

**MINUTES
BOROUGH OF LAVALLETTE
REGULAR MEETING OF THE PLANNING BOARD
Thursday, June 13, 2013 - 7 P.M.**

Chairman Howard presiding

Roll Call:

Vincent Marino, Designee of Mayor LaCicero - present
Councilwoman Joanne Filippone - present
Lionel Howard, Chairman - present
William Zylinski – Vice-Chairman – present
Christopher Parlow, Borough Administrator – present
Joseph Baginski - resigned
Rosangela Zaccaria - present
Anthony Cataline - present
Len Calderaro – present

Joseph Palinsky - present
Barbara Brown - present

Terry Brady, Esq. - present

Public Notice Announcement:

This is the Borough of Lavallette Regular Planning Board meeting of June 13, 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.

Salute to the Flag – lead by Mr. Howard

Correspondence:

Mr. Howard read the letter of resignation from Mr. Baginski dated June 8, 2013.

Review & Approval of Minutes:

A motion was made by Mr. Palinsky seconded by Mrs. Zaccaria to accept the Minutes of the Regular Meeting of April 25, 2013. All members who attended the April 25 meeting voted in the affirmative.

New Business:

Mr. Palinsky was asked to sit for Mr. Baginski during this meeting and until further notice.

Mr. Howard took a moment to explain that the Borough would be posting on the Lavallette website and in the newspaper for applications for a new Planning Board member.

Mr. Howard wanted to dispense with the workshop portion of the meeting and begin the public meeting, however, Mr. Brady advised that since no one was noticed for the public hearing to begin at 7 p.m.; the board must wait until the noticed time of 7:30 p.m.

Mrs. Zaccaria made a motion to start the public meeting at 7 p.m. for all future Regular Planning Board Meetings and Workshop Meetings. Mr. Zylinski seconded the motion. With the exception of Mr. Parlow who stepped out of the meeting at the time of the vote, all others present voted in favor.

Application #6-13, Edward Hoagland, 107 Elizabeth Ave., Block 48.01, Lot 12

The property is located on the north side of Elizabeth Avenue approximately 84 feet east of Route 35 southbound in the Residential A District. The property contains 5,000 square feet with two (2) single family dwellings. The Applicant is proposing to demolish the one story dwelling and construct a new 2-story elevated modular home in its place as to comply with the FEMA minimum base flood elevation.

Application #5-13 EXP, William & Denise Apsey, 116 Vance Ave. Rear Cottage, Block 35.02, Lot 23 – this is a fast track application

The property is located on the south side of Vance Avenue approximately 100 feet west of Route 35 southbound in the Residential District A. The property contains 5,000 square feet and two (2) single family dwellings on the front of the property and one story dwelling on the rear of the property. The applicant is proposing to demolish the rear one story dwelling and construct a new single family dwelling in the same footprint but at a higher finished floor elevation. The applicant has revised the plot plan to delete the proposed elevated deck and just construct steps and a platform in the same footprint as the existing ground level deck.

Application #8-13, Christopher & Janet Malzone, 103 Trenton Ave., Block 50.01, Lot 8

The property is located on the north side of Trenton Avenue approximately 150 feet west of Route 35 Northbound in the Residential District A. The property contains 5,000 square feet with a two story frame duplex with a one story detached garage. The Applicant is proposing demolishing the duplex and constructing a new two story modular duplex at the elevation above the stated ABFE. The detached garage is to remain unchanged.

Application #3-13, Charlotte Abajian, 20 Haddonfield Ave.

Applicant appeals the decision of the zoning officer for refusing to enforce the bulk requirements and the coverage requirements of the zoning ordinance at 22 Haddonfield Ave.

