

**MINUTES
BOROUGH OF LAVALLETTE
REGULAR MEETING OF THE PLANNING BOARD
Thursday, November 14, 2013 - 6 P.M.**

Chairman Howard presiding

Roll Call:

Mayor Walter LaCicero - absent
Councilwoman Joanne Filippone - present
Lionel Howard, Chairman - present
William Zylinski, Vice-Chairman - present
Christopher Parlow, Borough Administrator - present
Rosangela Zaccaria - present
Anthony Cataline - present
Len Calderaro - present
Joseph Palinsky - present

Barbara Brown – present
Vincent Marino – present

Terry Brady, Esq. - present

Public Notice Announcement:

This is the Borough of Lavallette Planning Board meeting of November 14, 2013. 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 one of the official Borough newspapers, the Ocean Star.

Flag Salute: Chairman Howard deferred the salute to the public hearing.

New Business:

Gary Royer, Borough Zoning Official, continued the discussion from the October 10, 2013, meeting regarding the height requirements for elevation and construction.

Mr. Royer explained that the Borough has adopted the FEMA standard of BFE + 1. He discussed A Zone construction being at BFE + 1 + additional freeboard.

Mr. Howard asked about the new State Law (P.L.1975,c.291) allowing the new FEMA base flood elevation plus an additional 3 feet. Mr. Royer explained that the law pertains only to elevating existing homes, not new construction.

Mr. Brady pointed out that the law explains when homeowners have to go before the Planning Board and when they don't. However, maximum height is not addressed at all in this law. The Borough ordinance addresses the highest point that the house can be. There is no discrepancy with the State Law. The law concerns itself with how high the bottom (BFE) should be, and our ordinance deals with how high the house should be.

Mr. Royer used an AE-7 zone construction as an example. The sill plate would be at BFE which would put the finished floor at approximately 8 ft. There are ways to take advantage of the freeboard that would bring it to 9 ft. If you go higher, it has to come off the top.

Mr. Parlow added that depending on the style of the house, you can go up high enough and park cars under the house and not exceed the 28 ft. height restriction. However, if you are a 2 or a 2 ½ story house, you then may have to take some height off the structure.

Mrs. Filippone presented a question that if you have an existing home and you are going to elevate it, you are allowed to go 2 ft. above BFE? She also asked if an existing home is 28 ft. and owners wish to elevate, what do we do? Mr. Royer said it is probably going to happen.

Mrs. Filippone asked about V Zone construction. Mr. Royer explained that he goes to the FEMA map, and if any portion of the line between the V Zone touches the dwelling, it is best to go with a higher structure. Example; BFE to the bottom of the lowest structural member at 10, your finished floor will be at 12 ft. If you wish to go above that, then you have to change the 28 ft. building height.

When asked what we can expect as far as overall heights, Mr. Royer explained that if we go to the curb height measure on a two story home, we are looking at an average overall height of 32 ft.

Mr. Parlow reiterated that the new State Law currently allows an existing house to elevate regardless of how high the owner wishes to go without seeking a variance.

Mr. Palinsky asked if there was any way to regulate this. Mr. Brady answered that the law reads that it is lawful to elevate to the *minimum standard*.

Mr. Royer mentioned that he and Mr. Kiseli, Borough Construction Official, use the UCC code as their guide.

Mr. Howard asked if in fact raising a house that has been deemed over 50% damaged is safe. Mr. Royer explained that each plan should have an engineer's statement before it can be raised. Mrs. Filippone reminded everyone that the 50% was based on the assessed value of the home. Mr. Parlow commented that the construction officer can deem a house unsafe.

There was a brief discussion about substantial damage claims and whether or not FEMA has the last word. Mr. Royer mentioned that the Borough homeowners have done well with the REM Grants and others; he also informed the Board that the Borough is up to 146 or 147 demolition permits from the date of the storm. Mr. Royer also updated the Board about letters being written to homeowners who have done nothing to their homes since the storm. Most respond that they are planning to demolish; so Gary believes that we could be looking at 300 demolitions.

Mr. Zylinski had a question about outside shower regulations. Gary Royer explained that there are three conditions for building an outside shower: (1) that it be constructed at BFE or greater (2) that the drain goes into the waste line (3) that it has a roof. Mrs. Zaccaria asked if this would require steps; to which Gary said that some people are now putting showers on the back deck

Mr. Calderaro asked why we want to sewer outside showers? Mr. Royer's opinion was that the outside shows are actually not as big a problem as the condenser platforms right now. Mr. Royer also said that there are also issues with sheds and that there are still property maintenance issues in town.

The Board thanked Mr. Royer for his input and ended this portion of the meeting at 7:10 p.m.

Mr. Howard told the Board that Requests for Proposals for Planning Board Attorney and for Planning Board Engineer were posted on our website for the years 2014 and 2015. Therefore, we will plan for an additional meeting on Thursday, December 19, 2013, at 7 p.m. for the purpose of bid openings.

