

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

**Wednesday, December 3, 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 – present  
Christopher Parlow, Business Administrator – present  
Anthony Cataline – present  
Vincent Marino - present  
Leonard Calderaro – present  
Rosangela Zaccaria – present

Joseph Palinsky – present  
Barbara Brown - present

Attorney – Terry F. Brady, Esq. - present

**Public Notice Announcement:**

This is the Borough of Lavallette Planning Board meeting of December 3, 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.

The Board Secretary reported that Mr. Marrone was ill.

**Flag Salute:**

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

**Review of Minutes:**

The Board reviewed the minutes of the Meeting of November 19, 2008.

**Review of Resolution to be Memorialized:**

None

Councilwoman Filippone inquired about the December 10<sup>th</sup> meeting with the planner and if an Agenda would be prepared and can the public ask questions.

Chairman Zylinski responded the Secretary will be in touch with the planner and an agenda will be prepared and there will be a section open to the public.

### **Review of Cases:**

#### **Application No. 3-07-Pasquale & Rita Stancato, 1702 Grand Central Ave., Block 44.01, Lots 1 & 2 -Minor Site Plan application. Request for Modification of Condition in Resolution of Approval.**

Applicant was granted Site Plan Approval, Setback/height variances by Resolution of Approval memorialized on November 14, 2007. One of the conditions of approval ((#4) states: "Applicant will meet the criteria of the Borough's Streetscape Plan along Grand Central Avenue, as well as along Pennsylvania Avenue".

Applicant has requested an administrative change to the condition to eliminate the requirement for pole lights and decorative lanterns. Applicant will be represented by Michele Donato, Esq., who will provide the reasons for the request.

#### **Application No. 6-08- Ralph & Sylvia Axcelson, 127 New Brunswick Ave., Block 54, Lot 10 Special Reasons-Extension of a Non-conforming Use**

The property is located on the north side of New Brunswick Avenue in the Residential District A (one family) Zone. The property contains 5,000 square feet and two single-family dwellings. The applicant is proposing to make alterations to the roof on the front dwelling.

This application was heard on at the July 23<sup>rd</sup> meeting and applicant requested that it be carried to September 24<sup>th</sup> in order to have appropriate plans prepared. Mr. MacDuffie requested the case be carried to November 19, 2008 due to pre-arranged vacation plans. The prepared plans have been disbursed to the Board and attorney.

On November 19<sup>th</sup>, 2007 there were 6 voting members present and since this is a special reasons variance and requires five affirmative votes, attorney for applicant requested the case be carried for a full board.

#### **Application No. 8-08, Philip & Francine Delli Santi, 1400 Baltimore Ave., Block 54, Lot 1.02, Special Reasons-Extension of a Non-conforming Use**

The property is located on the southwest corner of the intersection of Brooklyn Avenue and Baltimore Avenue in the Residential District A. The property contains 5000 square feet and two single-family dwellings, which are two condominium units, A & B. The applicant owns Unit B, which is located to the rear of Unit A and has frontage on Brooklyn Avenue. The applicant is proposing to demolish the existing dwelling and one shed and construct a new dwelling. A special reasons variance is required because the lot has two dwellings, which is a non-conforming use.

This application was heard on September 24, 2008. After a full hearing, Mr. MacDuffie, the attorney for the applicant requested the application be carried to November 19<sup>th</sup> to allow time for any revisions to the plans.

On November 19<sup>th</sup>, 2007 there were 5 eligible voting members present and since this is a special reasons variance and requires five affirmative votes, attorney for applicant requested the case

be carried for a full board.

Councilwoman Filippone requested she be excused since she is unable to vote on the applications.

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

A brief recess was taken.

**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 - absent  
Leonard Calderaro – present  
Rosangela Zaccaria – present

Joseph Palinsky – present  
Barbara Brown – present

Attorney: Terry Brady, Esq. - present

**Public Notice Announcement:**

This is the Borough of Lavallette Planning Board meeting of December 3, 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:**

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

**Approval of Minutes:**

On motion by Mr. Calderaro, seconded by Mr. Cataline, the Minutes of the Regular Meeting of November 19, 2008 were approved. All present eligible to vote, voting in favor.

**Resolution to be Memorialized:**

None

## **Public Hearings:**

### **Application No. 3-07-Pasquale & Rita Stancato, 1702 Grand Central Ave., Block 44.01, Lots 1 & 2 -Minor Site Plan application. Request for Modification of Condition in Resolution of Approval.**

Applicant was granted Site Plan Approval, Setback/height variances by Resolution of Approval memorialized on November 14, 2007. One of the conditions of approval ((#4) states: "Applicant will meet the criteria of the Borough's Streetscape Plan along Grand Central Avenue, as well as along Pennsylvania Avenue".

Applicant has requested an administrative change to the condition to eliminate the requirement for pole lights and decorative lanterns. Applicant will be represented by Michele Donato, Esq., who will provide the reasons for the request.