Public Meeting:

Chairman Howard presiding

Roll Call:

Vincent Marino, Designee of Mayor LaCicero – present
Councilwoman Joanne Filippone – present
Lionel Howard, Chairman – present
William Zylinski – Vice-Chairman – present
Christopher Parlow, Borough Administrator – present
Joseph Baginski – resigned
Rosangela Zaccaria – present
Anthony Cataline – present
Len Calderaro – present

Joseph Palinsky – present
Barbara Brown – present

Terry Brady, Esq. - present

Public Hearing:

Application #6-13, Edward Hoagland, 107 Elizabeth Ave., Block 48.01, Lot 12

The property is located on the north side of Elizabeth Avenue approximately 84 feet east of Route 35 southbound in the Residential A District. The property contains 5,000 square feet with two (2) single family dwellings. The Applicant is proposing to demolish the one story dwelling and construct a new two story elevated modular home in its place as to comply with the FEMA minimum base flood elevation.

James Kinneally, Esq. was sworn in and withdrew one of the variances requesting a 362 sq. ft. deck. Mr. Kinneally noted that his clients were seeking two variances: one for the expansion of a non-conforming use, and the other a technical parking variance to accommodate 4 parking spaces.

Mr. Howard noted that some of the proposed dimensions on the site plan were incorrect. To which Mr. Kinneally assured the Chairman that whatever was incorrect would be changed to comply with all the Borough's bulk requirements, and his clients would provide a corrected plan.

Mr. Kinneally called Mr. Edward Hoagland of 107 Elizabeth Avenue to give testimony; he was sworn in and stated that he had been a seasonal resident since 1965 and a permanent Borough resident since 1990. He answered Mr. Kinneally's questions responding that the property is not a rental property but rather for family use only. Mr. Hoagland explained that his sister is the owner of record and lives in the back house. He further explained that the October 2012 storm damaged the southeast corner of the front house foundation, and he was told that it was not repairable. The back house only received 6 inches of water from the storm, and they were able to remediate and repair it. He also verified that the new building will be up to code and FEMA compliant and built in compliance with all bulk ordinances.

Mr. Calderaro asked if the back house was heated; to which Mr. Hoagland responded it has been heated since 1965.

Mrs. Brown pointed out that the proposed floor plan of the first floor showed a closet in the den. Since that could qualify it as a fourth bedroom; it was requested that the closet be eliminated. Mr. Kinneally said his clients were willing to remove the closet if necessary. Mr. Howard explained that although the Hoagland's stated that they had no intention to use the den as a fourth bedroom, the variance goes with the property and not with the property owner; therefore, if the property were sold, it could potentially be used as a fourth bedroom.

Mr. Kinneally introduced Mr. Todd Fletcher, Licensed Professional Planner, to give testimony on behalf of the applicant's variance request. In an effort to establish that the two properties were pre-existing, Mr. Fletcher submitted a survey of the property dated 1965, which was labeled Exhibit A-1.

Mr. Fletcher established that the damage was caused by the storm and therefore created a hardship for the owner. In his opinion, the best and safest course of action would be to demolish the existing damaged structure and build a new structure according to the new FEMA standard.

He pointed out that this application proposes to eliminate the current non-conforming bulk conditions. Mr. Fletcher also pointed out that the new building footprint will be smaller than the existing footprint in order to meet the lot coverage requirements. Therefore, the new building will be in full compliance with all bulk requirements and be made safer by elevating the new structure.

In an effort to satisfy the negative criteria, Mr. Fletcher delivered a lengthy presentation attempting to satisfy the special reasons for the variance and to prove that the variance would not be a substantial detriment to the public good. In Mr. Fletcher's opinion, refusal to allow the project would create an undue hardship on the owner by not being allowed to maintain the pre-existing use. He further stated that based on a survey of neighboring parcels, this property would not be detrimental to the character of the neighborhood. In summation, Mr. Fletcher said that the positive elements of this application greatly outweigh any negative impact from the granting of this variance.

Mr. Howard opened the hearing for public comment.

Mrs. Michele Donato, 2202 Oceanfront, was sworn in and testified that the Applicant is an asset to the community and keeps the property well maintained. As an attorney herself, Mrs. Donato commented that the law is a constantly changing body and asked the Board to look at this case with a degree of tolerance and understanding and to recognize the difficulties that this community is facing. Mrs. Donato further stated that this is a modest expansion in an area that is well suited for it.

Since there were no further comments, Mr. Howard closed the public hearing.

