

JULY 12, 2016 MINUTES
OAKLAND BOARD OF ADJUSTMENT
OAKLAND 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 8:10 P.M.

ROLL CALL: Present: Mrs. Steele, Messrs. Ackerly, Bremer, Chadwick, Smid, Wegman, Schneeweiss and Chairman Lepre.
Absent: None

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

PUBLIC MEETING BEGINS AT 8:06 p.m.:

Chairman Lepre announced that Mr. Helfant has resigned from the Board and now he is awaiting the Mayor assign a new member.

1. Hill – Pearson Miller Drive, block 101, Lot 2. The application withdrawn.

Chairman Lepre announced that the above application on Pearson Miller Drive has withdrawn their application.

2. Cohen - 599 Ramapo Valley Rd., block 1301, Lot 7. Public hearing for a side yard setback.

All members conducted a site inspection except for Mr. Chadwick. Mr. Wegman reported that the site is located in the RA-1 residential zone with minimal traffic. Chairman Lepre reported comments from the various departments.

The applicant is seeking a variance for a side yard setback of 23.3-feet where 30-feet is required. Ms. Rachel Cohen and Adam Duhl were sworn in and testified that they co-own the property. They explained that the side yard setback pre-exists at 23.3-feet and are proposing to add a

second floor addition over the deck. In addition, a new septic system is being designed for four to five bedrooms. Chairman Lepre suggested that the septic system be designed for five bedrooms since the study can be used as a bedroom. This would be contingent upon Health Department approval. He entertained a motion to open the meeting to the public.

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

No comments.

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

Chairman Lepre expressed that this is a very small increase to the property. Mr. Cavaliere confirmed that the master bathroom would extend over the deck. Ms. Cohen responded that this is correct.

Chairman Lepre stated for the record that Mrs. Steele will be voting in place of Mr. Chadwick and entertained a motion.

Motioned by Mr. Smid and seconded by Mr. Wegman, to approve the Cohen application contingent to Health Department approval.

Roll call: Ayes: Mrs. Steele, Messrs. Bremer, Ackerly, Smid, Wegman, Schneeweiss, and
 Chairman Lepre.
 Nays: None
 Abstain: Mr. Chadwick
 Absent: none

3. Dugas -63 Chickasaw Drive, block 5403, Lot 15. Public hearing for rear yard setback.

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

The applicant seeks a rear yard setback of 42-feet where 75-feet is required.

Mrs. Susan Dugas and Mr. Guy Dugas were sworn in and testified that they are the owners of the home. They are seeking to add an attached two-car garage in the rear of the property. Chairman Lepre confirmed that the paved asphalt driveway would lead to a concrete pad for the garage. The applicants confirmed the location of the garage and the new asphalt driveway. Chairman Lepre entertained a motion to open the meeting to the public.

Motioned by Mr. Schneeweiss and seconded by Mr. Wegman, to open the meeting to the public regarding the Dugas application was voted unanimously by the Board.

No comments.

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

Mr. Schneeweiss commented that the improvement is reasonable and keeping with the neighborhood.

Motioned by Mr. Wegman and seconded by Mr. Chadwick, to approve the Dugas application.

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

Meeting recessed at 8:20 p.m.

Meeting resumed at 8:30 P.m.

4. Guru Nanak Mission, Inc. – 138 Bauer Drive, Block 3603, Lot 2. Continued public hearing for a use variance

Chairman Lepre stated for the record that Mr. Chadwick and Mr. Schneeweiss have listened to the recording of the June 20, 2016 hearing.

Chairman Lepre questioned Mr. Porro on the number of remaining witnesses to still testify. Mr. Porro responded that he would have five more witnesses to testify including his planner. Mr. Porro introduced Mr. Gary Coger from Berkshire Realtors in Wyckoff, New Jersey. He would be testifying as a commercial realtor hired to research listings for house of worship properties. Mr. Coger was sworn in. Mr. Porro entered an exhibit.

Exhibit OM-5, House of Worship listings.

Mr. Coger explained that he was hired to pull listings of house of worship properties within a 20 mile radius of the subject property. He offered a list of 20 properties which included Closter, Clifton, East Rutherford, Passaic, Paterson, Totowa, Clifton, Inglewood and Teaneck. Mr. Coger began to explain the specifics of the properties such as date of listing, date of sale and/or still available. He expressed that a few properties had a residential component attached to the listing.

Mr. Porro reviewed positive criteria needed and whether a house of worship is considered an inherently beneficial use. Mrs. Gonchar questioned how Mr. Coder conducted his research and whether any of the property listings overlapped the timeframe during the purchase of the subject property. Mr. Coder responded that he was not sure. Mrs. Gonchar noted for the record that the witness is unaware of the timeframe her client was looking for real estate. She questioned if he knew what particular size to look for in a building. Mr. Coder responded that he did not given information, he was simply instructed to pull listings for houses of worship.

