

**MINUTES  
BOROUGH  
REGULAR MEETING OF THE PLANNING BOARD  
Wednesday, February 22, 2023 – 7:00 P.M.**

**Roll Call:**

Alex Barletta – present  
John Bennett – present  
Anthony Cataline – present  
Joanne Filippone – present  
Jennifer Hartman-Sica – present  
Vincent Marino – present  
Joseph Palinsky – absent  
Thomas Restaino – present  
George Shenewolf – present

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

**Flag Salute:** Mr. Brady

**Public Notice Announcement:**

This is the Borough of Lavallette Planning Board Regular meeting of February 22, 2023. 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:**

**Application # 13-22: Michael Swartz, 146 Elizabeth Ave. – Block 62, Lot 29**

The applicant is proposing to elevate the existing one-story dwelling in the front to conform to FEMA regulations and to add a second story to the elevated home.

Harvey York, Esq., the applicant's attorney requested the application be carried to the March 22, 2023, meeting. A motion to grant the postponement was made by Mr. Cataline, seconded by Mrs. Filippone with all who were present voting in favor. No further notice is required.

**Application # 10-22: Craig & Susan Hubert, 122 Washington Ave. – Block 53, Lot 5**

The applicant is proposing to add a carport/deck/addition to the existing front dwelling and for the rear dwelling to remain as is.

Gregory Hock, Esq., applicants' attorney addressed the Board explaining that this is a unique structure, and the applicants want to add function to the charm and character of the dwelling.

The main house was built in 1928, and the applicants are proposing to square off the structure by adding 153 sq. ft. of living space to the rear of the house. This would allow for the addition of a wine room and add a bath to an existing bedroom while still maintaining the historical nature of the home.

Mr. Craig Hubert of 122 Washington Ave. was sworn in and testified that the Huberts purchased the home in April, 2020. They have since committed to the home and have become full-time residents. He further stated that the back house is used by his elderly mother when she comes to visit. This could possibly serve as her future home should she no longer be able to care for herself. It was at this point that Mr. Hock said that the Huberts would agree to a deed restriction preventing the rental of the back house.

Mr. Hock asked if one of the neighbors could give his testimony at this point in the hearing since he had to leave the proceedings. Mr. Nicholas Onnembo of 1302 Baltimore Ave., was sworn in and testified in favor of this application.

Mr. Hock introduced Richard Tokaski, Jr., RA, AIA. The Board accepted Mr. Tokaski's credentials, and he proceeded to submit the following exhibits:

- A-1: A rendering of the proposed carport/deck addition
- A-2: Exterior photos of existing property
- A-3: Interior photos
- A-4: Grade Level Plan
- A-5: Proposed First Floor – showing shower addition to fill in empty corner
- A-6: Proposed Second Floor – showing the addition of a bathroom to the fourth bedroom and habitable attic to create storage and upper –level deck for A/C and generator
- A-7: Elevations
- A-8: Rendering

In summation, it was stated that the Huberts feel they are doing the right thing by preserving the home and at the same time giving it a facelift.

Mr. William Stevens, PE, PP, and VP of Professional Design Services in Lakewood, NJ, was sworn in and testified that he prepared the site plan. He said that the home could be made larger, but this plan allows for air, light, and open space, and secures its safety from natural disasters.

The Board discussed:

- Roof-top deck and attic
- Size of curb cuts
- Outside Spiral staircase
- Ground coverage
- Structure Coverage
- Increased living space
- Sump pump in basement

At approximately 8:10 p.m., Chairman Cataline opened the hearing for public comment, and hearing none, the public portion was closed.

A motion to deny this application was made by Mr. Marino, seconded by Mr. Barletta. Roll call vote to deny: Marino, yes; Barletta, yes; Bennett, yes; Restaino, yes; Shenewolf, yes; Cataline, yes.

At approximately 8:20 p.m., the Chairman requested a brief recess.

At approximately 8:28 p.m., the hearing reconvened.

**Applications # 11-22 and 12-22 Zoning Appeals – Lori Sempervive, 40 Dickman Dr. – Block 974, Lots 11, 11.01, 12**

Applicant's attorney has submitted two appeal applications for interpretation, corresponding to two applications for Zoning Permits submitted to the Borough and denied by the Zoning Officer. Both applications for interpretation seek to modify and legitimize an existing detached outdoor kitchen of approximately 11 feet in width and 30 feet in length erected without permits by removing the last 6 feet of the structure nearest the water's edge and replacing it with a concrete paver patio. The modification to the structure and the need for variance relief for same.

Michele Donato, Esq., applicant's attorney addressed the Board and reviewed the nature of the appeals. She cited that David Roberts, PP, hired by the Borough agreed that the kitchen is a permitted use.

Kevin Sempervive, of 40 Dickman Drive, owner's husband, was sworn in and presented the following exhibits:

- A-1: DEP Cafra Permit
- A-2: Photo of outdoor kitchen
- A-3: Copy of Borough of Lavallette Notice of Violation
- A-4: Copy of Site Work
- A-5: Zoning Permit Application dated 11-25-2020
- A-6: Zoning Denial Letter dated 11-25-2020
- A-7: Email dated May 17, 2021, to Zoning Officer from Kevin Sempervive
- A-8: May 25, 2021, letter from Susan Kilcheski, Zoning Officer
- A-9: Planning Board Application dated 2-10-22
- A-10: Fifth Engineer's Review Letter from Van Cleef Engineering, Millis J. Looney, PE, CMC dated September 19, 2022
- A-11: Gravatt Consulting Group drawing of covered bar
- A-12: Exterior Site Work dated 8/22/22 by Vincent F. Wolk Architect
- A-13: Email dated August 22, 2022, from Terry Brady, Esquire to Michele Donato
- A-14: Letter from Mrs. Donato dated August 23, 2022, to Mr. Brady
- A-15: Report to Lavallette Planning Board Members from David G. Roberts dated January 9, 2023.

