

FEBRUARY 12, 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, Chadwick, Smid, Wegman and Chairman Lepre.
Absent: Messrs. Bremer, Johnson and Schneeweiss.

Also in attendance Mr. Matthew Cavaliere, Board Attorney.

Motioned by Mr. Smid and seconded by Mr. Wegman, to excuse the absences of Messrs. Bremer, Johnson and Schneeweiss was voted unanimously.

PUBLIC MEETING BEGINS AT 8:05 p.m.:

Chairman Lepre announced that Mr. Ackerly would be sitting in for Mr. Bremer and Mr. Madden would be sitting in for Mr. Schneeweiss.

1. Kalkan – 70 Ryerson Avenue, Block 3602, Lot 6. Public hearing for a rear 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.

Mr. Zafer Kalkan was sworn in and testified that he and his wife Nevil Kalkan are co-owners of the home.

Mr. Kalkan explained that when he bought his home, he was unaware of the zoning requirements for a corner lot. He informed the Board that he is proposing to add a level and would not be encroaching any farther into the setback than the existing home.

Mr. Cavaliere stated for the record that notice given by the applicant was insufficient. Mr. Kalkan explained that Ms. Gurney informed him that he had missed one resident on the 200-foot property owner list when noticing. He then proceeded to find out the contact information of that person so that he could notify them in person what was being proposing.

Mr. Kalkan asked her if she would be able to attend the meeting and testify that she had no objection to the proposed improvements but her husband was away on business and she had no one to watch her small children. He then asked her to sign a letter that she was served with the notice and he then had that notarized. Mr. Kalkan offered the letter as evidence.

Exhibit A-I, A notarized letter with Mrs. Michelle Falina's signature stating notice was served.

Mr. Cavaliere explained that the Board of Adjustment has the jurisdiction to approve or deny an application for a variance only when the proper notice to property owners within 200-feet has been given no less than 10 days prior to the hearing.

He explained that if the applicant could have come and stated for the record that she had no objection, the applicant could have moved forward. However, this property owner has received notice less than 10 days prior to the hearing leaving the applicant at risk. Legally, without the proper notice given, the applicant is vulnerable and that specific property owner or any dissatisfied property owners could take the applicant to court which could result in the applicant having to remove the improvements.

Mr. Cavaliere expressed that the application submitted was not out of the ordinary and he suggested that the presentation for the application be given at the next meeting now that all notice has been given. He would draft a resolution of approval in order for the applicant to begin improvements right away. Chairman Lepre agreed with Mr. Cavaliere adding that it would be very risky to proceed. He informed the applicant that the approval would be contingent to Board of Health approval for a new septic system.

Mr. Smid informed Mr. Kalkan that he noticed a large oak tree to the left of the driveway that was in poor shape. Mr. Kalkan explained that he spoke to someone with the Shade Tree Committee because he planned to have it removed not only because of the condition but the tree was blocking the line of site for the exiting the driveway.

Chairman Lepre announced that the Kalkan application would be carried to the March 12, 2013 public hearing.

RESOLUTIONS:

1. Authorized Agreement with Matthew Cavaliere, Esq.

Motioned by Mr. Chadwick and seconded by Mr. Smid, to adopt the above referenced resolution for the Authorized Agreement as Board Attorney.

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

2. Authorized Agreement with Boswell McClave Engineering.

Motioned by Mr. Wegman and seconded by Mr. Chadwick, to adopt the above referenced resolution for the Authorized Agreement as Board Engineer.

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

3. Authorized Agreement with Burgis Associates, Inc.

Motioned by Mr. Smid and seconded by Mr. Chadwick, to adopt the above referenced resolution for the Authorized Agreement as Board Planner.

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

MEMORIALIZATION OF RESOLUTION:

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

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

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

PAYMENT OF BILLS:

Motioned by Mr. Smid 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. Chadwick and seconded by Mr. Smid, to approve the January 8, 2013 minutes was voted unanimously by the Board.

NEW BUSINESS:

The Board reviewed the letter to be sent to Planning Board and Mayor and Council concerning revisions to the accessory structure ordinance.

OLD BUSINESS:

Mr. Smid expressed that it may be time to revise the application checklist to ensure that applicants submit the appropriate items that would aid the Board in its decision. He suggested that all plans show the existing and proposed footprint. Mr. Cavaliere added that some towns are requiring that the applicant submit photos of the existing conditions.

Mr. Smid questioned the timeframe in which a POD is permitted to stay on the property. He informed the Board that Cenzone's Restaurant has had a POD located in the parking area for storage. Chairman Lepre responded that there is a time limit in which they need to be removed.

MEETING ADJOURNED:

Motioned by Mr. Smid and seconded by Mr. Johnson, to adjourn the meeting concluding at 9:20 p.m. was voted unanimously by the Board.

Respectfully submitted by,

Kathlyn Gurney, Board Secretary

*Next meeting is March 12, 2013