

**MINUTES  
BOROUGH OF LAVALLETTE  
REGULAR MEETING OF THE PLANNING BOARD  
Wednesday, September 23, 2009 – 7 P.M.**

Vice-Chairman Zylinski presiding

**Roll Call:**

Vincent Marino, Designee of Mayor LaCicero -absent  
Councilwoman Joanne Filippone, - present  
Lionel Howard, Chairman – absent  
William Zylinski – Vice-Chairman - present  
Christopher Parlow, Borough Administrator - present  
Joseph Baginski, - present  
Rosangela Zaccaria - present  
Anthony Cataline - absent  
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 September 23, 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 Zylinski deferred the flag salute to the public portion of the meeting.

**Review of Minutes:**

The Board reviewed the minutes of the Regular Meetings of August 26, 2009.

Chairman Zylinski stated the Board Secretary had comment on the circumstances surrounding the Buzzi application. The Board Secretary read a statement setting forth the facts and the sequence of events regarding this application. She stated this application was never placed on the Agenda and resented the statements made to her (not by the applicant himself). She wanted to make it clear there was no error or misunderstanding on behalf of the Board office.

Mr. Brady stated he would have someone available for October 14, 2009 and that Mr. O'Donnell is also available if the Board decides to hear the Buzzi application on October 14<sup>th</sup>.

**Review of Resolutions to be Memorialized:**

4-09 John Buzzi – Submission Waiver Approval (Site Plan with variance), 504 Grand Central Ave., Block 32.01, Lot 3.

Mr. Parlow referred to the streetscape that was not waived. It was suggested that any confusion over the inclusion of the streetscape can be addressed at the public hearing.

**Review of Cases:**

**Application No. 5-09 –Adam Zybulewski, 21 White Ave., Block 2, Lot 26**

The property is located on the north side of White Avenue approximately 150 feet east of Route 35 northbound (Grand Central Avenue) in the Residential A District and contains 5,000 square feet. The site currently contains a one (1) story frame dwelling in the front of the lot and a one (1) story frame dwelling in the rear of the lot. The applicant is proposing a second story addition on the front dwelling along with a deck at the rear of the front dwelling and the proposal constitutes an expansion of a non-conforming use.

**New/Old Business:**

Chairman Zylinski stated the continued discussion on the proposed amendment to the Business District will be discussed at the Workshop Meeting on October 14, 2009, since Mr. Howard is not feeling well this evening.

Mrs. Brown requested a closed session for discussion regarding pending litigation.

**Correspondence:**

None

Workshop portion of meeting adjourned at 7:35 p.m.

**PUBLIC MEETING** (To commence at 7:35 p.m.)

Vice-Chairman Zylinski presiding.

**Roll Call:**

Vincent Marino, Designee of Mayor LaCicero -absent  
Councilwoman Joanne Filippone, - present  
Lionel Howard, Chairman – absent

William Zylinski – Vice-Chairman - present  
 Christopher Parlow, Borough Administrator - present  
 Joseph Baginski, - present  
 Rosangela Zaccaria - present  
 Anthony Cataline - absent  
 Len Calderaro - 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. Filippone, to approve the minutes of the August 26, 2009 meeting. All present eligible voting in favor.

**Resolutions to be Memorialized:**

4-09 John Buzzi – Submission Waiver Approval (Site Plan with variance), 504 Grand Central Ave., Block 32.01, Lot 3.

A motion was made by Mr. Parlow, seconded by Mrs. Zaccaria to approve the Resolution regarding submission as set forth in the Resolution and with the incorporation of the streetscape plan of the Borough. It was pointed out that the Board is not waiving any occupancy number. On roll call: Mr. Parlow, yes-, Mrs. Zaccaria, yes-, Mrs. Filippone, yes-, Mr. Baginski, yes-, Mr. Calderaro, yes-, Mr. Palinsky, yes-, Mrs. Brown, yes and Mr. Zylinski, yes. Motion carries.

