

MAY 8, 2018 MINUTES  
OAKLAND BOARD OF ADJUSTMENT  
COUNCIL CHAMBERS - 8:00 P.M.  
PUBLIC HEARING

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 8:04 P.M.

ROLL CALL: Present: Mrs. Campanelli, Messrs. Rose, Arredondo, Bremer, Ackerly, Chadwick, Smid, Wegman and Chairman Lepre.  
Absent: None

Also in attendance were Mr. Matthew Cavaliere, Board Attorney, Mr. Steve Lydon, Burgis Associates and John Yakimik, Boswell Engineering.

PUBLIC MEETING:

Chairman Lepre announced that he was rearranging the agenda to allow the residential applications to go first.

1. Acevedo - 43 Powdermill Lane, Block 4501, Lot 10. Public hearing for a front yard setback.

Members conducted a site inspection. Mr. Wegman reported that the property is located in the RA-3 Residential where traffic is light. Chairman Lepre reported comments from the various departments.

The applicant is proposing a front yard setback of 24-feet (30.4-feet existing) where 40-feet is required.

Mr. Robert and Samantha Acevedo were sworn in along with builder, Darryl Foca. Mr. Acevedo explained that this is an application for a portico to cover the front porch from the elements. It was verified that the measurements were taken from the covered porch. Chairman Lepre entertained a motion.

Motioned by Mr. Smid and seconded by Mr. Arredondo, to open the meeting to the public with regards to the Acevedo application was voted unanimously by the Board.

No comments.

Motioned by Mr. Arredondo and seconded by Mr. Smid. to close the meeting to the public with regards to the Acevedo application was voted unanimously by the Board.

Chairman Lepre asked for discussion and seeing none, entertained a motion.

Motioned by Mr. Wegman and seconded by Mr. Ackerly, to approve the Acevedo application.

Roll Call Vote:           Ayes: Mrs. Campanelli, Messrs. Rose, Arredondo, Ackerly, Bremer,  
                                  Chadwick, Smid, Wegman and Chairman Lepre.  
                                  Nays: None  
                                  Abstain: None  
                                  Absent: None

2. Lenzetti – 21 Chicasaw Drive, Block 5403, Lot 22. Public hearing for a rear and two side yard setbacks.

Members conducted a site inspection. Mr. Wegman reported that the property is located in the RA-2 Residential zone and light in traffic. Chairman Lepre reported comments from the various departments.

Mrs. Campanelli recused herself from the application.

The applicant is proposing a 50-foot rear yard setback where 75-feet is required and a side yard setback of 6-feet and 15-feet where 30-feet is required.

Mr. William Lenzetti was sworn in and testified that he owns the house with his wife Caroline. He explained that he proposes to close off a portion of his deck turning into part of the dining room and add an accessory building in the rear yard. Chairman Lepre questioned the numbers of bedrooms. Mr. Lenzetti responded that four bedrooms exist and he agreed not to exceed that number. Chairman Lepre questioned the use for the accessory building. Mr. Lenzetti responded that he is proposing a garage to refurbish old cars. Chairman Lepre questioned if the accessory building could be moved over enough to obtain the required side setback. Mr. Lenzetti

responded that he has chosen this area to avoid a larger amount of excavation and to maximize the use of his property. Chairman Lepre expressed that the Board makes a decision based upon minimizing the hardship, they cannot make a decision based on an applicant's preferences. The side yard variance impedes on the neighboring property.

The plans show dimensions of 24' x 24' and 28' x 28' and the Board questioned which of the sizes is being proposed. Mr. Lenzetti responded that the plans were not final. A discussion ensued concerning trees in the pathway to the accessory building and no driveway being proposed. Mr. Cavaliere questioned Mr. Lydon if there was an ordinance requiring driveways leading to garages. Mr. Lydon responded no. Mr. Cavaliere explained to the applicant that they need to know the exact size of the building before they can grant approval on an application. Mr. Lenzetti expressed that he would prefer that the accessory building be 28' x 28'. Chairman Lepre entertained a motioned to open the meeting to the public.

Motioned by Mr. Wegman and seconded by Mr. Smid, to open the meeting to the public with regards to the Lenzetti application was voted unanimously by the Board.

