

**MINUTES
BOROUGH OF LAVALLETTE
REGULAR MEETING OF THE PLANNING BOARD**

Wednesday, March 28, 2007 – 7 P.M.

Chairman William Zylinski presiding.

Roll Call:

Mayor La Cicero - present
William Zylinski, Chairman – present
Joseph Baginski, - Vice Chairman, present
Robert Korb - present
Len Calderaro - present

Attorney: Terry F. Brady, Esq., Board Attorney

Public Notice Announcement:

This is the Borough of Lavallette Planning Board meeting of March 28, 2007. 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, filed with the Borough Clerk, and supplied to the Ocean Star one of the official Borough newspapers.

Flag Salute: Chairman Zylinski lead the audience in the salute to the flag.

Chairman Zylinski asked for the new Planning Board members to come forward and be sworn in by Mayor LaCicero. Mayor LaCicero is the Class I member and has appointed Joseph Palinsky as his designee, Christopher Parlow has been appointed as the Class II member and Councilwoman Filippone was appointed as the Class III member, Anthony Cataline and Rosangela Zaccaria were appointed as Class IV members, Joan Jarvis was appointed to the un-expired term of Alternate No. 1 and Vincent Marino was appointed as Alternate No. 2.

The new members were administered the oath of office by Mayor LaCicero and took their seats as members of the Planning Board.

Mayor LaCicero thanked all the members for giving their time to the community. He stated he was proud of the Board's work in 2006 in connection with various ordinances including the West Point Island Ordinance that was recently passed. He further stated that the Board needs to continue to be pro-active and review and recommend changes to the Mayor and Council.

Chairman Zylinski asked the Secretary to call the roll.

Roll Call:

Joseph Palinsky, Designee of Mayor La Cicero - present
William Zylinski, Chairman – present

Joseph Baginski, - Vice Chairman- present
Councilwoman Filippone- present
Christopher Parlow, Business Administrator
Robert Korb - present
Len Calderaro - present
Anthony Cataline-present
Rosangela Zaccaria-present

Joan Jarvis-present
Vincent Marino-present

Terry F. Brady, Esq., Board Attorney

Mr. Brady stated he has some discussion with the Board that requires a closed session. A Resolution to go into closed session was read by the Board Secretary

A motion was made by Mr. Korb, seconded by Mr. Cataline, with all present voting in favor, to enter into closed session to discuss litigation.

Review of Resolutions to be Memorialized:

None

Review of Minutes:

The Board reviewed the minutes of the Regular Meeting of January 24, 2007.

Old/New Business:

Mr. Baginski made inquiry as to the status of the recommended ordinance regarding square footage, the minimum size etc. in the business district. Mayor LaCicero responded that this ordinance was met with some resistance and was being held in abeyance. He stated it needs more discussion and perhaps he will ask Mr. Parlow to put it on the Council Agenda in May. He further commented that the Westmont Shore Ordinance requires further discussion.

Mr. Baginski stated the ordinance regarding the minimum square footage in the business district has the support of the Lavallette Business Association.

Councilwoman Filippone stated she intends to add a Planning Board report to the Council.

Mr. Korb asked Mr. Brady if the passage of this ordinance would make the present law suit go away. Mr. Brady responded it very well may. Mr. Korb replied that may be the reason why certain folks are against it, as opposed to community approval.

Mr. Baginski brought up discussion regarding the requirement on liquor licenses as to being 1500 feet apart between businesses and he would like the Planning Board to address this issue to see if we are precluding an opportunity for a licensee to purchase property.

Chairman Zylinski suggested this topic be put on the Workshop Agenda for May.

Mr. Parlow referred to his letter requesting that the Board review Section of the Code relating to Chapter 50, Section 5, to determine if this Chapter could be moved into the Zoning Code with an associated fee. Also he would like the Board to look into zoning permit application fees since at the present time the fee is the same for a shed as it is for an entire new house.

Chairman Zylinski stated the topic will be placed on the Agenda at the Workshop Meeting on April 11, 2007.

Chairman Zylinski introduced Rich Remy, the Zoning Officer to the Board.

