

**MINUTES
BOROUGH OF LAVALLETTE
REGULAR MEETING OF THE PLANNING BOARD
Wednesday, December 12, 2012**

Chairman Lionel Howard presiding

Roll Call:

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

Joseph Palinsky - present
Barbara Brown – present

Joseph Coronato, Esq. – present
Mike O'Donnell, Eng. – present

Meeting was called to order by Chairman Howard at 7:00 p.m.

Public Notice Announcement:

This is the Borough of Lavallette Regular Planning Board meeting of December 12, 2012. 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.

Chairman Howard led those gathered in the Flag Salute.

Review and Approval of Minutes:

The Board reviewed the Minutes of the Workshop Meeting of October 24, 2012.

A motion was made by Mr. Zylinski, seconded by Mr. Cataline to approve the Minutes of the October 24, 2012 meeting. All present voting in favor.

Review and Adoption of Resolutions to be memorialized:

N/A

Review of Cases:

N/A

New Business:

Mr. Howard explained that we had intended to have a lengthy discussion of the new FEMA regulations; however, the information was not available at the time of this meeting.

The Chairman began a conversation explaining that years ago FEMA required an 8 ft. base flood elevation, and a few years later, FEMA dropped the elevation by 1 ½ ft. It was Mr. Howard's opinion that whatever height restriction FEMA comes up with the town's requirement might be higher in event that FEMA again considers lowering it. Mr. Howard explained that houses built to the lower standard were severely affected by the storm; and those at the higher elevation were not. Mr. Howard suggested that when Lavallette considers such an ordinance perhaps they should adopt the FEMA requirement plus one or more feet of freeboard as part of the first floor elevation.

Mr. Coronato advised that we wait to have this discussion until FEMA has given their recommendation. Mr. Coronato suggested that Lavallette look at our current height elevation of 30 feet and considers changing it to perhaps 35 ft. which is common in the county. If we have to raise the building elevation, it will allow residents to comply with FEMA's base flood and also allow home owners to use the top of the home for storage thus eliminating the construction of sheds for outside storage. He also mentioned that the height is measured from the mid line of the roof, not the top of the roof; that would mean the height will be more like 38 or 39 ft. Mr. Coronato suggested that we take a look at the entire picture; if FEMA comes in to say that you have to elevate your house, and you don't, your flood insurance will be astronomical. He strongly suggested that Lavallette look before we leap.

At this point, Mr. Coronato took the opportunity to commend Lavallette on their dune management and stated that this was a substantial factor in minimizing the damage in our town.

Mayor LaCicero addressed the meeting to discuss the issue of building heights. He said that Chris Parlow researched base building heights within the county, and most are based on or above curb height. The Mayor suggested that Lavallette should base their height from the base flood elevation rather than curb height. Mr. Coronato added that increasing the height would allow the A/C units and heating units in the attic instead of on the ground. It was then suggested that the engineer review this.

Mrs. Filippone was concerned that if the building height is raised, the wind would create a serious problem. She expressed her opinion that the Board should oppose raising building heights but acknowledged that the base level is subject to FEMA regulations. Her recommendation was to keep the house height at 27 ft. above the first floor level. Mr. Coronato informed us that he had heard that FEMA might raise the base flood elevation in Tuckerton and Little Egg Harbor by 4 ft., and perhaps we should go up from the base flood elevation plus 1 ft. of freeboard. Mrs. Filippone asked that if the State tells us what to do, can Lavallette decide not to go up and can the town ordinance read that 1 ft. has to be freeboard? She added that we don't want a bigger house, but rather the same house higher off the ground allowing the overall height to increase based on the base flood elevation of the first floor, and not to allow homes under base flood elevation to build up to 35 ft.; under no circumstances allowing a 3rd story or the equivalent of a 3rd story.

Mayor LaCicero suggested making freeboard an option in our ordinance. Chairman Howard said let us write our own ordinance, not necessarily to FEMA regulations to which Mr. Parlow replied that we must adopt the new maps and if the maps are changed we would have to adopt them as our standard .

Mr. Baginski recommended that the oceanfront be considered a special zone and be allowed to build up to 35 ft. keeping the structure height at 27 ft. He pointed out that the oceanfront properties are where the storms hit first and also that the dunes get higher over the course of time.

Mrs. Filippone asked if anyone knew if there were going to be any construction changes; i.e., is there a benefit to an oceanfront house being built on pilings as opposed to concrete or even pilings surrounded by concrete? Should we be paying attention to the actual materials used in construction? Chairman turned these questions over to our Engineer, Mr. O'Donnell. Mr. O'Donnell agreed that the height of the homes should be approximately 27 ft. above the first floor elevation, and he assumes that the type of construction materials is part of the construction code. Mr. O'Donnell said that 27 ft. plus freeboard sounds good, but we should wait for FEMA and then see how it will impact the homes in Lavallette.

