

**MINUTES
BOROUGH OF LAVALLETTE
REGULAR MEETING
OF THE PLANNING BOARD
Wednesday, MAY 3, 2017 – 7:00 P.M.**

Chairman Lionel Howard presiding

Roll Call: Lionel Howard, Chairman - present
William Zylinski, Vice Chairman - present
John Borowski - present
Joanne Filippone – present
Joseph Palinsky – present
Len Calderaro – present
Jack Sauer – present
Anthony Cataline - absent
John Bennett – present

Barbara Brown – present
Vincent Marino – present

Terry F. Brady – present
Michael O'Donnell - present

Public Notice Announcement:

This is the Borough of Lavallette Planning Board Regular meeting of May 3, 2017. 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 were posted on the bulletin board located in the Borough Hall Planning Board Office, filed with the Borough Clerk, and supplied to the Asbury Park Press and the Ocean Star the official Borough newspapers.

Public Hearings:

Mrs. Brown will sit for Mr. Cataline.

Application # 3-17, Jacques Nadeau - 109 Pennsylvania Ave., Block 43.01, Lot 14 – Elevate and rebuild non-conforming use

Michele R. Donato, applicant's attorney, wished to clarify that the applicant mistakenly understood that if he stayed within the same footprint, he would be able to rebuild. This information was given to him erroneously by his architect. Mrs. Donato made it clear that the applicant's architect did not relay accurate information to the owner.

Mrs. Donato testified that after the application was filed, her client thought he had to put the new house in the same footprint and still intends to do so. She asked the Board to hear Mr. Nadeau's testimony.

Mr. Brady wished to verify that there were two separate homes on this lot and one was already demolished. He then understood that the house in the front of the lot is now gone. Therefore, the application is for a use variance and several bulk variances.

Mrs. Donato asked to put the facts of the case on record, and stated that Mr. Nadeau is willing to do whatever is necessary to eliminate any non-conformities that previously existed.

There was discussion as to the type of variance being requested. Mrs. Donato explained that her client is looking to receive permission to rebuild the front house, and when they rebuild, they will comply with building codes and zoning ordinances.

At this point, Mrs. Donato requested to proceed with the hearing, come back with updated plans if necessary. She then called Jacques Nadeau of 5 Plane Court, Towaco, NJ and 109 Pennsylvania Ave., Lavallette, NJ to give his testimony.

Mr. Nadeau testified that he purchased the Pennsylvania Ave. property in August, 2013. At the time of purchase, there were two dwellings on the lot which were damaged by hurricane Sandy. He cleaned up the houses and spoke to our Zoning Officer about making repairs and was advised that he would have to rebuild on the same footprint.

Mr. Nadeau decided to renovate the rear house first since it was easier. And, they have spent the last couple of years deciding what to do with the front house. Since the foundation was cinderblock and the footing was not in good condition, they decided to build the house again from scratch. In the fall of 2016, they demolished the front dwelling. It was at this point that he relied on his architect and worked so that the house would not be built beyond the existing footprint.

Mrs. Donato then submitted e-mails between Mr. Nadeau and his architect: Exhibits A-1 through A-3.

Mr. Nadeau confirmed that the rear house was repaired.

Mrs. Donato asked her client a series of questions as follows:

Q: Are you proposing any expansion of living area with the new construction?

A: No

Q: Are you willing to construct the house within the ordinances?

A: Yes

Q: Are you willing to remove the proposed bay window?

A: Yes

Q: Would the house be raised using additional freeboard?

A: Yes

Chairman Howard commented that the e-mails were irrelevant; to which Mrs. Donato replied that they are being submitted in order to show the misunderstanding between her client and his architect. Mr. Brady cautioned the Board that the e-mails are subject to interpretation of hearsay. Mr. Bennett asked if Mr. Nadeau's architect ever told him prior to the demolition that he had a conversation with our Zoning Officer; to which he answered, no.

Mr. Brady wanted to be clear that the misunderstanding was created by Mr. Nadeau's architect and not by any officials in Lavallette. Mr. Nadeau confirmed that was the case. Mrs. Donato added that it was an innocent mistake.

There was further testimony given regarding the type of houses on Pennsylvania Ave.

Mrs. Donato introduced Gordon Gemma, 68 Seneca Place, Oceanport, NJ, attorney and licensed Professional Planner. Mr. Gemma attempted to give evidence in favor of the variance. He argued that the new construction would advance the goals of zoning in compliance with our Master Plan. A printout of the Pennsylvania Middle Block property details was submitted as Exhibit A-4.

Mr. Gemma further contended that, in his opinion, the variance being sought is for an increase in permitted density rather than for expansion of non-conformity.

Mr. Palinsky asked for guidance from Mr. Brady as to what type of variance the Board should be voting on. Mr. Brady reiterated that:

- (1) the bulk variance for the rear house is not a part of this application
- (2) two dwelling units are not permitted on one lot, therefore, it is a D-1 variance

Chairman Howard opened the hearing for public comment at approximately 9 p.m.

Barbara Klaus of 108 Virginia Avenue testified that she is in favor of the applicant rebuilding the dwelling the way it was before.

The public portion of the meeting was closed at approximately 9:03 p.m.

The applicant was asked if he would like the Board to act on the use variance at this time. Mrs. Donato did not wish to proceed.

Mrs. Donato would like to put the above argument in writing and submit it to Mr. Brady for his review. She further indicated that the applicant has the right to ask for an adjournment and therefore requested same to the June 7, meeting.

A motion was made by Mr. Palinsky, seconded by Mrs. Brown to carry this application to the June 7 Planning Board Meeting. Roll call: Palinsky, yes; Brown, yes; Calderaro, no; Zylinski, yes; Sauer, yes; Bennett, yes; Howard, yes.

Review & Approval of Minutes:

A motion was made by Mr. Sauer, seconded by Mr. Zylinski to approve the minutes of the April 5, 2017, meeting with all present at that meeting voting in favor.

Resolutions Memorialized:

Application # 2-17, Gregory Marotta – 202 Oceanfront, Block 3, Lots 2 & 5.02 – Addition to Non-conforming use – denied

Application # 1-17, 114 Reese Ave. Condominium Assoc., Inc. – 114 Reese Avenue, Block 34.02, Lot 21 – Alterations to a Non-conforming use – approved with conditions

Correspondence: (Letters are on file in the Planning Board Office.)

- Letter dated March 28, 2017 from Lindstrom, Diessner & Carr, P.C. providing legal notification that a request for a Waterfront Development Permit will be submitted to the NJDEP to construct a 4' X 185' pier dock extension from an existing permitted 128' pier dock and install two 12' X 12' open type boat lifts and remove one boat lift located at the end of the 128' pier dock. The property address is 83 Pershing Blvd.

- Letter dated March 30, 2017 from Najarian Associates providing legal notification that an application will be submitted to the NJDEP to replace 80 linear feet of bulkhead at 29 Pershing Blvd.

New Business:

Board members approved the change to the Variance Checklist. The Board Secretary will forward the change to the Municipal Clerk to include on the Council Meeting agenda.

Mrs. Filippone will bring the Planning Board's concerns regarding dock lengths, dock lighting, and definition of "cabana" to the Council.

Discussion:

Mrs. Filippone asked for any recommendations for ordinance changes so that she can bring them to the Ordinance Committee.

Adjourn:

A motion to adjourn the meeting was made by Mr. Bennett, seconded by Mrs. Brown with all members in favor. The meeting was adjourned at approximately 9:35 p.m.

Respectfully submitted,

Joyce Deutsch, Secretary