Mrs. Sherry Campanelli, 10 Algonquin Trail, questioned the location of his house and questioned the use for the building. Mr. Lenzetti responded that he refurbishes cars for a hobby.

Motioned by Mr. Smid and seconded by Mr. Bremer, to close the meeting to the public for matters regarding Mr. Lenzetti application was voted yet unanimously by the Board.

Chairman Lepre expressed again that the Board works to validate the hardship not the preference of the applicant. He explained that he has no problem with the rear setback but would like to see the building moved away from the side yard. A discussion ensued concerning a compromise. The Board expressed that they follow certain requirements when granting a variance and were uncomfortable with the request of something this size so close to the side setback. Chairman Lepre explained Mr. Lenzetti's options as to move forward with a vote or withdraw the accessory structure portion of his application and get approval for the expansion to his dining room. Mr. Lenzetti withdrew the accessory structure portion of his application.

Chairman Lepre asked for discussion and seeing none, entertained a motion.

Motioned by Mr. Wegman and seconded by Mr. Ackerly, to approve the Lenzetti application with the stipulation that the accessory structure has been withdrawn from the application.

Roll Call Vote:       Ayes: Messrs. Rose, Arredondo, Ackerly, Bremer,  
                              Chadwick, Smid, Wegman and Chairman Lepre.  
                              Nays: None  
                              Abstain: None  
                              Absent: None

3. Holiday Bowl – 29 Spruce Street, Block 2302, Lot 24. Public hearing for a use variance.

Chairman Lepre announced that Mr. Daryl Siss, Esq. on behalf of the applicant has requested to carry their application to the June 12, 2018 public hearing with no further notice. He entertained a motion to carry the application.

Motioned by Mr. Smid and seconded by Mr. Wegman, to carry the Holiday Bowl application to the June 12, 2018 public hearing with no further notice was voted unanimously by the Board.

4. A & E Ventures of Oakland, LLC – 101 Plaza Road, Block 2702, Lots 1.01 and 1.01. Continued public hearing for a preliminary site plan, subdivision, and use and bulk variances.

Mr. Thomas Herten, Esq. with Archer Attorneys on behalf of A & E Ventures of Oakland was before the Board. He informed the Board that he brought back the traffic engineer to go over a few brief issues that involved the request from Boswell's letter to compare traffic counts to the Lodi and Hackensack locations. This comparison lead to a misconception of what the Oakland site would be. The traffic counts for Hackensack and Lodi were much higher due to denser commuter roadways. In addition, he informed the Board that he met with the County Department of Planning on April 25<sup>th</sup> and had a positive meeting with Michael Varner concerning restricting the left hand lane onto Ramapo Valley Road during the peak hours of the site. Mr. Herten offered more testimony from Mr. Paul Going.

Mr. Going informed the Board that the County is planning a project at the intersection of Ramapo Valley Road and Post Road but they are not sure when it will begin. The thought is that at that intersection, the left hand turn would be designated to left and through traffic and the right lane would be for right hand turns only. In addition, there could be signal changes as well.

He expressed that the County is fine with the left hand turn out of Wawa onto Ramapo Valley Road however, that turn will be restricted during the peak hours of 7:30 a.m. to 9:00 a.m. and 4:30 p.m. to 6:00 p.m. Mr. Yakimik expressed that he has correspondence from the County indicating a need for that right hand turn only onto Ramapo Valley Road for the industrial park traffic during peak but there was question as to the left hand lane vehicles moving into the right lane to avoid those vehicles turning left.

Mr. Herten questioned Mr. Going's revised letters referencing trip generation calculations and which ITE edition was used. Mr. Going reiterated that it was Boswell's request to do a comparison between Oakland and Hackensack and Lodi. Lodi and Hackensack locations are 35 percent busier and he believes the traffic counts for the Oakland site, in his original report, are more consistent than the counts done by Boswell. Hackensack has 12 gasoline pumps, Lodi has 16 and Wawa is proposing 10 gasoline pumps for the Oakland site. He compared the convenience store square footage between each building. The Board questioned again the fire truck access, infringement

on parking spaces and the ability for an emergency vehicle to turnaround. Mr. Going assured the Board that a fire truck accessing the site will not infringe on the parking spaces and will have room to turnaround.

