

PLANNING BOARD YEARLY REPORT – 2006

**PREPARED BY: Rosemary Robertson, Secretary
 Planning Board**

WHEREAS, pursuant to N.J.S.40:55D-70.1:

The Board of Adjustment shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by Resolution a report on its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The Board of Adjustment shall send copies of the report and Resolution to the governing body and Planning Board, and

WHEREAS, the purpose of the Statute is to bring to the attention of the Lavallette Council particular provisions of the zoning ordinance which created problems for the Board over the preceding year.

WHEREAS, the Joint Planning/Zoning Board of the Borough of Lavallette heard the following appeals in the calendar year of 2006:

Morolda (Kathleen and Nicholas), 1-06, Block 33.01, Lot 7.02, 102A President Avenue, Residential 1-A. **Variances:** (D variance and bulk variances) Applicant is requesting relief for an expansion of a non-conforming use in violation of Section 90-9(1)(b), Section 90-22, Section 90-24, Section 90-24A and Section 90-24D and Section 90-29. To expand and construct a second story on the front dwelling which is presently non-conforming as to two houses existing on one lot, lot size, lot width, front setback, side yard setbacks, rear yard set back, lot coverage and parking. **Result:** Most of the variances were pre-existing and the applicant represented that the addition of the second floor to the front dwelling was in keeping with the neighborhood and that the existing footprint would not be altered by the proposed addition and the existing non-conforming setbacks and lot coverage would not be exacerbated. In addition, applicant was required to submit proof that a Deed had been recorded in the Ocean County Clerk’s Office limiting the ownership of the property to one entity; prohibiting the property from being made into a condominium form of ownership and that upon transfer of the property (other than by inheritance) the site shall revert to a single-family use and the rear dwelling shall be converted into a garage or storage area and no longer utilized as a residence.

A Resolution approving the application was adopted on July 26, 2006.

Maguire and Block (Pamela and Candace), 2-06, Block 4, Lot 21.01, 18 Kerr Avenue, Residential 1-A. Variances: (D variance and bulk variances) Applicant is seeking relief for an expansion of a non-conforming use in violation of Section 90-9A (1)(b) no non-conforming building shall be altered, modified, enlarged etc so as to increase the non-conformity, Section 90-24A minimum side yard setbacks 5 and 10 feet required 2.80 feet and 5.10 feet proposed and Section 90-24D maximum lot coverage 37% and proposed 38.8%, by constructing a second story on the existing dwelling that is presently non-conforming as to lot size, lot width, side yard setbacks, lot coverage and parking. **Result:** The applicant testified there is an existing cross access easement between the subject property and the adjacent property and there is sufficient parking.

A Resolution of Approval was adopted on June 14, 2006.

DePasquale (William and Judith), 3-06, Block 20, Lot 25, 22 New Jersey Avenue, Residential 1-A. Variances: (D variance) Applicant is proposing alterations to an existing non-conforming use in violation of Section 90-9A(1)(c) and Section 90-9A(1) (d) where applicant seeks to substantially improve an already nonconforming structure. There were several existing variances that would not be altered by the proposed construction. The property contained two separate single-family condominium units and applicant was proposing alterations to the rear dwelling. The applicant that he would be upgrading the property and converting electric space heaters to gas fired hot air to eliminate potential health issues caused by the formation of mold due to dampness and concern for his small child. **Result:** After several hearings it was determined that the condoization of this property had created a virtual subdivision and the applicant was granted subject to proof that the Master Deed had been amended and recorded with the Ocean County Clerk resulting in the common elements being part of the Master Deed.

A Resolution of approval was adopted on October 11, 2006.

Quinn (Thomas and Virginia) 4-06, Block 15, Lot 2, 1402 Oceanfront, Residential 1-A. CAFRA permit copy submitted. Variances: Applicant seeks to demolish existing dwelling and construct a new two and one-half story house including a second story deck in Violation of Section 9024 minimum rear yard setback 20 feet required, 14 feet proposed and Section 44-18 minimum front yard setback 30 feet required (oceanfront); 26 feet proposed; there is an existing waiver for the present house on front yard set back of 26 feet instead of 30 feet (oceanfront). **Result:** Application was granted subject to no construction of any decking more than 18 inches over curb level and any fencing shall be a minimum of 18 inches from the Borough boardwalk along the oceanfront.

