

JANUARY 8, 2013 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 8:00 P.M.

ROLL CALL: Present: Messrs. Madden, Ackerly, Bremer, Chadwick, Johnson, Smid, Wegman  
and Mr. Schneeweiss and Chairman Lepre  
Absent: None

Also in attendance Mr. Matthew Cavaliere, Board Attorney.

Mr. Madden would attend the meeting after he was done with a fire call.

Chairman Lepre expressed his thanks to the Board for their condolences on the passing of his father.

PUBLIC MEETING BEGINS AT 8:00 p.m.:

REORGANIZATION OF THE BOARD:

CHAIRMAN

Motioned by Mr. Wegman and seconded by Mr. Chadwick, to nominate Rick Lepre as Chairman of the Board was voted unanimously by the Board.

VICE-CHAIRMAN

Motioned by Mr. Johnson and seconded by Mr. Schneeweiss, to nominate Tony Smid as Vice-Chairman of the Board was voted unanimously by the Board.

SECRETARY

Motioned by Mr. Smid and seconded by Mr. Chadwick, to nominate Howard Wegman as Secretary to the Board was voted unanimously by the Board.

ATTORNEY

Mr. Johnson and Mr. Smid reviewed RFQ's for Board Attorney. There was one submission for the position of Board Attorney by Matthew Cavaliere, Esq.

Motioned by Mr. Johnson and seconded by Mr. Smid, to appoint Matthew Cavaliere, Esq. as Board Attorney for 2013.

Roll Call Vote: Ayes: Messrs. Ackerly, Bremer, Chadwick, Johnson, Smid, Wegman, Schneeweiss and Chairman Lepre.  
Nay: None  
Abstain: None  
Absent: Mr. Madden

#### ENGINEER

Mr. Schneeweiss and Mr. Chadwick reviewed RFQ's for Board Engineer. There was one submission for the position of Board Engineer by Boswell Engineering at a slight increase from last year.

Motioned by Mr. Schneeweiss and seconded by Mr. Smid, to appoint Boswell Engineering as Board Engineer for 2013.

Roll Call Vote: Ayes: Messrs. Ackerly, Bremer, Chadwick, Johnson, Smid, Wegman, Schneeweiss and Chairman Lepre.  
Nay: None  
Abstain: None  
Absent: Mr. Madden

#### PLANNER

Mr. Ackerly and Mr. Bremer reviewed RFQ's for Board Planner. There was one submission for the position of Board Planner by Burgis Associates Inc. at the same rates from the previous year.

Motioned by Mr. Ackerly and seconded by Mr. Wegman, to appoint Burgis Associates Inc. as Board Planner for 2013.

Roll Call Vote: Ayes: Messrs. Ackerly, Bremer, Chadwick, Johnson, Smid, Wegman, Schneeweiss and Chairman Lepre.  
Nay: None  
Abstain: None  
Absent: Mr. Madden

#### ADMINISTRATIVE ASSISTANT

Motioned by Chairman Lepre and seconded Mr. Chadwick, to appoint Kathy Gurney as Administrative Assistant to the Board for 2013.

Roll Call Vote: Ayes: Messrs. Ackerly, Bremer, Chadwick, Johnson, Smid, Wegman and Chairman Lepre.  
Nay: None  
Abstain: Schneeweiss  
Absent: Mr. Madden

#### OFFICIAL NEWSPAPER

Motioned by Mr. Smid and seconded by Mr. Bremer, nominating The Record as the official newspaper of the Board for 2013.

#### BY-LAWS

Motioned by Mr. Smid and seconded by Mr. Johnson, adopt the Board of Adjustment By-Laws last revised in March 14, 2006 was voted unanimously by the Board.

1. Pikulinski – 13 Sioux Avenue, Block 4504, Lot 27. Public hearing for a front and side yard setback.

Members conducted a site inspection for the property. Mr. Wegman reported that the property, located in a RA-3 Residential Zone, traffic light. Chairman Lepre reviewed the comments from the various departments and zoning issues.

The applicant seeks a variance for a front yard setback of 11.38-feet where 40-feet is required and 18.16-feet exists as well as a side yard setback of 6.28-feet where 15-feet is required and 26.62 exist. The applicant supplied the Board with verification from the NJDEP (Department of Environmental Protection) that a review was done and there is no concern with encroachment to the rear buffer which falls within the 25-foot riparian zone.