Michele Donato, Esq., represented the applicant. She stated that this application had been reviewed two or three times for Resolution compliance. She further stated the applicant has been hampered with proceeding because of the lighting poles and trees requirements in the streetscape by reason of the DOT right of way. She had spoken to the DOT Commissioner and he confirmed doing this on one property at a time is cumbersome and costly.

William Botz, from Lindstrom, Diessner & Carr, PC was sworn in. He stated it is possible to have decorative lighting and plantings outside the DOT right of way. If it goes through the DOT they have to review the entire project for intensity etc. and the process is time consuming. He further stated the primary issue of the DOT is site visibility and the trees have to be 7 feet, with leaves beginning at 7 feet.

Mr. Parlow stated he agrees as to the lights because of the utility but does not think the tree application process is that cumbersome.

Chairman Zylinski agreed.

There was discussion by the Board and it was decided to put a condition in the Resolution advising the Construction Official to issue a building permit prior to the DOT issuing a waiver for the tree plantings.

A motion was made by Mr. Parlow, seconded by Mr. Cataline, to amend the site plan to waive the requirement for the light poles as per the streetscape plans. All eligible to vote, voting in favor. A second motion was made by Mr. Parlow, seconded by Mr. Cataline to amend the site plan to waive the requirement for the light poles as per the streetscape and to include advising the Construction Official to issue a building permit while the DOT is reviewing the application regarding the tree plantings.

On roll call: Mr. Parlow, yes-, Mr. Cataline, yes-, Messrs. Baginski, Calderaro, Marino, and Zylinski, yes. Motion carries.

### **Application #6-07 Nicholas & Christina Burdi, 800 Oceanfront, Block 9, Lot 1**

Michele Donato, Esq., represented the applicant. She stated the Board's Resolution of Approval to build a new house expires on December 13, 2008 and there had been delays because of litigation that has been settled. Based on the foregoing, she requested an extension of the approval.

A motion was made by Mr. Marino, seconded by Mr. Baginski to grant a one (1) years extension on the approval for 800 Oceanfront. All present voting in favor. Motion carries.

**Application No. 6-08- Ralph & Sylvia Axelson, 127 New Brunswick Ave., Block 54, Lot 10  
Special Reasons-Extension of a Non-conforming Use**

The property is located on the north side of New Brunswick Avenue in the Residential District A (one family) Zone. The property contains 5,000 square feet and two single-family dwellings. The applicant is proposing to make alterations to the roof on the front dwelling.

This application was heard on at the July 23<sup>rd</sup> meeting and applicant requested that it be carried to September 24<sup>th</sup> in order to have appropriate plans prepared. Mr. MacDuffie requested the case be carried to November 19, 2008 due to pre-arranged vacation plans. The prepared plans have been disbursed to the Board and attorney.

On November 19<sup>th</sup>, 2007 there were 6 voting members present and since this is a special reasons variance and requires five affirmative votes, attorney for applicant requested the case be carried for a full board, with time frames waived. A Special Meeting was scheduled for December 3, 2008 to hear the application.

E. Allen MacDuffie, Esq., represented the applicant. He stated applicant appeared before the Board July 23<sup>rd</sup>, at which time the Board suggested professional plans that are specific be drawn in order to clarify the application. He stated the applicant is 84 years old and did some renovations that remain unfinished.

Mr. Axelson was sworn in. He stated on the second floor there are two bedrooms, a bathroom with a toilet, sink and rough showerhead that is close to the ceiling and cannot be used. He further testified that the rear house is rented year round. His sons come down to help him and he needs a proper shower and will not be adding any square footage.

Edward Harvor, was sworn in who is Mr. Axelson's son. He testified the toilet and vanity will remain the same, the roof area will be higher to permit the shower and with the roof raised in the front and back, the existing bedrooms will have more head-room. He testified you can park cars all along the property, and 4 spaces can be accommodated on the property.

Chairman Zylinski opened the meeting to the public.

No one from the public spoke.

Chairman Zylinski closed the public portion of the meeting.

Mr. MacDuffie in closing stated this is a minor expansion, it does not increase the intensity of the house, this will increase safety since the stairs are very narrow and with the dormer it will present the ability to access the roof in case of fire; and it is not a square footage expansion, but merely volume; and that the Municipal Land Use Law has recognized the special needs of senior citizens.

Mr. Baginski stated this is a reasonable request in air space since there is no square footage added.

Mr. Marino stated this modification will not block the neighbor's light and air.

A motion was made by Mr. Baginski, seconded by Mr. Cataline to approve the variance with the following conditions: (1) that 4 off street parking spaces be provided and maintained; (2) the access window will be according to code; and (3) the square footage of the dwelling will not be expanded. On roll call: Mr. Baginski, yes-, Mr. Cataline, yes-, Messrs. Calderaro, Marino, Parlow and Zylinski, yes. Motion carries.

