

**MINUTES
BOROUGH OF LAVALLETTE
REGULAR MEETING OF THE PLANNING BOARD
Thursday, August 29, 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
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 August 29, 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

Public Meeting:

Chairman Howard presiding

New Business:

Waiver Request from M. Donato regarding Application 9-12 Cibischino – 113B New Jersey Ave.

Mrs. Donato represents the owners and is requesting a waiver of the requirement sent forth on the Planning Board Application Form that consent of the condominium association must be obtained.

Mr. Howard explained that the Board interprets any property that has been made a condominium as a single piece of property with a common owner, which is the condo association; and therefore to grant a waiver would be unfair if one or more of the members is against this application.

Mrs. Donato pointed out that in her opinion, Mr. Howard was not technically correct.

Mr. Brady explained that the condo owns the real estate and that the owner has an interest in the condo association that owns the property. It is the policy of this Board that there needs to be consent of the ownership of the condominium association. He further quoted from the Land Use

Law, reading through the appropriate definitions. Mr. Brady reiterated that it has always been the policy of this Board to require that the condo association consent to the application. At this point Mr. Brady read from the condominium's By Laws which stated that there are three board members, which he believes was put in place in order to break up a stalemate situation

Mrs. Donato read from the Master Deed continuing to argue her case for a waiver, and called attention to the fact that her clients are not changing any of the common elements of the condo just making changes to their unit. Again, Mrs. Donato asked that consent be put off until after the case is heard. She pointed out that the Planning Board does not include condominium associations consent on their checklist but only a comment on their application.

Mr. Parlow asked Mr. Brady if there is any downside to hearing the case first, and what would the Board be exposing them to? Mr. Brady replied that all the risk is on the applicant.

Mr. Howard reminded Mrs. Donato that this case is on the schedule for September 26.

A motion was moved by Mr. Cataline, seconded by Mrs. Zaccaria, to waive the condominium consent as a condition precedent rather than a condition subsequent to the hearing. On roll call: Cataline, yes; Zaccaria, yes; Palinsky, yes; Calderaro, yes; Zylinski, yes; Parlow, yes; Brown, yes; Howard, yes.

Open Discussion:

Review and discussion of P.L. 2013, Chapter 107, approved August 7, 2013 – Assembly No. 3890

The law presumably states that anyone who was required to raise their home due to severe storm damage would be exempt from any local zoning restrictions. Mr. Howard asked Mr. Brady for an interpretation of the above law and to point out the exemptions.

Mr. Brady verified the parameters which state that the owner is permitted to raise an existing structure to the New FEMA base flood elevation + 3 ft. Mr. Parlow pointed out that on another page, law reads + 2 ft. However, if there were alterations made prior to raising the home or if there are plans to make changes, these properties are not exempt from local zoning restrictions.

Mr. Howard pointed out that this law pretty much conforms with Lavallette's fast track policy.

Resolutions to be Memorialized:

Application # 7-13, NVR Holding Company, LLC, 109 Magee Ave., Block 35.01 Lots 12, 14 & 16 – Resolution of Denial

The property is located on the southeast corner of Magee Avenue and Route 35 Southbound, is in Residential District A and contains 13,400 sq. ft. The site contains a one story, 5,700 sq. ft. commercial use and a 4 bedroom, 1,900 sq. ft. residential use over the eastern portion of the building. The residential use has a 214 sq. ft. deck on the south side and a 476 sq. ft. deck on the north side. The site also contains an 11 car parking lot on the east side and 4 parking spaces including 1 handicap space on the south side. The applicant is proposing to change the layout of the residential unit, Apartment #1, to have 2 bedrooms. A new kitchen and living area are proposed to be constructed over the north deck and the 2 remaining bedrooms will be added to this unit, i.e., Apartment #2. Internal modifications will be made to the commercial unit below to accommodate entry to Apartment #2.

Review & Approval of Minutes:

A motion was made by Mr. Palinsky, seconded by Mrs. Brown to accept the minutes of the August 15, 2013, meeting with a change to page 2. All members who attended the August 15 meeting voted in the affirmative.

