

SEPTEMBER 13, 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, Chadwick, Smid, Wegman, Schneeweiss and Chairman Lepre.  
Absent: Mr. Bremer

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

PUBLIC MEETING BEGINS AT 8:04 p.m.:

1. Neafsy - 45 Seminole Avenue, block 4806, Lot 35. Public hearing for a front, side and rear yard setback.

Members conducted a site inspection. Mr. Wegman reported that the site is located in a RA-3 Residential zone where the traffic is light. Chairman Lepre reviewed comments from the various departments. He informed the Board that comments from the Health Department indicate that the finished storage area can be considered a bedroom by septic system standards requiring a system upgrade for four bedrooms.

The applicant is seeking a front yard setback of 21-feet where 40-feet is required, a side yard setback of 9-feet where 15-feet is required and a rear yard setback of 11-feet where 35-feet is required.

Mr. William Neafsy and wife Lisa were sworn in. Mr. Neafsy testified that they are proposing to add a second story addition that will consist of two bedrooms and a full bathroom. The first floor will reconfigure as living area but leaving one of the bedrooms. Chairman Lepre questioned if all the proposed setbacks are existing. Mr. Neafsy responded that all setbacks are pre-existing. Chairman Lepre suggested the applicant include the setbacks for a new deck in the rear since the

existing deck may not survive the improvements. Mr. Neafsy agreed. Mr. Schneeweiss verified that the maximum number of bedrooms would be three for this house. Chairman Lepre questioned the size of septic system. Mr. Neafsy responded that the septic system is designed for three bedrooms. Chairman Lepre informed Mr. Neafsy that revised plans showing the storage area unfinished will need to be submitted to the Health Department so it is not counted as a bedroom. Mr. Neafsy agreed to revise and submit the plans.

Chairman Lepre informed Mr. Neafsy that there would be a three bedrooms cap included in the resolution. Mr. Smid questioned the elevation of the second story. Mr. Neafsy consulted with his contractor and responded that the elevation of the building would be no more than what exists, 33.4-feet. Mr. Chadwick questioned if the proposed second story is a modular unit. Mr. Neafsy responded that it is. Mr. Chadwick recommended that a picking plan be in place to protect the surrounding trees when placing the prefab unit on top of the house. Mr. Schneeweiss questioned how the applicant plans to handle water runoff. Mr. Neafsy responded that gutters would connect to the existing french drains.

Motioned by Mr. Schneeweiss and seconded by Mr. Smid, to open the meeting to the public regarding matters concerning the Neafsy application was voted unanimously by the board.

No comments.

Motion by Mr. Wegman and seconded by Mr. Chadwick, to close the meeting to the public regarding matters concerning the Neafsy application was voted unanimously by the board.

Mr. Schneeweiss commented that the improvements being proposed are similar to the improvements made in the neighborhood. He suggested that the applicant work with an engineer concerning the possibility a necessary seepage pit. Mr. Neafsy responded that he would reach out to his landscaper regarding drainage. Mr. Cavaliere verified the proposed setbacks with the applicant. Chairman Lepre entertained a motion.

Motioned by Mr. Schneeweiss and seconded by Mr. Smid, to approve the Neafsy application contingent to the home remaining three bedrooms, revise plans showing the storage area unfinished, consult an engineer concerning the possibility for a seepage pit and replace the existing deck.

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

2. Russell- 73 Franklin Avenue, Block 4401, Lot 13. Public hearing for a 6-foot fence in the front yard.

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

The applicant seeks approval for a 6-foot solid fence in the front yard where four feet is the maximum height and 50 percent open is required.

Mr. Bradley Russell and his wife Michelle were sworn in. Mr. Russell testified that he is seeking to install a 6-foot fence in his front yard to maintain privacy on a heavily traveled road. He explained that the fence would provide a noise barrier as well as a safety measure for his young child.

Chairman Lepre verified that the fence would be 10-feet from the street. Mr. Russell responded that the fence would be the required 10-feet from the street. A discussion ensued concerning a jog in the placement of the fence and the reason for that location. Mr. Russell responded that the indent in the fence is caused by his driveway space and he would like as much of his property enclosed by the fence.

Ms. Mejia entered the meeting at 8:35 pm.

Chairman Lepre questioned if the applicant would consider landscaping in front of the fence. Mr. Russell responded that he would consider that. A discussion ensued questioning the hardship when the rule is 50 percent open and no more than 4-feet high fence in the front yard. The consensus of the Board was that a 4-foot high fence is high enough for the front yard and the noise would not be cut down any more than it would by a 6-foot fence. Mr. Ackerly explained that it may be a better solution and more esthetically pleasing if the applicant install a 4-foot high fence with shrubs planted in front to help buffer sound and give privacy. Mr. Russell responded that the fence would be below grade approximately 14-inches making the fence appear to be 4.5-feet. He added that there are many homes that have a 6-foot fences in their front yard.

