

**MINUTES
BOROUGH OF LAVALLETTE
REGULAR MEETING OF THE PLANNING BOARD
Wednesday, December 22, 2010 – 7 P.M.**

Chairman Howard presiding

Roll Call:

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

Terry F. Brady, Esq., Board Attorney

Public Notice Announcement:

This is the Borough of Lavallette Regular Planning Board meeting of December 22, 2010. 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 Minutes:

The Board reviewed the Minutes of the Workshop Meeting of November 10, 2010.

Review of Resolutions to be Memorialized:

Application No. 5-10 606 Oceanfront LLC (Vedovino), 606 Oceanfront, Block 7, Lot 4
Application No. 7-10-Peter Sideris – 72 Oceanfront, Block 954, Lot 20

Review of Cases:**Application No. 6-10- Anthony & Tina Volpe, 3 Bryn Mawr Ave., Block 952, Lot 15**

The property is located on the north side of Bryn Mawr Avenue approximately 560-feet east of the intersection of New Jersey State Highway 35 Northbound in the Residential C District and contains 4000 square feet. The site currently contains a 1-story single family dwelling. The applicant is proposing to demolish the existing dwelling (including outside shower, shed and concrete walks) and construct a new 2-story single family dwelling with a garage.

This case was originally scheduled for November 10, 2010 and was postponed to December 22nd at the request of applicant's attorney.

Application 8-10- 46 Dickman LLC, Block 974, Lots 9 & 9.01

The property is located on the south side of Dickman Drive approximately 100 feet west of Funston Road. The site is located in the Residential B Zone and contains 18,517 square feet and has a riparian grant associated with it (lot 9.01). The site currently contains a one-story dwelling with a circular driveway and two (2) curb cuts. The applicant is proposing to subdivide the property to create conforming lots 9.11 and 9.12 at 9,250 square feet and 9,267 square feet, respectively. The existing house will be relocated to lot 9.12 and is proposed to be renovated and a new one-story garage added to the front of the dwelling. A new house will be constructed on lot 9.11. The applicant is also proposing to subdivide riparian grant lot 9.01 into proposed lots 9.21 and 9.22. Lot 9.21 will be attached to lot 9.11 and lot 9.22 will be attached to lot 9.12.

CORRESPONDENCE:**OLD/NEW BUSINESS:**

Workshop portion of the meeting adjourned at 7:40 p.m.

PUBLIC MEETING (To commence at 7:40 p.m.)

Chairman Howard presiding:

Roll Call:

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

Terry F. Brady, Esq., Board Attorney

Public Notice Announcement:

This is the Borough of Lavallette Regular Planning Board meeting of December 22, 2010. 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 led the audience in the salute to the flag.

Approval of Minutes

A motion was made by Mr. Zylinski, seconded by Mrs. Filippone to approve the Minutes of the Regular Meeting of November 10, 2010. All present voting in favor with the exception of Mr. Calderaro and Mrs. Zaccaria who were absent for that meeting.

Resolutions to be Memorialized:

Application No. 5-10 606 Oceanfront LLC (Vedovino), 606 Oceanfront, Block 7, Lot 4

A Motion was made by Mr. Parlow, seconded by Mr. Baginski, to approve the Resolution denying the expansion of a non-conforming use and variances. On roll call: Messrs. Parlow and Baginski, yes-, Mrs. Filippone, yes-, Messrs. Zylinski and Cataline, yes-, Mr. Palinsky, yes-, Mr. Howard, yes. Motion carries.

Application No. 7-10-Peter Sideris – 72 Oceanfront, Block 954, Lot 20

A motion was made by Mr. Baginski, seconded by Mrs. Filippone, to approve the Resolution granting the front setback, and building height variances. On roll call: Mr. Baginski, yes-, Mrs. Filippone, yes-, Messrs. Zylinski, Cataline and Howard, yes. Motion carries.

Public Hearings:

Application No. 6-10- Anthony & Tina Volpe, 3 Bryn Mawr Ave., Block 952, Lot 15

The property is located on the north side of Bryn Mawr Avenue approximately 560-feet east of the intersection of New Jersey State Highway 35 Northbound in the Residential C District and

contains 4000 square feet. The site currently contains a 1-story single family dwelling. The applicant is proposing to demolish the existing dwelling (including outside shower, shed and concrete walks) and construct a new 2-story single family dwelling with a garage.

This case was originally scheduled for November 10, 2010 and was postponed to December 22nd at the request of applicant's attorney.

Mr. Brady state that Ms. Donato, attorney for the applicant had contacted him advising there may be a problem with the notices and was requested for an adjournment to January 26, 2011.