Mrs. Gonchar questioned which of the listings available offered 10,000 square feet on the first floor. Mr. Coder responded that he believed that Fairlawn and Totowa offered that square footage. Mrs. Gonchar informed Mr. Coder that those particular listings were newly listed as of May 2016. Mrs. Gonchar questioned if Mr. Coder knew where the applicant was drawing a congregation following from. Mr. Coder responded he did not know.

Mrs. Gonchar went on to question details of the property listings such as square footage, permitted use in the zone and parking detail. She reviewed the square footage, parking and dates the properties were listed resulting in a no match for the needs of the applicant. Mrs. Gonchar questioned the number of house of worship listings included a residency component. Mr. Coder responded that a few of the properties offered a residency.

Mrs. Gonchar questioned if Mr. Coder was familiar with the subject building. Mr. Coder responded that he drove by the site. Mrs. Gonchar questioned if Mr. Coder was familiar with minimum requirements for a house of worship in Oakland. Mr. Coder responded that he was not familiar with the minimum requirements. Mrs. Gonchar entered an exhibit.

Exhibit A-19, Google map photo of Rutherford building.

Mrs. Gonchar questioned if the Rutherford building could accommodate the proposed size of the congregation. Mr. Coder responded that he did not think so. Mrs. Gonchar entered an exhibit.

Exhibit A-20, Google map of Paterson/Totowa building.

Mrs. Gonchar reviewed that there was a one bedroom apartment in the Paterson listing and questioned the available parking. Mr. Coder responded that there may be available parking across the street but was not sure. Mr. Porro objected that his witness was here to offer factual information concerning the listing. Mr. Coder responded that if he knew certain criteria needed, he would have included it in his search. Mrs. Gonchar entered an exhibit.

Exhibit A-21, Google map of the Teaneck building.

Chairman Lepre expressed that the Teaneck building offered the closest comparison for the applicant's needs and questioned if the applicant visited this property. Mr. Cascio responded that they did not look at that property due to the lack of parking.

Mr. Porro questioned if Mr. Coder were to conduct a search for a house of worship in Oakland, would it direct him to Bauer Drive in the Industrial zone. Mr. Coder responded that it would not.

Motion by Mr. Smid and seconded by Mr. Wegman, to open the meeting to the public for matters concerning the testimony of Mr. Coder was a voted unanimously by the Board.

No comments.

Motion by Mr. Wegman and seconded by Mr. Chadwick, to close a meeting to the public regarding matters concerning the testimony of Mr. Coder was voted unanimously by the board.

Mr. Porro introduced his next witness. Mr. Michael Petrino, owner of PTS Data Center Solutions, located at 16 Thornton Road was sworn in. He explained that his business has been located in the Industrial Park for three years. He found his property through a real estate search where the proximity and the zoning fit the needs for his industrial business.

A house of worship or a residence is not a permitted use. He expressed concerns that his business property may not retain its value and the tax ratable would diminish in the town. There are few vacancies in the Industrial Park and his personal experience is that properties do not stay on the market long. Mrs. Gonchar reminded the witness of prior testimony that a decision could not be based upon the loss of tax ratable.

Mrs. Gonchar questioned Mr. Petrino if he was aware of the other non-permitted uses in the Industrial Park. Mr. Petrino responded that he was unaware. Mrs. Gonchar questioned if Mr. Petrino was aware that the schools in the Industrial Park are not permitted uses and are tax-exempt. She questioned if he attended any of those hearings. Mr. Petrino responded that he is aware of the schools in the Industrial Park but was not aware that they were non-permitted uses and he did not attend any of the hearings. Mrs. Gonchar questioned if Mr. Petrino received notice of this hearing. Mr. Petrino responded that he did not receive notice but was informed by his neighbors.

Mrs. Gonchar questioned if Mr. Petrino knew if Reed Academy, the gym or the physical therapy were permitted uses. Mr. Petrino responded that he was not sure. Mrs. Gonchar questioned how long was the subject building on the market. Mr. Petrino responded since December 2014 and purchased January 2015. Mrs. Gonchar questioned who contacted him concerning this property. Mr. Petrino responded that Mr. Muhlhorn contacted him. Mrs. Gonchar questioned if Mr. Muhlhorn contacted him for any of the other non-permitted uses. Mr. Petrino responded that he did not.

Mr. Porro questioned if Mr. Petrino had any other concerns. Mr. Petrino responded he feels the residency component will change the environment for the Industrial Park. Mrs. Gonchar questioned if the residential zone that backed up to the Industrial Park was closer to his business than the Guru Nanak Temple and was he aware that little changes to the existing building would be made. Mr. Petrino responded that he was not aware.