A Resolution of approval was granted on July 26, 2006.

McCormack (John and Deborah) 5-06, Block 956, Lot 36, 25 Westmont Avenue, Residential C. Variances: Applicant seeks to construct a covered porch and add a second story to the existing house in violation of Section 90-9A (1)(b), no non-conforming building shall be altered, modified, enlarged etc. as to increase the nonconforming, Section 90-44H minimum front setback to porch, 16 feet required, 11.81 feet proposed and Section 90-44D maximum lot coverage 37 % allowed and 43% proposed. **Result:** Application was granted subject to the siding on both the dwelling and the garage must match and the height of the attic to be less than seven feet to the ridge.

A Resolution of approval was adopted on July 26, 2006.

Finch (Clarence and Debra) Block 1115, Lot 22, 244 Brwn Mawr Avenue, Residential C. Variances: Applicant is proposing to extend the existing second story deck and add a third story to the existing house in violation of Section 90-9A(1)(b) no non-conforming building shall be altered, modified, enlarged, extended or increased in such a manner as to increase the non-conformity and Section 90-44C(1) maximum building height shall be 2 ½ stories or thirty feet whichever is less proposed addition constitutes a third story. **Result:** Application was granted subject to the height of the building not exceeding 30 feet from the crown of the center of the road at the center of the front of the building. The plans are to be revised to reflect the roof elevation to verify the building height conforms with the Borough Code requirements.

A Resolution of approval was adopted August 23, 2006.

Everett (James) Block 66, Lot 9, 1904 Bay Boulevard, Residential 1-A. Variances: Applicant proposes to locate an air conditioning unit in the rear of the existing two-family non-conforming structure in violation of Section 90-9A (1) (a) no non-conforming use may be altered, modified, enlarged, extended or increased in such a manner so as to increase the non-conformity. **Result:** Application was granted.

A Resolution of approval was adopted August 23, 2006.

Formica (Fran and Amy) Block 16, Lot 25, 22 New Brunswick Avenue, Residential 1-A. Variances: Applicant is proposing first and second floor additions to the front dwelling and the rear dwelling will be refinished to match the front dwelling. Applicant seeks relief for an expansion of a non-conforming use (2 houses on one lot) in Violation of Section 90-9 (1)(b) no non-conforming building shall be altered, modified, enlarged, extended or increased so as to increase the non-conformity ; Section 90-9(1)(d) no structural alterations or substantial changes shall be made to any building containing a non-confirming use and Section 90-22 one single family

dwelling allowed per lot, two single-family dwellings to remain. **Result:** Application was granted subject to the applicant filing a Deed of Restriction reflecting that the property will convert to single-family use upon sale, inheritance or transfer and prohibiting the property from being converted into a condominium; the prohibition of year round use, occupancy or leasing of the rear building; the relocation of the parking spaces creating three spaces long the easterly side of the dwelling and one in the front right side of the property; the removal of the front bay window seat intrusion into the front yard;; location of the air-conditioning unit on the west side of the front building so the lot coverage does not exceed 37%; the attic height will be reduced to meet Borough Code and the only attic access to the attic will be pull-down stairs.

A Resolution of approval was adopted August 23, 2006.

Petrocelli (Ann Marie and Santo), Block 954, Lot 29, 13 Haddonfield Avenue, Residential C. Variances: Applicant is proposing to demolish the existing structure and construct a two-story single family dwelling (the existing shed to be removed). As proposed, variances are required as plan is in Section 90-44A, a minimum front yard setback of 20 feet required, 9.38 feet proposed and Section 90-47, two off-street (10 X 20) parking spaces required and no spaces are provided. Applicant testified the proposed front setback is in keeping with other setbacks in the area. **Result:** Application was granted subject to a revised plot plan showing the shed removed and that the width of the dwelling had been reduced to allow for a 9.4 foot setback on the east side and that a minimum 10 foot front setback will be maintained; and designate two 9 x 10 off-street parking spaces; and the applicant must submit final building plans indicating the new dwelling is not amenable to a two-family use.

