

**MINUTES  
BOROUGH OF LAVALLETTE  
REGULAR MEETING OF THE PLANNING BOARD**

**Wednesday, September 24, 2008 - 7 P.M.**

Chairman William Zylinski presiding.

**Roll Call:**

Vincent Marrone, Mayor LaCicero's Designee – present  
William Zylinski, Chairman – present  
Joseph Baginski, - Vice Chairman - present  
Councilwoman Filippone – present  
Christopher Parlow, Business Administrator – present  
Anthony Cataline – present  
Vincent Marino - present  
Leonard Calderaro – present  
Rosangela Zaccaria – present

Joseph Palinsky – present  
Barbara Brown - present

Attorney: Terry F. Brady, Esq.

**Public Notice Announcement:**

This is the Borough of Lavallette Planning Board meeting of September 24, 2008. Adequate notice of this meeting has been given as required by Chapter 231 Public Law 1975, commonly known as "The Sunshine Law." The date, time and place of this meeting was posted on the bulletin board located in the Borough Hall, filed with the Borough Clerk, and supplied to the Ocean Star one of the official Borough newspapers.

**Flag Salute:**

The flag salute was deferred to the public portion of the meeting.

**Review of Minutes:**

The Board reviewed the minutes of the Workshop Meeting of August 13, 2008 and the Regular Meeting of August 27, 2008.

**Review of Resolution to be Memorialized:**

None

## **Review of Cases:**

### **Application No. 6-08- Ralph & Sylvia Axcelson, 127 New Brunswick Ave., Block 54, Lot 10 Special Reasons-Extension of a Non-conforming Use**

The property is located on the north side of New Brunswick Avenue in the Residential District A (one-family) Zone. The property contains 5,000 square feet and two single-family dwellings. The applicant is proposing to make alterations to the roof on the front dwelling.

This application was heard on at the July 23<sup>rd</sup> meeting and applicant requested that it be carried to September 24<sup>th</sup> in order to have appropriate plans prepared.

### **Application No. 8-08, Philip & Francine Delli Santi, 1400 Baltimore Ave., Block 54, Lot 1.02, Special Reasons-Extension of a Non-conforming Use**

The property is located on the southwest corner of the intersection of Brooklyn Avenue and Baltimore Avenue in the Residential District A. The property contains 5000 square feet and two single-family dwellings, which are two condominium units, A & B. The applicant owns Unit B, which is located to the rear of Unit A and has frontage on Brooklyn Avenue. The applicant is proposing to demolish the existing dwelling and one shed and construct a new dwelling. A special reasons variance is required because the lot has two dwellings, which is a non-conforming use.

## **Other Business:**

Chairman Zylinski stated there were three proposed Ordinances amendments (2008-19 (1047), No. 2008-23 (1051) and 2008-24 (1052) that were distributed to the Board for their review and comment to the Mayor and Council as per statute.

Mr. Parlow reviewed each ordinance and gave the Board the benefit of a brief description of each one. He also stated that Lavallette is one of the first towns to have an approved storm management plan.

Mrs. Filippone stated that the proposed ordinance regarding the setback on Route 35S has been held for further study by Chief Grant regarding the site triangle concerns. She stated if there is a site triangle issue the 10 foot highway side setback may have to be enforced so the driveways would be on the highway side but either way, she anticipates it will be addressed at the next Council meeting.

Chairman Zylinski raised the question of CAFRA requiring pilings on oceanfront construction.

Mr. Parlow explained that the Construction Official and the Zoning Officer met and discussed the question and they are awaiting a letter from the State saying our ordinance cannot supercede the UCC that permits foundations without pilings on the oceanfront.

A motion was made by Mr. Parlow, seconded by Mrs. Zaccaria, to advise the Mayor and Council the ordinances have been reviewed by the Planning Board and it recommends they be adopted on second reading. All present voting in the affirmative, with the exception of Mrs. Filippone who abstained from the vote. Motion carries. The Secretary will prepare a letter to the Mayor and Council.

Workshop portion of the meeting adjourned at 7:25 p.m.

A brief recess was taken.

**PUBLIC MEETING: (commenced at 7:30 p.m.)**

Roll call:

Vincent Marrone, Mayor LaCicero's Designee - present  
William Zylinski, Chairman - present  
Joseph Baginski, - Vice Chairman - present  
Councilwoman Filippone - present  
Christopher Parlow, Business Administrator - present  
Anthony Cataline - present  
Vincent Marino - present  
Leonard Calderaro – present  
Rosangela Zaccaria – present

Joseph Palinsky – present  
Barbara Brown – present

Attorney: Terry Brady, Esq., Board Attorney

**Public Notice Announcement:**

This is the Borough of Lavallette Planning Board meeting of September 24, 2008. Adequate notice of this meeting has been given as required by Chapter 231 Public Law 1975, commonly known as "The Sunshine Law." The date, time and place of this meeting was posted on the bulletin board located in the Borough Hall, filed with the Borough Clerk, and supplied to the Ocean Star one of the official Borough newspapers.