Mr. Chadwick and other Board members expressed concerns with going against the town ordinance. Mr. Cavaliere explained that the town adopts ordinances for a reasons and there are certain rules that need to be followed such as a hardship or a detriment to public safety. The application needs to meet the criteria in order for the Board to make a decision to approve a property hardship not personal hardship. He suggested that the applicant rethink his proposal that would satisfy the Board and added that plantings in front of the fence is reasonable. Mr. Russell questioned if a 6-foot fence 50 percent open would be acceptable. Mr. Schneeweiss responded that a 6-foot fence in the front yard period is unfavorable. Chairman Lepre informed the applicant that most of the Board members are opposed to the 6-foot fence in the front yard and he suggests that he think about what he wants and what he can do to appease the Board

but abide by the ordinance and resume next month. Chairman Lepre entertained a motion to carry the application.

Motion by Mr. Smid and seconded by Mr. Schneeweiss, Russell application has been carried to the September 13, 2016 public hearing with no further notice was voted unanimously by the board.

### 3. Ahern-14 Yale Way, Block 4911, Lot 8. Public hearing for a front yard setback.

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

The applicant is seeking a front yard setback of 22-feet where 40-feet is required. During the testimony, it was determined that an amendment to the front yard setback would now be 21.1-feet.

Mr. Brian Ahern and his wife Kelly were sworn in. Mr. Ahern explained that they are proposing a second-story addition that would continue with the existing roof line, a front porch with roof portico and a framed chase to enclose the chimney. Chairman Lepre confirmed the number of bedrooms. Mr. Ahern responded that there are four bedrooms existing and the dwelling would remain a four bedroom. Chairman Lepre confirmed that the septic system was designed for four bedrooms. He informed the applicant that the bedroom number would be capped at four in the resolution.

A discussion ensued concerning the portico projection and the front yard setback measurement. Mr. Ahern responded that he believes the portico would cover the one step projecting from the porch. Chairman Lepre confirmed that the front setback would be 21.1-feet. He cautioned the applicant that the posts for the portico do not go beyond the roof projection. The applicant's application was amended to reflect a 21.1-foot front yard setback.

Motion by Mr. Schneeweiss and seconded by Mr. Chadwick, to open the meeting to the public regarding matters concerning the Ahern Application was voted unanimously by the Board.

No comments.

Motion by Mr. Schneeweiss and seconded by Mr. Smid, to close the meeting to the public regarding matters concerning the Ahern Application was voted unanimously by the Board.

Mr. Ahern informed the Board that the footprint of the entire house would remain the same with exception to the portico and the chimney chase. The storage space would remain empty and used strictly for storage. Chairman Lepre entertained a motion.

Motioned by Mr. Schneeweiss and seconded by Mr. Smid, to approve the Ahern application contingent to the home remaining four bedrooms, porch to remain open and the front yard setback would be amended to reflect a 21.1-foot front setback.

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

Meeting recessed at 9:10 p.m.

Meeting resumed at 9:20 p.m.

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

Chairman Lepre informed the counsel that all Board members present are eligible voters.

Mr. Porro representing the opposing property owners and introduced Michael Mulhern, owner of Mulhern Belt, located on 148 Bauer Drive. His property is adjacent from the subject property at 138 Bauer Drive and is objecting the application because he cares about the Industrial Park.

Mr. Mulhern explained the history of his business. The business originated back in 1932 in Manhattan, later moving to Hawthorne, New Jersey and in 1978-1979 the business moved to the Industrial Park in Oakland where it exists today.

He explained the function of his business. The hours of operation beginning at 5:00 a.m. to 6:00 p.m. Monday through Friday with an occasional emergency split shift on the weekends. Tractor trailers, box trucks, pickup trucks and shipping containers supply deliveries to the property. Trucks usually are parked in the parking lot at all hours.

Mr. Mulhern expressed that he has no objection to the religion. He is an equal opportunity employer. His concerns are that the proposed temple opened all hours could run into issues with truck drivers unfamiliar with pedestrians and kids playing. This could be a liability in the Industrial Park and decrease the property values.

He expressed concerns with how the Industrial Park is being portrayed as a failing zone. This is untrue and he informed the Board of purchases and growth and business going on in the Industrial Park. This zone has always been and continues to be zoned industrial.

He expressed concerns with tax ratable loss and the possibility to that with five bathrooms being proposed, that this could become a dormitory or feeding more than 5,000 people from other locations with the proposed commercial kitchen.

Mr. Mulhern expressed concerns with possible damage to the applicant's fence located next to an 8 to 10-foot median between the two properties where they push snow during the snow removal process. He referred to exhibit OM-6 concerning the location of the applicant's driveway. He believes the driveway should be moved to the other side for the safety of the parishioners.

He expressed concerns with an incident of a brawl that occurred at the Glen Rock location, the attorneys using RLUPA law as a threat and that the applicant purchased the property without finding out the zoning. He questioned if odors from the Industrial Park would be offensive to the family living in the temple.

