

**MINUTES
BOROUGH
REGULAR MEETING OF THE PLANNING BOARD
Wednesday, August 23, 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 – present
Thomas Restaino – present
George Shenewolf – absent

Mary Chyb - present

Also Present: Terry Brady, Esq.
Michael Goldstein, PE, CFM

Flag Salute:

Public Notice Announcement:

This is the Borough of Lavallette Planning Board Regular meeting of August 23, 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:

Substantially Damaged Appeal # 028 – 226 Bryn Mawr Ave.

Mr. Cataline recused himself from hearing this appeal. Mr. Palinsky presided as Chairman, and Ms. Chyb sat for Mr. Cataline during this appeal.

Nicole Patricia Zambell, owner of 226 Bryn Mawr Ave., was sworn in and testified that she and her husband, Anton, have owned the home since March 31, 2023. Mrs. Zambell introduced Charles Sweeney of 218 Beacon Blvd., Sea Girt, NJ, a Certified Real Estate Appraiser. Mr. Sweeney explained that he used the cost approach to calculate the value of the home in October, 2012. It was determined that his appraisal was for the structure only.

- Exhibit A-1: Settlement of flood claim from Allstate dated December 23, 2012, to Jean K. Matos, previous owner of the property at 226 Bryn Mawr.

Mrs. Zambell submitted the following:

- Exhibit A-2: Copy of BPG Home Inspection dated October 3, 2022

It was determined that based on the documents provided, the property was not substantially damaged, and a motion to grant this appeal was made by Mr. Barletta and seconded by Mr. Bennett. Roll call: Barletta, yes; Bennett, yes; Filippone, yes; Hartman-Sica, yes; Marino, yes; Palinsky, yes; Restaino, yes; Chyb, yes.

Mr. Cataline returned as Chairman for the remainder of the evening. Mrs. Chyb sat for Mr. Shenewolf who was absent.

Application # 7-22: Brooklyn Ave., LLC - 2 Brooklyn Ave. Block 15. Lot 5

The property is located on the south side of Brooklyn Ave., approximately 660 linear feet east of the Rt. 35 Northbound intersection in Residence District A. The property contains 5,000 sq. ft. The site currently contains a 2-story dwelling.

The applicant is proposing to modify an existing variance. The existing variance was to permit a second story porch over an existing first story porch in the front yard setback area. In 2021, a water leakage issue prompted the applicant's contractor to move the rail of the second story porch closer to the edge and away from the house, placing another fiberglass layer and changing the approved position from the original variance (dated June 26, 2014). The applicant is seeking a modified variance to account for this change.

Michele Donato, applicants' attorney, prepared to address the Board on behalf of her clients, Paul and Sue Fremont. At this time, Gregory Hock, Esq., entered an objection on behalf of his client, William Scurzo, of 4 Brooklyn Avenue on the basis of res judicata.

Mr. Brady addressed the Board regarding the doctrine of res judicata and recommended that it should be shown in the first instance.

Mrs. Donato argued that case law states that changed circumstances may warrant reconsideration and that her clients should be given the opportunity to explain the differences in this application.

At this point, Mr. Bennett said that he would like to hear what the changes in conditions are, and Mr. Barletta agreed. Mr. Marino said that he did not see changes and didn't think that the testimony would show any differently. Mr. Palinsky was of the same opinion. It was decided to do a roll call vote on whether or not to hear testimony limited to the changed circumstances. A motion to hear testimony was made by Mr. Bennett, seconded by Mrs. Filippone. Roll call vote: Bennett, yes; Filippone, yes; Barletta, yes; Hartman-Sica, yes; Marino, yes; Palinsky, yes; Restaino, yes; Chyb, yes; Cataline, yes.

Sue and Paul Fremont, owners of 2 Brooklyn, were sworn in and gave background testimony of when they purchased their home. At this time, Chairman Cataline asked that they focus on the differences in this application. Mr. Hock supported Mr. Cataline's request.

Testimony continued and the following Exhibit was presented:

- Exhibit A-1: Color photo showing an aerial view of 2 Brooklyn Ave. from Google Earth

There was further testimony by Mr. and Mrs. Fremont along with cross examination from Mr. Hock.

Carol C. Hewit, PE, AIA, of 468 Ellison Drive in Mantoloking, was sworn in and presented the original drawings:

- Exhibit A-2: Spot photos of residence and architectural drawings dated 5/31/2013

There was discussion regarding what may have caused the leak and if it had anything to do with the placement of the railing. There was no definitive answer.

The Board submitted the following:

- Exhibit B-1: 4 color photos of 2 Brooklyn Ave from 2014
- Exhibit B-2: Black and white photo of 1 Brooklyn Ave. from Google dated Aug. 2013

Mrs. Donato approached the podium and asked that the application be formally withdrawn and stated that the applicants will conform to the original resolution. Mrs. Filippone asked that a letter be sent to our Construction Official showing their construction plans.

Resolutions Memorialized:

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

Application # 04-23 – Marc A. Kowtko, 210 Bryn Mawr Ave. – Block 115, Lot 5 - approval

Application # 03-23 – Joanne Sweeney, Trustee of Zelano Family Trust, 105 Reese Ave. – Block 33.01, Lot 10 – approval with conditions

Application # 05-23 – Joseph & Geraldine Lopez, 18 Morton Drive – Block 966, Lot 12 – approval with conditions

New Business:

Discussion:

Mr. Brady took a moment to read a list of legal principles for variance evaluation. The Board Secretary will make copies and distribute to Board members for future reference.

Mr. Marino commented on the Board's conduct.

Mrs. Filippone advised the Board that the Council is requesting their input on six new 5G node locations from Verizon. These recommendations will be placed on the September 27 Planning Board Meeting agenda.

Review and Adoption of Minutes:

A motion was made by Mr. Barletta, seconded by Mr. Marino to accept the minutes of the July 25 Special Meeting with all present at that meeting voting in favor.

A motion was made by Mr. Bennett, seconded by Mrs. Filippone to accept the minutes of the Regular Meeting of July 26 with all who were present at that meeting voting in favor.

Adjourn:

Mrs. Filippone moved to adjourn the meeting, seconded by Mr. Cataline and the meeting adjourned at approximately 10:10 p.m.

Respectfully submitted,

Joyce Deutsch, Secretary