

NOVEMBER 12, 2019 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 8:01 P.M.

ROLL CALL: Present: Mrs. Campanelli, Messrs. Rose, Arredondo, Bremer, Ackerly, Chadwick, Smid and Chairman Lepre.  
Absent: Mrs. King

Motioned by Mr. Arredondo and seconded by Mr. Smid, to excuse the absences was voted unanimously by the Board.

Also in attendance were Ms. Sophy Sedarat, Esq., Board Attorney; Mr. Steve Lydon, Burgis Associates; and John Yakimik, Boswell Engineering.

PUBLIC HEARING:

1. Annitti – 8 Tulane Road, Block 4903, Lot 9. Public hearing for a front and side yard setback.

Members conducted a site inspection. Mrs. Campanelli reported that the property, Block 4903, Lot 9, is located in the RA-3 Residential zone with medium traffic. Chairman Lepre reviewed the comments from the various departments.

The applicant is seeking a front setback of 22.8-feet (existing 25.9-feet) where 40-feet is required and a side yard setback of 8-feet where 15-feet is required.

Frank and Brianne Annitti were sworn in. Mr. Annitti testified that they seek to add a second level to their home so that they can move the bedrooms upstairs and free up the first floor for living space.

Mr. Arredondo confirmed with the Annitti's that they are adding a third bedroom. Mr. Annitti responded yes. Chairman Lepre confirmed that the Annitti's septic system was designed for three bedrooms and informed them that a stipulation in the resolution will limit the Annitti's to no more than 3 bedrooms. Mr. Annitti agreed to the stipulation.

Mr. Rose questioned if the applicant planned to have leaders from the house connect to a seepage pit. Mr. Annitti responded that the leaders would lead out to the driveway. Ms. Sedarat confirmed that drainage from the property would not be exacerbated or runoff onto neighboring properties. Mr. Annitti responded that drainage will not change or affect neighboring properties. Chairman Lepre entertained a motion to open the meeting to the public.

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

No comments.

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

Ms. Sedarat stated for the record that the applicant testified that the hardship for the lawfully existing structure is due to exceptional narrowness and shallowness of the property. Chairman Lepre entertained a motion.

Motioned by Mr. Bremer and seconded by Mr. Ackerly, to approve the Annitti application condition to the home not exceeding three-bedrooms.

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

2. Parhizkaran – 97 Minnehaha, Block 4701, Lot 30. Public hearing for a rear deck and  
and A/C unit encroaching into the side yard setback.

Members conducted a site inspection. Mrs. Campanelli reported that the property, Block 4701, 30 Lot, is located in the RA-3 Residential zone with medium traffic. Chairman Lepre reviewed the comments from the various departments.

Chairman Lepre informed Mr. Parhizkaran that he could not represent the application without the homeowner present. Mr. Parhizkaran responded that he will put a call into the homeowner and ask her to come down. Chairman Lepre announced that the Board will move on with the next application and come back to theirs once they have finished.

3. Tode Landscaping – 53 Spruce Street, Block 2302, Lot 21. Continued public hearing for a use variance, front yard setback and impervious coverage.

Mr. Steven Schepis, Esq. explained that at the last meeting, the applicant was required to supply the Board with a traffic circulation template. He offered testimony of Mr. David Egarian, previously sworn, to explain some of the engineering modifications made in the revised drawings.

Mr. Egarian explained that there was a conflict with the 20-foot ingress gates so they decided to widen the driveway and the swinging gate to 30-feet on the north side. In the rear, when pulling out, the last parking space clipped the handicapped parking space so they moved that space to avoid any interference. He entered an exhibit.

Exhibit A-17, Revised Site Plan 10/29/19 pages 2 of 7.

The site plan now shows a 30-foot swing gate on the north side and the relocation of the a handicapped parking spot swapped out by two parking spaces on the south side. The proximity of the handicapped space will be positioned near the front with access to the sidewalk making it ADA compliant. After these changes, there were no further conflicts and the parking lot fully functions with no interference. In addition, the applicant has removed the free-standing sign. No further discussion. Chairman Lepre entertained a motion to open the meeting to the public.

Motioned by Mr. Arredondo and seconded by Mr. Bremer, to open the meeting to the public regarding testimony of Mr. Egarian was voted unanimously by the Board.

No comments.

Motioned by Mr. Arredondo and seconded by Mr. Rose, to close the meeting to the public regarding testimony of Mr. Egarian was voted unanimously by the Board.

Mr. Schepis offered the testimony of Mr. Jonathan Istranyi, previously sworn, to review traffic circulation template.