Mr. Yakimik addressed questions he had in his review letter with Mr. Going. A discussion ensued concerning the applicant conducting a cueing analysis due to the unique configuration of the property surrounded by roads. Mr. Going expressed that with the number of pumps being proposed, this should alleviate any cueing. They discussed the length of time vehicles take at the pumps and length of time a person may spend in the convenience store.

Chairman Lepre asked if there were any more questions and seeing known, he entertained a motion to open the meeting to the public.

Motioned by Mr. Bremer and seconded by Mr. Wegman, to open the meeting to the public regarding Mr. Going's testimony was unanimously voted by the Board.

Mr. Larry Levine advised the Board that they look at the number of 7 gas stations that exist in Oakland, convenience stores and the Shoprite that is open until 10:00 p.m. Chairman Lepre expressed to Mr. Levine that he can only question the witness, there shall be comments at this time.

Motioned by Mr. Wegman and seconded by Mr. Bremer, to close the meeting to the public regarding Mr. Going's testimony was voted unanimously.

Mr. Herten introduced his next witness, Mr. Creigh Rahenkamp, a licensed planner with Creigh Rahenkamp & Associates, LLC located in Riverton, NJ. Mr. Rahenkamp was sworn in. He reviewed his credentials and the Board accepted his qualifications.

Mr. Rahenkamp informed the Board that he reviewed the master plan, the re-exams, all of the transcripts and Mr. Lydon's reports. He explained that the application could be looked at in two ways; one being a permitted use with two accessory structures or a use (D-1) variance. This could be viewed as a permitted use way by examining the way food stores have aggregated into many uses such as florist, bakery and retail to accommodate their customer. This is the same for fuel stations. They've added another component to better serve and accommodate their customers. Mr. Rahenkamp went on to explain other big retail outfits such as Walmart who are now offering fuel services on their sites. This has become the new regular and people are accepting the change.

He reviewed the B-2 Business zone ordinance and expressed that it is old and very broad concerning permitted and non-permitted uses. He expressed that the outdoor sales aspect does not apply to this application since the gasoline pumps will be covered by a roof. The definitions for auto service station and public garage are vague in the Borough's ordinance. He believes that auto service station really referred to a gasoline station and reviewed the CBD zone ordinance which permits gasoline stations and mentions nothing about service stations. These gas stations

may not have service but could be viewed as a principal use combining with a retail use. A gas station with a convenience store on site can be treated as a singular use. He reviewed code 59-48A, conformance to use regulations, where it states 1 principal and its accessory building on 1 lot except for the Industrial zone. Mr. Rahenkamp expressed from a zoning perspective, there would be no detriment.

He reminded the Board that prior to this application, the Planning Board approved a bank and Burger King on the same lot with a drive thru which he believes is suited for the site and would have less of an impact and no impairment to the zoning plan.

Messrs. Pugsley and Martell gave accurate testimony when review the bulk issues and signage. Impervious coverage permitted is 55 percent and there will be no increase to the 75.4 percent approved by the Planning Board.

Mr. Rose questioned again the number of pumps and square footage of the convenience store and asked if the square footage and the number of pumps could be reduced. Mr. Rahenkamp responded that more pumps will help prevent cueing.

Mr. Rahenkamp reviewed the negative criteria mentioning the bulk variances being requested approved originally by the Planning Board. He assured the Board that the Wawa will be a less intensive use than what was approved.

Mr. Lydon responded to Mr. Rahenkamp's testimony. He agreed the ordinance is old and referred him to Section 59-44 defining a gasoline station and to Section 59-53 referencing gasoline stations in a B-2 zone. He reads the ordinance as the gasoline station being the principal use and the convenience store is the secondary use. He believes Mr. Rahenkamp's testimony has this turned around. He compared the use to a barn being bigger than a farmhouse but the barn is still the accessory. A discussion ensued concerning the definitions.

The application meets all conditions but one, 1500-feet from another service station which falls short at 1300-feet. Mr. Rahenkamp responded that the separation needed for gas stations go back decades ago due to noise, danger of fire and air quality. Since the introduction of vapor recover, there is no need for that for that variance. A discussion ensued concerning variances. Mr. Lydon reviewed that variances for the free-standing sign and impervious coverage.