**Flag Salute:**

Chairman Zylinski led the audience in the salute to the flag.

**Approval of Minutes:**

On motion by Mr. Marino, seconded by Mrs. Filippone, the Minutes of the Workshop Meeting of August 13, 2008 were approved. All present voting in favor.

On motion by Mr. Palinsky, seconded by Mr. Baginski, the Minutes of the Regular Meeting of August 27, 2008 were approved, with one typographical correction. All present voting in favor.

**Resolution to be Memorialized:**

None

Since Mr. Marrone and Mrs. Filippone are unable to participate in the two cases on the Agenda

because they are special reasons variance requests, they were excused.

**Public Hearings:**

**Application No. 6-08- Ralph & Sylvia Axcelson, 127 New Brunswick Ave., Block 54, Lot 10  
Special Reasons-Extension of a Non-conforming Use**

The property is located on the north side of New Brunswick Avenue in the Residential District A (one-family) Zone. The property contains 5,000 square feet and two single-family dwellings. The applicant is proposing to make alterations to the roof on the front dwelling.

This application was heard on at the July 23<sup>rd</sup> meeting and applicant requested that it be carried to September 24<sup>th</sup> in order to have appropriate plans prepared.

Chairman Zylinski stated a letter had been received from E. Allen MacDuffie, Attorney for the applicant, requesting this application be carried to October 22, 2008 meeting.

On motion by Mr. Parlow, seconded by Mr. Baginski, the application was carried to the Regular Meeting of October 22, 2008, with all time frames waived. On roll call: Mr. Parlow, yes-, Mr. Baginski, yes-, Messrs. Calderaro, Marino, and Palinsky, yes-, Mr. Zylinski, yes. Motion carries.

Mr. Palinsky sat as alternate number one (1) on this application at the July 23<sup>rd</sup> meeting in place of Mrs. Zaccaria.

**Application No. 8-08, Philip & Francine Delli Santi, 1400 Baltimore Ave., Block 54, Lot 1.02,  
Special Reasons-Extension of a Non-conforming Use**

The property is located on the southwest corner of the intersection of Brooklyn Avenue and Baltimore Avenue in the Residential District A. The property contains 5000 square feet and two single-family dwellings, which are two condominium units, A & B. The applicant owns Unit B, which is located to the rear of Unit A and has frontage on Brooklyn Avenue. The applicant is proposing to demolish the existing dwelling and one shed and construct a new dwelling. A special reasons variance is required because the lot has two dwellings, which is a non-conforming use.

Mr. Palinsky advised Chairman Zylinski that he was removing himself from the dais on the Delli Santi application because he is a property owner within 200 feet of the premises.

E. Allen MacDuffie, Esq., represented the applicant and stated the applicant wants to expand an existing non-conforming use and he believes there will be special reasons. He stated the house sits on a slab and will not support a new structure. He further stated the new dwelling will be esthetically pleasing and will meet the flood plain regulations. The existing building is about 430 square feet, has little insulation, has electric heat and is not up to code. Mr. MacDuffie also stated that there was a prior variance approval for this property that had expired.

Michael Melillo was sworn in and stated he has been a licensed architect since 1988 and offered his qualifications as an expert that were accepted. Mr. Brady asked if he was a licensed planner and he stated no and Mr. Brady stated he is then testifying as an architect.

Mr. Melillo stated the house was built in the 50's or 60's and is built at grade and the present elevation is 5 feet and there is very little insulation. He further stated the applicant is considering solar energy in the new house, it will have the 5 and 10 foot side yards and will meet the height restriction.

Francine Delli Santi was sworn in and stated she and her husband have owned the house for 11 years and it is primarily a summer residence.

A sketch of the existing house was introduced in evidence and marked as A-1 and Mrs. Delli Santi stated she prepared the sketch. She testified the house has electric baseboard heat, no central air conditioning and it has two bedrooms; she also stated there is a fence across the lot separating the two houses. She stated she has two children and they like to spend time here but her daughter doesn't want to share a bedroom with her brother. She also stated they would like to reciprocate social invitations and have a better quality of life and have a better investment.

A photograph showing the present house and the adjoining property was marked as A-2;

A photograph showing the 2 family house across the street was marked as A-3;

A photograph showing the water tower and sanitation garage at Baltimore and Brooklyn was marked as A-4;

A copy of the tax map of the Borough with the multi-family houses marked, and prepared by Mrs. Delli Santi was marked as A-5;

An excerpt from the 1959 Borough Ordinance was marked as A-6.