Mr. Istranyi explained that they used a program called Vehicle Tracker to make the adjustments needed for a functioning traffic flow. They moved the freight-liner which was taking up 2 parking spaces as well as the handicapped parking space. Chairman Lepre questioned Mr. Istranyi's professional opinion whether this traffic flow will work. Mr. Istranyi responded that traffic flow being presented at this time will fully function. A discussion ensued concerning ADA compliance. Mr. Istranyi assured the Board that the site will meet all ADA criteria and be compliant.

Mr. Schepis offered the planning testimony of Mr. Jonathan Istranyi. Mr. Istranyi was sworn in, offered his credentials as a planner and the Board accepted his qualifications.

Mr. Istranyi explained that the applicant is seeking a D-1 variance for a landscape contractor's yard which is not permitted in the I-3 Industrial zone. The applicant has to prove suitability and address the negative and positive criteria.

Mr. Istranyi reviewed the site location. He explained that the property, located in the I-3 Industrial zone, consists of .4 acres and abuts wetlands in the rear. This property is not be practical for a manufacturer but is well suited for a landscaping contractor. He believes this use would produce the least amount of impact to that area especially since it sits at the end of a cul-de-sac. Any negative criteria has been resolved by working with the adjacent school and having no residential impact.

Mr. Istranyi reviewed with the Board the goals of the latest master plan reexam. According to the master plan, a landscaping business is not permitted in any of the Borough's zone. But uses such as Mr. Tode's provide ratables for the Borough and protect the integrity and future of industrial zones in the municipality.

The applicant seeks a C-1 variance for an existing non-conforming property. In this zone the applicant is required to have a minimum lot area of 2 acres. In addition, a flexible C-2 variances is being requested for impervious coverage of 70.5 percent where 50 percent is required, a front setback of 6.8-feet where 50-feet is required, and a sign setback of 0 where 30-feet is required, a fence height of 8-feet where 5-feet is required. A discussion ensued concerning the parking buffer. No further questions from the Board.

Mr. Steve Lydon was sworn in, offered his credentials and the Board accepted his qualifications as the Board Planner.

Mr. Lydon questioned the need for a sign if the applicant does not intend to be open to customers. He informed Mr. Istranyi that landscaping businesses are allowed in other zones. The master plan goals are to protect industrial zones and safeguard against incompatible land uses. He referenced testimony given concerning Purpose A & G in the MLUL. Mayor and Council have worked to create different types of industrial zones to accommodate different types of industrial uses.

He referenced an easement on the property that was included in the proposed lot area. This easement should not be counted as part of the property's lot area. The applicant proposes 17,000 square feet where 27, 000 square feet is required. He commented that the site is undersized for this use. Mr. Lydon reviewed the variance being proposed for parking and referenced the Borough's parking ordinance. Since outdoor storage is not permitted and all vehicles will be parked outdoors, he suggested an updated landscaping plan to include more of a buffer. He reviewed the C-1 and C-2 variances and commented that he is troubled by the proposals in this application. A discussion ensued concerning the fence height on top of the wall.

Mr. Istranyi responded that the applicant did the best he could to work with the challenges of this property. He informed the Board that the school and bowling alley are also non-permitted uses but function well. He reviewed the positive and negative criteria again. No further questions. Chairman Lepre entertained a motion to open the meeting to the public regarding the planning testimony of Mr. Istranyi.

Motioned by Mr. Arredondo and seconded by Mrs. Campanelli, to open the meeting to the public regarding the planning testimony of Mr. Istranyi and Mr. Lydon was voted unanimously by the Board.

No comments.

Motioned by Mr. Arredondo and seconded by Mrs. Campanelli, to close the meeting to the public regarding the planning testimony of Mr. Istranyi and Mr. Lydon was voted unanimously by the Board.

Chairman Lepre expressed that so many months were spent on the engineering of the site and when it comes down to the planning aspect, which is the most important part of this application, so little time was spent. Putting aside certain aspects of the application, this is not a buildable lot.

Mr. Tode expressed that he really wants to make this property his home base. He reminded the Board that he is currently renting in Midland Park and his lease is up. He never thought it would take this long to receive approval. He understands that the lot is small but he and his staff are accustomed to maneuvering under these circumstances. He would really like to be a part of Oakland where he can give to the community since he has already invested a lot of money during this application. He thanked the Board.

Mr. Schepis gave his closing statements. He expressed that Mr. Tode will comply with all the Planner's and Engineer's requirements and has been accommodating to all requests so far. This site consists of an old home which has been this way for many years and this is an opportunity to clean it up. This may not be the perfect use for the property but it will function and have a low impact on the neighborhood. The planners can debate but this is the best opportunity for the site. He thanked the Board for their time and requested they consider approving this application.

Board members commented. Mr. Chadwick expressed that he agrees with Mr. Lydon that the property is undersized. However, the property is located at the end of the road on a cul-de-sac and reminded the Board that they approved the same type of use by the diner on Ramapo Valley Road and that business is functioning.

