fair Share Plan was adopted back in February, Oakland has submitted an amended Wastewater Management Plan to the NJDEP. This will have to be added as an appendix to the plan.

Updated and included in the plan was a development on 91 West Oakland Avenue approved by the Zoning Board which includes one affordable unit. Crediting information was requested and inserted in the plan. Also included was the Marketing Plan and Spending Plan.

In addition to the changes, the Court Master requested some modifications to the affordable housing ordinances adopted by the Borough. The CBD-I and II ordinances needed to be amended and delete the residential conditional use. This was done to ensure that all residential developments in these zones would include affordable housing pursuant to the CBD-1 and II Overlay Zones.

The CBD-1 and II Overlay zones were amended. Prior, the ordinance allowed housing as a Conditional use limited to 2 and 3<sup>rd</sup> floors. The Court Master did not like the Conditional use provision so the draft ordinance now reads Residential use as permitted, but limited to the 2nd and 3<sup>rd</sup> floors. Housing will not be permitted on the 1<sup>st</sup> floor.

At the request of the Court Master, the 20% Mandatory Set Aside ordinance was amended to clarify that each bedroom distribution would include dwellings affordable to very low income households. It was also amended to include all residential development of 5 or more new dwellings, prior version included just attached residential housing.

The Court Master also requested the Affordable Housing Ordinance be amended to clarify that units restricted to very low-income households, would be distributed among the bedroom classifications. This same ordinance was also amended to require that an annual report on the status of all affordable housing activities in Oakland be provided.

The RA-5AH ordinance was amended to permit an additional 2-feet of building height. No further discussion.

Chairman Potash announced that there was no public to open the meeting to. He entertained a motion to adopt the Amended Housing Element and Fair Share Plan.

Motioned by Mr. Connolly and seconded by Mr. Rose, to adopt the Amended Housing Element and Fair Share Plan.

Roll Call Vote:           Ayes: Ms. Levy, Messrs. Liss, Marscovetra, Rose, Connolly, Haymon, Morris, Councilman Kulmala, Mayor Schwager and Chairman Potash.  
                                  Nays: None  
                                  Abstain: None  
                                  Absent: None

#### ORDINANCE REVIEW:

Ordinance 21-CODE-863 – Cannabis Amendment:

Mr. Lydon explained the amendments made to the cannabis ordinance. Each of the amendments mentioned are included throughout the ordinance for the Industrial I-1, I-2, IP, and CO-IP zones. The amendments are as followed:

- Cannabis operator/owner/applicant are required to possess a valid State of New Jersey license for the particular cannabis use being applied for. All conditions associated with the required New Jersey issued cannabis license are also requirements of any local approval that may issue.
- Cannabis operations shall deposit an additional \$3,500 in an escrow account to fund all reviews required by the Police Department or Health Department.
- All cannabis applicants must produce an odor control plan. Approval of this plan prior to the issuance of a construction permit will be a requirement of all cannabis operators. Strict implementation of the odor control plan is a continuing obligation of every cannabis operator. The Health Department, or an outside agency as designated by the Health Department, shall be the designated reviewing agency. All outside reviews shall be paid for by the applicant through the use of the previously posted escrow funds. These escrow funds shall be replenished as needed upon the request of the Borough.
- Off street parking requirements for each listed cannabis operation shall be based on 59-61G(2), except that parking requirements for all office space in said cannabis operations shall conform to 59-61G(3).
- All trucks owned by the cannabis operator and used in the distribution and wholesaling of cannabis or related products shall be stored or parked in a lot that is enclosed by fencing with a gate that shall at all times be locked, except for when trucks are entering or leaving the enclosed truck storage area. Employee parking shall be located in a separate area of the site.
- As authorized by the enabling legislation, Oakland is permitted and has chosen to place a limit on the number of cannabis licenses and this cannabis operations that may locate in Oakland. No more than 10 cannabis enterprises of any type shall be authorized in the Borough. An applicant seeking site plan approval shall provide as an item of completeness a signed Affidavit attesting to and indicating the owner, type of license held and location of every cannabis operation in the Borough.

The I-4 Industrial Zone will be the only zone that will allow cultivating. There will be NO retail in any of the zones. A discussion ensued concerning an odor control plan and security. Mr. Lydon responded that the state is still developing the criteria for this. Mr. Russo added that a filtration system, security and odor control plan may trigger site plan approval. No further discussion. Chairman Potash entertained a motion.

Motioned by Mayor Schwager and Mr. Rose, to authorize Mr. Russo to draft a letter recommending the amendments to the ordinance.

Roll Call Vote:           Ayes: Messrs. Liss, Marscovetra, Rose, Connolly, Haymon, Morris,  
                                   Councilman Kulmala, Mayor Schwager and Chairman Potash.  
                                   Nays: None  
                                   Abstain: None  
                                   Absent: None

Chairman Potash explained that the following ordinances and the amendments have been discussed during the hearing for the amended Housing Element and Fair Share Plan and are part of the court order for the Borough affordable housing plan. Mr. Russo informed the Board that the ordinances will be appendices to the amended plan. There was no public to open the meeting to. Chairman Potash entertained a motion to authorize Mr. Russo to draft a letter recommending the amendments to all the ordinances. Chairman Potash entertained a motion recommending the following ordinances.

