

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

**Wednesday, April 25, 2007 – 7 P.M.**

Chairman William Zylinski presiding.

**Roll Call:**

Joseph Palinsky, Mayor LaCicero's Designee - present  
William Zylinski, Chairman – present  
Joseph Baginski, - Vice Chairman, absent  
Councilwoman Filippone – present  
Christopher Parlow, Business Administrator – present  
Anthony Cataline – absent  
Robert Korb - absent  
Leonard Calderaro – present  
Rosangela Zaccaria – present

Joan Jarvis – present  
Vincent Marino - present

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

**Public Notice Announcement:**

This is the Borough of Lavallette Planning Board meeting of April 25, 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 deferred the salute to the flag until the public portion of the meeting.

In the interest of any property owners that may be present for this application, Mr. Brady announced that there was a defect in publication with regard to Application No. 6-05 Car-Lou Inc.-2400 Route 35N, Block 51, Lots 1,2,3 & 4.02 Amended Site Plan, in that the newspaper failed to timely publish and that this case would be carried over to the May 23, 2007 hearing.

A motion was made by Mr. Parlow, seconded by Mr. Calderaro, to carry this application to the May 23, 2007 meeting, with all time frames waived. On roll call: Mr. Parlow, yes-, Mr. Calderaro, yes-, Mrs. Zaccaria, yes-, Mrs. Filippone, yes-, Mr. Palinsky, yes-, Mrs. Jarvis, yes-, Mr. Marino, yes-, Mr. Zylinski, yes. Motion carries.

**Resolutions to be Memorialized:**

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

## **Review of Minutes:**

The Board reviewed the minutes of the Regular Meeting of March 28, 2007 and the Executive Session of March 28, 2007.

## **Old/New Business:**

### **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 and March 28, 2007 Agendas 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 and March 28, 2007 Agendas and was carried to this meeting.

#### **Application No. 19-06- James LaCava, 252 Westmont Avenue, Block 1113 Lot 26**

The property is located on the west side of Westmont Avenue 1280.17 feet west of the intersection of New Jersey State Highway Route 35 Southbound. The property is bordered on the west side by Great Swan Bay. The site is located in the Residential District C and contains 8,627 square feet. There currently exists one single-family dwelling and garage on the site. The applicant is proposing to install air conditioning units on platforms on the southerly side yard of the existing dwelling, which will encroach into the required side yard setback.

Workshop portion of the meeting adjourned at 7:15 p.m.

**PUBLIC MEETING:**

Roll call:

Joseph Palinsky, Mayor LaCicero's Designee - present  
William Zylinski, Chairman – present  
Joseph Baginski, - Vice Chairman, absent  
Councilwoman Filippone – present  
Christopher Parlow, Business Administrator – present  
Anthony Cataline – absent  
Robert Korb - absent  
Leonard Calderaro – present  
Rosangela Zaccaria – present

Joan Jarvis – present  
Vincent Marino - present

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

**Public Notice Announcement:**

This is the Borough of Lavallette Planning Board meeting of April 25, 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.

**Resolutions to be Memorialized:**

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

A motion was made by Mr. Calderaro, seconded Mrs. Filippone, to approve the Resolution granting the side setback variance for the existing accessory structure (shed) along the east property line and increased shed dimension. On roll call: Mr. Calderaro, yes-, Mrs. Filippone, yes-, Mrs. Zaccaria, yes-, Mr. Parlow, yes-, Mr. Palinsky, yes-, Mrs. Jarvis, yes-, Mr. Zylinski, yes. Motion carries.

**Approval of Minutes:**

On motion of Mrs. Filippone, seconded by Mrs. Zaccaria, the minutes of the Regular Meeting of March 28, 2007 were approved.

On motion of Mr. Parlow, seconded by Mrs. Zaccaria, the minutes of the Executive Meeting of March 28, 2007 were approved.

## **Public Hearings:**

Joan Jarvis, Alternate No. 1 and Mr. Marino, Alternate No. 2 sat in place of absent members.

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. Chairman Zylinski stated he preferred the cases to be heard in the order listed on the Agenda.

### **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 and March 28, 2007 Agendas and was carried to this meeting.

E. Allen MacDuffie, Esq., represented the applicant.

George Hoppe, Architect and Professional Planner was sworn in. He stated he was asked to look into the Zoning Officer's file and it appears a zoning permit was issued for an alteration to the front house, and later a building permit was issued. He further stated that the zoning application indicated a single-family property and there was no mention of the dwellings in the rear, but the survey submitted indicated other dwellings. The intention was to do alterations to the existing property, including removal of the roof.

