

PLANNING BOARD YEARLY REPORT – 2010-11

**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 issues 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 2011:

Adam Zybulewski, 5-09, Block 2, Lot 26, 21 White Avenue, Residential A one family District Variance application. The property is located on the north side of White Avenue approximately 150 feet east of Route 35 northbound (Grand Central Avenue) in Residential A District and contains 5000 square feet. The site currently contains a one (1) story frame dwelling in the front of the lot and a one 91) story frame dwelling in the rear of the lot. The applicant is proposing a second story addition on the front dwelling along with a deck in the rear of the front dwelling. The proposed work constitutes an expansion of a non-conforming use in Violation of Section 90-9A (1) © and Section 90-9A(1)(d). The application also contains a temporal extension of a seasonal use to substantially year-round use, in that both front and rear houses currently have no heat facilities. **Result:** The Board found that applicant had not proven special reasons for the granting of the variance and the proposal doubles the size of the living space of the non-conforming use, nor did he prove any positive criteria for the granting of the variance. The Board found that the applicant failed to sustain the burden of proof and the application was denied.

A Resolution denying the application was adopted March 24, 2010.

Richard & Debra Rovito, 1-10, Block 61, Lot 6, 123 Elizabeth Avenue, R-A, one-family residential District. The property is located on the north side of Elizabeth Avenue 100 feet west of Baltimore Avenue and contains 5000 square feet. The structure contains two (2) dwelling units, one (10) on the first floor and another unit on the second floor including the half story. Applicant is proposing improvements to the second floor and half story above. Section 90-9A(1)©; Section 90-9A(1) b; Section 90-9A(1)(d) and Section 9024C(1). Applicants amended their request for an expansion of a non-conforming use to include only the modification to height of the second floor bedroom to permit the construction of egress windows; all other requests for expansions of the existing house were withdrawn. **Result:** The Board has determined that the modification to the height of the second floor rear bedroom to permit the construction of egress windows is a matter of a life-safety issue which constitutes the special reason for granting the variance and the granting would not be a substantial detriment in the public good and not impair the zone plan, Master Plan and Land Use Ordinance of the Borough of Lavallette. The Board determined that the applicant should be granted the requested relief.

A Resolution granting the variance was adopted June 2, 2011.

Dominick Tullo, 2-10, Block 11, Lot 10, 5 Camden Avenue, R-A, residential one-family District. The property is located on the north side of Camden Avenue 500 feet east of Route 35 northbound (Grand Central Avenue) and contains 10,000 square feet. The site currently contains a 2 ½ story frame dwelling in the front of the lot, a 1 ½ story frame dwelling in the rear of the lot and a framed garage. The applicant is proposing to construct a 28 feet x 16 feet swimming pool at the rear of the front dwelling. The proposed work constitutes an expansion of a non-conforming use. Section 90-8G swimming pools are not permitted when the principal use is non-conforming; Section 90-9A(1)©; Applicant represented that the pool would not be detrimental to the public good and that the filtering equipment will be located a minimum of 20 feet from the rear property line and will not violate any setback requirements. **Result:** The Board determined that the subject lot is a double sized lot and the expansion is no more than would otherwise be allowable for two separate lots. The granting of the application will not be a substantial detriment to the public good and will not impair the intent and purpose of the zone plan and applicant should be granted the requested relief.

A Resolution granting the variance was adopted July 28, 2010.

Pasquale Stancato, 7-09, Block 44.01, Lots 1 & 2, 1702 Grand Central Avenue, Second Administrative Approval. On June 23, 2010, the Lavallette Planning Board after full hearing administratively approved the applicant's request for a second administrative change to the requirements of the Board's site plan approval to allow Department of Environmental Protection issues discovered on the property. (underground oil tank removal).

Result: Application was granted and Resolution of Approval was adopted June 23, 2010..

Robert Strang 3-10, Block 65, Lot 12, 2004 Bay Boulevard Residential A one family District. The property is located on the west side of Bay Boulevard just north of Princeton Avenue's western terminus and contains 18,986.4 square feet and currently contains a two-story dwelling with an attached garage. The applicant is proposing to remove all improvements on Lot 13 and move the property line between lots 12 and 13, subdividing the property into two (2) conforming lots, lot 12 and 12.01, at 10,366.8 square feet and lot 13 at 8,619.6 square feet. There are no variances required.

Result: The Board determined that the proposed lots conform to the Residential District A requirements and approved the application for a minor sub-division.

A Resolution granting the minor subdivision was adopted September 22, 2010.

Edwin & Donna Gustafson 4-10, Block 11, Lots 3.01 & 3.02, 1004 Oceanfront Residential A one family District. The property is located on the oceanfront 50 feet north of Camden Avenue and contains 5000 square feet. The applicant proposed to convert the 2-units condominium to a single-family dwelling with additions to the second floor and a new second floor deck. **Result:** The Planning Board determined that applicant should be granted the request to permit the additions to the second floor of the dwelling in the sideyard setback but denied the request to construct a second story deck on the residence into the oceanfront setback.

A Resolution granting and denying the variance was adopted September 22, 2010.

The applicant sought relief from the Superior Court for the construction of the second story deck. The Court ruled exclusively on the "validity of the Ordinance" issue and found the Oceanfront Ordinance to be invalid due to the fact it was removed from the zoning ordinance and placed in Chapter 44. It has since been re-codified.

John & Linda Vedovino 606 Oceanfront LLC- 5-10, Block 7, Lot 4, Residential A one family District. The property is located on the oceanfront on the north corner of Reese Avenue and contains 5,475 square feet. The site contains a three (3) story frame dwelling. The applicant is proposing a complete renovation of the existing structure, including the basement and the construction of a new deck. Section 90-9AA(1)(b) & (1)(f) no nonconforming building shall be altered, modified, enlarged, extended or increased; Section 90-24C maximum building height shall be 2 ½ stories, or 30 feet; 3 stories proposed & Section 90-68A 2 off-street parking spaces required, no proposed parking spaces meet the code requirements. Expert testimony submitted could not state whether the plans complied with the Borough's Flood Hazard Ordinance.

Result: The Board determined that the granting of the variance would be a detriment to the public good and would substantially impair the intent and purpose of the Zone Plan and Land Use Ordinances; the applicant failed to sustain the burden of proof nor

were extraordinary circumstances presented for granting the relief. The Board further determined that expanding the bottom floor of the building would aggravate the flood area in that the elevations indicate the proposed structure will be in a flood hazard area and the expansion of the third floor is detrimental in the zoning plan. The applicant's request for approval to expand the nonconformity and the variances was denied.

A Resolution denying the variance was adopted December 22, 2010.

NOW, THEREFORE BE IT RESOLVED, by the Joint Planning Board/Board of Adjustment of the Borough of Lavallette on this 10th day of December, 2009 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: Mr. Parlow

Seconded by: Mr. Marino

Affirmative Vote: Mr. Parlow, Mr. Marino, Mr. Baginski, Mr. Calderaro, Mr. Zylinski, Mrs. Zaccaria, Mr.

Cataline, Mr. Palinsky, Mrs. Brown and Mr. Howard

Negative Vote: ---

Abstaining: ---

Absent: Mrs. Filippone

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 10th day of December, 2009.

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