Resolutions to be memorialized:

Application #13-13, Phyllis & Anthony Lanza, 14 Trenton Avenue, Block 25, Lot 17 (elevate non-conforming use and alterations) – approved with conditions

Application #18-13, Patricia Fox & Paul Tizik, Two Trenton Avenue, Block 25, Lot 5 (reconstruction of non-conforming use) – approved with conditions

Review & Approval of Minutes:

A motion was made by Mr. Zylinski, seconded by Mrs. Brown to accept the minutes of the October 24, 2013 Planning Board Meeting. All members present who attended the October 24 meeting voted in the affirmative.

PUBLIC MEETING

Roll Call:

Mayor Walter LaCicero - absent
Councilwoman Joanne Filippone - present
Lionel Howard, Chairman - present
William Zylinski, Vice-Chairman - present
Christopher Parlow, Borough Administrator - present
Rosangela Zaccaria - present
Anthony Cataline - present
Len Calderaro - present
Joseph Palinsky - present

Barbara Brown – present
Vincent Marino – present

Terry Brady, Esq. - present

Public Notice Announcement:

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Flag Salute: Chairman Howard

Mrs. Filippone left the meeting since she was ineligible to hear the applications.

**Application #20-13, William & Elizabeth Davis, 7 Princeton Ave., Block 21, Lot 12
(elevate & alterations - non-conforming use) front house – continued from
October 10, 2013**

The property is located on the north side of Princeton Avenue approximately 500 feet east of Route 35 northbound in the Residential District A and contains 5,000 square feet. The site contains a 1 ½ story frame dwelling on the front of the property and a 2 story dwelling in the rear of the property. The applicant is proposing to elevate the front dwelling and make alterations to the interior of the dwelling and to the roof.

Mrs. Zaccaria stepped down since she did not attend the October 10, 2013, meeting; therefore, Mrs. Brown will sit for her.

Mr. MacDuffie, attorney for the applicant, introduced Mr. Davis and his builder Mr. Caesar Alvarez. Mr. MacDuffie addressed the fact that the Davis property had been misidentified by the Planning Board attorney as being two dwellings on the lot, when, in fact, there are three dwelling units on the lot.

The following Exhibits were submitted by Mr. MacDuffie:

- B – 1: Photographs of 7 Princeton Ave. two family rear house, single family front house, Rear view of front house, side/rear view of front house, rear house with two units
- B – 2: Drawing of the previously proposed front porch – front elevation (front house)
- B – 3: Drawing of the proposed raised roof – front view (front house)
Drawing of the raised roof (front unit) side view

Caesar Alvarez, still under oath, testified that the proposed renovations would significantly improve the construction and make it safer by bringing it up to code.

Mr. MacDuffie reaffirmed that this application is for an elevation and renovation, not a tear down.

Mr. Davis was sworn in and described the storm damage.

The following Exhibits were submitted by Mr. MacDuffie:

- B – 4: Photograph of the storm damage to the front house
- B – 5: Photographs of the front house first floor living area: kitchen, living and dining room, bathroom, and laundry room
Front house 2nd floor living area – three existing bedrooms
Photographs of existing 2 x 6 joists and rafters + 2 x 10 flooring on first floor
- B – 6: Photocopy of block & lot map highlighting multi-family homes in proximity of 7 Princeton Ave.

The following items were discussed:

- Verification that the bedroom count is the same before and after the renovation
- Validity of Exhibit B-6
- Construction of back house

At approximately 8:05 p.m., Mr. Howard opened the meeting for public comment. Having none, the public portion was closed at approximately 8:06 p.m.

Mr. MacDuffie's summation pointed out that this application's definition of expansion is cubic footage, not square footage. He asked that the Board consider balancing the factors of safety and code compliance.

Mr. Howard asked if the applicant would be willing to reduce the rear house to a one family dwelling? Mr. Calderaro questioned the fact that there was no plan to raise the back house. Mr. Davis replied that he wants to take advantage of the four year time line in order to consider it.

Mr. Marino asked Mr. Davis if the rear house was considered substantially damaged by the Borough. Mr. Davis answered, no.

Mr. Parlow motioned to approve this application, seconded by Mr. Palinsky. Roll call vote: Parlow, yes; Palinsky, yes; Calderaro, yes; Zylinski, no; Cataline, no; Brown, no; Howard, no. The application was denied.

Application #23-13, William & Donna Bermingham, 23 White Ave., Block 2, Lot 28 (elevate & rebuild non-conforming use)

The property is located on the north side of White Avenue Approximately 100 feet east of Route 35 northbound (Grand Central Avenue) in the Residential District A. The property contains 5,000 square feet with a two story multi family dwelling elevated to comply with the FEMA minimum base flood elevation.

Mrs. Zaccaria returned to the dais to hear this application.

Mr. MacDuffie, applicant's attorney introduced Mrs. Donna Bermingham of 24 Michael Lane, East Hanover, NJ, who was sworn in and explained the storm damage to their residence at 23 White Ave.