A copy of the front and rear pages of the Master Deed dated March 18, 1987 was marked as A-7.

Mr. Melillo stated that two parking spaces will be provided and the new house will have an outdoor shower tucked into the building, will be roofed and hooked into the sewer line. There will be three bedrooms and 2 ½ baths. He further testified that eventually a pull down stair will be placed on the second floor. The plans indicate the attic is 7 feet to the ridge and he was told the ordinance is 6 feet and he responded that collar ties will bring it down.

Mr. Baginski asked if the property has ever been subdivided and Mr. MacDuffie responded no.

Mr. Parlow asked if there were going to be pavers and stated only one driveway is permitted and the other one would have to be closed off. Mr. Parlow also stated that this is one lot with two houses on it and he questioned whether the ground coverage was excessive.

Mr. Melillo stated they will do whatever they can to eliminate impervious coverage.

Mr. Baginski stated the proposed new house has 800 square feet of living space on the first floor and double that with the second floor making about 1600 square feet and that does not include the porch which is an additional 243 square feet. He stated that is a substantial increase in density.

Chairman Zylinski opened the hearing to the public.

Frances D'Quilla 124 Brooklyn Avenue was sworn in and stated he was in favor of the application and the proposed house is beautiful; and Lavallette is changing and this seems to be a technical problem.

Michael Jarosinski, 1305 Bay Blvd. was sworn in and stated the proposed home is an asset to the

neighborhood.

Lillian Birkler, 122 Washington Avenue was sworn in and stated the two houses on the lot look separate and are all fenced in and asked if 1400-A was relinquishing their right to have a two story house.

Mr. Brady responded that granting or denying of this application will not affect the rights of others to file an application and each one stands on its own merit.

John Shardine, 221 Newark Avenue was sworn in and stated the house is small and he favors the application.

Sherry Fost, 122 Brooklyn Avenue was sworn in and stated she lives next door and she supports the application

Mr. Parlow asked Mrs. Fost if she realized that the proposed house will extend out further than her house whereas they are now even. She responded yes.

Chairman Zylinski closed the public hearing.

Mr. Parlow stated he would not grant a variance for ground coverage and Mr. Cataline agreed.

Mr. Baginski stated that this expansion is significant for a non-conforming use and is in conflict with the Master Plan.

Mr. Brady stated that only exceptional cases warrant a use variance. He further stated that variances for expansions to advance service to the property owner are not favored by the law, they need to have special reasons to benefit the general public good of the whole town and not just for the benefit of the property owner. Mr. Brady also stated that the Medici case is perfectly clear and just to have a better house is not a special reason.

Francis D'Quilla interrupted the meeting and Chairman Zylinski permitted him to speak.

He stated he has been coming to Lavallette for 10 years and Brooklyn Avenue is the dirtiest street in town and the tax base will go up and the new house will beautify the street.

Mrs. Zaccaria stated the existing house is 430 square feet and the proposed house is 1600 square feet, plus 243 square feet for the porch.

Mrs. Brown stated this is a 5000 square foot lot with two existing houses on it and when people buy these condos they know they are small and then they try to change them which only increases the density which is against the ordinance and the Master Plan. She stated she feels it is a way to get around the ordinance regarding multiple dwellings.

Mr. MacDuffie cited reasons that he felt were special reasons for granting the application: encourage appropriate use to promote safety of the general welfare; safety from fire and flood; improve the visual environment. He also referred to the Burbridge and Kramer v. Sea Girt cases.

A motion was made by Mr. Calderaro to approve the application and the motion failed to receive a second.

Mr. Baginski stated he realized the present house needs re-doing to be brought up to code but cannot support a two-story increase in density.

Mr. Marino stated that he agreed with Mr. Baginski.

Mrs. Brown stated the proposed plan was against the ordinance and the Master Plan.

Chairman Zylinski stated he was not in favor of the proposed plan because there are two houses on one lot that has never been subdivided and a virtual subdivision has been created.

Mr. MacDuffie then stated that perhaps the plans could be revised and the application rescheduled and requested the application be carried to the November 19<sup>th</sup> meeting, with all time frames waived.

A motion was made by Mr. Baginski, seconded by Mr. Cataline, to carry the application to the Regular Meeting of November 19<sup>th</sup>. All present voting in favor. Motion carries.

**Adjourn:**

On motion by Mrs. Brown, seconded by Mrs. Zaccaria, with all in favor, the meeting was adjourned at 9:20 P.M.

Respectfully submitted

Rosemary Robertson  
Secretary