

**MINUTES
BOROUGH
REGULAR MEETING OF THE PLANNING BOARD
Wednesday, August 28, 2024 – 5:00 P.M.**

Roll Call:

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

Mary Chyb – present
Jennifer DeRienzo – present

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

Flag Salute: Chairman Cataline

Public Notice Announcement:

This is the Borough of Lavallette Planning Board Regular meeting of August 28, 2024. 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 # 08-2024 – Rizzo Family Lavallette Trust, 2307 Baltimore Ave., Block 50.02, Lot 32 – Home lift and renovations

The applicant is proposing to raise their existing home and construct a second-floor addition composed of two new bedrooms, one new bath, a new office and a second-story rear deck. The applicant is seeking variance relief for an existing front and side yard setback, ground coverage and structure coverage.

Mr. Brady read a letter from the applicants' attorney dated August 27, 2024, requesting to postpone the application to the September 25, 2024, meeting. The letter explained that amended plans will be submitted based on the recommendations set forth in the First Engineer Review Letter dated July 24, 2024.

A motion to approve the postponement was made by Mr. Marino, seconded by Mr. Barletta. Roll call vote: Marino, yes; Barletta, yes; Bennett, yes; Filippone, yes; Palinsky, yes; Restaino, yes; Shenewolf, yes; Chyb, yes; De Rienzo, yes; Cataline, yes.

Application # 07-2024 – Michael Swartz, 146 Elizabeth Ave., Block 62, Lot 29 – Home Lift

The applicant is proposing to raise and renovate the northerly dwelling fronting Elizabeth Ave. The finished floor will be elevated above the design flood elevation and the enclosed area below the finished floor will provide two (2) parking spaces. The applicant had previously sought Board approval to add a second story, whereas this application is not proposing a second story. The rear dwelling is proposed to remain. The shed in the rear of the property is proposed to be removed. The applicant is proposing to eliminate four (4) of their five (5) existing non-conformities and is seeking D (2) variance relief for an expansion of a non-conforming use.

Gregory Hock, applicant's attorney explained the differences of this application from the previous one, which was denied. He specified that no expansion is being proposed, and nine out of ten non-conformities are being eliminated.

Mr. Hock introduced Matt Hockenbury of MCH Engineering in Toms River, NJ, who was sworn in and gave an overview of the present and proposed conditions. He gave details regarding:

- Elimination of front-yard setback
- Elimination of front setback to covered porch
- Elimination of rear dwelling side setback
- Reduction in structure coverage
- Removal of shed
- Elevation of front house
- Elevated A/C unit for front house
- Flood compliance – proposed BFE 13'5"
- Six parking spaces being provided
- Square footage of both dwellings equals 1,600 ft.

At this point, there was a brief discussion about whether or not this is a D, use variance, or a D, dimensional variance. The Board sited the increased curb cut and the addition of a bathroom. It was decided that the application qualified as a D, use variance. Therefore, Mrs. Filippone was not eligible to vote.

Once testimony resumed, Mr. Hockenbury presented:

Exhibit A-1: color photo of the current property looking southwest
color photo of the current property looking southeast

He then proceeded to review the Architectural Plans pointing out that the roof pitch is flatter than required, i.e., 3 on 12 instead of 4 on 12. Mr. Goldstein added that this was not noted in his review letter of June 28, 2024. Mr. Hockenbury repeated that no expansion is proposed, but rather alterations to living space.

Mr. Palinsky pointed out that the building plan shows two right side elevations instead of a left and right elevation and should be corrected since it is a permanent record.

Chairman Cataline opened the hearing for public comment at approximately 5:40 p.m. and hearing none, the public portion was closed.

After Board deliberation, a motion to approve the application was moved by Mr. Shenewolf, seconded by Mr. Barletta. Roll call vote: Shenewolf, yes; Barletta, yes; Bennett, yes; Marino, yes; Palinsky, yes; Restaino, yes; Cataline, yes.

Resolutions Memorialized:

Application # 9-2024 – Danielle De Vita, 40 Bay Blvd., Block 31.02, Lot 32 – Approval with conditions

Time Extension for Application # 03-23 – Zelano Family Trust, 105 Reese Ave., Block 33.01, Lot 10 - Granted

Review & Approval of Minutes:

Mr. Bennett made a motion to accept the minutes from the Regular Planning Board meeting of July 24, 2024, seconded by Mr. Barletta with all who were present at that meeting voting in favor.

New Business:

N/A

Discussion:

Chairman Cataline wanted to discuss the concept of res judicata. Mr. Brady reiterated that the law says you cannot come back with the same application, i.e., a second bite at the apple. The new application has to be significantly different. However, it is a matter of whether or not the Board feels that the application is substantially different --- the Board makes the decision. Mr. Brady gave an example: 10 ft. setback vs. a 5 ft. setback as significant. An imperceptible change would be a 10 ft. setback vs. 9.5.

When there is a question of res judicata, the Board is supposed to be ruling at the beginning of the case as to whether or not to proceed. In order to assist in making their determination, the Board can question the applicant/s attorney before deciding.

Adjourn:

Mr. Barletta moved to adjourn the meeting, seconded by Mr. Bennett. The meeting adjourned at approximately 6:05 p.m.

Respectfully submitted,

Joyce Deutsch, Secretary