

MINUTES
BOROUGH OF LAVALLETTE
WORKSHOP MEETING OF THE PLANNING BOARD
Wednesday, February 13, 2008 – 7 P.M.

Chairman William Zylinski presiding

Roll Call:

Vincent Marrone, Mayor LaCicero's Designee – absent
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 – absent
Rosangela Zaccaria – absent

Joseph Palinsky – absent
Barbara Brown - present

Terry Brady, Esq. also present

Public Notice Announcement:

This is the Borough of Lavallette Planning Board meeting of February 13, 2008. 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:

Dispensed.

Review and Adoption of Minutes:

On motion by Mr. Parlow, seconded by Mr. Zylinski the minutes of the Regular Meeting of January 23, 2008 were approved with one roll call correction. All those present eligible to vote voted in the affirmative.

Old/New Business:

Mr. Calderaro raised the prior discussion at the last meeting in his absence regarding the eligibility to vote to vote on the West Point Island application. Mr. Parlow stated there were only 5 members to vote so the applicant requested the case be carried. Mr. Calderaro stated he would prefer not to vote on the application. Mr. Marrone, Mrs. Filippone, Mr. Marino and Mrs. Brown are ineligible to vote.

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 and an overview of the Land Use Standards.

Mr. Brady referred the Board to the 2006 Summary of cases prepared by Mrs. Robertson stating the Board can review it and gain a sense as to its direction. He stated one reason he wanted to review was that no one present to object lends itself to a more liberal view of an application. In general terms, he referred to a recent litigation wherein no one appeared in objection and after application was passed, neighbors filed litigation stating they were uninformed. Mr. Brady stated he felt a review of the appropriate statutes covering the general laws regarding variances and the standards that have to be met for approval, to an extent reduces the taxpayer's exposure to litigation costs. He pointed that generally the court indicates that a variance should not be granted when it only benefits the owner. The Board hears so many reasons particular to the person and do not support the reasons for the granting of variance.

Mr. Brady stated the reasons have to be particular to the property i.e., peculiar shape or size of the lot such as being undersized or irregularly shaped require some adjustment and that an undersized lot is entitled to some reasonable variance. He pointed out that when an applicant only puts forth personal circumstances for hardship, and that is not land use. He pointed out the import of the special reasons for a "d" variance; and/or expansion of a non-conforming use which requires that the entire public and community being served. He also reminded the Board that any variance goes forever with the land not the current owner.

Mr. Parlow stated that maybe the Board should make a point of asking the applicant what legal reasons under the Land Use Law is being cited as a basis for approval of the application which will put the burden of proof on the applicant.

Mr. Cataline stated some of the terms cited by attorneys can be confusing.

Mr. Brady stated he does not vote and he can only give legal advice to the Board and react to questions posed to him by the Board.

There was discussion regarding improvements being made to property; reduction of non-conforming uses and density and numerous specific instances

There was also discussion about the standards being discussed when voting.

Mr. Parlow raised the issue of design changes being proposed by the Board members and in most cases it is not the role of the applicant and not the Board.

Mr. Cataline stated he found this session very helpful.

It was concluded that Mr. Brady sum up the legalities as what is appropriate, Mr. Brady he will be happy to render the legal advice but for the Board to be mindful that he does not vote or decide an application.

Chairman Zylinski stated that the conflict question with Mr. Gemma appears to have been resolved and asked what is the Board's intention.

Mr. Parlow stated he would really like some direction on the proposed business use ordinance and advice on whether or not 650 square feet is the right approach for the Borough and the use of the term unit or use etc.

There was a consensus to contact Mr. Gemma and obtain a cost and have him attend the April 9th workshop meeting.

Mr. Parlow also discussed the oceanfront ordinance and believes it requires further discussion since it may need separating because only the 30-foot requirement relates to zoning and the remainder is construction.

Adjourn:

On motion by Mrs. Filippone, seconded by Mr. Marino, with all in favor, the meeting was adjourned at 8:31 p.m.

These minutes were prepared from the recording. The Secretary was not in attendance.

Respectfully submitted,

Rosemary Robertson
Secretary