

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

Wednesday, May 23, 2007 – 7 P.M.

Chairman William Zylinski presiding.

Roll Call:

Barbara Brown, Mayor LaCicero's Designee - present
William Zylinski, Chairman – present
Joseph Baginski, - Vice Chairman, present
Councilwoman Filippone – present
Christopher Parlow, Business Administrator – present
Anthony Cataline – present
Vincent Marino - present
Leonard Calderaro – present
Rosangela Zaccaria – present

Joan Jarvis – present
Joseph Palinsky - present

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

Public Notice Announcement:

This is the Borough of Lavallette Planning Board meeting of May 23, 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.

Resolutions to be Memorialized:

None

Review and Approval of Minutes:

The Board reviewed the minutes of the Workshop Meeting of May 9, 2007. There were three corrections: Page 2: Mr. to Mrs. Page 3: "from church or school" was added, and "primary economic concern".

A motion was made by Mr. Baginski, seconded by Mr. Palinsky, with all present voting in favor, with the exception of Mr. Parlow and Mrs. Jarvis who were absent for that meeting, the minutes of the May 9, 2007 Workshop Meeting were approved as corrected.

Old/New Business:

Mr. Baginski raised discussion of the Alcoholic Beverage Ordinance, more specifically the 1500 feet distance between licensees. He again raised the issue of economic concerns and the last survey results that asked for more restaurants with liquor licenses. He stated he would like to see the local ordinance rescinded and retain the state rule that requires 300 feet from a school or church. He stated he had heard that the Council was going to discuss this issue on June 18th, but he would like to see if there is a consensus to make a recommendation to the Council prior to the June 18th meeting.

Councilwoman Filippone stated that it is her understanding that no action will be taken on June 18th, that it will only be a presentation. She further stated there is public opinion on this issue and that in her personal opinion she feels going from 1500 feet to 300 feet is a bit drastic. She reported that she was asked to do some research but the Borough does not track alcohol infractions. She stated the Court Administrator gave her the number of collective ticket i.e. disorderly persons, DWI tickets going back to 1995 and it has gone down significantly since the closing of Tycoons and Kronos. She will attempt to obtain more data.

Mr. Baginski stated he did not necessarily agree that they are related and he would like the Council to be aware of how the Board feels regarding this question and his feeling is directed solely to the business community and providing incentives for community growth and the Board can make recommendation for change from a planning point of view.

Mr. Parlow stated that Lenny's has applied for place to place transfer liquor license and the Council cannot consider it because of the 1500 foot restriction and their attorney has requested to be heard and to be placed on the Agenda for June 18th.

Mrs. Filippone suggested the letter be given to the Ordinance Committee and Mr. Baginski responded the Board should follow the same path as in the past that is to send a letter to the Mayor and Council.

Mr. Calderaro suggested that the Board come forward with what might be best for the town.

Mr. Cataline stated he does not know what the restriction should be and thinks it best if there is more information and discussion.

Chairman Zylinski suggested this matter be discussed further at the next workshop meeting.

Mr. Baginski brought up the topic of the DOT's refusal to permit Car-Lou install Belgian block curbing at the former Candlelight Motel sight stating it was permitted for Dunkin Donuts and this may effect the streetscape that may have to be modified.

Mr. Parlow stated that in the past, the Council had to do a jurisdictional agreement with the DOT for the installation of Belgian block curbing since it was not it's standard and they required the agreement to abrogate any responsibility for repair or replacement. He further stated that the governing body has to decide if these agreements should continue and the DOT has to approve also. He stated this will be put on the next Council agenda.

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. 6-05 Car-Lou Inc., Amended Site Plan, 2400 Route 35N, Block 51, Lots 1, 2, 3 & 4.02

The Amended Site Plan shows a “Proposed 6 x 25 Tiki Refreshment Bar”, to be located at the south east corner of the property. Applicant originally sought an administrative approval but was referred to the Planning Board for the necessary variances.

This application was on the April 25, 2007 Agenda and was carried to the May 23, 2007 Agenda due to a publication error.

Workshop portion of the meeting adjourned at 7:45 p.m.

PUBLIC MEETING:

Roll call:

- Barbara Brown, Mayor LaCicero’s Designee - present
- William Zylinski, Chairman – present
- Joseph Baginski, - Vice Chairman, absent
- Councilwoman Filippone – present
- Christopher Parlow, Business Administrator – present

Anthony Cataline – present
Vincent Marino- present
Leonard Calderaro – present
Rosangela Zaccaria – present

Joan Jarvis – present
Joseph Palinsky - present

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

Public Notice Announcement:

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

None

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.

Chairman Zylinski announced that Mr. Cataline is stepping down on the Giuffre/De Fino and Lazzara applications and that Mrs. Jarvis will sit in his place and Councilwoman Filippone will also step down as these are D variances and she is unable to vote.

Public Hearings:

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 and April 25 Agendas and was carried to this meeting.

E. Allen MacDuffie, Esq., represented the applicant. He stated he knows the Board is concerned about lot coverage and that the building coverage has been reduced. He stated the prior plans had three parking spaces and the revised plans have six spaces and applicant is going from 5 living units to 3 living units.