Mr. Rose agreed with Mr. Chadwick that the business should have less impact being located at the end of the road and improve the esthetics of the property.

Mr. Arredondo expressed that Mr. Tode has been very accommodating by providing all requests and requirements to the professionals. He agrees the property is unsightly but what the applicant proposes will be an improvement. He pointed out that Mr. Tode's staff drive these vehicles every day and should know what they are doing.

Mrs. Campanelli expressed that Mr. Tode complied with everything he was asked to do making this an awkward decision if you are against the application. Ms. Sedarat reminded the Board that the applicant was given the option to bifurcate the application but opted not to so there is no need to feel guilty or awkward when deciding.

Mr. Bremer commented that the other landscaping business have been working fine for years now. If Mr. Tode's business does not work, he will have to remove a truck or two off the property to make it work.

Chairman Lepre informed the Board if the application is approved, the applicant will continue working with Mr. Yakimik and has agreed to comply with all the engineering requests noted in his November 8, 2019 report. Mr. Yakimik explained to the Board that if the Board approves the application, they will also be approving a major soil move application. No further questions. Chairman Lepre entertained a motion.

Motioned by Mr. Rose and seconded by Mr. Arredondo, to approve the Tode application subject to all conditions put forth throughout the application including a major soil move.

It was stated for the record that all Board members who were absent during any of the testimony with regards to the Tode application, have listened to the recording and this has been certified by signing an affidavit. Eligible voters are: Mmes King and Campanelli, Messrs. Rose, Arredondo, Ackerly, Bremer, Chadwick, Smid and Chairman Lepre.

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

Meeting recessed at 10:05 p.m.

Meeting resumed at 10:15

2. Parhizkaran – 97 Minnehaha, Block 4701, Lot 30. Public hearing for a rear deck and and A/C unit encroaching into the side yard setback.

The applicant is seeking two side yard setbacks of 10.1-feet (existing) and 7.8-feet where 15-feet is required.

Mrs. Helene Fatemi, homeowner, and Mr. Al Parhizkaran, contractor, were sworn in. Mr. Parhizkaran offered, for the record, his business address at 104 Johnson Avenue in Hackensack, NJ.

Mr. Parhizkaran explained that Mrs. Fatemi purchased the home in July and he was hired to renovate the home. He plans to install sliding patio doors to open out onto the rear onto a deck.

Chairman Lepre confirmed that the applicant will not exceed the 3 bedroom limit due to the design of their septic. He questioned the proposed location of the A/C unit in the side yard. A discussion ensued concerning the A/C unit and locating it in the rear yard. Mr. Parhizkaran agreed to relocate the A/C unit under the steps in the rear.

Mr. Smid questioned the possibility of rooms in the basement being used as bedrooms. Mr. Parhizkaran responded that there are no doors or closets being proposed in the basement. No further questions. Chairman Lepre entertained a motion to open the meeting to the public.

Motioned by Mr. Ackerly and seconded by Mr. Arredondo, to open the meeting to the public regarding matters concerning the Parhizkaran application was voted unanimously by the Board.

No comments.

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

Ms. Sedarat stated for the record that the applicant provided testimony in regards to the hardship for the lawfully existing structure. She continued that the applicant agrees to the stipulations made by the Board to relocate the A/C unit in the rear yard and not to exceed the 3 bedroom limit. Chairman Lepre entertained a motion.

Motioned by Mr. Arredondo and seconded by Mr. Ackerly, to approve the Parhizkaran application contingent to the A/C unit being located in the rear yard and not to exceed the three bedroom limit.

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

#### MEMORIALIZATION OF RESOLUTION:

1. Rosenblat – 37 Nokomis Avenue, Block 4503, Lot 14. Approval for a 2<sup>nd</sup> story addition that will encroach into the front yard setback.

Eligible voters: Mrs. King, Messrs. Arredondo, Ackerly, Bremer, Chadwick, Smid and Chairman Lepre.

Motioned by Mr. Arredondo and seconded by Mr. Smid, to approve the above memorialization of approval.

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

2. Becker – 16 Princeton Terrace, Block 4911, Lot 1. Approval for a front porch  
On a corner lot that encroaches into the front yard setback.

Eligible voters: Mrs. King, Messrs. Arredondo, Ackerly, Bremer, Chadwick, Smid and Chairman Lepre.

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

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

#### 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. Arredondo, to approve the October 15, 2019 minutes was voted unanimously by the Board.

#### NEW BUSINESS DISCUSSION:

None

#### OLD BUSINESS DISCUSSION:

None

#### MEETING ADJOURNED:

Motioned by Mr. Smid and seconded by Mr. Bremer, to adjourn the meeting at 10:50 p.m. was voted unanimously by the Board.

Respectfully submitted by,

Kathlyn Gurney, Board Secretary

\*Next meeting is December 10, 2019.