PUBLIC MEETING

Application #15-13 EXP, Dominick Pontoriero, 105 Jersey City Avenue, Block 46.01 Lot 10

The property is located on the north side of Jersey City Avenue approximately 200 feet west of Route 35 northbound (Grand Central Avenue) in the Residential District A. The property contains 5,000 square feet and two (2) single family dwellings, a one (1) story dwelling on the front of the property and a two (2) story dwelling on the rear of the property. The applicant is proposing to reconstruct the front dwelling that was damaged in super storm Sandy. **(Fast track application)**

Mr. Dominick Pontoriero was sworn in and told the Board that since his home was damaged by the recent storm, he is proposing to demolish the current structure and rebuild a new home on the same footprint with the same basic floor plan at a higher elevation to comply with the new FEMA regulations.

Mrs. Brown asked if the overhang on the new building was the same as the old building. Mr. Pontoriero explained that it was brought to his attention that the new overhang measures two (2) ft. and only a one (1) foot overhang is allowed. He will change the plan to show that he will build a one (1) foot overhang.

Mr. Calderaro asked that the siding be the same on both buildings and that this be added as a condition in the resolution.

Mr. Howard opened the meeting for public comment at 8:04 p.m. Since there were no comments, the public portion of the meeting was closed.

A motion to approve this application with the conditions of a 1 ft. overhang and use of the same siding on both structures was moved by Mr. Calderaro, seconded by Mr. Cataline. On roll call: Calderaro, yes; Cataline, yes; Palinsky, yes; Zylinski, yes; Zaccaria, yes; Parlow, yes; Brown, yes; and Howard, yes.

Application # 16-13 EXP, Janet Hayes-Del Tufo, 105 President Avenue, Block 32.01 Lot 10 Rear House (Fast track application)

The property is located on the north side of President Avenue approximately 134 feet east of Route 35 southbound in the Residential District A. The property contains 5,000 square feet and two (2) single family dwellings, a 2 ½ story dwelling on the front of the property and a two (2) story dwelling on the rear of the property. The applicant is proposing to demolish the rear dwelling that was damaged in super storm Sandy and replace it with the same size prefabricated dwelling.

Mrs. Hayes-Del Tufo was sworn in and explained that since her rear home was storm damaged, she wishes to demolish and replace it with a Sica modular home on the same footprint with the same basic floor plan at a higher elevation to comply with the new FEMA regulations.

Mrs. Zaccaria asked about the vinyl shed and the frame shed to which Mrs. Hayes-Del Tufo replied that the vinyl shed is existing and the frame shed is being removed.

Mr. Howard verified that the outdoor showers are existing, and Mrs. Zaccaria confirmed that there is no outside shower proposed for the rear house. However, Mr. Howard did caution Mrs. Hayes-Del Tufo that an outside shower would have to be tied into the sewer system.

Mr. Howard opened the meeting for public comment at 8:18 p.m.

Anita Zalom of 103 President Ave., Lavallette, was sworn in and gave testimony in favor of the applicant and her plans to rebuild. Ms. Zalom was of the opinion that the new construction would be safer and more beautiful.

The public portion of the meeting was closed at 8:20 p.m.

A motion was made to approve this application with conditions that the shed be demolished and the outdoor shower be tied into the sewer system by Mrs. Zaccaria, seconded by Mr. Palinsky. On roll call: Zaccaria, yes; Palinsky, yes; Calderaro, yes; Zylinski, yes; Cataline, yes; Parlow, yes; Howard, yes; Brown, yes.

Mrs. Zaccaria had to leave the meeting, and Mrs. Brown sat in for her.

Application # 14-13, Denise & William Apsey, 116 Vance Avenue – Front Dwelling – Block 35.02 Lot 23

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, a two story dwelling on the front of the property and a one story dwelling on the rear of the property. The applicant is proposing to construct a 162 square foot second story addition on the front dwelling. The addition will be located within the existing footprint of the dwelling. Additionally, the existing wood walkways are being removed to accommodate four (4) off street parking spaces.

