

SEPTEMBER 10, 2013 MINUTES  
OAKLAND BOARD OF ADJUSTMENT  
OAKLAND COUNCIL CHAMBERS - 8:00 .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. Ackerly, Chadwick, Smid, Wegman, Schneeweiss and  
Chairman Lepre.  
Absent: Messrs. Madden, Bremer and Johnson

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

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

Mr. Ackerly would be sitting in for Mr. Johnson.

PUBLIC MEETING BEGINS AT 7:04 p.m.:

1. Madison Avenue Midland Park, LLC – 17 Princeton Avenue, block 4903, Lot 20.  
Public hearing for a front and side yard setback.

Chairman Lepre announced that the Madison Avenue Midland Park, LLC application was being carried due to insufficient noticing. This application would be carried to the October 8, 2013 public hearing with no further notice.

Motioned by Mr. Chadwick and seconded by Mr. Ackerly, to carry the Madison Avenue Midland Park, LLC application to the October 8, 2013 public hearing was voted unanimously by the Board.

2. Zania, LLC – 78 Ramapo Valley Road, Block 2601, Lot 6. Continued public hearing for an amended site plan.

Chairman Lepre explained that additional correspondence was sent from the Health Department stating that the existing septic design is for vehicle fueling and commercial use and according to the new septic code 4212 for food service requires additional design criteria to calculate the extra volume needed which is an extra 5 gallons per person served. He continued that the existing septic system is not designed.

Mr. Aquaviva, Esq. offered Mr. Brian Shortino's testimony and reminded him that he was still under oath. He explained that he was aware the Board had several concerns and would go through these concerns one by one. He suggested that Mr. Shortino begin with the location and size of display area for Christmas tree sales.

Mr. Shortino referred to the revised drawings. He explained that page one was revised June 6, 2013 and page two would remain the same. The first change was the location of the air pump unit which was moved from the east side of the property to the rear near the vacuum.

Mr. Shortino explained that the applicant would be requesting temporary signage approximately 3-foot wide by 5-foot high sign, double sided and non illuminated for Christmas tree sales on the easterly end of the driveway located behind the building. In addition, two structures are being requested a temporary 6-foot high chain link security fence with two locked gates. This area would be approximately 900 square feet to contain the sale Christmas trees, grave blankets and wreaths. The proposed Christmas trees would be displayed on 2' x 4' wood support stands with temporary lighting of approximately 150 watts and Christmas music. Chairman Lepre question if the lighting would spill out to any of the neighboring properties. Mr. Shortino responded it would not.

Chairman Lepre questioned the timeframe of the Christmas tree display. Mr. Shortino responded approximately the last week in November to the January 1<sup>st</sup>. Chairman Lepre questioned if the parking requirements comply with the sale of Christmas trees. Mr. Shortino responded that it would and the sales area is not taking up any parking area.

Chairman Lepre questioned if emergency vehicles and fueling trucks would be able to make the turning radius without impediment during the sale of Christmas trees and with a proposed shed in the rear of the building. Mr. Shortino responded that the 25-feet from the proposed shed would allow plenty of room for emergency vehicles and fueling trucks to turn around.

Mr. Wegman questioned where the sales transaction would take place. Mr. Shortino responded that an attendant specifically for sales would be there collecting money for the trees in the rear of the building.

Ms. Mejia requested that Mr. Shortino provide a standard parking plan on the site plan. This plan should calculate and show allocated parking for all the uses such as Christmas tree customers, propane tanks sales and the convenience store, and anticipated number of vehicles for employees. She suggested that by showing the calculation and the flow, it would solidify that it works. In addition, she requested that the turning radius also be included on the plans. Mr. Chadwick made reference to the original application that was approved which provided the turning radius on the site plans.

Mr. Shortino explained that a no fill propane tank area is being proposed for tank exchange, empty tank drop off and pick up for a full tank. Two cages are being proposed approximately 25-inches by 42-inches by 65-inches high to store 18 individual 20 pound propane tanks. Chairman Lepre questioned the risk of a vehicle colliding into the propane area. Mr. Aquaviva responded that there was a request from Fire Prevention Bureau that a barrier be installed for that area and his client would comply with that request. Mr. Shortino added that he would be adding bollards in that area. Chairman Lepre questioned the turning radius for the propane tank area. Mr. Shortino responded that there would be no change in dimensions for the distance between the building and the propane area. The proposed cages would be placed on the existing concrete pad that was part of the original application. The distance remains a minimum of 25-feet.

