

JUNE 20, 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 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, Schneeweiss, Wegman and Chairman Lepre.
Absent: Messrs. Helfant and Bremer

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

Motioned by Mr. Smid and seconded by Mr. Schneeweiss, to excuse the absence of Messrs. Helfant, Bremer, Ackerly and Wegman was voted unanimously by the Board.

SPECIAL MEETING BEGINS AT 8:09 p.m.:

Mrs. Steele sitting in for Mr. Bremer.

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

Meryl Gonchar, Esq. introduced herself for the record as co-counsel with Mr. Cascio, Esq. on behalf of the applicant. She introduced William Steinhart who was sworn in, offered his credentials and the Board accepted his qualifications.

Ms. Gonchar directed questions to her witness. Mr. Steinhart informed the Board that he is the Vice President for General Real Estate Appraisers located in Livingston New Jersey. He's been an appraiser her for 37 years and 30 years with his current firm. Mr. Porro questioned if Mr. Larsen prepared a written report or some evaluation for his testimony. Mr. Steinhart responded that he did not.

Ms. Gonchar continued questioning the outcome of his investigation. Mr. Steinhart responded to determine the impact on the surrounding properties, he based his review on industrial park sale database for Bergen County and interviewed the Tax Assessor in Oakland inquiring if any tax appeals were filed exclusively for the subject property.

Mr. Larsen explained that the subject property holds is a flex building which encompasses 19,000 square feet on the first floor and 5,000 square feet on the second floor. The exterior of the building and the main entrance in the rear will remain the same except for the removal of an overhead door for loading. The property will be identical and resemble neighboring buildings. Chairman Lepre questioned the definition of a flex building. Mr. Steinhart responded that a flex building is a building that offers industrial space to be used for offices, storage and/or space to conduct light industrial work on site.

Mr. Larsen informed the Board that he read all the professionals reports, the zoning ordinance, the master plan and the minutes associated with this application. He believes that there would be no impact on the value of the surrounding buildings since this is the trend for industrial areas. Plus there will be no exterior improvements being proposed which will leave the appearance of the building as it exists.

He reviewed other real estate brokers, investors and tenants concerning the vacancies in the Industrial Park and their response was that this is becoming common to see different uses in the Industrial Park. Brokers and industrial developers who own properties in New Jersey expressed that there is more of a negative impact seeing vacant buildings versus a change of use. Mr. Porro objected stating that the witness has not prepared a written report for the Board backing these findings. A discussion ensued between Mrs. Gonchar, Mr. Cavaliere and Mr. Porro concerning a third-party witness testifying and offering his opinion. Mr. Porro expressed that unless a study or report submitted, Mr. Larsen's testimony is irrelevant. Mr. Cavalier informed Mr. Porro that Mrs. Gonchar could continue with her witness.

Mr. Steinhart continued that his research included a study of vacant properties in northwest Bergen County within industrial parks and found that during the first quarter of this year it shows an underperformance rate. He read the traffic study review and expressed that there would be no impact on the surrounding businesses since the hours of services do not overlap the regular business hours. The schools would have more of a traffic impact by busing students, parents picking up and teachers.

He expressed that an accessory use/apartment inside the temple would not be obvious to the surrounding property owners. Mr. Porro objected again stating that Mr. Steinhart is not expert witness. Mrs. Gonchar questioned if there would be an impact on the adjacent residential zone. Mr. Steinhart responded that the only change is being proposed to the interior and the exterior will still look like a flex building.

Mrs. Gonchar questioned if there would be an impact to the surrounding properties value if there were no change to the exterior of the building remains the same. My Porro objected and

questioned Mr. Steinhart if he was a planner or an engineer and was a vacancy study done. Mr. Steinhart responded that he is not a planner or an engineer and he did not conducted a study. Ms. Susan Rubright cross examined Mr. Larsen. She questioned the type of industrial market this property would be characterized as. Mr. Steinhart responded that it is considered a light industrious area. Ms. Rubright questioned if a report was submitted backing his testimony of the people he reviewed. Mr. responded that all his interviews were conducted last week.

Ms. Rubright questioned the length of time property owners are leasing their buildings. Mr. Steinhart responded that a minimum of five years is the normal lease. Ms. Rubright questioned if Mr. Steinhart has ever conducted an appraisal for a house of worship in industrial park. Mr. Steinhart responded last year he appraised a Catholic Church and a school in an industrial zone. A discussion ensued concerning the Clifton church in the industrial zone. Mrs. Steele questioned the criteria used when conducting an appraisal. Mr. Steinhart responded cost, income and location.

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

Meeting recessed at 9:20 p.m.

Meeting resumed at 9:35 p.m.

Ms. Rubright introduced her witness Mr. Robert Larsen located at 100 Matawan Road, New Jersey. Mr. Larsen was sworn in and offered his credentials as a licensed planner in New Jersey. The board accepted his qualifications. Mr. Larsen testified that he has attended all hearings concerning the subject application, he is familiar with the site, has reviewed the ordinance, reports and all testimony.