A Resolution of approval was adopted October 11, 2006.

Cione (Robert) Block 1, Lot 12, 19 Ortlely Avenue, Residential A. Variances and Subdivision: Applicant was seeking to subdivide the existing lot into two buildable lots, one 40' x 100' and the other 60' x 100'. The site was the subject of a previous minor subdivision application (No. 1-03) which was to divide the parcel into two lots; one measuring 57' x 100 and the other 43' x 100'. That application was denied by the Planning Board by Resolution dated May 28, 2003.

The subject application raises the issue of res adjudicata. The Board attorney prepared a legal memorandum regarding the legal standards applied to the doctrine of res adjudicata, a copy of which was given to the applicant. The applicant wanted to proceed on the application and the Board determined they would hear the application.

Applicant testified that he lived in the dwelling situated on the 60' x 100' lot, and it was his intention to sell the remaining 40' x 100' lot as a building lot. Applicant presented testimony and exhibits depicting homes in the area on similar smaller lots. **Result:** The application was denied by the Planning Board.

A Resolution of Denial was adopted October 11, 2006.

Marmo (Robert), Block 25, Lot 14, 9 Dover Avenue, Residential 1-A: Variances: **(D variance)** Applicant is proposing an addition and alterations to an existing non-conforming use in violation of Section 90-9A(1)(c) and Section 90-9A(1)(d) where applicant seeks to substantially improve an already nonconforming two-family structure with existing non-conformities as to lot coverage, side yard setback, curb cuts and parking. **Result:** Applicant testified that lot coverage would be reduced from 41% to 40.8% by removing the existing shed and the increase in the size of the renovated house is diminimus in relation to the existing site conditions and would not substantially increase the non-conformity. Application was granted subject to the shed being removed and the area not being covered so not to increase an impervious surface.

A Resolution of Approval was adopted December 13, 2006.

Stancato (Pasquale), Block 44.01, Lots 1 and 2, 1702 Grand Central Avenue, B-1 Business Zone- Applicant requested an interpretation of the ordinance as to the existing uses. **Result:** The Board rendered an interpretation that an apartment can be constructed above the existing commercial building provided that there are only three uses on the first floor.

Giuffre/DeFino (Robert - Beverly), Block 24, Lot 28, 23 Trenton Avenue, Residential 1-A **(D Variance and Bulk variances)**; The site contains a 2-story dwelling in the rear of the site and the remains of a single family dwelling in the front of the property. According to the original application, application was renovating the front house and it collapsed and one wall remained; applicant was requesting permission to continue the renovations on the front house. (An expansion of a non-conforming use). At one of several hearings, the Board made a determination that the front house was totally demolished; applicants then revised the plans to show the existing rear dwelling which contained four dwelling units to remain and to construct a perpendicular addition and reduce the number of dwelling units from five to three. **Result:** After testimony and discussion with the Board, applicant agreed to reduce the number of dwelling units to two.

A Resolution of Approval was adopted on June 13, 2007.

Oriolo (Donald), Block 963, Lot 12.03, 160 Pershing Blvd., Residential R-1A. The subject lot is the result of a three lot Minor Subdivision and that was granted on March 9, 2005 and created three fully conforming lots. Applicant will remove the existing dwelling and is requesting bulk variances to relocate an existing house and construct a porch on the subject property which will require a bulk variance for front setback. Section 90-37A minimum front yard setback required 25 feet, and 10 feet proposed. **Result:** After First Engineer's Review, applicant did not proceed with the application.