Mr. Lydon had concerns with the function of parking when picking up there Christmas trees. Mr. Aquaviva responded that the property has already been approved as far as parking spaces. Mr. Lydon responded that the approved parking was for the gas station and the convenience store only. Chairman Lepre questioned Mr. Lydon if the increase capacity in sales on the property would generate an increase in the parking calculation. Mr. Lydon responded that he believes it does and suggested along with Ms. Mejia that parking calculations be submitted for what is being proposed to amend the original approval. Mr. Aquaviva expressed that the Borough's zoning ordinance is silent when it pertains to temporary uses and their hands are tied. Chairman Lepre responded that even if the sales are temporary, the property has to be able to physically handle

the extra parking. He explained it is to the applicant's benefit that the Board considers a practical solution along with safety measures to avoid overloading the property before approving the application. Mr. Lydon informed Mr. Aquaviva that the Borough's ordinance requires one parking space per 150-feet of space. He explained that parking is based upon square footage and suggested that calculations be submitted for parking based on the square footage of the area proposed for Christmas trees sales. Mr. Shortino responded that the applicant would be proposing an area of less than 900 square feet. Chairman Lepre responded that this would mean the applicant needs six extra spaces.

Mr. Smid had concerns with the traffic that could be create and that it may consider the assistance of a patrol officer to direct traffic. Chairman Lepre indicated that customers having difficulty entering a parking lot for a Christmas tree due to the volume vehicle would probably turn away and go elsewhere. However, he has concerns with approving something on private property that ultimately could become a burden to the police department.

Mr. Ackerly suggested to the Board that since the applicant testified that they were not proposing a small utility shed for the attendant selling trees, it should be a condition in the resolution.

Mr. Smid questioned if there were any restrictions with the sale of propane tanks in the Highlands Preservation Area. Mr. Lydon responded that the concerns for Highlands region are more about water but they also have 17 or 18 exemptions written into the act. He explained that he looked into whether or not this property and the proposed development were exempt or not during the last application. It was determined that the property was exempt from the Highlands Act because there is less than a quarter acre of additional impervious and the building footprint was not being increased more than 125 percent.

Chairman Lepre questioned if outdoor sales were permitted under a D-1 variance. Mr. Lydon responded that outdoor sales are not permitted under a D-1 variance and would require testimony on this topic.

Ms. Mejia questioned Mr. Shortino if he would be deleting the portion on the plans pertaining to inside cooking pursuant to Health Department's comments. Mr. Shortino responded that they would continue to propose the indoor cooking portion of the application.

Mr. Lydon questioned an icebox being proposed to be located outside the building. Mr. Aquaviva responded that they have moved the icebox inside the building.

Mr. Lydon informed the applicant that a temporary sign would need to be 25-feet from the property line. Mr. Aquaviva responded that they would comply with the Borough's sign ordinance.

Mr. Schneeweiss commented that their prior application to the Board had a condition of approval insisting that the existing shed be removed and he feels that the shed being proposed should be a moot point. Mr. Shortino responded that they need a shed to store lawn maintenance equipment and other necessary items for the store. He explained that the Board informed the applicant that the Borough's ordinance allows a shed as long as it is no more than 100 square feet and as a courtesy to the Board, he included it on the plans. Mr. Cavaliere explained that the original application was approved minus two sheds, however, it does not preclude the applicant from coming back to the Board to consider a different shed and it is then up to the Board to approve that.

Mr. Cavaliere informed Mr. Aquaviva that a 10' X 10' shed could be put up without approval in a residential zone, however, this would be considered a site change in a commercial establishment would need to come back to the Board for amended site plan approval.

Mr. Cavaliere remarked that he had more concerns with the variance concerning the separation requirement between the primary building and accessory structures. Mr. Lydon responded that he would get that information to the Board.

Mr. Cavaliere questioned where the door to the shed would lead out to. Mr. Shortino responded out the back towards the macadam. Mr. Cavaliere confirmed that no electric or running water for the shed would be proposed. Mr. Shortino responded that no electric or running water is being proposed.