Mr. Sempervive reported to the Board that his OPRA request revealed that there are many homes with outdoor kitchens in town and submitted the following exhibits:

- A-16: Certificate of Approval issued on 11/16/21 by the Lavallette Building Department with attached paperwork
- A-17: Color photo of the outdoor kitchen at 5 Camden
- A-18: Zoning Permit for new freestanding BBQ at 30 Dickman Dr. dated 9-12-14
- A-19: Color photo of the freestanding BBQ at 30 Dickman Dr.
- A-20: Revised Zoning Approval dated 1/14/04 for new single-family dwelling at 131 Pershing Blvd.
- A-21: Color photo of the rear of 131 Pershing
- A-22: Approved Zoning Permit for an outside wet bar at 4 Lavallette Ave. dated 8-1-12
- A-23: Color photo of the rear of 4 Lavallette Ave.
- A-24: Approved Zoning Permit to renovate kitchen in rear of cottage at 4 Brooklyn Ave. dated 01-08-2020

- A-25: Color photo of kitchen in rear of cottage at 4 Brooklyn
- A-26: Color photo of the rear of 2 Dickman
- A-27: Color photo of the rear of 47 Pershing

Matthew P. Dolan, Esq., of Meyner & Landis, LLP, objector's attorney, had comments/questions regarding the exhibits submitted by Mr. Sempervive:

- A-1: DEP Cafra Permit  
Rear setback is to be determined from the bulkhead and the 40 Dickman property does not have a bulkhead.
- A-7/8: No paperwork supplied with an interpretation of the denials
- A-16: 5 Camden
  - Mr. Sempervive had no knowledge of any setback violations
  - Not located on the water
  - Mr. Brihn signed off on the construction permit as Construction Official, not as Zoning Officer
- A-18: 30 Dickman
  - Description of work is for a free-standing barbecue with no roof.
  - Was expansion done after original approval?
- A-22: 4 Lavallette Ave.
  - Built wet bar – same as approved
- A-23: No roof, 3 chairs and no way to determine how many refrigerators or grills
- A-24/25: 4 Brooklyn Ave.
  - Description is for the renovation of a kitchen in rear cottage – no way to know if the bar structure was approved.
- A-26: 2 Dickman
  - No documentation
- A-27: 47 Pershing
  - No documentation

Mrs. Sempervive made a closing statement describing them as a family who made a mistake. They are good neighbors, they want to resolve the problem and are willing to fix it. They are simply asking for fairness and understanding.

Mrs. Donato requested that the planner that was hired by the Planning Board give testimony. David G. Roberts, 37 Bayview Ave., Bayville, NJ, was sworn in and testified that he was asked to provide an independent interpretation of the Borough Ordinance pertaining to these appeals.

Mr. Roberts' report concluded that an outside kitchen/bar is a permitted accessory use in Residence B and can be attached or unattached. There was also discussion about:

- Impervious coverage
- Setbacks
- Accessory uses not itemized
- Compliance with all the principal building setbacks

Mr. Dolan questioned Mr. Roberts and asked if the setback requirements applied to the proposed structure. Mr. Roberts replied that he did not make his own calculations since he was not asked to do a site plan review, but rather to decide whether Kitchen #1 or Kitchen #2 was a permitted use.

Mr. Dolan asked Mr. Roberts to verify his statement that the 20 ft. setback is relatively standard for waterfront properties, and he replied that one of the main purposes of the setback from the water's edge is to maintain the views of the adjoining properties.

Mr. Dolan asked if he had done an analysis of compliance with flood hazard regulations, and Mr. Roberts replied that it is not typically the Zoning Officer's job but rather the responsibility of the Flood Plain Manager. There was further discussion about the construction of an outdoor kitchen being open on two out of four sides and the reasons for that.

Mr. Dolan asked if intensity of use matters in deciding whether it is an accessory use. Mr. Roberts did not know how you could consider the intensity of use as a factor for a single-family home.

Mrs. Donato quoted the words "shall not be enclosed," and asked Mr. Roberts what he thought that meant. He responded that it means the structure should be open on two of the four sides even if there is a roof over them.

Due to time constraints, Mrs. Donato requested that these Appeals be carried to the April 26, 2023, Planning Board Meeting at which time all necessary parties will be available.

A motion to approve the postponement was moved by Mr. Cataline, seconded by Alex Barletta. Roll call vote: Filippone, yes; Barletta, yes; Bennett, yes; Hartman-Sica, no; Palinsky, no; Restaino, yes; Shenewolf, no; Cataline, yes.

**Resolutions Memorialized:**

Application # 9-22: Eric Birchler, 1503 Grand Central Ave., Block 16, Lot 30 – approval with conditions.

Resolution to approve Annual Contract to Terry F. Brady of Brady & Kunz.

**Review & Approval of Minutes:**

Mr. Marino made a motion to accept the minutes from the Re-Organization and Regular Planning Board meeting of January 11, 2023, and all who were present at that meeting voting in favor.

**New Business:**

N/A

**Discussion:**

**Adjourn:**

Mr. Bennett moved to adjourn the meeting, seconded by Mr. Barletta. The meeting adjourned at approximately 11:00 p.m.

Respectfully submitted,

Joyce Deutsch, Secretary