**Public Hearings:**

Councilwoman Filippone removed herself from the dais as she was unable to vote on the following application since it is a "d" variance- special reasons.

**Application No. 5-09 –Adam Zybulewski, 21 White Ave., Block 2, Lot 26**

The property is located on the north side of White Avenue approximately 150 feet east of Route 35 northbound (Grand Central Avenue) in the Residential A District and contains 5,000 square feet. The site currently contains a one (1) story frame dwelling in the front of the lot and a one (1) story frame dwelling in the rear of the lot. The applicant is proposing a second story addition on the front dwelling along with a deck at the rear of the front dwelling and the proposal constitutes an expansion of a non-conforming use.

Michele Donato, Esq., represented the applicant. Prior to proceeding she stated she represented John Buzzi on the Application No. 4-09 John Buzzi, 504 Grand Central Avenue, Block 32.01, Lot 3. She stated she had sent out notice for a hearing on September 23, 2009.

Chairman Zylinski stated the case was never on the Agenda for tonight but suggested that it be carried and heard at the October 14, 2009 Workshop Meeting.

A motion was made by Mrs. Filippone, seconded by Mr. Palinsky, to hear Application 4-09 John Buzzi, at the Workshop meeting on October 14, 2009, with all time frames waived. All present voting in favor. Motion carries.

Chairman Zylinski announced the application would be heard on October 14, 2009.

Continuing the Zybulewski application. The application was represented by Michele Donato who stated the applicant had inherited the house from his uncle who had it for at least 20 years. She further stated it was very dated, the uncle used the front house and the rear house was used in the summer. She said the plan is to expand the front house upwards, and to fix up outside of the rear house. She introduced the Borough property list in evidence as A-1.

Ms. Donato said there are 2 bedrooms in the rear house and one bath and there is no heat, but room air conditioners and there is no heat in the front house.

Chairman Zylinski asking if applicant was going to condoize the property and Ms. Donato responded no.

Mr. Calderaro asked about the use of the rear house. Ms. Donato stated Mr. Zybulewski wants to keep both houses and would like to maintain the use as it exists. She referred to the Master Plan regarding the improvement of existing nonconforming uses.

George Thompson, Licensed Architect, 18 Highland Bend, Island Heights was sworn in. He testified that he prepared the plans and the existing structure is one story and the footprint is 30 x 22 and meets the code. The kitchen and bath are in disrepair and the entire house needs renovation. He further testified that the foundation is good and flood vents will be installed. The proposal will create more light and air and is modest in size. Applicant will build on the existing footprint and foundation with the addition of an uncovered rear deck; there is an existing masonry fireplace that has to be removed, the windows will be replaced and he does not know how much of the existing walls will remain but does not think it will be much.

Mr. Brady stated this is an application to expand the structure, giving flexibility comes into play with restoration but this is an expansion.

Mr. Baginski asked why applicant was not building a new one family house if it is being taken down to the foundation.

Mr. Thompson stated this is a modest structure there is less than 2000 square feet of living space the attic window is for ventilation and new homes are going up with 5 and 6 bedrooms. He further stated he is going to retain as much of the walls as possible.

Mrs. Zaccaria asked what percentage is coming down and would the new porch be air treated. Mr. Thompson could not give an exact amount but did not think that much of the walls would remain and at least 40% of the existing structure would be removed and the porch would have heat and air conditioning.

Ms. Donato stated they were requesting a variance for the porch overhang.

Mr. Thompson continued his testimony stating the proposal will improve the neighborhood. He stated there is a 5 foot setback on the east that will extend to the second floor side and rear; that the 15 foot curb cut will be unchanged; he further stated it is odd not to extend the overhang in the front of a house, it is not esthetic and impractical and that the existing front house does not meet too many codes and that no residence can receive a certificate of occupancy without a proper and approved heating system; it does not meet all the flood zone requirements; he is familiar with the neighborhood and it will be a benefit to it and not harm it.

Mr. Parlow read from the ordinance regarding the overhang and that applicant is requesting 2 feet.