Mr. Kinneally summed up that on balance this property will be more in conformance with town ordinances if the relief is granted, by granting the expansion of this non-conforming property, the non-conformities will be minimized. Mr. Kinneally further testified that the Hoagland's are the kind of people you would want in your community; and that they would not be here (before the Board) if it hadn't been for the storm, therefore, he asked the Board to give them an opportunity.

There was a discussion regarding the front yard set-back, and Mr. Kinneally noted that the town Engineer did not cite a front-yard variance in his review letter, and the Applicant was not prepared to request that variance at this time. It was his understanding that the plans were drawn so that no bulk variances would be required. However, Mr. Howard disagreed stating that there was a problem with the front yard set-back. Mr. Kinneally said that they will have to come before the board at a later date if in fact the drawing does show a problem with the front yard set-back.

Mr. Howard then questioned the calculation of the total lot coverage. After a brief re-calculation eliminating the proposed front deck, it was determined that the lot coverage would be within the allowed percentage.

Mr. Cataline commented that he appreciated the presentation and Mrs. Donato's testimony; but his one question was about the potential of a fourth bedroom. Mr. Kinneally stated that his client would entertain the modification to remove the closet from the proposed den. At this time he also reiterated that the proposed deck would also be removed.

Mr. Calderaro then asked that the siding on the new house coincide with the siding on the back house. All agreed that a new drawing would be submitted to include the revisions that were discussed.

A motion was made by Mr. Parlow seconded by Mr. Calderaro to approve this application subject to the revisions stated. On roll call: Parlow, yes; Calderaro, yes; Zaccaria, yes; Cataline, yes; Palinsky, yes; Zylinski, no; Howard, no. Mr. Marino and Ms. Filippone were not eligible to vote.

Application #5-13 EXP, William & Denise Apsey, 116 Vance Ave. Rear Cottage, Block 35.02, Lot 23 – Rear House - this is a fast track application

The property is located on the south side of Vance Avenue approximately 100 feet west of Route 35 southbound in the Residential District A. The property contains 5,000 square feet and two (2) single family dwellings on the front of the property and a one story dwelling on the rear of the property. The Applicant is proposing to demolish the rear one story dwelling and construct a new single family dwelling in the same footprint but at a higher finished floor elevation. The Applicant has revised the plot plan to delete the proposed elevated deck and just construct steps and a platform in the same footprint as the existing ground level deck.

Denise Apsey of 116 Vance Ave. was sworn in and testified that her home was built around 1920, and she has owned the property since 1980.

Mr. Howard commented that the property is currently in a V Zone, and Mrs. Apsey replied that she would be rebuilding to the higher elevation since the A & V Zones run right through her house. They will rebuild at whatever the required FEMA elevation will be.

Mr. Brady verified with Mrs. Apsey that the current conditions were existing since 1980. He also established that the proposed new construction of the rear cottage is being reduced from two bedrooms to one.

Mr. Parlow asked if the ground level deck was under 18 inches. He also asked that when the structure is elevated, how would that impact this application? The plans now show a landing and stairs, since they removed the deck based on the Engineer's Review. Mr. Parlow then asked if the rear unit has heat; Mrs. Apsey replied that it did, and then Mr. Parlow asked where the heating and air conditioning units would be placed. Mrs. Apsey explained that although it does not show in the drawings there will be a cut-out in the attic to incorporate them within the current footprint.

Mr. Howard opened the meeting to the public. There was no public comment.

A motion was made by Mr. Cataline seconded by Mr. Zylinski to approve this application. On roll: Cataline, yes; Zylinski, yes; Calderaro, yes; Zaccaria, yes; Parlow, yes; Palinsky, yes; Howard, yes. Mr. Marino and Ms. Filippone were not eligible to vote.

Mr. Brady read the drafted resolution which was then memorialized; moved by Mr. Parlow, seconded by Mr. Cataline. On roll call: Cataline, yes; Calderaro, yes; Zylinski, yes; Zaccaria, yes; Palinsky, yes; and Howard, yes.

Application #3-13, Charlotte Abajian, 20 Haddonfield Ave.

Applicant appeals the decision of the Zoning Officer for refusing to enforce the bulk requirements and the coverage requirements of the zoning ordinance at 22 Haddonfield Ave.