A motion was made by Mr. Parlow, seconded by Mr. Palinsky to carry this application to the meeting of January 26, 2011 as per Ms. Donato's request. All present voting in favor. Motion carries.

Application 8-10- 46 Dickman LLC, Block 974, Lots 9 & 9.01

The property is located on the south side of Dickman Drive approximately 100 feet west of Funston Road. The site is located in the Residential B Zone and contains 18,517 square feet and has a riparian grant associated with it (lot 9.01). The site currently contains a one-story dwelling with a circular driveway and two (2) curb cuts. The applicant is proposing to subdivide the property to create conforming lots 9.11 and 9.12 at 9,250 square feet and 9,267 square feet, respectively. The existing house will be relocated to lot 9.12 and is proposed to be renovated and a new one-story garage added to the front of the dwelling. A new house will be constructed on lot 9.11. The applicant is also proposing to subdivide riparian grant lot 9.01 into proposed lots 9.21 and 9.22. Lot 9.21 will b e attached to lot 9.11 and lot 9.22 will be attached to lot 9.12.

Chairman stated he has discussed the matter with Mr. Brady and questions whether or not the Board has the authority to subdivide a riparian grant and he could find nothing in his research giving the authority. Mr. Brady stated his brief research was the same. Chairman Howard stated subdivision of the land is not the issue, the application calls for subdivision of both the land and the riparian and he doubts the Board has that authority.

Michele Donato, Esq., represented the applicant. She stated this is a subdivision of an existing Lot creating two lots that will more than conform; there is a riparian grant attached to one lot and additional land has accreted and become part of the upland owner. Ms. Donato further stated that the riparian is land under water and she has been in consultation with Edward Eastman who is an expert in riparian law and has advised for applicant to request the Planning Board subdivide the riparian since it is still land. He will be handling the riparian issues. She stated the application has received approval from the DEP under the Coastal Area Facilities Review Act for subdivision and the houses that are proposed.

Chairman Howard asked Ms. Donato to provide Mr. Eastman's opinion in writing and she said she would ask him to confirm his opinion.

Mr. Brady inquired why 4 lots are being created and why not just two and was told the riparian is a tax lot in Lavallette and is assessed separately on the tax records but do not tax it.

There was a lengthy discussion between Ms. Donato, Mr. Brady and Chairman Howard as to whether or not the Board had the authority to the right to someone to use that land under the water free of charge.

Ms. Donato stated applicant is not asking for the Board to give the right, just subdivide the land under the water they are not asking for any regulatory approval from the Board.

Mr. Brady stated he would like to review the riparian grant.

Andrew Stockton, Forked River was sworn in stating he is an engineer, planner and surveyor and the Board accepted his qualifications. He testified that Lots 9 and 9.01 are the upland portion of the property and the riparian grant extends to the Nj pier line 1973 and recorded in 1979. CAFRA approval has been obtained subject to State Tidelands Council review. There is an existing one family dwelling that is going to be demolished and two new single family dwellings are to be erected; he further stated all bulk standards will be complied with and each lot will have one curb cut. The entire lot is 18,517 square feet and the riparian is 7132 square feet.

Ms. Donato went on to explain that years ago the State realized there was money to be made so they stopped giving the riparian grants and gave licenses.

Mrs. Filippone stated the application could be granted subject to the determination of the State that the subdivision of the land covered in the riparian would be subject to the approval of the State.

Chairman Howard opened the meeting to the public.

Thomas Nee, 40 Dickman Dr., was sworn in. He stated his main concern was the notice called for a common driveway and he understands that is off the table. He is concerned about the subdivision of the riparian rights and thinks it should wait for state approval or a lot is being created without water access.

Old/New Business:

No one else spoke.

Chairman Howard closed the public portion of the meeting.

A motion was made by Mrs. Filippone, seconded by Mr. Zylinski to approve the application for subdivision subject to the following conditions: (1) the existing house on Lot 9 is to be demolished prior to the subdivision approval being filed and recorded; (2) the Board approves the subdivision of the riparian grant parcel (Lot 9.01) into new lot 9.21 and new lot 9.22 subject to the written approval of the State of NJ confirming its approval and the division of the riparian grant (Lot 9.01) or by a letter of no interest; (3) applicant will provide the Board attorney with a copy of the recorded riparian right grant;(4) subdivision of the new lots 9.11 and 9.12 may be perfected separately from the subdivision of new lots 9.21 and 9.22. On roll call: All present voting in favor. Motion carries.

Adjourn:

On motion by Mr. Parlow, seconded by Mrs. Filippone, the public meeting was adjourned at 10:00 p.m.

Respectfully submitted,

Rosemary Robertson
Secretary