He explained the purpose of separating industrial uses from other uses. Industrial uses are usually intense and sensitive to neighboring properties concerning safety, lighting odor, noise and circulation of pedestrian traffic.

Mr. Larsen viewed the site by aerial maps and a site visit last month and informed the Board that there is no night activity, no houses of worship, no retail business and no residence inside this light industrial area. He's listened to the architecture and planner's testimony concerning the existing tenant office use and the proposed house of worship use.

Upgrades to the interior of the subject building will be significant and not simple as they are proposing a kitchen. The 250 occupancy maximum can easily be surpassed in a building of this

size especially with the unused storage space. Mr. Larsen reviewed the master plan and zoning ordinance for the industrial park and his opinion is that the zoning currently adopted for this industrial park is based upon economics for Oakland. Ms. Rubright questioned, from a planning perspective, would it be better for the Industrial Park to transition and continue to grant use variances. Mr. Larsen responded that no, he believes that the Borough of Oakland needs to reexamine this area when reviewing their master plan. By continuing the pattern of granting use variances, it creates a detriment to the master plan as well as the non-permitted and the permit zones. The residence too is a detriment to public good. Mr. Larsen's expressed his opinion that the proposed residence will lack quality of life for the family living there due to the lighting and no outdoor activity for a family's needs. Mrs. Rubright questioned if it could this be corrected by including an outdoor play area. Mr. Larsen responded that he did not think so because kids are curious and this is not a safe area and truck drivers are not expecting children to be playing in an industrial park.

Chairman Lepre informed Mr. Larsen that earlier, a majority of inherently beneficial uses such as a daycare, a school for special needs, a school for autism, a fitness center and a dance school were approved and questioned how this would be sustained in the master plan. Mr. Larsen responded that there needs to be two aspects to the master plan, a diverse and economic base.

Mrs. Gonchar cross-examined the witness. She questioned if Mr. Larson has been inside the subject building, knew the maximum occupancy of the building and the parking ratio for an office versus a house of worship. Mr. Larsen responded that he has not been in the subject building but stated that the occupancy could exceed maximum occupancy. He referenced the 2000 master plan and the 2012 reexamination where this zone has never been changed and continues to be a light industrial zone. It is considered to be one of the largest economic contributors to the Borough Oakland. Mrs. Gonchar questioned his statement. Mr. Larsen responded that in the 1994 master plan, it references goals set forth for this area, the McBride Industrial Park.

Mrs. Gonchar questioned the distance between his client's building and the Children's Therapy, Barnstable Academy and Reed Academy. She also questioned if Mr. Larsen knew the number of students in these schools. Mr. Larsen responded that he is not aware of the distances between his client's building and the number of students attending these schools. Mrs. Gonchar questioned Mr. Larsen if the schools located in the Industrial Park had outdoor play areas. Mr. Larsen responded that he is not sure but probably.

Mrs. Gonchar questioned if Mr. Larson knew the hours of operation for the businesses inside the Industrial Park. Mr. Larson responded he was not sure of all the hours of operation for the business in the Industrial Park. Mrs. Gonchar questioned the quality-of-life in the Industrial Park during the day or night and whether employees were allowed outside. Mr. Larsen responded that he had no knowledge. Mrs. Gonchar questioned the difference between a house of worship versus the three schools, two day cares, a dance school and a gym. Mr. Larsen responded that there would be a safety impact for the family living in the house of worship and by permitting non-permitted uses in the industrial zone, it is a tipping point and will have a negative impact on

the master plan. Mrs. Gonchar questioned the formula for the tipping point. Mr. Larsen responded that it is just his opinion.

Ms. Rubright questioned the septic system limit for the use. Mr. Larsen responded that he is aware of the testimony concerning the septic field adjacent to his client's property. Ms. Rubright questioned the overflow parking being suggested. Mr. Larsen responded that his concern is that there are no sidewalks being proposed for the safety of the pedestrians walking from the overflow parking area. Mrs. Gonchar reminded the Board that this is an option and is not part of the application before the Board.

Ms. Rubright questioned the residential area that abuts the property, buffering and if he conducted an occupancy analysis. Mr. Larsen responded that it is a requirement for residential properties to be buffered from an industrial property and there is a code ordinance in place for occupancy of a building in the Industrial Park which depends on the size of the septic system and the square footage of a building. Ms. Rubright questioned the square footage of the prayer hall for the proposed temple. Mr. Larsen responded that the floor area could easily accommodate 607 people which would exceed the occupancy and the parking requirements. Mr. Lydon questioned Mr. Larsen if he was experienced in enforcing occupancy caps for houses of worship. Mr. Larsen responded that he does not have experience in enforcing occupancy however, enforcement would be done by the zoning official.

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

No comments.

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

A discussion ensued concerning two of the big manufacturers in Industrial Park, Sishiedo and Aramis. It was questioned if it was common for a planner to reference the 2000 master plan. Chairman Lepre responded that the 2000 master plan addressed the subject Industrial Park.

Chairman Lepre announced that this meeting would be carried to the July 12, 2016 public hearing with no further notice.

MEETING ADJOURNED:

Motioned by Mr. Smid and seconded by Mr. Wegman 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 July 12, 2016