

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

Wednesday, April 23, 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 - present
Councilwoman Filippone – absent
Christopher Parlow, Business Administrator – present
Anthony Cataline – present
Vincent Marino - present
Leonard Calderaro – present
Rosangela Zaccaria – present

Joseph Palinsky – present
Barbara Brown - present

Public Notice Announcement:

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

The flag salute was deferred to the public portion of the meeting.

Review of Minutes:

The Board reviewed the minutes of the Regular Meeting of March 26, 2008 and the Workshop Meeting of April 9, 2008.

Resolutions to be Memorialized:

None

Application No. 1-07 Ram Network, LLC, 407 Grand Central Ave., Block 5, Lot 32

The property is located on the north east intersection of New Jersey State Highway No. 35N and Guyer

Avenue and contains 5,000 square feet. The property is located in the B-1 Commercial District. The site currently contains a mixed-use structure which fronts on Route 35 and a two-family dwelling which fronts on Guyer Avenue. (The application refers to this use as a single-family dwelling with an attached apartment; per Ordinance definition it is a two-family dwelling). The first floor of the structure on Route 35 contains a commercial use and the second floor contains an apartment. The applicant is proposing to expand the two-family dwelling on Guyer Avenue, which will increase the lot coverage variance and is an expansion of a non-conforming use.

The statement supplied in support of the application states that the property consists of two (2) condominium units. The two-family dwelling fronting on Guyer Avenue comprise the one condominium and the other condominium unit contains the mixed use structure fronting on Route 35.

This application was on the Agenda for July 25, 2007 and was carried to August 22nd, September 24, and October 24th, all at the request of the applicant's attorney. On October 24th, the application was not reached and was carried to November 28th, 2007 at which time applicant requested the application be carried to February 27, 2008 and rescheduled to April 23, 2008 for receipt of revised plans, with all time frames waived.

Applicant revised the application to request only the pitched roof and filed a revised plan.

**Application No. 8-07, West Point Island Civic Association, Pershing Blvd., Block 960, Lot 25
D Variance -Special Reasons.**

The property is located on the north side of Pershing Blvd. at the intersection of Morton Drive, in the Residential District B and contains 7,340 square feet. The property is bordered to the west by Barnegat Bay. There currently exists a bulkhead along Barnegat Bay and a concrete boat ramp. The applicant is seeking approval to construct a monument located 25 feet from the front property line. The overall size of the monument and base is 2,220 square inches or 15.4 square feet.

This application was heard on February 27, 2008 and was carried to the March 26th meeting and the April 23, 2008 meeting at the request of applicant, with all time frames waived.

Other Business:

Chairman Zylinski referred to the proposed ordinance prepared by Terry Brady in regard to roof top decks that was given out to the Board members.

Mr. Brady stated that No. 5 on the bottom of the first page refers to the amendment regarding living or usable space above the second story of any building and is repeated in three places by reason of three different residential zones. There was discussion regarding the term livable space.

A motion was made by Mr. Parlow, seconded by Mr. Baginski to forward the proposed Ordinance to the Mayor and Council for consideration. All present voting favor.

Mr. Brady stated he would draft a forwarding letter to the Mayor and Council.

Mr. Calderaro mentioned some people were upset with the removal of the trees at the bay tennis courts.

Mr. Parlow responded that the primary reason the trees were removed was because the surface roots had rendered the courts unusable and this was on the recommendation of the contractor and the Borough Engineer. He stated the courts are being resurfaced and there are plans to re-plant something without surface roots and this was discussed with the Beautification Committee who were aware of the situation.

Mr. Parlow gave out copies of the Notice to Bidders that he prepared for the prospective planners.

Workshop portion of the meeting adjourned at 7:25 p.m.

PUBLIC MEETING: (commenced at 7:30 p.m.)

Roll call:

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

Joseph Palinsky – present
Barbara Brown - present

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Flag Salute:

Chairman Zylinski led the audience in the salute to the flag.

Approval of Minutes:

A motion was made by Mr. Baginski, seconded by Mrs. Zaccaria, to approve the minutes of the Regular Meeting of March 26, 2008. All present eligible to vote voting in favor.