Mr. Ackerly requested that Mr. Shortino revise the site plan in the rear of the building which still depicts the original footprint from the last application.

Mr. Cavaliere questioned the distance from the building to the curbing of the pad for the propane tank display. Mr. Shortino responded approximately 20-feet in between the building and the curbing for the concrete pad. He added there would be no change. Cavaliere questioned where the bollards would be situated. Mr. Shortino responded on top of the concrete pads. Mr. Cavaliere recommended that Mr. Shortino remove the items on the site plan that no longer exist on the property because this could give him even more room for the turning radius.

Chairman Lepre reminded the applicant that the Health Department has indicated that the existing septic system would not be able to handle the extra burden of food preparation according to the new code. In addition, it was also noted in Deborah McGrath's letter dated September 18, 2013 that there is no additional space on the property to expand septic system. Mr. Shortino responded that they plan to propose an alternative to the NJDEP. The plan would involve existing water records for the site that show 250 gallons a day where the existing septic system is designed to handle 1,200 gallons a day. He explained that you gather these records along with similar businesses of the same size in the area and calculate the amount of water used daily. This is then proposed to the NJDEP along with explanation of business owner's reasons and the criteria. He expressed that the applicant may have to expand it but not the full extent and he believes there is sufficient room to expand the septic system.

Chairman Lepre suggested that Mr. Shortino produce to the Board something in writing that confirms that the septic does not or does need to be expanded and can it be done. He explained that is important for the Board to know that NJDEP and the Health Department are both satisfied. Mr. Shortino responded that he would do that but it could take months and requests that this subject could be a condition of the resolution. Mr. Aquaviva explained that it would be a waste of time to address all the septic issues at the next Board meeting because they would have to submit plans to the Board of Health and NJDEP which could take anywhere from six months to a year. He added that if the Board grants approval next meeting, it would be subject to Board of Health approval and if Board of Health does not approve this aspect, there will be no cooking on the premises.

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

No comments.

Motioned by Mr. Wegman and seconded by Mr. Chadwick, to close the meeting to the public regarding matters concerning the Zania, LLC application was voted unanimously by the Board.

Mr. Lydon informed the Board that they have not yet heard any testimony concerning details on the use variance. Chairman Lepre requested that the applicant prepare to have a planner present at the next meeting to give testimony on the use. Mr. Aquaviva agreed to his request.

Chairman

Find out if variance between shed and building require a variance, parking variance for the temporary sales

Chairman Lepre entertained a motion to carry the application.

Motioned by Mr. Schneeweiss and seconded by Mr. Smid, to carry the Zania, LLC application to the October 8, 2013 public hearing with no further notice was voted unanimously by the Board.

3. Cantenacci – 90 Pawnee Avenue, Block 5401, Lot 17. Public hearing for a side yard setback.

Members conducted a site inspection of the property. Mr. Wegman reported that the property is located in a RA-3 Residential and traffic is moderate during school hours. Chairman Lepre reviewed the comments from the various departments and zoning issues.

The applicant proposes a side yard setback of 11-feet +/- where 15-feet is required.

Mr. Michael Cantenacci, owner of the property, was sworn in and testified that he is replacing an existing deck. He explained that the deck would go no closer to the property line and would have the same footprint.

Mr. Schneeweiss questioned where the access steps would be to the deck. Mr. Cantenacci responded that there would be one step leading off the rear of the deck. Chairman Lepre entertained a motion to open the meeting to the public.

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

No comments.

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

Mr. Cavaliere questioned the dimensions of the deck. Mr. Cantenacci responded that the deck would be 14.6-feet in length and 16-feet in width. Mr. Cavaliere questioned if the deck would have railings. Mr. Cantenacci responded that there would be railing with a bench seat at the rear of the deck. There would be no roof covering the deck. Chairman Lepre entertained a motion.

Motioned by Mr. Wegman and seconded by Mr. Smid, to approve the Cantenacci application.

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

4. CJM Property/McCarthy - Sienna Way, Block 4910, Lot 5. Public hearing for a front and side yard setback.

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

The applicant is proposing a front yard setback of 20.9-feet where 40-feet is required and a side yard setback of 10.2-feet on the west side and 14.8-feet on the east side where 15-feet is required.

