

**MINUTES
BOROUGH OF LAVALLETTE
WORKSHOP MEETING OF THE PLANNING BOARD
Wednesday, May 9, 2007 – 7 P.M.**

Chairman William Zylinski presiding

Roll Call:

William Zylinski, Chairman - present
Joseph Baginski, Vice-Chairman - present
Councilwoman Filippone - present
Christopher Parlow, Business Administrator - absent
Anthony Cataline - present
Len Calderaro - present
Rosangela Zaccaria - present

Joan Jarvis - absent

Public Notice Announcement:

This is the Borough of Lavallette Planning Board meeting of May 9, 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 led the audience in the salute to the flag.

The Chairman asked for the Class I, the Class IV and the Alternate No. 2 members to step forward and be sworn in. Mayor LaCicero has appointed Barbara Brown as his designee, Vincent Marino was appointed as a Class IV member and Joseph Palinsky was appointed as Alternate No. 2

Mayor LaCicero conducted the swearing in ceremony for Barbara Brown and Joseph Palinsky. Mr. Marino was absent and will be sworn in at another time.

After the swearing in ceremony, the newly appointed members took their respective seats as Planning Board members.

Roll Call:

Barbara Brown, - Designee of Mayor LaCicero - present
William Zylinski, Chairman - present
Joseph Baginski, Vice-Chairman - present

Councilwoman Filippone - present
Christopher Parlow, Business Administrator - absent
Anthony Cataline - present
Len Calderaro - present
Rosangela Zaccaria - present

Joan Jarvis - absent
Joseph Palinsky - present

Review and Adoption of Minutes:

A motion was made by Mrs. Filippone, seconded by Mrs. Zaccaria, to approve the minutes of the Regular Meeting of April 25, 2007. All present voting in favor with the exception of Mr. Baginski, and Mr. Cataline who were absent for that meeting and Mrs. Brown who was ineligible to vote.

Review and Adoption of Resolution:

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

A motion was made by Mrs. Zaccaria, seconded by Mrs. Filippone to approve the Resolution granting the side yard setback variance. On roll call: Mrs. Zaccaria, yes-, Mrs. Filippone, yes-. This was the majority of those eligible to vote on this matter. Motion carries.

Old/New Business:

Chairman Zylinski stated that Mr. Brady, the Board Attorney, was present and that he would review with the Board, the powers of the Planning Board under the statutes.

Mr. Brady gave the Board a handout that referred to the appropriate statutes covering the general laws regarding variances and the standards that have to be met for approval and cases in connection with each type of variance. He stated there would be no discussion of any particular case, but rather, an overview of the proofs required for granting or denying variances. He pointed out the difference between C and D variances and that Class I and Class III members cannot vote on D (special reasons) variance applications. He also discussed the issue of abstentions that generally arise out of a conflict of interest or disqualification. He stated an abstention does not count as a yes or no vote and is never counted one way or another if it is a deciding vote. Mr. Brady also addressed C variances and the reasons and criteria for granting same, i.e. exceptional narrowness or shape of a specific piece of property, topographical conditions affecting a specific piece of property or exceptional and undue hardship upon an owner of such property and that the benefits substantially outweigh the detriment, etc. He commented that on D variances, special reasons are required that are an inherently beneficial use, i.e. a nursing home, hospital and the use provides some public good for the community, not just beneficial to the applicant (that is the positive criteria) and that the relief may be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. Mr. Brady pointed out that variances run with the land, and not the individual. He stated that providing a better tax rate is not an affirmative criteria to grant the variance, nor is any financial reason.

There was discussion regarding partial or total destruction. Mr. Brady responded that the law does not give any real direction. The Board should use the general principles of whether or not it is a simple restoration.

Mr. Brady also stated that it is helpful if the person moving the motion states some discussion of the reasons and that also helps with the drafting of the Resolution. See Mr. Brady's memorandum attached.

Mayor LaCicero reported that the table and chairs ordinance is not in the zoning code. He stated there is one business that is on a corner and has a handicap ramp and the State has refused him permission to place the table and chairs in the right of way. As a result, the Council is working on an ordinance to place the table and chairs code into the zoning ordinance thereby giving the party a remedy by filing an application with the Planning Board.

There was a lengthy discussion regarding zoning application fees. The Board Secretary had obtained the fees for Seaside Park, Seaside Heights, Bay Head, Mantoloking and Point Pleasant Beach. There are no fees in Seaside Heights, Seaside Park and Point Pleasant Beach; Bay Head charges \$25.00 for fences and sheds and \$50.00 for all other applications; Mantoloking charges \$25.00 for a fence application, \$40.00 for a deck and \$100.00 for all others including a renovation.

It was decided to hold off on any recommendation to the governing body pending the input of Mr. Parlow, the Business Administrator.

Mr. Baginski brought up the topic of the ordinance Chapter 3-6, Alcoholic Beverages and the proximity of plenary retail consumption licenses. Mr. Baginski stated that currently the ordinance states that the licensees shall be 1500 feet from any other premises already licensed which approximates six blocks between licensees. Mr. Baginski further stated that in trying to encourage business he thinks the 1500 foot restriction may be too much in a town this size and that the State only requires 300 feet from a school or church. He stated that in order to do what is best for the community and since there are only three licenses, perhaps we should consider the state requirements.

It was mentioned that according to the most recent town-wide survey conducted by the Planning Board, one of the most mentioned topics and primary economic concern was the need for more restaurants with liquor licenses.

Mr. Baginski stated he believes the Board should come up with a recommendation for the Borough Council to reconsider the 1500- foot requirement that was passed around 1978.

Mrs. Filippone stated if licensees are too close, it complicates parking issues and that the two in pocket licenses were purchased with that knowledge and when you give permission, it is forever. She stated that on variances for undersized lots the Board uses the rationale that the person purchased the property knowing it was undersized, and anyone purchasing a license is aware of the 1500 foot restriction.

Mr. Baginski responded that parking will always be an issue but with only 3 licenses it may make the Business District more viable and that he is looking at it from the viewpoint of an investor.

Mrs. Brown stated she did not know the facts as to why the ordinance was made 1500 feet but she does remember that Tycoon's was a terrible problem for the town. She stated that she agrees on being pro-business.

Mr. Calderaro stated he agrees that 1500 feet may be too far apart as long as there are only three licenses, but we have to do something to encourage businesses and perhaps there should be uniform signs on Route 35 S directing people.

Mr. Baginski stated his wife attended the Lavallette Business Association meeting and that she attends regularly, and the feedback is that this ordinance is restrictive.

He further stated that it must be remembered that any restaurant coming in would need a site plan and would have to follow state law.

There was discussion regarding violations and code enforcement and placement of signs.

Chairman Zylinski suggested that some more information be obtained regarding what brought about the 1500 feet restriction in the liquor license ordinance and the Board can revisit this topic.

Adjourn:

On motion by Mr. Baginski, seconded by Mrs. Zaccaria, with all in favor, the meeting was adjourned at 10:05 p.m.

Respectfully submitted,

Rosemary Robertson
Secretary