A motion was made by Mr. Calderaro, seconded by Mrs. Zaccaria, to approve the minutes of the Workshop Meeting of April 9, 2008. All present eligible to vote voting in favor.

Public Hearings:

Application No. 1-07 Ram Network, LLC, 407 Grand Central Ave., Block 5, Lot 32

The property is located on the north east intersection of New Jersey State Highway No. 35N and Guyer Avenue and contains 5,000 square feet. The property is located in the B-1 Commercial District. The site currently contains a mixed-use structure which fronts on Route 35 and a two-family dwelling which fronts on Guyer Avenue. (The application refers to this use as a single-family dwelling with an attached apartment; per Ordinance definition it is a two-family dwelling). The first floor of the structure on Route 35 contains a commercial use and the second floor contains an apartment. The applicant is proposing to expand the two-family dwelling on Guyer Avenue, which will increase the lot coverage variance and is an expansion of a non-conforming use.

The statement supplied in support of the application states that the property consists of two (2) condominium units. The two-family dwelling fronting on Guyer Avenue comprise the one condominium and the other condominium unit contains the mixed use structure fronting on Route 35.

This application was on the Agenda for July 25, 2007 and was carried to August 22nd, September 24, and October 24th, all at the request of the applicant's attorney. On October 24th, the application was not reached and was carried to November 28th, 2007 at which time applicant requested the application be carried to February 27, 2008 and rescheduled to April 23, 2008 for receipt of revised plans, with all time frames waived.

Applicant revised the application to request only the pitched roof and filed a revised plan.

Mr. Palinsky will be sitting in place of Mr. Baginski.

Michele Donato, Esq., represented the applicant. She stated the plans had been scaled down to the point where the only request is for the pitched roof which will eliminate leakage and improve the appearance of the building. The plans have been revised, the artificial dormer and balcony have been eliminated; there is no increase in lot coverage and this is no expansion of the non-conforming use except for the pitch and is an upgrade; the mechanicals will be placed upstairs as they are installing central air conditioning and doing away with the window units.

The location of the air conditioner unit condenser was not indicated on the plan, a condition was added to the Resolution granting the variance stating that the placement of the condenser units would not add to the existing lot coverage.

There was a discussion between Mr. Calderaro and Mrs. Donato regarding existing non-conforming uses.

Mr. Cataline stated he does not believe adjusting a roof is in an increase in a non-conforming use.

Chairman Zylinski opened the hearing to the public.

No one spoke regarding the application.

Chairman Zylinski closed the public portion of the hearing.

A motion was made by Mr. Cataline, seconded by Mr. Marino to approve the revised application for the pitched roof, with the condition that the placement of the air conditioner condenser unit will not add to the existing lot coverage. On roll call: Messrs. Cataline, Marino, yes; Mr. Calderaro, no; Mrs. Zaccaria, yes-, Messrs. Parlow and Palinsky, yes-, Mr. Zylinski, yes. Motion carries.

**Application No. 8-07, West Point Island Civic Association, Pershing Blvd., Block960, Lot 25
D Variance -Special Reasons.**

The property is located on the north side of Pershing Blvd. at the intersection of Morton Drive, in the Residential District B and contains 7,340 square feet. The property is bordered to the west by Barnegat Bay. There currently exists a bulkhead along Barnegat Bay and a concrete boat ramp. The applicant is seeking approval to construct a monument located 25 feet from the front property line. The overall size of the monument and base is 2,220 square inches or 15.4 square feet.

This application was heard on February 27, 2008 and was carried to the March 26th meeting and the April 23, 2008 meeting at the request of applicant, with all time frames waived.

The applicant was represented by Terence King, Esq. Mr. King distributed exhibit A-1 to the Board members. The following were also marked: photograph showing the adjoining land uses was marked A-4; photo of property to the east and west marked as A-5 and A-6 and photo of the existing bulkhead and ramp was marked as A-7.

Paul Szymanski, PP, 28 Norton Avenue, Hightstown, NJ was sworn in. He is a licensed planning and zoning consultant; he gave his educational background and consulting experience. The Board accepted his qualifications as an expert witness.