Mr. Battersby was before the Board to represent the applicant. He introduced James McCarthy the construction manager. Mr. McCarthy was sworn in and testified that he has been before the Board before and has improved many homes in this area.

Mr. McCarthy explained that the existing structure is in bad condition. He proposes to expand the dining area as well as expand a bedroom directly above it, expand the garage forward with the addition of a room above it, and add a front porch.

Chairman Lepre questioned if the applicant would agree to stipulate to keep the porch open. Mr. McCarthy agreed to the stipulation.

Mr. Smid questioned if the applicant applied for permits to remove the trees on the property. Mr. McCarthy responded that he did not know he had to get permits for tree removal when installing a septic system. Mr. Smid informed Mr. McCarthy that all trees removed need a permit.

Mr. Smid questioned if the applicant applied for a permit for the partial demolition done on the home. Mr. McCarthy responded that he applied for permits for in August.

Chairman Lepre entertained a motion to open the meeting to the public.

Motioned by Mr. Smid and seconded by Mr. Chadwick, to open the meeting to the public regarding matters concerning the CJM Property/McCarthy application was voted unanimously by the Board.

No comments.

Motioned by Mr. Chadwick and seconded by Mr. Wegman, to close the meeting to the public regarding matters concerning the CJM Property/McCarthy application.

Chairman Lepre expressed that the renovation is consistent with the other renovations in the neighborhood. He entertained a motion.

Motioned by Mr. Chadwick and seconded by Mr. Ackerly, to approve the CJM Property/McCarthy application subject to the porch remaining open.

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

5. Gallo – 18 Princeton Terrace, Block 4911, Lot 2. Public hearing for a front and side yard setback.

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

The applicant proposes a front yard setback of 20.6-feet where 40-feet is required and a side yard setback of 8-feet where 15-feet is required.

Mr. Robert Gallo, 1194 Hillsboro Mile, Hillsboro Beach Florida, was sworn in and testified that he is the homeowner and applicant. He explained that the application proposes to renovate and enlarge the existing home from a one-story to a two-story. Most of the addition would be in the rear not violating any setbacks.

He explained that they are proposing an additional step off the front porch expanding the front yard variance being requested from the existing 21.6-feet to 20.6-feet and the second level would trigger and maintain a side yard setback of 8.0-feet.

Mr. Gallo informed the Board that a new septic system is being installed. Chairman Lepre entertained a motion to open the meeting to the public.

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

No comments.

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

The consensus of the Board was that the lot was narrow in width but the applicant was keeping with other improvements in the neighborhood. Chairman Lepre entertained a motion.

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

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

6. McDonnell – 17 Rockaway Avenue, Block 4504, Lot 16. Public hearing for a front and side yard setback.

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

The applicant proposes an existing front yard setback of 29-feet where 40-feet is required. In addition a side yard setback of 11-feet and 6-feet is being proposed, both side yard setbacks exist.

Mr. Bryan McDonnell and his wife Kelly were sworn in and testified that they are proposing to add a second level over the existing footprint. The home is currently a three-bedroom home and would remain a three-bedrooms for which the septic system is designed. Chairman Lepre questioned if the McDonnells would agree to make it a condition that the home would not exceed three bedrooms. Mr. and Mrs. McDonnell agreed to the stipulation.

Chairman Lepre announced that there was no public to open the meeting to.

Mr. Ackerly questioned a third bathroom in the basement. Mr. McDonnell responded that the third bathroom existed when they purchased the home.

Chairman Lepre expressed that typical improvement on an undersized lot. He entertained a motion.

Motioned by Mr. Schneeweiss and seconded by Mr. Chadwick, to approve the McDonnell application subject to the home remaining a three-bedroom home.

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

MEMORIALIZATION OF RESOLUTION:

None

PAYMENT OF BILLS:

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

APPROVAL OF MINUTES:

Motioned by Mr. Smid and seconded by Mr. Ackerly, to approve the August 13, 2013 minutes as amended was voted unanimously by the Board.

NEW BUSINESS:

None

OLD BUSINESS:

None

MEETING ADJOURNED:

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

Respectfully submitted by,

Kathlyn Gurney, Board Secretary

\*Next meeting is October 8, 2013