Smith (Joseph & Linda), Block 23, Lot 14, 9 Newark Avenue, Residential R-1A. Section 90-9A (d) and Section 90-24D (lot coverage) One single dwelling allowed per lot, two single-family dwellings existing. Lot coverage permitted 37%, proposed 39.2%. Expansion of a non-conforming use. Applicant is requesting a variance to erect an addition over the existing rear enclosed porch with removal of the interior walls on both floors that will accommodate enlarged kitchens on both floors. Applicant is also requesting bulk variances (side yard setback, lot coverage, setback to porch and parking). **Result:** The application was granted subject to the second story deck being removed; the sump pump being relocated from the crawl space and the Yankee basement filled in with sand; the air conditioning units will be moved from the side yard to the rear yard.

A Resolution of Approval was adopted on December 13, 2006.

DeGiacomo (Mark and Lisa), Block 961, Lot 38 & 38.01, 3 Pershing Blvd., Residential R-1B. There currently exists a one story frame dwelling and an accessory structure along the east property line. Applicant is seeking to maintain the existing accessory structure including the shed addition which is located on the east side of the accessory structure and is encroaching into the side yard setback and was constructed without benefit of permit. Section 90-8 A minimum side yard setback to accessory building is 5 feet; 0.94 feet existing; Section 90-8 E(1) maximum shed dimension allowed is 8 feet by 12 feet; existing shed is 6 feet by 20 feet. A complaint was made to the Zoning Officer and the applicant filed for variance. **Result:** The application was granted.

A Resolution of Approval was adopted on April 25, 2007.

Lazzara (Edmund and Ruth), Block 51.01, Lot 9, 110 Trenton Avenue, Residential R-1A. There currently exists a one story frame dwelling that will be demolished and the applicant is proposing to construct a new two story frame dwelling that will require bulk variances. Lot is undersized at 3053.3 feet; Section 90-24A minimum front setback 15 feet required, 5 feet is proposed to Route 35; Section 90-24D minimum lot coverage 37% allowed, 35.5 proposed. **Result:** The application was granted subject to applicant obtaining DOT approval to expand the curb cut an additional six feet to the south and if the request is denied, the existing curb cut shall remain; the attic area is only to be used for storage; the existing stockade fence along Route 35 is to be removed; and the air conditioner condenser shall be relocated five feet to the east along the rear of the dwelling.

A Resolution of Approval was adopted on June 13, 2007.

LaCava (James), Block 1113, Lot 25, 252 Westmont Avenue, Residential R-1C. There currently exists one single family dwelling and a garage on the site. The applicant is proposing to install air conditioning units on platforms on the southerly side of the existing dwelling which will encroach into the required side yard setback. Section 90-24A minimum side yard setbacks 4 and 8 feet required; 1.2 feet and 1.89 feet proposed. There was testimony that the placement of the units in any other area was impractical for mechanical and/or aesthetic reasons. **Result:** The application was granted.

A Resolution of Approval was adopted May 9, 2007.

NOW, THEREFORE BE IT RESOLVED, by the Joint Planning

Board/Board of Adjustment of the Borough of Lavallette on this 14th

day of November, 2007, that this Resolution be forwarded to the Borough Council of

Lavallette pursuant to N.J.S. 40:55D-70.1.

ROLL CALL VOTE

Moved by: Mrs. Zaccaria

Seconded by: Mr. Baginski

Affirmative Vote: Mrs. Zaccaria, Mr. Baginski, Mr. Calderaro, Mr. Cataline and Mr. Zylinski

Negative Vote: ---

Abstaining: Mr. Marrone, Mr. Palinsky and Mrs. Brown

Absent: Mrs. Filippone, Mr. Parlow and Mr. Marino

CERTIFICATION

I, ROSEMARY ROBERTSON, Secretary to the Joint Planning Board/Board of Adjustment of the Borough of Lavallette, do hereby certify that the foregoing is a true copy of the Resolution duly adopted by the Joint Planning Board/Board of Adjustment on the 14th day of November, 2007

ROSEMARY ROBERTSON, SECRETARY
Planning Board/Board of Adjustment
Borough of Lavallette