Mr. Marcin Pikulinski and Mr. Tomasz Adach, architect, located in Garfield, New Jersey was sworn in. Mr. Adach verified that he is a licensed architect in the state of New Jersey.

Mr. Adach explained to the Board that the property has an irregular shape and the applicant is proposing a two-story addition in a mix masonry wood frame. The brick masonry landing in the front yard would be removed and a front porch would be added with a covered roof which would encroach into the front yard setback by 11.38-feet.

He explained that a brook runs through the rear yard and the applicant is required to maintain a 25-foot buffer from the top of the bank which limits the required 35-foot rear yard setback. The applicant was unable to built out the left side of the house due to the location of the septic leaving the applicant's only option to go out the right side yard and the rear yard setback.

The applicant proposes to expand the garage to a two-car garage with a bedroom above to replace the second bedroom which would now be used as a master bathroom for the existing master bedroom. The kitchen would be extended out the rear yard where the existing patio is. He informed the Board that he is reducing the number of bedrooms from five to three.

Chairman Lepre identified the drawings being referenced and Mr. Cavaliere entered these drawings into evidence.

Exhibit A-1, Enlarged colorized drawings identical to what was submitted drafted by Tomasz P. Adach, Architect.

Chairman Lepre questioned if the proposed front porch would go further forward than the existing podium construction with the masonry wall. Mr. Adach responded that the existing concrete patio which encroaches 9.31-feet would be removed and the proposed roof would extend beyond the proposed porch by 11.38-feet lessening the existing front yard setback.

Chairman Lepre questioned if the expansion to the existing garage would go further into the side yard setback. Mr. Adach responded that the setback would remain the same.

Chairman Lepre questioned the location of the air conditioning unit. Mr. Adach responded that the air conditioning unit would remain in the front yard setback.

Chairman Lepre questioned if the applicant would agree stipulate as a condition of approval that an asbuilt would be provided confirming the location of the foundation and ensuring that it would go no closer than the 6.28-feet into the side yard. Mr. Adach responded that he agreed to the stipulation and would provide the as-built.

Chairman Lepre explained that it was mentioned that a flood elevation certificate may be required but the applicant has a NJDEP release. A discussion ensued concerning the flood elevation lines changing after the 2011 storm.

Mr. Anthony Castillo with SESI Consulting Engineers located in Pine Brook, New Jersey was sworn in. He reviewed his credentials and the Board accepted his qualifications.

Mr. Castillo explained that the property is located within two regulated areas, the riparian zone of the Allerman Brook which is measured from the top of the bank going towards the land by 50-feet and FEMA has delineated the Allerman Brook as a floodway.

He explained that he advised the applicant to apply for a flood hazard area permit to make sure NJDEP had no issue with the proposed disturbance located in the riparian zone and to verify the extent of the flood hazard area and floodway. These issues were discussed the NJDEP and they indicated that the disturbance to the riparian zone would not require a permit for that nature of the disturbance.

Chairman Lepre questioned if the applicant has documentation backing this up. Mr. Castillo responded that the NJDEP gave them a verbal and the applicant then withdrew the application for the permit in the riparian zone, but followed through with the rest of the application to verify the extent of the flood plain and the floodway. He explained that last year they received documentation from NJDEP that was then sent to the Oakland Borough Clerk. He provided a copy of the document to the Board. This documentation verifies that the construction on this property would not affected the flood hazard area and that these areas may be revisited by NJDEP three years down the road but probably would not be modified.

Mr. Smid advised the Board that once they complete the dredging of Crystal Lake, there are plans for work to be done on the Allerman Brook.

Mr. Chadwick questioned if a driveway ordinance was adopted last year. Chairman Lepre responded that that ordinance was never adopted.

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

Mr. Smid commented that the improvements were nice.

Mr. Schneeweiss questioned what currently was in the basement. Mr. Adach responded a laundry room and powder room.

Motioned by Mr. Schneeweiss and seconded by Mr. Johnson, to approve the Pikulinski application subject to the porch remaining open, the home not to exceed four-bedrooms and an as-built showing location of the foundation to be provided to the building department.

