

**MINUTES
BOROUGH OF LAVALLETTE
REGULAR MEETING OF THE PLANNING BOARD
Thursday, December 10, 2009 – 7 P.M.**

Chairman Howard presiding

Roll Call:

Vincent Marino, Designee of Mayor LaCicero -present
Councilwoman Joanne Filippone, - absent
Lionel Howard, Chairman – present
William Zylinski – Vice-Chairman - present
Christopher Parlow, Borough Administrator - present
Joseph Baginski, - present
Rosangela Zaccaria - present
Anthony Cataline - present
Len Calderaro – present

Joseph Palinsky - present
Barbara Brown – present

Terry Brady, Esq. – Board Attorney

Public Notice Announcement:

This is the Borough of Lavallette Planning Board meeting of December 10, 2009. 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 newspapers.

Flag Salute:

Chairman Howard deferred the flag salute to the public portion of the meeting.

Review of Resolutions to be Memorialized:

None

Review of Minutes:

The Board reviewed the Minutes of the Regular Meetings of October 28, 2009 and November 12, 2009

Review of Cases:

Application No. 7-09- Donald Oriolo, 25 Sturgis Road – Variance Application

The property is located at the north west intersection of Pershing Blvd. and Sturgis Road. The property is located in a Residential B District and contains 4,952 square feet. The subject lot is the result of a three lot minor subdivision that was granted to Oriolo by the Planning Board on March 9, 2005, Resolution of Approval #16-04. The approved subdivision created three fully conforming lots. No variances were requested at the time of the subdivision. The minimum lot size has since been amended to 5,000 square feet in a Residential B District as of March 26, 2007 by Ordinance. As proposed, the applicant will remove the existing dwelling located on Lots 12.02 and 12.03 and is requested variances to relocate the house and construct a garage on the subject premises.

Correspondence:

Thank you note received from Pat Marrone for the beautiful flowers on the church altar in memory of Vinnie Marrone.

OLD/NEW BUSINESS:

Chairman Howard stated that the Board is required by statute to forward a letter to the Mayor and Council recommending adoption of the new Ordinance for the B-1 District that was introduced for first reading. The Board Secretary was directed to prepare and forward the letter to the Mayor and Council.

A motion was made by Mr. Parlow, seconded by Mr. Cataline to forward a letter to the Mayor and Council recommending the passage of the Business District Ordinance on second reading.

Chairman also discussed the Board's position on requesting proposals for the Board Engineer and Attorney. He reported the Board had received resumes of O'Donnell Stanton and Mr. Brady of Coronato, Brady & Kunz and also an unsolicited proposal from an attorney in Lakewood that listed a much higher hourly rate than that of Mr. Brady. Several Board members stated they were happy with our current professionals, their charges and familiarity with the Borough and as a result concurred not to seek outside proposals. In addition, the last time the Board sought proposals, all the hourly charges were in excess of our current professionals.

A motion was made by Mr. Baginski, seconded by Mr. Zylinski, for the Board not to seek Requests for Proposals for Board Attorney and Engineer. All present voting in favor. Motion carries.

Mrs. Zaccaria brought up the topic of sight triangles, referring to President Avenue and other sites. She inquired who was responsible for enforcement.

Mr. Parlow stated he would follow up the issue with Mr. Remy, the Zoning Officer.

Mr. Baginski brought up the issue of sump pumps. Mr. Parlow stated if the Board recalls, an ordinance forbidding the discharge of sump pumps into the street had failed to pass and the problem is being addressed but only block by block basis.

PUBLIC MEETING (To commence at 7:30) p.m.)

Chairman Howard presiding.

Roll Call:

Vincent Marino, Designee of Mayor LaCicero -present
 Councilwoman Joanne Filippone, - absent
 Lionel Howard, Chairman – present
 William Zylinski – Vice-Chairman - present
 Christopher Parlow, Borough Administrator - present
 Joseph Baginski, - present
 Rosangela Zaccaria - present
 Anthony Cataline - present
 Len Calderaro - present

Joseph Palinsky - present
 Barbara Brown – present

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Flag Salute:

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

Prior to the public hearing, Mrs. Brown announced she was stepping down on the Oriolo application because she has had prior business dealings with Mr. Oriolo as a sales agent.

Mr. Palinsky will sit for Mrs. Filippone.

Approval of Minutes:

A motion was made by Mr. Cataline, seconded by Mrs. Zaccaria to approve the minutes of the Regular Meeting of October 28, 2009. All present voting in favor except Mr. Baginski.

A motion was made by Mr. Calderaro, seconded by Mr. Baginski to approve the minutes of the Regular Meeting of November 12, 2009. All present voting in favor.

Public Hearings:

Application No. 7-09- Donald Oriolo, 25 Sturgis Road – Variance Application

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This case was carried from November 12, 2009.

Donald Oriolo was sworn in and stated he obtained a subdivision in 2006 that created three conforming lots but the Ordinance has since changed requiring a 50 feet lot and he is shy of the required 5000 square feet. He stated this lot straddles the center lot and because it is a corner lot, it requires two front yards. He testified that there is an existing one-family house on the lot which is serviceable and he is asking for a 4 foot front yard variance so he can use the house and add a garage. He stated he will remove the aluminum siding and put on vinyl siding, he will not add central air conditioning and there will be no internal structure changes.