Review of Cases:

Application No. 13-06 – Robert & Joanne Giuffre & Beverly DeFino- 23 Trenton Ave., Block 24, Lot 28

The property is located on the north side of Trenton Avenue, approximately 100 feet east of the intersection of NJ State Highway No. 35 Northbound (a/k/a Grand Central Avenue). The site contains 5000 square feet and is located in Residential A District. The site currently contains a 2-story dwelling in the rear of the site and the remains of a single family dwelling in the front of the property. According to the application, the applicants were doing renovations to their front house and the building collapsed during construction. The applicant wishes to continue the building following the initial plans.

This application was on the January 24, 2007 Agenda and was carried to this meeting.

Application No. 18-06- Edmund and Ruth Lazzara-110 Trenton Ave., Block 51.01, Lot 9

The property is located on the southeast intersection of Trenton Avenue and NJ State Highway No. 35, Southbound and contains 3,053.3 square feet. The property is located in the Residential A District. The site currently contains a one and a half (1 ½) story frame dwelling that will be demolished and the applicant is proposing to construct a new two (2) story frame dwelling. The new construction will require bulk variances.

This application was on the January 24, 2007 Agenda and was carried to this meeting.

Application No. 17-06- Mark & Lisa DeGiacomo, 3 Pershing Blvd., Block 961, Lots 38 & 38.01

The property is located on the north side of Pershing Blvd. approximately 430.77 feet west of the intersection of Bay Blvd. The site is located in Residential District B and per the survey map, contains 8,675 square feet of total area and 8,916 square feet of upland area. There currently exists a one-story frame dwelling and an accessory structure that contains a kitchen along the east property line. The applicant is seeking to maintain the existing accessory structure including the shed addition which is located on the east side of the accessory structure. The shed is encroaching into the side yard setback, thus a variance is required.

The Board recessed at 7:25 p.m.

PUBLIC MEETING:

Joseph Palinsky, Designee of Mayor La Cicero - present
William Zylinski, Chairman – present
Joseph Baginski, - Vice Chairman- present
Councilwoman Filippone- present
Christopher Parlow, Business Administrator
Robert Korb - present
Len Calderaro - present
Anthony Cataline-present
Rosangela Zaccaria-present

Joan Jarvis-present
Vincent Marino-present

Attorney: Terry F. Brady, Esq., Board Attorney

Public Notice Announcement:

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Resolutions to be Memorialized:

None

Approval of Minutes:

On motion of Mr. Baginski, seconded by Mr. Korb, the minutes of the Regular Meeting of January 24, 2007 were approved.

Public Hearings:

Mr. MacDuffie represents both Application Nos. 13-06 and 18-06 and requested that they be taken out of turn and that application 18-06, 110 Trenton Avenue be heard first. The Board had no objection.

Application No. 18-06- Edmund and Ruth Lazzara-110 Trenton Ave., Block 51.01, Lot 9

The property is located on the southeast intersection of Trenton Avenue and NJ State Highway No. 35, Southbound and contains 3,053.3 square feet. The property is located in the Residential A District. The site currently contains a one and a half (1 ½) story frame dwelling that will be demolished and the

applicant is proposing to construct a new two (2) story frame dwelling. The new construction will require bulk variances.

E. Allen MacDuffie, Esq., represented the applicant. He stated applicant seeks a variance for lot coverage and setbacks. The property is on the corner of Route 35 and measures 34 x 85 and they want to demolish the existing house and replace it with a new dwelling. The present square footage on the first floor is 624 square feet and the proposed will be 1056 square feet.

Edmund Lazzara, 34Urban Club Rd., Wayne, NJ, was sworn in. He testified that he purchased the house 4 years ago and that his family has grown and he needs more bedrooms and space for family recreation.

A copy of a portion of the Tax Map showing the subject property as an undersized lot was introduced in evidence as A-1.

A copy of a portion of a purported survey showing the square footage of the existing house and the square footage of the proposed house was introduced as A-2.

Mr. MacDuffie stated the plan has no effect on light, air or congestion and traffic in the south bound lane of Route 35, and if they conformed to the setback they would have a house 14 feet wide.

Copies of three photographs showing the present house were introduced as A-3.

It was pointed out that on Mr. O'Donnell's review there is no lot coverage calculation for the air conditioner or outside shower so it is 40.2 % coverage without the air conditioner unit or outside shower.

Mrs. Filippone made inquiry about the "dormer looking" item on the plan since it is not identified. She stated the height requirement is 30 feet and this must only be an attic at 6 feet, and not a dormer.

