

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

Also in attendance was Mr. Matthew Cavaliere, Board Attorney.

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

Chairman Lepre announced that Mr. Ackerly would be sitting for Mr. Chadwick and Mr. Madden would be sitting for Mr. Johnson.

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

Chairman Lepre announced that Mr. Ackerly would be sitting in for Mr. Chadwick and Mr. Madden would be sitting in for Mr. Johnson.

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-2 Residential Zone, traffic light. Chairman Lepre reviewed the comments from the various departments and zoning issues.

The applicant proposes a rear yard setback of 25.33-feet where 60-feet is required.

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

Chairman Lepre explained that this is a rear yard setback on a corner lot which appears to be a side yard setback. He verified with Mr. Kalkan improvements would not be going any further into the setbacks than what is currently there. Mr. Kalkan responded that he is squaring off the front of the home and when adding the second story, he would be going no further with the addition than what exists.

Chairman Lepre explained to Mr. Kalkan that in order to make this improvement, a new septic system would need to be installed. Mr. Kalkan responded that he has hired Weissman Engineering who has already conducted test holes and prepared plans for the new septic system which have submitted and approved by the Health Department. The Health Department has

notified the Building Department that they have approved the septic system plans and building permits could be issued and a certificate of occupancy would be given upon completion of the septic system.

Mr. Kalkan explained that they would bring the windows, electric and plumbing up to code. He explained that by squaring off the front of the house and the placement of the windows will add symmetry to the front of the home. He expressed that the addition would have a positive reflection in the neighborhood.

Chairman Lepre questioned if the Board had any discussion. Seeing none, he 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 Kalkan application was voted unanimously by the Board.

No comments.

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

Mr. Bremer commented that he lives on the lower portion of Ryerson Avenue and agreed with Mr. Kalkan that the improvements would be a nice addition to the neighborhood.

Chairman Lepre explained that the property is large and the neighboring home is quite a distance away. Feedback from all the Borough's agencies are in favor of the improvements being proposed and he sees no detriment to the Borough of Oakland.

Motioned by Mr. Schneeweiss and seconded by Mr. Wegman, to approve the Kalkan application contingent to the home not encroaching any further into the setbacks, not to exceed four bedrooms and Health Department approval for a septic system upgrade to accommodate four bedrooms.

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

Mr. Cavaliere explained that the Board does not normally prepare a resolution in anticipation of the applicant receiving approval. However, the applicant was scheduled for last month hearing and was carried to this month due to insufficient noticing. It was discussed to avoid the applicant from losing construction time Mr. Cavaliere was instructed by the Board to draft a resolution of approval that would be memorialized.

The resolution was amended to read that Mr. Kalkan's wife and daughter are the co-owners of the home. This resolution would be contingent to health department approval.

#### MEMORIALIZATION OF RESOLUTION:

2. Kalkan – 70 Ryerson Avenue, Block 3602, Lot 6. Approval for a rear yard setback.

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

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

2 Talucci – 110 Yawpo Avenue, Block 3703, Lot 29. Public hearing for a 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 moderate. Chairman Lepre reviewed the comments from the various departments and zoning issues.

Chairman Lepre expressed that this is the first time an application for an air conditioning unit has come before the Board. He did not see anything in the ordinance that would require this particular application to come before the Board and if someone were to vote opposing the application, how would it be sited.

Mr. Cavaliere explained to the Board that he was confused also and called the Borough to have Ms. Gurney confirm with the Zoning Official that 59-47 was the ordinance being referenced. He explained that the existing home has a 6.9-foot side setback where the applicant is proposing an ductless split pipe air conditioning unit which would attach to the side of the house. He explained that the Board is more accustomed to seeing air conditioning units placed on a pad and not attached to the house.

Chairman Lepre informed the Board that he believes that the 36" X 36" X 12' split air conditioning system is not physically attached to the home except for a pipe. He expressed to Mr. Talucci that this is no different than any other application that involves an air conditioning unit and wonders if there is anything to be addressed. The Zoning Officer does include on the LOD (Letter of Denial) where the applicant proposes to locate the air conditioning unit but he thought the reason was to avoid unnecessary noise for a neighboring window not because of a setback issue. If this were a commercial property, he understands the setback issue due to the size of the unit. The proposed air conditioning unit puts out 57 decibels, which is half the size of the air conditioner units that are normally proposed. In addition, it is connected to the house but by a length of copper pipe.

A discussion ensued concerning whether the Zoning Officer's interpretation was that the unit was connected to the home not only by the copper piping. Mr. Cavaliere explained that typically an air conditioning unit is allowed to come out 18- inches into the setback. When he heard back from the zoning officer, he thought it compared to the units used in hotels which embed into the plane of the building. Mr. Schneeweiss informed the Board that there are mounts used for air conditioning units for the purpose of raising the unit which are considered attached to the building.

Mr. Cavaliere explained that typically the Board requests that the air conditioning pads be place in the rear yard or away from a neighboring home. However, the ordinance does not require the applicant to do so. Chairman Lepre suggested that the applicant be sworn in and proceed as the Board usually does.

Mr. Michael Talucci was sworn in and testified that he is the applicant and homeowner.

Chairman Lepre reviewed what the applicant proposes. The applicant has a 6.9-foot side setback where he proposes to place an air conditioning condenser. Mr. Schneeweiss added that the neighboring home is 50 to 60-feet south of the proposed unit and does not think this would be a noise issue. Mr. Talucci informed the Board that both of his neighbors have large air conditioning units in their side yards.

Chairman Lepre noted that there were no members of the public and would not proceed with the open public portion.

Motioned by Mr. Schneeweiss and seconded by Mr. Smid, to approve the Talucci application.

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

Chairman Lepre expressed that the town will be seeing a wave of permits for emergency generators being installed. Mr. Schneeweiss explained that some towns have a dB meters to measure the amount of noise put out by generators. He explained that they set up the meter at the property line and if it passes the test, the homeowner can place the generator wherever they want. Most towns do not have this meter and another problem is that some of the towns have stopped allowing full house generators because they do not have enough natural gas pressure to support them all.

#### PAYMENT OF BILLS:

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

#### APPROVAL OF MINUTES:

Motioned by Mr. Wegman and seconded by Mr. Smid, to approve the February 12, 2013 minutes was voted unanimously by the Board.

#### NEW BUSINESS:

Mr. Schneeweiss explained that the Board received a list of what was approved last year and suggested that the other Board members take a drive by what was approved. Most of what the Board approved turned out favorable but some of the approvals the turn out was not as favorable.

Chairman Lepre informed the Board that they all have received a supplement for the Land Use books. He explained that there are instructions on how to insert the new supplement.

#### OLD BUSINESS:

None

#### MEETING ADJOURNED:

Motioned by Mr. Schneeweiss and seconded by Mr. Wegman, to adjourn the meeting concluding at 9:00 p.m. was voted unanimously by the Board.

Respectfully submitted by,

Kathlyn Gurney, Board Secretary

\*Next meeting is April 9, 2013