George Hoppe, Architect and Professional Planner was sworn in. He stated that since the front house has been eliminated, he added on to the rear building; the revised plan calls for 6 parking spaces and each apartment has access to the driveway and there will be no jockeying of cars. He further stated he made an error and Mr. O'Donnell states the lot coverage is 41%; he further testified the air conditioner units will be on the roof or in the second floor area or under the stairway. He testified that applicant is promoting safety and the general welfare by providing parking, updated for fire safety and is reducing the density, lot coverage and the building will be altered to blend with the residential area. He stated the kitchens in the two eastern rear units will be removed and the bathrooms have been enlarged to negate the kitchen being reinstalled.

Mr. Calderaro stated the proposal is a total of three kitchens, eleven bedrooms and five bathrooms.

Mr. Hoppe stated there is an increase in building area that is not substantial as to density; they are not removing the roof or walls or the weight bearing fireplace and the rear building appears to be structurally sound, and does not have leakage problems.

Mr. Baginski stated he does not think six parking spaces are adequate when there are eleven bedrooms and suggested making the four small bedrooms larger reducing the total from eleven bedrooms to nine bedrooms.

Mr. Robert Giuffre and Joann Giuffre, 64 Palisades Avenue, Bogota, NJ were still under oath. Mr. Giuffre testified that 10 years ago they rented the property but since then family has taken over. He stated they do not have enough money to take down the rear house.

Mr. Palinsky asked if any thought had been given to removing the outside shower which may accommodate another parking space.

Mrs. Zaccaria had concerns about the outside staircase.

There was a lengthy discussion regarding the reduction of the number of dwelling units in the rear building. Mr. Hoppe stated the two units, one in front and one in the rear will total of 9 bedrooms, 5 bathrooms and 2 kitchens.

Chairman Zylinski opened the meeting to the public.

No one spoke in favor or against the application.

Chairman Zylinski closed the public meeting.

Mr. MacDuffie asked the Board to vote on the proposed two units.

A motion was made by Mr. Calderaro, seconded by Mrs. Jarvis to grant the variance expanding the non-conforming use; subject to the following conditions: (1) applicant must file revised plans; (2) the outdoor shower will be removed; (3) the air conditioner units shall not increase lot coverage; (4) kitchens will be removed so each of the two dwellings shall have no more than one kitchen (5) heating mechanicals will be placed in the attic; (6) the dwellings units will not be leased or rented and are to be used only by family members as represented by applicant under testimony; (7) applicant will sign a deed restriction that when the property is sold or transferred, it must be converted to a single-family use 8 the two units will have 5 bathrooms, 9 bedrooms, 2 kitchens and 6 parking space. On roll call: Mr. Calderaro, yes-, Mrs. Jarvis, yes-, Mr. Baginski, yes-, Mr. Marino, yes-, Mrs. Zaccaria, yes-, Mr. Parlow, no-, Mr. Zylinski, no. 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, March 28, 2007 and April 23, 2007 Agendas and was carried to this meeting for a revised plan to be submitted.

E. Allen MacDuffie, Esq., represented the applicant. He referred to the revised plans indicating the original 40.9 lot coverage had been reduced to 38.5 by modifying the porch as was suggested by the Board at the last meeting. He stated this is a very modest house and the lot is undersized; he further stated that it is possible that the curb cut change may not be necessary.

Mr. Lazzara who was still under oath testified that the lot coverage was reduced by reducing the porch.

Mr. Parlow stated that since there is no off-street parking permitted on Route 35S, why not make the curb cut wider to make it easier to come out of that parking space and that the stockade fence should be removed.

Mr. Baginski stated that perhaps the air conditioner unit could be moved five feet toward the steps to provide a little more turning room.

Chairman Zylinski opened the meeting to the public.

Pat Marmo, the neighbor on the easterly side of the property stated she had no objections to the proposal if the parking is in the rear.

Chairman Zylinski closed the public meeting.

A motion was made by Mrs. Filippone, seconded by Mr. Baginski to approve the bulk variances subject to the following conditions: (1) the stockade fence on Route 35 is to be removed; (2) applicant to obtain DOT permission to expand curb cut an additional 6 feet southerly and if denied, the existing curb cut shall remain; (3) the attic will not be used as living space; (4) the air conditioner unit will be

relocated five feet easterly (5) applicant will file revised plans as above. On roll call: Mrs. Filippone, yes-, Mr. Baginski, yes-, Messrs. Calderaro and Marino, yes-, Mrs. Zaccaria, yes-, Mr. Parlow, yes-, Mrs. Jarvis, yes-, Mr. Palinsky, yes-, Mr. Zylinski, yes. Motion carries.

Application No. 6-05 Car-Lou Inc., Amended Site Plan, 2400 Route 35N, Block 51, Lots 1, 2, 3 & 4.02

The Amended Site Plan shows a “Proposed 6 x 25 Tiki Refreshment Bar”, to be located at the south east corner of the property. Applicant originally sought an administrative approval but was referred to the Planning Board for the necessary variances.