A copy of a photograph showing the construction permit indicating an alteration was marked in evidence as A-5.

A copy of a photograph showing the building sub-code technical section describing the detail of the work was introduced as A-6.

A copy of a photograph of the zoning application stating the current use was a one family, alteration, removal of the roof etc. was marked A-7.

A copy of the stop work order issued for failure to obtain permits for demolition was marked A-8.

Mr. MacDuffie referred to the past testimony in this matter. He further stated that his client is willing to make changes to the rear dwelling that has four units, by eliminating two of the units and continue the project for the front house and he will not use the property for commercial purposes.

Mr. Brady asked to see the survey dated March 24, 2005 that was submitted with the zoning application.

Mr. Parlow stated that it appears applicant was given permission to make alterations to a multi-family

property without having to obtain a variance and the issue is not what the Zoning Officer approved, but that a variance is needed because the situation changed and the building is down.

Mr. Hoppe stated whether or not a building has been destroyed substantially and two walls and a foundation remain, it is considered a partial destruction and the foundation, floor, and walls two walls are still there. He further stated from what he has read he believes it is a partial destruction.

Mr. MacDuffie commented that if there is a non-conforming use partially destroyed, owner has a right to rebuild and Mr. Hoppe's testimony states it is a partial destruction. He agrees that it is a razor blade edge but he would rather err on the side of his client.

Mrs. Jarvis commented there are no studs and Mrs. Zaccaria stated what is standing is a 8 foot wall and two side walls of 2 feet.

Mr. Brady stated there is no litmus test to decide if destruction is partial or total, it is based upon the facts of the particular case. He further stated it is important that the Board make a determination if the destruction is partial or complete. He asked Mr. Hoppe what habitable rooms are there. Mr. Hoppe responded none.

Mr. Parlow stated there are photographs supporting that the foundation is a problem and the contractor testified that he agreed.

Mrs. Jarvis stated she does not agree that there is the equivalent of two walls standing. She stated the building is down and how it happened does not matter and the Board has to make a determination.

Chairman Zylinski asked the public if there were any questions for this witness and there was no response.

Chairman Zylinski asked if there was a motion to determine the destruction was partial. There was no response.

A motion was made by Mr. Calderaro, seconded by Mrs. Jarvis, determining that the destruction of the front house was total. On roll call: Mr. Calderaro, yes-, Mrs. Jarvis, yes-, Mrs. Zaccaria, yes-, Mr. Parlow, yes-, Mr. Marino, yes-, Mr. Zylinski, yes. Motion carries.

Robert Giuffre, 64 Palisade Avenue, Bogota, NJ was sworn in. He stated that the property was used for family and that he is willing to reduce the density of the rear house from four families to two families and prohibit commercial use. He stated he bought into the property about 10 years ago and there are four rear units, with four kitchens and there are two bedrooms in each of 3 units and one bedroom in one unit for a total of seven bedrooms. He stated he would remove some of the kitchens. Upon inquiry, he further testified that he would not consider knocking down the rear units and building one large one family because he would like to keep separate structures to accommodate different life styles.

Mrs. Zaccaria stated there would still be three families that exceed lot coverage and have insufficient parking.

Mr. MacDuffie stated that there has been some discussion with the applicant and Mr. Hoppe about

revising the plan and reducing the density and he asked that the case be carried to the May 23<sup>rd</sup> meeting, with applicant waiving the time frames.

Chairman Zylinski opened 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. Parlow, seconded by Mrs. Zaccaria, to carry this application to the next meeting on May 23, 2007, with all time frames waived by applicant. On roll call: Mr. Parlow, yes-, Mrs. Zaccaria, yes-, Mr. Calderaro, yes-, Mrs. Jarvis, yes-, Mr. Marino, yes-, Mr. Zylinski, yes. Motion carries.

**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 and March 28, 2007 Agendas and was carried to this meeting for a revised plan to be submitted.

Copy of a photographs showing the house on 110 Trenton Ave. and Route 35, was introduced as A-4 and A-5;

Copy of photograph showing the house across from 110 Trenton Ave., going north was introduced as A-6;

Copy of photograph showing 110 Elizabeth Avenue and Route 35 was introduced as A-7 and A-8;

The current survey of the premises was introduced as A-8.