Applicant responded that it will be storage space and would not be used as living space.

Mrs. Zaccaria inquired about parking since there is no ingress or egress on Trenton Avenue and there appears to be a curb cut on Route 35S. She stated that more information is needed regarding the air conditioner, the outside shower, attic height, curb cut and parking plan.

Mr. Parlow stated that the floor level construction must be consistent with the Borough's Flood Ordinance.

Mr. MacDuffie asked if this case could be carried for further testimony and modification to the plans, with the applicant waiving all time frames.

Chairman Zylinski opened to the meeting to the public.

No one spoke in favor or against the application.

Chairman Zylinski closed the public meeting.

A motion was made by Mr. Baginski, seconded by Mrs. Zaccaria to carry the application to the next meeting on April 25, 2007, with all the time frames waived by the applicant. On roll call: Mr. Baginski, yes-, Mrs. Zaccaria, yes, Messrs. Calderaro, Korb, Cataline, yes-, Mrs. Filippone, yes-, Messrs. Parlow, Palinsky and Zylinski, yes. Motion carries.

Application No. 13-06 – Robert & Joanne Giuffre & Beverly DeFino- 23 Trenton Ave., Block 24, Lot 28

The property is located on the north side of Trenton Avenue, approximately 100 feet east of the intersection of NJ State Highway No. 35 Northbound (a/k/a Grand Central Avenue). The site contains 5000 square feet and is located in Residential A District. The site currently contains a 2-story dwelling in the rear of the site and the remains of a single family dwelling in the front of the property. According to the application, the applicants were doing renovations to their front house and the building collapsed during construction. The applicant wishes to continue the building following the initial plans.

This application was on the January 24, 2007 Agenda and was carried to this meeting.

E. Allen MacDuffie, Esq., represented the applicant. He stated the property is empty in the front where there was a one-family dwelling and there is a rear building that holds four apartments. He stated that applicant made application for zoning and construction permits to rehabilitate the front property and update the inside and upon commencement of the work the building started to collapse. He removed the walls for safety reasons and shortly thereafter a stop work order was issued.

Beverly DeFino, 333 Peersall Ave., Ridgewood, NJ was sworn in. She is one of the owners and stated she has been involved with the property since she was a child, and it had been in the family, and then sold. She purchased it in 1983 and her cousin became a partner. She testified that in 1983 there was a one-family house in the front and four apartments in the rear. She stated the front house was always used for family and she has three daughters and grandchildren and wants to use the house. Ms. DeFino testified there was a serious water pipe break in 2004, causing a great deal of damage to the dwelling and heat system etc. She stated the damage was unbelievable and she intended to gut it and make it the way it was and applied for permits in spring 2005. She testified the building started to collapse and her son-in-law, the contractor, tore it down for safety reasons.

There was discussion regarding the permit and Rich Remy the Zoning Officer was present and retrieved the building file.

Mr. Parlow reviewed the file and advised the zoning application states it is a single family use.

Mr. Korb stated that permits were issued based on inaccurate information.

Mr. MacDuffie stated he thinks the contractor made a mistake.

Mand Patel, was sworn in. He testified Beverly DeFino is his mother-in-law and he is as licensed contractor. He stated Mr. Deutsch was the Zoning Officer when he got the permits. The pipe burst in Spring 2004, and as a result there was water and mold all over the ceilings. He stated after the insurance claim was settled, he planned to gut it and make it the same as it was except for pitching the roof. The plans were approved in March 2004. He testified that when the roof was removed, the east

wall collapsed because there was no structural integrity. He stated he tried to reach someone in the building department to no avail, so he tore the remaining walls down for safety reasons. He further stated an inspector came and issued a stop work order (red sticker) because he had taken so much of the house down, he was told it no longer existed and it must be rebuilt to comply with code.

A copy of a photograph showing the top of the foundation wall was introduced in evidence as A-1.
A copy of a photograph showing the floor joist where the fireplace once existed was marked as A-2.
A copy of a photograph showing the top view looking down at the hollow blocks was marked A-3.
A copy of the tax record card was marked as A-4.

Mr. Calderaro suggested the issue of rebuilding the house and the justification for rebuilding it be discussed.

Mr. MacDuffie stated the tax record card indicates there are 4 families in the rear of the property.