Ms. Donato stated they will eliminate the overhang variance and make it one foot and 6 feet on the porch openings.

Mr. Brady stated there is no expansion on the rear house except for exterior upgrades and it has about 564 square feet. There is no expansion to the foot print on the front house which but there is an expansion in size from about 836 square feet and with the addition of the second floor a total square footage of 1496.

Ms. Donato stated he can do repairs but the objective of the Master Plan is to permit upgrades and they are not increasing bedrooms and are adding heat.

Mr. Baginski stated this is a summer cottage and feels that adding heat is a significant change at a minimum of a 40% renovation.

Mr. Calderaro stated that he feels that when doing this size total renovation, the standards can be met.

Ms. Donato responded that if the Board doesn't like the Master Plan, change it, as it misleads.

Mrs. Brown asked what the special reasons were for the variance.

Mr. Brady explained both the positive and negative criteria that must be met.

Ms. Donato referred to the *Burbridge v. Mine Hill* case findings.

Mrs. Zaccaria stated she has a problem with the porch which could be used as a sleeping area.

Mr. Baginski stated he has sat on many cases and frequently there have been unique conditions and or reductions; where here there are two summer cottages and one of them is being converted to a year round two story house.

Chairman Zylinski opened the hearing to the public.

Robert Cione of Ortle Ave., was sworn in. He stated he was a former applicant on a subdivision and spoke to the economic problems everyone is facing and the Board has to have some heart and compassion.

Mr. Brady responded that he has counseled the Board on many occasions that it does not get to approve applications because they like them. It is a Board of law and has to follow the law and that doesn't make it arbitrary; the Board has to do what the Municipal Land Use Law requires specifically and it has nothing to do with the individual and it is not a Board of unbridled discretion that undermines the law.

No others spoke.

Chairman Zylinski closed the public portion.

Ms. Donato stated the overhang variance request in the front will be eliminated and also heat and air conditioning on the front porch. She spoke to many other applications of this type that had been granted by the Board. She is requesting the case be carried, with time frames waived to December 9, as that is the first date she is available.

Mr. Brady responded that if a survey of other applications is forthcoming, then he would request the legal reasons that they relate to this particular application.

Mr. Baginski stated he was not saying the Board had not approved other applications with two houses on the lot but there have been other circumstances, reductions in density and size.

Mrs. Zaccaria stated the house is modest in size but listening to the testimony it is basically a tear down, with new walls, new floors right down to the foundation and he is building a new house with another in the rear.

There was some discussion as to whether or not the continuance should be granted and Mr. Brady advised that applicant should have the benefit to present the case and would recommend granting the continuance.

There was further discussion as to availability of the Board Members who heard the first portion of the case and it was decided to move the December 9, 2009 meeting date to Thursday, December 10<sup>th</sup>, 2009 and the Secretary was advised to publish the change.

A motion was made and seconded to change the Regular Board meeting from December 9, 2009 to December 10, 2009. All present voting in favor. Motion carries.

A motion was made by Mr. Parlow, seconded by Mr. Palinsky to carry the application to December 10, 2009, with all time frames waived. All present voting in favor. Motion carries.

Councilwoman Filippone returned to the dais.

A motion was made by Mr. Baginski, seconded by Mrs. Brown to enter into closed session in accordance with the Open Public Meetings Act to discuss pending litigation. All present voting in favor. Motion carries.

The Board entered into closed session.

The Board reconvened in open session at 9:20 p.m.

Mr. Calderaro asked that the Master Plan be discussed at the Workshop meeting on October 14, 2009. It was explained by the Chairman that the Buzzi application will be time consuming and final discussion of the proposed business district ordinance.

Mr. Brady stated he will prepare something regarding the Master Plan for the edification of the Board.

**Adjourn:**

On motion by Mrs. Brown, seconded by Mrs. Filippone, with all in favor, the public meeting was adjourned at 9:35 p.m.

Respectfully submitted,

Rosemary Robertson  
Secretary