**Application No. 8-08, Philip & Francine Delli Santi, 1400 Baltimore Ave., Block 54, Lot 1.02, Special Reasons-Extension of a Non-conforming Use**

The property is located on the southwest corner of the intersection of Brooklyn Avenue and Baltimore Avenue in the Residential District A. The property contains 5000 square feet and two single-family dwellings, which are two condominium units, A & B. The applicant owns Unit B, which is located to the rear of Unit A and has frontage on Brooklyn Avenue. The applicant is proposing to demolish the existing dwelling and one shed and construct a new dwelling. A special reasons variance is required because the lot has two dwellings, which is a non-conforming use.

This application was heard on September 24, 2008. After a full hearing, Mr. MacDuffie, the attorney for the applicant requested the application be carried to November 19<sup>th</sup> to allow time for any revisions to the plans.

On November 19<sup>th</sup>, 2007 there were 5 eligible voting members present and since this is a special reasons variance and requires five affirmative votes, attorney for applicant requested the case be carried for a full board, with time frames waived. A Special Meeting was scheduled for December 3, 2008 to hear the application.

Mr. Palinsky had removed himself from this application since he was a homeowner within 200 feet of the premises.

E. Allen MacDuffie represented the applicant. He stated new plans had been drawn and the architect will describe the changes.

Michael Melillo, Spring Lake Heights, a licensed architect, was still under oath from the prior meeting. He testified the plans had been reduced by four feet on the westerly side of the house and 37% lot coverage is now proposed; that the impervious coverage was eliminated; and all pavers were eliminated except from the steps to the street.

Chairman Zylinski asked since this is one lot with two houses, what is the present lot coverage.

Mr. Melillo responded 33.2%.

Upon inquiry, Mr. Melillo testified the air conditioning condenser will be cut into the roof, in a well-like shelf so the noise will rise. He stated the present house has 430 square feet and has two bedrooms and the new house will have 3 bedrooms, ½ bath of the first floor, and a full bath of the second floor. He stated 1370 square feet will be living space including the porch; and with lot coverage of 37%; he

stated there will be 685 square feet of living space on both the first floor and the second floor for a total of 1370 square feet.

Mr. Baginski stated the present 430 square feet will be increased to 1370 square feet.

Mr. Parlow mentioned the house is much closer to the Brooklyn Avenue side and asked if it could be moved to the south by 2 ½ feet by moving the front porch to line up with the Unit A distance.

Mr. Melillo responded that it could be done but it would reduce the yard from 10 feet to 7 feet which is the side setback.

Mrs. Brown stated that this is a lot with two homes on it and asked if this plan is a benefit for the entire community or just the homeowner.

Chairman Zylinski asked Mr. Brady for the State law on the demolition of a non-conforming use.

Mr. Brady responded that in the law, non-conformities are disfavored and when there is a destruction of a non-conformity, the right to recreate it is lost and the non-conformity is lost.

Chairman Zylinski opened the meeting to the public.

Michael Jarosinski, 1305 Bay Blvd. was sworn in and stated he was in favor of the application.

Lucille Jarosinski, 1305 Bay Blvd. was sworn in and stated she was in favor of the application.

Mr. MacDuffie gave out a prepared statement to each Board member in support of the application and read excerpts regarding the number of two-family homes; the proximity to the Borough garage; the preservation of light and air space; the two houses face two different streets and the meeting of the parking requirements.

Mr. Calderaro stated he thought the engineer and applicant did a great job removing some of the apprehensions about the application.

Chairman Zylinski stated that this is a precedent setting case and the Board has never granted a total demolition and a reconstruction of a non-conforming use. Mr. Cataline agreed.

Mr. Calderaro disagreed.

Mr. Parlow suggested that in future, if of that mindset to deny an application, it should be moved without the applicant incurring additional expenses for revised plans.

Mr. Baginski stated he mentioned his problem with the increase of the expansion at the first meeting and he believes that going from 430 square feet to 1370 square feet with the porch is still too significant of an expansion.

A motion was made by Mr. Calderaro, seconded by Mr. Cataline, to approve the application for variance. On roll call: Mr. Calderaro, yes-, Mr. Cataline, yes-, Mr. Baginski, no-, Mr. Marino, no-, Mrs. Zaccaria, no-, Mr. Parlow, yes-, Mr. Zylinski, no. Motion fails.

A motion was made by Mr. Zylinski, seconded by Mr. Baginski, to deny the application for variance.

On roll call: Mr. Zylinski, yes-, Mr. Baginski, yes-, Mr. Calderaro, no-, Mr. Marino, yes-, Mr. Cataline, no-, Mrs. Zaccaria, yes-, Mr. Parlow, no. Motion carries. Application denied.

**Other Business:**

**Adjourn:**

On motion by Mrs. Brown, seconded by Mr. Palinsky, with all in favor, the public was adjourned at 8:55 P.M.

Respectfully submitted

Rosemary Robertson  
Secretary