Ordinance 21-CODE-864 – Amendment to Affordable Housing Regulations and Controls.

Motioned by Mr. Connolly and Mr. Liss, to authorize Mr. Russo to draft a letter recommending the amendments to the ordinance.

Roll Call Vote:           Ayes: Messrs. Liss, Marscovetra, Rose, Connolly, Haymon, Morris,  
                                  Councilman Kulmala, Mayor Schwager and Chairman Potash.  
                                  Nays: None  
                                  Abstain: None  
                                  Absent: None

Ordinance 21-CODE-865 – Amendment to 20 Percent Affordable Housing Set Aside.

Motioned by Mr. Connolly and Mr. Rose, to authorize Mr. Russo to draft a letter recommending the amendments to the ordinance.

Roll Call Vote:           Ayes: Messrs. Liss, Marscovetra, Rose, Connolly, Haymon, Morris,  
                                  Councilman Kulmala, Mayor Schwager and Chairman Potash.  
                                  Nays: None  
                                  Abstain: None  
                                  Absent: None

Ordinance 21-CODE-866 Amendment to Central Business District-1 Zone.

Motioned by Mr. Rose and Mr. Connolly, to authorize Mr. Russo to draft a letter recommending the amendments to the ordinance.

Roll Call Vote:           Ayes: Messrs. Liss, Marscovetra, Rose, Connolly, Haymon, Morris,  
                                  Councilman Kulmala, Mayor Schwager and Chairman Potash.  
                                  Nays: None  
                                  Abstain: None  
                                  Absent: None

Ordinance 21-CODE-867 Amendment to Central Business District-II Zone.

Motioned by Mr. Marscovetra and Mr. Connolly, to authorize Mr. Russo to draft a letter recommending the amendments to the ordinance.

Roll Call Vote:           Ayes: Messrs. Liss, Marscovetra, Rose, Connolly, Haymon, Morris,  
                                  Councilman Kulmala, Mayor Schwager and Chairman Potash.  
                                  Nays: None  
                                  Abstain: None  
                                  Absent: None

Ordinance 21-CODE-868- Amendment to Affordable Housing Overlay Zone of Central Business District I & II Zone.

Motioned by Mr. Connolly and Mr. Marscovetra, to authorize Mr. Russo to draft a letter recommending the amendments to the ordinance.

Roll Call Vote:           Ayes: Messrs. Liss, Marscovetra, Rose, Connolly, Haymon, Morris,  
                                  Councilman Kulmala, Mayor Schwager and Chairman Potash.  
                                  Nays: None  
                                  Abstain: None  
                                  Absent: None

Ordinance 21-CODE-869- Amendment to the RA-5AH Zone.

Motioned by Mr. Connolly and Mr. Haymon, to authorize Mr. Russo to draft a letter recommending the amendments to the ordinance.

Roll Call Vote:           Ayes: Messrs. Liss, Marscovetra, Rose, Connolly, Haymon, Morris,  
                                  Councilman Kulmala, Mayor Schwager and Chairman Potash.  
                                  Nays: None  
                                  Abstain: None  
                                  Absent: None

MEMORIALIZATIONS:

None

PAYMENT OF BILLS:

Motioned by Mayor Schwager and seconded by Mr. Marscovetra, to approve the bills list subject to the availability of funds.

Roll Call Vote:           Ayes: Ms. Levy, Messrs. Liss, Marscovetra, Rose, Connolly, Haymon, Morris,  
                                  Councilman Kulmala, Mayor Schwager and Chairman Potash.

Nays: None  
Abstain: None  
Absent: None

APPROVAL OF MINUTES:

Motioned by Mr. Connolly and seconded by Mr. Rose, to approve the November 11, 2021 Minutes.

Roll Call Vote: Ayes: Ms. Levy, Messrs. Liss, Marscovetra, Rose, Connolly, Haymon, Morris, Councilman Kulmala and Mayor Schwager.  
Nays: None  
Abstain: Chairman Potash  
Absent: None

NEW BUSINESS:

Adopt 2022 Meeting Schedule:

Motioned by Mr. Rose and seconded by Mr. Liss, to adopt the 2022 meeting schedule.

Roll Call Vote: Ayes: Ms. Levy, Messrs. Liss, Marscovetra, Rose, Connolly, Haymon, Morris, Councilman Kulmala, Mayor Schwager and Chairman Potash.  
Nays: None  
Abstain: None  
Absent: None

Form RFQ Committees:

Mr. Marscovetra, Ms. Levy and Chairman Potash.

OLD BUSINESS:

Review of draft Streetscape Ordinance for the B-2, CBD-I and CBD II zones:

The reason adoption of this ordinance was postponed was because Mayor and Council wanted feedback from Shade Tree Committee. Everyone should have received the comments from Shade Tree Commission. It listed preferable tree types and Mr. Lydon will supply the Board with photos of suggested benches to be used.

PUBLIC MEETING ADJOURNED AT 9:50 P.M.

Motioned by Ms. Levy and seconded by Councilman Kulmala, to adjourn the meeting by a unanimous vote by the Board.

Respectfully Submitted by,

Kathlyn Gurney, Administrative Assistant

\*Next meeting on January 13, 2022