

**MINUTES
BOROUGH OF LAVALLETTE
REGULAR MEETING
OF THE PLANNING BOARD
Wednesday, September 28, 2022 – 7:00 P.M.**

Roll Call: Anthony Cataline - present
John Borowski - present
John Bennett - present
Len Calderaro - present
Joanne Filippone - present
Vincent Marino - present
Joseph Palinsky - present
Thomas Restaino - present
George Shenewolf - absent

Richard Emery - present
Alex Barletta – present

Also Present: Terry Brady, Esq.
Millis Looney, PE, CME

Flag Salute: Mr. Cataline

Public Notice Announcement:

This is the Borough of Lavallette Planning Board Regular meeting of September 28, 2022. 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 Planning Board office at 1306 Grand Central Ave., filed with the Borough Clerk, and supplied to the official Borough newspapers, the Ocean Star and the Asbury Park Press.

This meeting is a judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the Board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all times.

Public Hearing:

Mr. Calderaro asked to step down for this portion of the hearing. Mr. Emery will sit for him.

Application # 3-22, Lois Sempervive, 40 Dickman Dr. - Block 974, Lots 11

Application # 3-22 – Lori Sempervive, 40 Dickman Drive, Block 974, Lot 11 – Work completed without permits (postponed from June 22 and August 24, 2022)

The property is located on the south side of Dickman Drive at the intersection of Funston Rd. in the Residential District B. The property contains 22,424 sq. ft. The site currently contains a 2-story dwelling, a Trex deck, an inground swimming pool, a Trex dock and hot tub.

The applicant is seeking approval for a “covered bar” structure in the rear of the dwelling, which is not a permitted accessory use, therefore, a “special reasons” variance is needed. It is noted that the work on the structure is complete without the Board’s approval and with a denial of a Zoning Permit.

It is noted that the variance plan has been revised to show a pergola to attach the dwelling to the “covered bar” and the structure and ground coverage has been revised. A portion of the “covered bar” has been removed and some of the paver walk has been removed.

Michele Donato, applicant’s attorney, opened by stating that Mrs. Sempervive is looking for approval of an authorized structure. She further testified that an outside kitchen is allowable, referencing the Borough Ordinance 90-35, and cited other homes in the community with outside kitchens. She conveyed to the Board that her client is being singled out by a neighbor.

Mrs. Filippone wanted clarification that this is a “use” variance and, therefore, could not hear the case. However, she voiced her opinion that the new/revised plan that was recently submitted to the Board had not been submitted to the Zoning Officer, therefore, the Board cannot rule on the application.

Mrs. Donato responded that she does not feel that this is a “d” (use) variance.

Mr. Brady, pointed out that the public notice called this a “use” variance and four Engineer Review letters called it a “use” variance. He also specified that a Tiki Bar is not an outside kitchen as stated in the application, and the Board cannot change the application without changing the notice. Therefore, Mrs. Filippone will have to step down.

Mrs. Filippone said that with the submission of the revised plan, the application has totally changed --- it is now an accessory building or an addition.

At approximately 7:25 p.m. Mrs. Donato requested a five-minute recess to confer with her client.

After returning to the courtroom, Mr. Bennett verified that the original zoning application that was denied was for an outdoor barbecue. It was also noted that there were no permits issued and that the applicant must follow the rules.

Mr. Borowski voiced his opinion that Mrs. Donato was brought in to clean up two years of work that she was not involved in, and perhaps it would be best to file a new application.

Mr. Brady mentioned there were no construction permits, no inspections, and the fact that all of that happened is not part of the Municipal Land Use Law.

At approximately 7:40 p.m. Mrs. Donato requested a short recess in order to speak with her client. Once back in the courtroom, Mrs. Donato entered a request for withdrawal of Application # 3-22. All Board members who were present and eligible voted in favor of withdrawing this application.

Resolution Memorialized:

Application # 5-22, Charles Heuschkel, 7 Guyer Ave. - Block 5, Lots 12.02 – approval with conditions.

Review & Approval of Minutes:

All who were present at the Regular Planning Board meeting of August 24, 2022, voted to approve the minutes.

New Business:

- Changing the language in our Instructions to Applicants and in our Rules & Procedures regarding postponements – Mr. Brady and the Board Secretary will prepare something for review at our November 9 meeting.

Discussion:

- Mrs. Filippone explained to Mr. Calderaro, who had a question about the wording for outside kitchens, that there are certain restrictions in the 2010 ruling on “outdoor cooking facilities.”

Adjourn:

Mr. Borowski moved to adjourn the meeting, seconded by Mr. Palinsky. The meeting was adjourned at approximately 8:15 p.m.

Respectfully submitted,

Joyce Deutsch, Secretary