This application was on the April 25, 2007 Agenda and was carried to the May 23, 2007 Agenda due to a publication error.

Kim Pascarella, Esq., represented the applicant. He stated this is an amendment to the site plan and the bar is proposed to be east of the proposed storage area and west of the planter. He stated the original amendment was for a refreshment stand of 6 x 25, but now the proposal is for a 10 x 10 area. He stated the area is north of Gabriella’s Restaurant; he stated there has always been a refreshment/snack bar utilized by the motel; he stated the hours will be restricted to no later than 10 p.m. and no live entertainment; the area will be fenced in and restricted to owners of the condos and their guests; and that this provides a resort type of atmosphere that people seem to enjoy.

He introduced a photo marked in evidence as A-1 showing the proposed 10 x 10 stand; and a photo showing the area where it will be was marked as A-2.

Charles Cerami, 3301 Longpoint Drive, Toms River was sworn in. He is one of the principals and confirmed the statements made by Mr. Pascarella. He further testified that he has gotten a sense from prospective purchasers that they would enjoy a resort-type area; there will only be a few seats it will be open to 10 p.m. and will sell only to the condo owners and their guests and that the condo association will be in control.

Mr. Baginski stated he would rather know what the owners of record feel once they form an association.

Mr. Pascarella stated it has been disclosed in the Master Deed as a common element; and the license is owned by Sherman Avenue Rentals that is owned by him.

Mr. Calderaro stated he does not understand the concept.

Mr. Pascarella stated there is no sale, it will be a lease arrangement and that no public will be permitted and there is no access from Route 35 into the condos and you have to go through a gate on the Trenton Avenue side.

Mrs. Filippone stated she thinks the “hut look” is not appropriate for the condo setting.

Chairman Zylinski opened the meeting to the public.

Laura Dec, 102 Trenton Avenue asked if the liquor license is Lavallette what restriction does it have

over Gabriella. She was told none, as it is not in Lavallette's jurisdiction. She stated she believes it will cause more traffic and she does not understand a variance for profit.

Mrs. Filippone stated there is little difference in this proposal than what has been there for years except there will be more restrictions.

Pat Marmo, 108 Trenton Avenue stated that prior to this, it was a motel and condos are private owners and questioned if Gabriellas could purchase a little portion of property where the tiki bar is going.

Mr. Brady responded that the boundaries are determined by the State legislature and license renewals come before the governing body and that the applicant would have to come to the Planning Board for a subdivision.

Mr. Parlow added that applicant also has to submit certain proofs.

Dorothy Hickey, 105 Trenton Avenue stated she has similar concerns, and parking is bad in the area.

Mr. Pascarella stated this proposal is not going to create any additional traffic since it is restricted to condo owners and their guests, and that there has not been one issue with this license in 7 years.

Mr. Calderaro stated as a resident he does not like to see outside bars on the street and believes there is a major difference between a motel with a managerial person.

Chairman Zylinski closed the public meeting.

There was discussion regarding the setback being on the line and Mr. Pascarella stated there is a party wall between the properties. Mr. Pascarella stated a bartender would service both areas but there is no public access between the two; and that all refuse would be handled by Toms River.

Mr. Baginski asked that if this proposal is not approved, what happens to the liquor license at the Candlelight. Mr. Pascarella responded that it would operate without the structure i.e. a rolling bar/cart.

Mrs. Filippone stated that as it stands now the license will stay as it is and could be operated until 2 a.m.

Chairman Zylinski closed the public meeting.

Mr. Pascarella stated that the fenced area would only have enough access for a person to walk through to the service area. He also stated that Mr. Cerami will continue to take all necessary steps to put in Belgian block curbing and will ask the DOT if they will consider a jurisdictional agreement.

A motion was made by Mr. Marino, seconded by Mr. Baginski to approve the amended site plan for the tiki bar subject to the following conditions: (1) the construction will measure 10' x 10', and will conform to the height ordinance for accessory structures and will architecturally match the adjacent condos; (2) the hours of operation will be from 12 p.m. to 8 p.m.; (3) there will be no live entertainment in the refreshment area; (4) service will be limited to condo owners and guests; (5) there will be no public access to the refreshment bar from Route 35N and there will be no outside purchases permitted; (5) all refuse and recycling will be handled by Toms River; (6) the existing southeast fence

will remain and there will be a three foot doorway between the service areas allowing access to the adjacent restaurant; (7) revised plans are to be filed, reviewed and approved by the Board Engineer. On roll call: Messrs. Marino and Baginski, yes-, Mr. Calderaro, no-, Mr. Cataline, yes-, Mrs. Zaccaria, yes-, Mrs. Filippone, yes-, Mr. Parlow, yes-, Mrs. Brown, yes-, Mr. Zylinski, yes. Motion carries.

Old/New Business:

Adjourn:

On motion by Mr. Baginski, seconded by Mrs. Filippone, with all in favor, the meeting was adjourned at 10:50 P.M.

Respectfully submitted,

Rosemary Robertson
Secretary