A discussion ensued concerning the depreciation of properties in the Industrial Park and the loss of tax ratable. Mrs. Gonchar informed Mr. Petrino that even if a house of worship was a permitted use, it would still be tax-exempt.

Motioned by Mr. Schneeweiss and seconded by Mr. Smid, to open the meeting to the public concerning matters of Mr. Petrino's testimony was voted unanimously by the Board.

No comments.

Motion by Mr. Schneeweiss and seconded by Mr. Wegman, to close the meeting regarding matters concerning Mr. Petrino's testimony was voted unanimously by the Board.

Mr. Porro introduced his next witness. Mr. Rodney Allen, principal owner of Royal Masters, located at 143 Bauer Drive was sworn in. He read a statement. Mr. Allen expressed that he has nothing against the Sikh faith and believes it is a charitable organization. He informed the Board that he traveled to India and visited a Sikh temple and is aware of their many customs.

His concerns are truck traffic, the difficult left-hand turn leaving the Industrial Park and entering the dark Industrial Park at night. In addition, he has concerns with the residency and where children, associated with that residency, will play. Mr. Allen questioned if there would be a protective fence surrounding the grassy area on the property to enclose a play area. He questioned if sidewalks would be addressed for pedestrians to walk on instead of the roadway.

Mr. Allen expressed concerns for another tax ratable loss and how much more property taxes go up to compensate the \$60,000 loss a year. He questioned if the residency would set a precedence with other property owners to advertise a residency for their properties. He questioned how the 250 occupancy maximum would be enforced and why someone would purchase a property and then seek a variance.

Mrs. Gonchar questioned the location of Mr. Allen's building and was he noticed and aware of the other non-permitted uses in the Industrial Park. Mr. Allen responded that he was aware of the school but was not aware of the other non-permitted uses. He did not attend those Board hearings.

Mrs. Gonchar questioned the hours of operation for his business. Mr. Allen responded his business begins at 5:00 a.m. to 6:00 p.m. Monday through Friday and 6:00 a.m. to 12:00 p.m. on Saturday. Mrs. Gonchar questioned if Mr. Allen was aware of the hours services would be conducted at the temple. Mr. Allen responded that he did not recall. Mrs. Gonchar informed Mr. Allen that the services would not overlap his business hours.

Mrs. Gonchar questioned the truck traffic. Mr. Allen responded that usually his trucks do not leave until the traffic subsides. Mrs. Gonchar questioned if people walk on Bauer Drive currently. Mr. Allen responded yes occasionally. He expressed that his primary concern is the tax ratable loss. Chairman Lepre informed Mr. Allen that the tax ratable issue is not a reason to deny an application because it is not part of the application or zoning. Mr. Allen expressed that he is concerned that these numbers will grow in the Industrial Park. Chairman Lepre responded that these concerns should have been addressed when those applications were before the Board and he noted that Mr. Allen has not been present for this entire application. He expressed that enforcement is a complex matter which the Board of Adjustment does not enforce. Mr. Cascio

added that enforcement will come from the business owners neighboring the temple and they will bring it to the official's attention. Mrs. Gonchar verified that everything has been calculated according to the proposed 250 occupancy.

Motioned by Mr. Schneeweiss and seconded by Mr. Chadwick, to open the meeting to the public regarding matters concerning Mr. Allen's testimony was voted unanimously by the Board.

No comments.

Motioned by Mr. Schneeweiss and seconded by Mr. Smid to close the meeting to the public regarding matters concerning Mr. Allen's testimony was voted unanimously by the Board.

Mr. Cavaliere announced that testimony is concluded for the evening and this matter would be carried it to the August 9, 2016 public hearing.

MEMORIALIZATION OF RESOLUTION:

1. 19 Hines, LLC – 9 Hobart Place, Block 4907, Lot 8. Approval for two fronts and one rear yard setback.

Eligible voters: Mrs. Steele, Messrs. Ackerly, Chadwick, Smid, Wegman, Schneeweiss and Chairman Lepre.

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

Roll call: Ayes: Mrs. Steele, Messrs. Ackerly, Chadwick, Smid, Wegman, Schneeweiss and Chairman Lepre.
Nays: None
Abstain: None
Absent: None

PAYMENT OF BILLS:

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

APPROVAL OF MINUTES:

Motioned by Mr. Chadwick and seconded by Mr. Wegman, to approve the June 14, 2016 minutes was voted unanimously by the Board.

NEW BUSINESS:

None

OLD BUSINESS:

None

MEETING ADJOURNED:

Motioned by Mr. Schneeweiss and seconded by Mr. Wegman, to adjourn the meeting concluding at 11:02 p.m. was voted unanimously by the Board.

Respectfully submitted by,

Kathlyn Gurney, Board Secretary

*Next meeting is August 9, 2016