Roll Call Vote: Ayes: Messrs. Ackerly, Bremer, Chadwick, Johnson, Smid, Wegman, Schneeweiss and Chairman Lepre.  
Nays: None  
Abstain: None  
Absent: None  
Not Voting: Mr. Madden.

Mr. Madden entered the meeting at 8:35 p.m.

MEMORIALIZATION OF RESOLUTION:

1. Lundell – 23 Nokomis Avenue, Block 4503, Lot 21. Approval for front yard setback.

Motioned by Mr. Johnson and seconded by Mr. Ackerly, to memorialize the above resolution of approval.

Roll Call Vote: Ayes: Messrs. Ackerly, Madden, Bremer, Johnson, Smid, Wegman and Schneeweiss.  
Nays: None  
Abstain: None  
Absent: None  
Not Voting: Mr. Chadwick and Chairman Lepre.

2. Wang – 4 Point View, Block 803, Lot 8. Approval for a front yard setback.

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

Roll Call Vote: Ayes: Messrs. Ackerly, Madden, Bremer, Smid, Wegman and Schneeweiss.  
Nays: None  
Abstain: None  
Absent: None  
Not Voting: Messrs. Chadwick, Johnson and Chairman Lepre.

3. Haslett – 95 Walnut Street, Block 3905, Lot 20. Public hearing for a side yard setback.

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

Roll Call Vote: Ayes: Messrs. Ackerly, Madden, Bremer, Johnson, Smid, Wegman and Schneeweiss.  
Nays: None  
Abstain: None  
Absent: None  
Not Voting: Mr. Chadwick and Chairman Lepre.

4. Norty Properties, LLC – 159 Franklin Avenue, Block 4302, Lot 27. Approval for a front yard setback.

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

Roll Call Vote: Ayes: Messrs. Ackerly, Madden, Bremer, Johnson, Smid, Wegman and Schneeweiss.  
Nays: None  
Abstain: None  
Absent: None  
Not Voting: Mr. Chadwick and Chairman Lepre.

5. Harris – 108 Pawnee Avenue, Block 5401, Lot 24. Approval for a height variance and a side yard setback.

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

Roll Call Vote: Ayes: Messrs. Ackerly, Madden, Bremer, Johnson and Wegman.  
Nays: None  
Abstain: None  
Absent: None  
Not Voting: Messrs. Chadwick, Smid, Schneeweiss and Chairman Lepre.

6. Miner – 53 Hiawatha Boulevard, Block 4601, Lot 18. Approval for a front and side yard setback.

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

Roll Call Vote: Ayes: Messrs. Ackerly, Madden, Bremer, Johnson, Smid, Wegman and Schneeweiss.  
Nays: None  
Abstain: None  
Absent: None  
Not Voting: Mr. Chadwick and Chairman Lepre.

#### PAYMENT OF BILLS:

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

#### APPROVAL OF MINUTES:

Motioned by Mr. Schneeweiss and seconded by Mr. Smid, to approve the December 11, 2012 minutes was voted unanimously by the Board.

#### NEW BUSINESS:

None

#### OLD BUSINESS:

Mr. Schneeweiss explained that last month they had an application for a shed 22-feet in height. He suggested that a letter be drafted requesting a shed ordinance to be put in place prohibiting heights more than 10 or 12-feet in height.

Chairman Lepre dictated a letter to Ms. Gurney requesting to Mayor and Council that after receiving an application for a shed 24-feet in height, that in the ordinance, a shed be defined for the purpose of zoning. He expressed that an accessory structure transcends the meaning of shed.

Mr. Schneeweiss expressed that as a Board, they rarely deny applications unlike many towns. He suggested that the Board drive through the town and inspect some of the variances that were approved. He explained that he has gone back and looked at some of the things they have approved and was not satisfied with the outcome. Chairman Lepre agreed that would be a good idea. He shared his feelings concerning variances approved on two houses side by side on Hiawatha Boulevard that he was not satisfied with the outcome either.

#### MEETING ADJOURNED:

Motioned by Mr. Schneeweiss and Mr. Madden, to adjourn the meeting concluding at 8:50 p.m.  
was voted unanimously by the Board.

Respectfully submitted by,

Kathlyn Gurney, Board Secretary

\*Next meeting is February 12, 2013