Mrs. Donato requested a continuance of the Zoning Appeal to the next Planning Board Meeting. The Board voted for the continuance as follows: motion C. Parlow, second R. Zaccaria. On roll call: Parlow, yes; Zaccaria, yes; Marino, yes; Filippone, yes; Calderaro, yes; Zylinski, yes; Cataline, yes; Palinsky, yes; and Howard, yes.

Mrs. Filippone asked since this case was being postponed and since they are not eligible to vote on the upcoming D variance, that she and Mr. Marino be excused from the rest of the meeting.

Application #8-13, Christopher & Janet Malzone, 103 Trenton Ave., Block 50.01, Lot 8

The property is located on the north side of Trenton Avenue approximately 150 feet west of Route 35 Northbound in the Residential District A. The property contains 5,000 square feet with a two story frame duplex with a one story detached garage. The Applicant is proposing demolishing the duplex and constructing a new two story modular duplex at the elevation above the stated ABFE. The detached garage is to remain unchanged.

Christopher F. Malzone of 15 Merrill Road, Flemington, NJ was sworn in and explained that he was before the Board because of the damage caused by Sandy. The house was built by his wife's family in 1946 and in 1985 it was converted to a two family. Mr. Malzone further testified that due to a sink hole created under the southeast corner of the house, the foundation was compromised. The Malzones along with their builder decided to construct a modular home; and to that structure they are proposing to add 5 feet on the north side of the building to accommodate the heating and cooling system. The proposed room count remains the same.

He further explained that the new house will be built to an elevation of 10 feet to the first floor and on the same footprint. The Malzones are currently in an A-8 zone, and they are proposing to elevate to 10 feet. The new construction will infringe on the front yard set-back requirements. The proposed plans show 12 feet, and it should be 15.

Mrs. Zaccaria asked about A/C units; Mr. Malzone explained that a new hot air system is proposed, and the condensers will be on the lower deck in the back of the house. Mr. Howard asked for an explanation of the lower deck, and Mr. Malzone stated that the lower deck at the rear of the house will be at the same elevation of the first floor. Mrs. Zaccaria asked if there would be any outdoor showers; to which Mr. Malzone replied that there would be none.

Mr. Malzone further testified that the house will be moved westward in order to improve the bulk requirements and that the height and overall lot coverage will be compliant. He also stated that the garage will not be demolished.

Mr. Parlow said that the existing site plan shows no detail of the structure encroaching on the setback, and he wanted to know what is there. Mr. Malzone explained that it is a Florida type room. Mr. Parlow commented that traditionally the Borough does not allow space on the 2nd story in those areas that encroach on the front yard setback; first floor porches only are allowed. If the 2nd floor porch is added, it would be a significant expansion.

Mr. Howard asked what is currently inside the front structure, and Mr. Malzone replied that it is a room with no heat facing south. Mr. Howard then asked how many bedrooms are upstairs to which Mr. Malzone replied that there are two and explained that there would be a sliding entry door to this sunroom. He further stated that there is no closet in the room nor is a closet proposed. Mr. Malzone further added that the benefit of having that room on the 2nd story is to

keep both the upper and lower portion of the house the same and that the added weight would be a benefit to the foundation.

Mr. Zylinski offered that if the Malzones were to move their house back another 3 feet, they would then be compliant with the front yard set-back requirement. It was agreed that they would move the house back in order to avoid the front yard bulk variance.

Mr. Howard reiterated that the house would be elevated to the required 8 feet plus an additional 2 feet and that the proposed height of the building measures 28 feet to the top of the ridge line from the finished floor.

There were no public comments.

Mr. Zylinski moved for approval of the application with the inclusion of a 15 foot front yard set-back, seconded by Mr. Palinsky. On roll call: Zylinski, yes; Palinsky, yes; Calderaro, yes; Zaccaria, yes; Cataline, yes; Parlow, yes; Howard, yes.

Adjourn:

A motion to adjourn was made by Mr. Cataline, seconded by Mrs. Zaccaria with all members voting in favor. The meeting was adjourned at 9:35 p.m.

Respectfully submitted,
Joyce Deutsch, Secretary