He informed the Board of dates the applicant visited him to discuss the situation quoting Mr. Guldeep's testimony that a caretaker could take the place of a family living full time at the facility and exactly what is necessary and what is not. In the end, it is the objectors who are left with any problems and we will need to resolve them. A house of worship does not belong in an industrial zone for safety and liability issues.

Mrs. Gonchar cross examined Mr. Mulhern. She questioned if Mr. Mulhern filed a tax appeal after the approval of the schools and informed him that the dissemination of odors are prohibited in the Industrial Park. Mr. Mulhern responded that he did not file a tax appeal and was unaware that odors were prohibited.

Mrs. Gonchar questioned regulations for outdoor storage. Mr. Mulhern responded that he has been in the Industrial Park for 35 years and outdoor storage has always been permitted. A discussion ensued concerning additional space for snow removal.

Mrs. Gonchar questioned if Mr. Mulhern appeared during the hearings for the school applications and a more recent application to install a playground for one of the schools. Mr. Mulhern responded that he was never notified of these applications. She questioned if the school buses could pose the same potential harm that the trucks do to pedestrians and cars driving through the Industrial Park. Mr. Mulhern responded that he is not aware of the number of school buses coming through the Industrial Park and expressed that it is possible that this could have a similar impact.

Mrs. Gonchar questioned the intersection function of Bauer Drive and Long Hill Road. Mr. Mulhern responded that this has been bad for a long time. Mrs. Gonchar questioned if the function of that intersection would be the same for a permitted use. Mr. Mulhern responded he was not sure but possibly.

Mrs. Gonchar referred to exhibit OM-6 questioning the row of trees on the far side of his property and whether the trees were on his property or the applicants. She questioned the parking spaces requirement and if the location of the driveway would be a safety concern with the existing condition. Mr. Mulhern responded that he was not sure of the required spaces but had concerns with the number of cars entering and exiting the property.

Mrs. Gonchar questioned the types of trucks that visit Mr. Mulhern's property. Mr. Mulhern responded UPS, Fed Ex at all hours, tractor trailers up to 9:30 p.m. and deliveries of containers two to three times a week. She confirmed that trucks travel down Bauer Drive into the Industrial Park at all hours of the day.

Mrs. Gonchar questioned if Mr. Mulhern was familiar with the Reed Academy school and the times buses travel in and out of the Industrial Park. Mr. Mulhern responded that he was not sure of the times but believes in the mornings and approximately 3:00 to 3:30 p.m. is dismissal. Mrs. Gonchar questioned if there were any incidents with buses and trucks since the school have been there. Mr. Mulhern responded that he has seen trucks back into cars.

Mrs. Gonchar questioned if the use affects the snow removal process. Mr. Mulhern responded that his concerns are when snow is being removed on his property, that it could damage the applicant's fence. He suggested that a row of parking spaces be removed to increase the applicant's median for this purpose. Mrs. Gonchar had no further questions. Chairman Lepre entertained a motion to open the meeting to the public.

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

No comments.

Motioned by Mr. Schneeweiss and seconded by Mr. Chadwick, to close the meeting to the public regarding matters concerning the testimony of Mr. Mulhern was voted unanimously by the Board.

Mr. Schneeweiss questioned Mr. Mulhern on the number of complaints he has had for his property, any citations for outdoor storage and what percentage of the median did he own. Mr. Mulhern responded he has had no complaints, no citations and was not sure how much of the median belonged to his property.

Mr. Schneeweiss questioned if a Certificate of Occupancy has been issued for his company. Mr. Mulhern responded that his company has a Certificate of Occupancy for their building. Mr. Schneeweiss questioned how trucks pull into the premises of his business. Mr. Mulhern responded that there are different scenarios for trucks visiting their site. Some trucks pull in, some back in and some pull in to turn around.

A discussion ensued concerning scheduling another special meeting and the application going beyond the statutory timeframe reasonable for an application. Chairman Lepre responded that the Board had no control of the timeframe for this application that the attorneys are responsible for the amount of time spent on this application. It was decided that this application would be carried to the September 13 public hearing and it would be advertised that the meeting would begin one hour earlier to ensure more time for this application.

Motioned by Mr. Schneeweiss and seconded by Mr. Smid, to carry the meeting to the September 13 public hearing beginning at 7:00 PM.

#### MEMORIALIZATION OF RESOLUTION:

2. Cohen - 599 Ramapo Valley Road, block 1301, Lot 7. Approval for a side yard setback.

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

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

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

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

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

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

#### PAYMENT OF BILLS:

Motioned by Mr. Schneeweiss and seconded by Mr. Smid, 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 July 12, 2016 minutes was voted unanimously by the Board.

#### NEW BUSINESS:

None



OLD BUSINESS:

None

MEETING ADJOURNED:

Motioned by Mr. Schneeweiss and seconded by Mrs. Steele, to adjourn the meeting concluding at 10:50 p.m. was voted unanimously by the Board.

Respectfully submitted by,

Kathlyn Gurney, Board Secretary

\*Next meeting is September 13, 2016 beginning at 7:00 p.m.