Mr. MacDuffie discussed an appeal of the Zoning Officer's decision and that the destruction was partial under the Municipal Land Use Law.

Mr. Brady asked if he was talking about estoppel and stated the Board does not have the ability to say the Zoning Officer was estopped. Also, the time to appeal the Zoning Officer's decision has passed and the destruction does not appear to be partial since testimony indicates there is nothing left but a wall.

There was a discussion regarding the wrong information being submitted to the Zoning and Construction Department when the permits were obtained.

Mr. MacDuffie asked if this matter could be carried to the next meeting for further testimony with all time frames being waived by the applicant.

Chairman Zylinski opened to the meeting to the public.

No one spoke in favor or against the application.

Chairman Zylinski closed the public meeting.

A motion was made by Mr. Cataline, seconded by Mrs. Zaccaria, to carry this application to the next meeting on April 25, 2007, with all time frames waived by applicant. On roll call: Mr. Cataline, yes-, Mrs. Zaccaria, yes-, Mr. Baginski, abstain, Mr. Calderaro, yes-, Mr. Korb, abstain, Mr. Parlow, yes-, Mr. . Zylinski, yes. Motion carries.

Application No. 17-06- Mark & Lisa DeGiacomo, 3 Pershing Blvd., Block 961, Lots 38 & 38.01

The property is located on the north side of Pershing Blvd. approximately 430.77 feet west of the intersection of Bay Blvd. The site is located in Residential District B and per the survey map, contains 8,675 square feet of total area and 8,916 square feet of upland area. There currently exists a one-story frame dwelling and an accessory structure that contains a kitchen along the east property line. The applicant is seeking to maintain the existing accessory structure including the shed addition which is located on the east side of the accessory structure. The shed is encroaching into the side yard setback,

thus a variance is required.

Michele Donato, Esq., represented the applicant. She stated the application involves a shed that was constructed by the homeowner without knowledge of the 5 foot side yard requirement. There is no attic, or basement for storage and the shed is attached to the cabana. This property is beautifully designed and there is no other location on the property for the shed. She stated the benefits derived will outweigh any detriment, and that the applicant is well within the lot coverage requirement.

Mark DeGiacomo, 39 Beechmont Ter., North Caldwell was sworn in. He testified that he and his wife purchased the property in 2001. They added the deck, pool and accessory building (cabana) and he had disclosed they were putting in a summer kitchen in the cabana. He then constructed the shed, he attached three walls to the cabana. He has no storage space. He received a letter from the Zoning Officer that there had been a complaint about the shed encroachment.

Mr. Korb raised concerns about fire safety because the shed is on the property line.

Ms. Donato disagreed about the fire fighting access.

There was discussion about moving the shed to the west side of the property but applicant has floor to ceiling windows.

Mr. Palinsky asked about the closeness of the grill and fire issues.

Ms. Donato cited legal reasons as outlined in 70-C-1 and C-2 as to the flexible variance criteria.

Mr. Korb stated it was easier to ask for forgiveness than permission and they put in a pool, and addition and knew they had no storage and should have planned for the shed as everything else was planned.

Mrs. Filippone stated she is familiar with the property and the shed is not noticeable.

Chairman Zylinski opened to the meeting to the public.

No one spoke in favor or against the application.

Chairman Zylinski closed the public meeting.

Mr. Parlow they are within lot coverage and there appears to be no one objecting.

Mr. Cataline stated the house is esthetically pleasing and the variance will not impair the intent and purpose of the zone plan.

A motion was made by Mr. Calderaro, seconded by Mrs. Filippone, to approve the variance for side setback of the shed. On roll call: Mr. Calderaro, yes-, Mrs. Filippone, yes-, Messrs. Baginski and Cataline, yes-, Mr. Korb, no-, Mrs. Zaccaria, yes-, Messrs. Parlow, Palinsky and Zylinski, yes. Motion carries.

Old/New Business:

Mr. Baginski requested that any discussion regarding liquor licenses be put on the May Workshop Meeting as he will be away in April.

Chairman Zylinski agreed.

The Board entered into closed session.

The Board reconvened.

Adjourn:

On motion by Mr. Baginski, seconded by Mr. Korb, with all in favor, the meeting was adjourned at 10:15 P.M.

Respectfully submitted,

Rosemary Robertson
Secretary