Mr. MacDuffie stated all the photographs show short front yards. He further stated that revised plans had been filed that addressed the questions from the last meeting regarding the attic, parking spaces, height, and air conditioner unit and there will be no outside shower. He advised that the lot coverage is 40.9 with the air conditioner unit and it might be 39% with the stacking of the air conditioner units and that applicant never uses the curb cut and will remove the existing fence.

Mrs. Zaccaria stated it is a new house and she objects to it not complying with the lot coverage requirement.

Mr. MacDuffie responded that this is an undersized lot.

Chairman Zylinski asked applicant if he would consider removing the front porch to bring it into further compliance with lot coverage. The applicant responded that the plans had been prepared with

the porch.

There was a lengthy discussion regarding various changes to the plans in order to reduce the lot coverage; i.e. removing the porch, reducing it in size.

Mr. Parlow stated there is an issue with the curb cut and that permission has to be obtained from the DOT and that should be pursued and also some trees may have to be removed to accommodate parking spaces and the fence needs to be removed.

Mr. MacDuffie stated they will pursue those issues.

Chairman Zylinski opened the meeting to the public.

Pat Marmo, 108 Trenton Avenue, Lavallette was sworn. She stated she is familiar with the property and that the owners have always parked in the rear; she stated the area has numerous two families and there are a lot of cars and parking in the rear is much safer; the present house is unsightly and she is in favor of a new house if it meets the parking requirements.

Chairman Zylinski closed the public meeting.

The applicant asked for a continuance to revise the plans.

A motion was made by Mrs. Filippone, seconded by Mr. Marino, to carry this application to the next meeting on May 23, 2007, with all time frames waived by applicant. On roll call: Mrs. Filippone, yes- Mr. Marino, yes-, Mr. Calderaro, yes-, Mrs. Zaccaria, yes-, Mr. Parlow, yes-, Mr. Palinsky, yes-, Mrs. Jarvis, yes-, Mr. Zylinski, yes. Motion carries.

#### **Application No. 19-06- James LaCava, 252 Westmont Avenue, Block 1113 Lot 26**

The property is located on the west side of Westmont Avenue 1280.17 feet west of the intersection of New Jersey State Highway Route 35 Southbound. The property is bordered on the west side by Great Swan Bay. The site is located in the Residential District C and contains 8,627 square feet. There currently exists one single-family dwelling and garage on the site. The applicant is proposing to install air conditioning units on platforms on the southerly side yard of the existing dwelling, which will encroach into the required side yard setback.

Anthony Rocco. 1022 McBride Ave., West Paterson represented the applicant. He stated when there is a bad storm, applicant has had water come up to his stairs and being able to put the air conditioner unit on the side would not effect neighbors and would not be a detriment to the zone plan. He further stated that to put the air conditioner on such a high platform would not be esthetically pleasing to the next door neighbors. The house does not have air conditioning, but the applicant has developed a heart condition and the doctor advises he should have it.

There was a lengthy discussion as to where the air conditioner units could be placed without needing a variance.

James LaCava, 41 Lenox Rd., Wayne was sworn in. He testified that the rear half side of the house is windows and no matter what side you put the shower on, people will see you taking a shower. He

further stated it is difficult to put it between the garage and the house. He further testified this will be central air conditioning with three individual units for the upstairs bedrooms that will also supply heat. He testified the house is over 60 years old, has no duct work and there is no attic. He has had at least three electricians and plumbers who advised this is his only option because of the age of the house, lack of duct work etc.

Several people speaking at once. (indiscernible)

Chairman Zylinski opened the meeting to the public.

No one spoke in favor or against the application.

A motion was made by Mrs. Jarvis, seconded by Mrs. Zaccaria, to approve the variance for a side setback for the purpose of installing air-conditioning units on platforms on the southerly side of the existing dwelling; 4 feet and 8 feet required; 4.66 feet and 1.89 exist and 1.66 feet and 1.89 feet are proposed. On roll call: Mrs. Jarvis, yes-, Mrs. Zaccaria, yes-, Mr. Calderaro, abstain; Mrs. Filippone, yes-, Mr. Parlow, yes-, Mr. Palinsky, abstain, Mr. Marino, yes-, Mr. Zylinski, no. Motion carries.

**Old/New Business:**

**Adjourn:**

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

Respectfully submitted,

Rosemary Robertson  
Secretary