A previous application was received in April 2013 to demolish and reconstruct the rear dwelling in the same footprint but at a higher elevation. As part of that application, 65 square feet of steps and landing were proposed for access to the rear dwelling. The additional information received from Mr. MacDuffie indicates that the applicant is requesting an increase in the area of the deck and its appurtenances to 134 square feet from the previous area of 65 square feet.

E. Allen MacDuffie, the applicant's attorney, introduced Mr. & Mrs. Apsey, Mrs. Apsey's mother, and the architect, Art Margiotta. Mr. MacDuffie briefly described the previous "fast track" variance request for the rear house and explained how it will tie in to the current application.

Denise Lynn Apsey of 116 Vance Ave. was sworn in and submitted photographs of her property labeled Exhibits A-1, A-2 and A-3. Mrs. Apsey said that the home was built in the 1920's and they bought the property in 1980. The home has an above-ground basement which currently houses all their mechanicals plus storage totaling approximately 900 sq. ft.

Mr. MacDuffie outlined that the proposed structure will be reconfigured to be able to accommodate the mechanicals within the new home and to provide storage. He also brought to the Board's attention that there are currently six (6) bedrooms and the renovated structure will have four (4) bedrooms. Although the amount of bedrooms is less, the room sizes and closets will be larger.

Mrs. Apsey testified that her husband is planning to retire and they will become permanent residents somewhere around March of 2014.

Mr. Howard asked about the current base flood elevation to which Mrs. Apsey responded that they are at 8.6 ft. He also asked how wide the deck is; and Mrs. Apsey answered that it was approximately 6 ft.

Mr. Parlow wanted to know how they will be accessing the condenser units; and Mrs. Apsey answered that they would be accessible through a door in the attic onto an outside platform.

Mrs. Brown inquired about the height of the attic. The architect replied that the center of the new ridge will be 6' 2" then reduces, and the existing ridge is 5'6".

Mr. Zylinski asked if the present basement floor is below or above grade? Mrs. Apsey thought that it was either even or below. Then Mr. Zylinski cautioned her that she may be required to bring it up to grade. Mrs. Apsey said that they will do whatever is required.

At this point, Mr. MacDuffie discussed bringing the rear deck up to meet the stairs on the rear house. In order to present this, Mr. MacDuffie introduced Mr. Arthur Francis Margiotta of 112 Vance Ave. and 1605 Grand Central Ave.

Mr. Margiotta was sworn in and was qualified as an expert. He gave testimony regarding lot coverage and building coverage and that the only additional structural coverage would be 81 sq. ft. for the rear house to raise a portion of the deck. He also explained that ground coverage is being reduced.

Mr. MacDuffie addressed the special reasons for this variance and cited fire safety by removing the electrical units from underneath the house, and Mr. Margiotta added that the entire structure of the rear house would be safer.

When Mr. Palinsky inquired how the electric is being brought to the rear house, Mrs. Apsey responded that there are two separate meters.

Mr. Howard opened the meeting for public comment at 8:58 p.m.

Mr. Chuck Kislick of 114 Vance Ave., a next door neighbor, was sworn in and testified that the Apsey's are an asset to the town and hopes that the Board will approve their application.

Ms. Kathleen Margiotta of 112 Vance Ave. was sworn in and complimented the Board on the work they are doing. She testified that Vance Avenue was always a beautiful street and that the Apsey's design is wonderful and would definitely keep the street beautiful.

Mr. Howard closed the public portion of the meeting at 9 p.m.

Mr. Calderaro wanted the stipulation that the walkway be removed in order to accommodate off-street parking.

A motion to approve this application with the condition to remove the walkway was made by Mr. Zylinski, seconded by Mr. Palinsky. On roll vote: Zylinski, yes; Palinsky, yes; Calderaro, yes; Cataline, yes; Parlow, yes; Brown, yes; Howard, yes.

Mr. Howard opened the meeting to the public for any questions or comments at 9:08 p.m.

Adjourn:

Since there were no public questions or comments, a motion was made by Mr. Cataline, seconded by Mr. Zylinski to adjourn with all present voting in favor.

Meeting was adjourned at 9:10 p.m.

Respectfully submitted,
Joyce Deutsch, Secretary