Mr. Szymanski testified that he was familiar with the application and had reviewed the Zoning Ordinance and the Master Plan and had visited the site and prepared his testimony. He further stated in his opinion there were two issues one being the monument as being an expansion of a non-conforming use under the Municipal Land Use Law and the need for bulk variances. He stated the lot is open space that is deed restricted and it has a bulkhead and boat ramp. An excerpt from the deed regarding the restriction was read into the record, but the deed was not available. He further testified most of the homes are single family and the interior lots not on the water may have a need for the boat ramp for bay access and that the existing bulkhead and ramp are deteriorated. He stated the principal structure is the boat ramp which is not permitted so this is an expansion of a non-conforming use and requires special reasons addressing the positive and the negative criteria. He testified that the property cannot become conforming since it is deed restricted and it is particularly suited for the existing boat ramp

which is an appropriate use. He stated the proposal is to have the monument structure approved, landscape the property and repair the bulkhead and boat ramp. He stated his opinion is the proposed sign structure is an accessory use that will show the name of the park; the landscaping will be esthetically pleasing and the sign is a part of the overall package that will promote the public welfare and safety and he cited the Medici case and stated he does not see any detriment to the public good.

He further testified that the structure (sign) is not commercial and will only function in the community.

Mr. Parlow asked about the location of the sign and inquired about the landscaping stating this application is only for the monument and there is no landscaping plan proposed.

Mr. Baginski stated that two signs would still be smaller in size than this one proposed sign.

Mr. Brady referred to Mr. O'Donnell's review regarding the size of the sign and asked Mr. Szymanski if he agreed and he replied that he did not really agree but submitted that the sign is larger than he stated on testimony because he was not counting the framing.

Mrs. Zaccaria asked who would maintain the monument.

Mr. King responded that the West Point Island Civic Association would be responsible.

Mr. Brady addressed the deed restriction as being irrelevant to the application since the application is for placing a sign on property that does not have a principal structure. Mr. Brady stated the status of the bulkhead and ramp as justification for this structure is also irrelevant to the issue. He stated that in any event, the Civic Association has the property and has an obligation to maintain the bulkhead and facility that was read into the record as part of the deed restriction.

Chairman Zylinski opened the hearing to the public.

Tony Gallo, 215 Newark Ave., Lavallette questioned the benches and the name signs on them.

Chairman Zylinski closed the public portion of the hearing.

Mr. Baginski stated he had some problem with the memoriam portion of the sign taking away from the public portion of the sign and he would like to see it placed further back on the property; and that in his own personal opinion, he is not convinced there is not some detrimental impact as to the monument's size and design.

Mr. Cataline moved to approve the application stating he felt the Engineer's review comments were addressed. There was second by Mrs. Zaccaria.

There was discussion on the motion.

Mr. Parlow stated he does not believe that the sign needs to be moved back; and feels that its' location is not intrusive but he does like the idea of relocating the memoriam portion to the base of the monument and believes this will make it appear more park-like. He stated he felt there was testimony

that addressed special reasons and the negative criteria.

Mr. King was asked if the applicant would consider moving the wording on the memoriam portion of the sign to the base of the monument. Mr. King requested a short recess to enable Mr. Boright to confer with his committee on behalf of the Civic Association.

Chairman Zylinski called a two minute recess.

The Board reconvened.

Mr. Boright stated the West Point Island Civic Association committee is willing to amend the application so that the Mazzarella memoriam wording of the monument will be placed on the base of the monument.

Mr. Cataline amended his motion to approve the application subject to the wording "In Loving Memory of Grace Mazzarella 2007" being put on the base foundation portion of the monument/sign, seconded by Mrs. Zaccaria. On roll call: Mr. Cataline, yes-, Mrs. Zaccaria, yes-, Mr. Baginski, yes-, Mr. Parlow, yes-, Mr. Palinsky, no-, Mr. Zylinski, yes. Motion carries.

Adjourn:

On motion by Mr. Parlow, seconded by Mrs. Zaccaria, with all in favor, the meeting was adjourned at 9:35 P.M.

Respectfully submitted

Rosemary Robertson
Secretary