Mr. Lydon informed Mr. Rahenkamp that in 2004 it was declared that all of Oakland would be within the Preservation and Planning Area of the Highlands. Mr. Rahenkamp responded that the applicant has a Highland exemption. Mr. Lydon expressed that the Borough has aspirations for this part of the town after purchasing property close in proximity of the proposed Wawa, known as Great Oak Park. This is a sensitive site which exists currently at a disappointing 75 percent impervious coverage which is in excess for the Preservation Area. He informed Mr. Rahenkamp that 55 percent impervious coverage is allowed and feels the applicant can reduce the proposed coverage by scaling down the parking. Mr. Rahenkamp responded that they will not be increasing

impervious coverage, approved by Planning Board, plus they have a Highlands Exemption letter. With respect to the parking, usually applicants require variances for not providing enough parking. Mr. Lydon reminded Mr. Rahenkamp that once the site is demolished, all approvals from the Planning Board go away.

Mr. Lydon commented that the proposed free-standing sign is too tall and large and a sign of this size requires a 90-foot setback. Mr. Rahenkamp responded that the sign size is 23 square feet, signage for fuel pricing is required. He compared other signs for gasoline stations in the area and feels that what the applicant is proposing is reasonable for the Board to consider.

The Board questioned whether canopy signage is considered a second building sign, if there will be a charge to use the air compressor and gave their concerns with vehicle impact. Mr. Rahenkamp responded the wording on the canopy is considered a banner, there is a charge to use the air compressor and there will be no increase in intensity compared to what exists. The Board had concerns with the 24-hour service and if there will be signs on 287 directing people to the sites.

There was discussion again concerning the size being proposed. Chairman Lepre explained it is the Board's obligation to take every step possible not to over-extend the property. Mr. Rahenkamp explained that a long time ago, the Wawa buildings may have been smaller however, the size being proposed in Oakland is now the smallest design and his experiences with Wawa Corporate is that hold firm with what they are proposing. Chairman Leper entertained a motion to open the meeting to the public.

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

Mr. Larry Levine commented that this commercial site will spoil the beauty of Oakland. Chairman Lepre informed Mr. Levine that this is not the comment segment of the application and if he had a question regarding Mr. Rahenkamp's testimony, he could ask.

Motioned by Mr. Smid and seconded by Mr. Arredondo, to close the meeting to the public regarding matters concerning the testimony of Mr. Rahenkamp was voted unanimously by the Board.

Chairman Lepre announced that the Wawa application will be carried to the June 12, 2018 public hearing with no further notice.

5. Hampshire Venture Partners, LLC – 24 West Oakland Avenue, Block 1706, Lot 4.01. Public hearing for a use variance.

Chairman Lepre announced that the Hampshire Venture Partners, LLC application will be carried to the June 12, 2018 public hearing with no further notice.

#### MEMORIALIZATION OF RESOLUTION:

1. Lindeburg – 29 Oak Street, Block 1803, Lot 8. Approval for a front yard setback.

Motioned by Mr. Chadwick and seconded by Mr. Bremer, to memorialize the above resolution of approval.

Roll Call:       Ayes: Messrs. Ackerly, Bremer, Chadwick, Smid, Wegman and Chairman Lepre  
                      Nays: None  
                      Abstain: None  
                      Absent: None

2. Kovalcik – 55 Minnehaha Boulevard, Block 4701, Lot 48. Approval for a front and side yard setback.

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

Roll Call:       Ayes: Messrs. Ackerly, Bremer, Chadwick, Smid, Wegman and Chairman Lepre  
                      Nays: None  
                      Abstain: None  
                      Absent: None

#### PAYMENT OF BILLS:

Motioned by Mr. Smid and seconded by Mr. Bremer, to approve the payment of bills subject to the availability of funds was voted unanimously by the Board.

#### APPROVAL OF MINUTES:

Motioned by Mr. Chadwick and seconded by Mr. Smid, to approve the April 10, 2018 minutes was voted unanimously by the Board.

#### NEW BUSINESS DISCUSSION:

None.



OLD BUSINESS DISCUSSION:

Interstate Outdoor Advertising will return back to the Board of Adjustment their appeal of decision made by the Board for a billboard sign.

MEETING ADJOURNED:

Motioned by Mr. Smid and seconded by Mr. Chadwick, to adjourn the meeting at 11:00 p.m. was voted unanimously by the Board.

Respectfully submitted by,

Kathlyn Gurney, Board Secretary

\*Next meeting is June 12, 2018.