Photographs of the existing house were introduced in evidence as A-1.

Ray Carpentar, Professional Engineer and Planner, 2517 Route 35, Manasquan was sworn in and he submitted his qualifications that were accepted by the Board. He testified he had reviewed the area and other corner lots, i.e. the southeast corner is 5 feet from the property line and across the street is 10 feet from the property line, and almost all have less than 25 feet as the secondary front setback. He continued that the character of the neighborhood will not change if the 21 feet as proposed is granted as those secondary front setbacks in the area are much less than 21 feet. He further testified that the total impervious lot coverage is much less than what is permitted and that there is no living space in the second story. He stated there is an existing curb cut on Pershing which would be closed and one complying curb cut will be put on Sturgis.

Mr. Oriolo interjected that the garden shed on the property will be removed, the storage bin

(containing furniture) will be removed and there will be no outside shower. He stated he also has an agreement with the LLC that owns the center lot to put the house on that lot until the foundation is complete.

Mr. Carpentar continued testimony that this is a C-2 variance and the benefits far outweigh the detriments; it conforms to the neighborhood scheme; a built house will be utilized and the plan is consistent with the character of the neighborhood. He also stated the proposal will meet the FEMA flood requirements.

Mr. Brady advised the Board it can consider the self created hardship pursuant to NJSA 40:55D-70 C-2 that this application furthers the purposes of the Municipal Land Use Law and the purposes would be advanced by a deviation from the ordinance.

Mr. Zylinski asked the applicant if he was part of the LLC owning the center lot and Mr. Oriolo responded affirmatively and that he is one of six and has no voting rights and that he is unaware of the plans for the middle lot.

Mr. Marino stated there is a house on Morton Drive that is 20 feet wide that was built fairly recently and it had to comply with the ordinance.

Mr. Baginski stated that in looking at several lots in the area, they are about 12 ½ feet and the setbacks seem to vary.

Mr. Calderaro stated that when the subdivision was granted there was concern there would be three rail road houses. He agreed it would be a better idea to put the house on the middle lot and put the new house on this lot but it's too late for that plan.

Mr. Oriolo responded that there are already pilings on the middle lot.

Mr. Zylinski stated the pilings can be cut and new ones added and Mr. Oriolo responded that would cost \$15,000.

Mr. Palinsky stated this is a vacant building lot and this application seems to be only for financial convenience.

Mr. Oriolo stated there is nothing wrong with the existing house and feels it's an opportunity to reuse it and it has been there for years, it will not obstruct the view of the house next door since its one story.

Mrs. Zaccaria asked if he lived in the house and he responded he used it as an office when he was building the one house that he sold and occasionally stayed in it overnight.

Mr. Parlow stated the main purpose of two front yards was the sight triangle and to put in a fully compliant house could go 10 feet to the property on the north and believes this is a better plan.

Chairman Howard stated that before the subdivision, applicant had two lots and this house was

one lot of them. The subdivision created three lots and the plan was to build three houses; this house straddles two of the three lots and he wants to move the existing house to this lot entirely and is asking for variance relief for a hardship created.

Mr. Palinsky asked what would prevent someone from putting a second story addition on this house.

Mr. Howard stated nothing, the variances goes with the land.

Chairman Howard opened the hearing to the public.

No one spoke.

Chairman Howard closed the public portion of the meeting.

Mr. Calderaro stated he feels that three row houses are less appealing than this plan but feels a better plan could have been used but he could support the application.

Mr. Baginski agreed.

Mr. Palinsky stated he feels that if someone has a corner lot or demolishes a house, they may want the same four feet and there is nothing here other than a financial convenience to use the existing house.

Mr. Brady advised that it doesn't create a precedent but it would be naïve to say the Board wouldn't hear it on another application.

Mr. Marino stated he would have liked to see drawings of the house to see how it will look on the property.

Mr. Oriolo responded he submitted photos of the existing house and that is what it looks like except it will be resided and the garage added.

Mr. Howard stated that under the law, a financial reason means nothing.

Mr. Parlow stated this is not a fully rectangular house there is a cut out and the plan enhances the sight triangle and feels the plan may be better than one that would conform.

A motion was made by Mr. Calderaro, seconded by Mr. Baginski, to approve the application subject to the following conditions: (1) the installation of vinyl cedar look shingle; (2) installation of a new roof; (3) removal of the curb cut on Pershing Blvd.; (4) the garage is to match the house (5) there is to be landscaping on the sight line: On roll call: Messrs. Calderaro and Baginski, yes-; Mr. Marino, no-, Mr. Zylinski stated this application is strictly for the economic benefit of the applicant, voted no-, Mrs. Zaccaria, no-, Mr. Cataline stated he would have liked to see architectural, does not have enough information and does not believe under the law it is prudent for the Board to approve the application, no-, Mr. Parlow, yes-, Mr. Palinsky, no-, Mr. Howard, abstain. Three yes, five no, one abstention. Motion fails.

Mr. Parlow asked if a motion to deny was necessary and Mr. Brady advised no, since the approval motion failed.

Old/New Business:

A motion was made by Mr. Parlow, seconded by Mr. Marino, to adopt the Planning Board Yearly Report for years 2007 and 2008. All present voting in favor.

There was a discussion of the proposed meeting dates for 2010 and there were no changes made.

Respectfully submitted,

Rosemary Robertson
Secretary