The following Exhibits were submitted by Mr. MacDuffie:

- A – 1: Photographs of the existing residence and drawings of the proposed residence
- A – 2: Drawing of the existing first floor plan
Photographs of the existing first floor Bedroom #1, Bathroom, Kitchen, Bedroom #2, Living Room and Porch
Drawing of proposed floor plan
- A – 3: Drawing of existing second floor plan
Photographs of existing second floor Kitchen, Porch, Bathroom, Bedroom #1, Bedroom #2, and Living Room
Drawing of proposed floor plan
- A – 4: Photocopy of block & lot map highlighting multi-family homes in proximity of 23 White Ave.
Photocopies of neighboring multi-family homes

The following items were discussed:

- Use of the existing garage for storage only
- House was heated before the storm
- Position of condensers
- Outdoor shower
- Rental of the second floor
- Consideration to rebuild a one family dwelling

Mr. MacDuffie testified that the new construction will conform to the front yard setback requirements and the ground coverage and total coverage will be significantly reduced.

Mr. Art Francis Margiotta, A.I.A., of 1605 Grand Central Ave., Lavallette, was sworn and his qualifications as an architect were accepted by the Board. Mr. Margiotta pointed out that the new construction will be FEMA compliant and will have the same amount of bedrooms. He testified that the new home would be safer, compliant with energy codes, provide an additional off street parking space, and be an aesthetic improvement.

At approximately 8:50 p.m. Mr. Howard opened the hearing for public comment.

Mr. Cosmo La Forgia, 25 White Ave., Lavallette, was sworn in and testified against this application.

The public portion was closed at approximately 8:53 p.m.

A motion was made by Mr. Palinsky, seconded by Mr. Cataline to approve this application. Roll call vote: Palinsky, yes; Cataline, yes; Calderaro, no; Zylinsky, no; Zaccaria, no; Howard, no. The application was denied.

At approximately 9 p.m., Mr. Howard called for a brief recess.

At approximately 9:10 p.m. the meeting was called to order.

Roll Call:

Mayor Walter LaCicero - absent
Councilwoman Joanne Filippone - present
Lionel Howard, Chairman - present
William Zylinski, Vice-Chairman - present
Christopher Parlow, Borough Administrator - present
Rosangela Zaccaria - absent
Anthony Cataline - present
Len Calderaro - present
Joseph Palinsky - present

Barbara Brown – present
Vincent Marino – present

Coleen Dolcy, Esq. - present

Mrs. Dolcy was present for this application since Mr. Brady had to step down.

Mrs. Zaccaria left the meeting, and Mrs. Brown took her place.

Application #25-13, Riccardo & Tracey Botti, 22A New Jersey Ave., Block 20, Lot 25 (elevate & alterations – non-conforming use)

The property is located on the south side of New Jersey Avenue approximately 150 feet east of Route 35 northbound in the Residential District A and contains 5,000 square feet. The site contains two condominium units, Unit A, a one story frame dwelling on the front of the property and Unit B a one story dwelling in the rear of the property. The applicant is proposing to demolish Unit A and rebuild a new two story dwelling.

Mr. Kim Pascarella, applicants' attorney, introduced Mr. Rich Botti, applicant, and Mr. Charles Lindstrom, applicants' engineer who were sworn in.

Mr. Pascarella described the proposed work and pointed out that the new construction will bring the side setbacks into conformity along with reducing the structure and ground coverage.

The following Exhibits were submitted:

- A – 1: Photograph of 22A New Jersey Ave.
- A – 2: Photograph of 20 New Jersey Ave.
- A – 3: Photograph of 24 New Jersey Ave.
- A – 4: Photograph of 17 New Jersey Ave.
- A – 5: Photograph of 19 New Jersey Ave.
- A – 6: Photograph of 21 New Jersey Ave.
- A – 7: Photograph of 23 New Jersey Ave.

The following items were discussed:

- Type of construction
- Eliminating the shed
- Parking
- A/C platform
- Outdoor shower
- Concern regarding other condominium owner rebuilding

Mr. Charles Lindstrom, P.E., of 136 Drumpoint Rd., Brick, NJ, was sworn in, and his qualifications were accepted by the Board. Mr. Lindstrom testified that the proposed new construction would comply with FEMA regulations, making it safer from floods and future disasters. He reaffirmed that the new construction will be more compliant and provides no detriment to the public good.

At approximately 10 p.m. the hearing was open for public comment. Having no comments, the public portion was closed at approximately 10:02 p.m.

Mr. Cataline requested that the removal of the shed be a condition of the resolution

A motion was made by Mr. Cataline, seconded by Mr. Calderaro to approve this application with the shed removal as a condition. Roll call vote: Cataline, yes; Calderaro, yes; Palinsky, no; Zylinski, no; Parlow, yes; Brown, yes; Howard, yes. This application was approved.

Adjourn:

A motion was made by Mrs. Brown, seconded by Mr. Palinsky to adjourn with all present voting in favor. Meeting was adjourned at approximately 10:15 p.m.

Respectfully submitted,
Joyce Deutsch, Secretary