Mr. Howard asked the Mayor when he expected the FEMA maps will be ready; and the Mayor said that the new date is December 17. Mr. Coronato heard that there will be another map coming out in June or July, to which Mr. Parlow commented that the December 17 maps are considered advisory maps, and the ones coming out in June/July should be the same, but will be considered the final official maps. Mr. Coronato cautioned that we should "red flag" this topic.

Mr. Parlow thought that we should write into our ordinance that the elevations be no less than X moving forward and that FEMA will want us to adapt our ordinance to their maps. Mrs. Filippone cautioned that we should be careful with the wording. She suggested that the wording include the phrase: "whichever is higher".

Mr. Coronato cautioned that we should not make any determinations as to why one house was saved and another was not, since there are so many variables.

Mr. Cataline asked if it would behoove us to look at some of the hurricane states like Florida and see what materials their ordinances contain. Mr. O'Donnell said that we are governed by the Uniform Construction Standards, and that would not come under the jurisdiction of the Planning Board. Mr. Coronato agreed.

Mrs. Filippone suggested that we prepare a tentative proposal that could be ready for the Council's Re-organization meeting on January 2, 2013. Mr. Parlow said that the council can adopt a new flood hazard ordinance, and he is already preparing a draft for the January 2 meeting. This ordinance can be prepared without the FEMA maps.

He explained that he does not have the height specifications in order to prepare the land use ordinance and advised that we cannot finally adopt an ordinance on this for at least 35 days after it is introduced to allow for review by the Planning Board. Both ordinances can be introduced at the January 2 meeting, and we can plug in the appropriate numbers. Mr. Parlow also stated that even if the zoning ordinance isn't adopted yet, the homeowner will know how high they have to build to comply with base flood elevations. It was also mentioned that our Zoning Officer should deal with the height issue, and Mr. Parlow questioned if the 27 ft. building height was feasible, do we want freeboard, and if so, should it be incorporated into the flood hazard ordinance he is preparing. The 27 ft. building height from the first floor elevation, if changed, will need to be in the zoning ordinance.

Mr. Zylinski stated that he did not think 27 ft. is not enough; and suggested that it be 28 ft. Mr. O'Donnell offered that the base flood elevation be measured from the floor and not from the joists and suggested to make it 28ft. from the building plate.

Mr. Howard opened the meeting to the public at 8 p.m.

David Caruso residing at 29 Bullard addressed the board and suggested that we go look at what has happened through the town and not guess at building heights. He also wanted to bring to the Board's attention the height of bulkheads stating that there should be consistency on the height of a bulkhead especially on West Point Island. The Mayor said to his knowledge, Lavallette does not currently have an ordinance pertaining to the height of a bulkhead to which Mr. Caruso commented that the town should treat all bulkheads the same in addition to conformity regarding anchoring them from property to property. Mr. Marino was of the opinion that if some of the bulkheads had been higher, there would have been less damage from the storm. Mr. Coronato does not know of any town that regulates the height of their bulkheads; he believes it is a DEP issue and explained that Lavallette does not have jurisdiction over this.

Chris Magory, residing at 220 Bay Beach Way, spoke to the board and said that he does not believe that there is any standard on bulkhead height and reinforced that it is strictly a DEP issue.

Sherry Caras, residing at 8 Camden Ave, asked if the best timeline for the new ordinances would be sometime in February? Mr. Parlow explained that the flood ordinance can be enacted by the end of January and that if the council votes on a Monday, the ordinance would be in effect that following Friday. The height ordinance, however, would have a 35-day waiting period between being introduced and being adopted providing there are no significant changes. If the Planning Board recommends major changes, then the 35-day waiting period would begin again.

Ms. Caras' second question was since any structure above 18 inches is included as lot coverage, and if FEMA requires the houses to be raised, wouldn't the construction of additional steps leading to the home be more than 18 inches and therefore increase lot coverage? In light of this fact, she asked if the town has given any consideration to increasing the 37% lot coverage? Mrs. Filippone said there has been no discussion to increase lot coverage and that any property going over the 37% would have to go before the Planning Board. She also added that it might be better to make the house smaller or find a more creative way to install the steps.

Roseanna Cobucio, residing at 200 Camden Av, told the Board that it would be a hardship for her to go for a variance on the issue of lot coverage. The Mayor suggested that we exempt these dwellings due to the elevation change; to which Mr. Coronato recommended grand fathering these dwellings rather than exempting them.

Mr. Palinsky asked Mr. Coronato that by grand fathering would that then create a non-conforming structure; to which Mr. Coronato answered that it shouldn't. Mr. Coronato added that the State Legislature should come in and legislate the rules for all counties and that there should be some consistency among all of the towns on the barrier islands.

The meeting discussion turned to the contents of Mr. George's letter. The current Land Use Law dictates that if a structure is 50% or more destroyed, you lose the right to the non-conforming use.

Mr. Howard asked the Mayor if he knew how many homes in Lavallette had been substantially damaged; to which the Mayor replied, "at least 1,500."

At this time Mayor LaCicero shared with us that he is fearful about a major decrease in ratables in the community and also the hardship to the homeowners losing their property. The Mayor encouraged the Planning Board to be sympathetic to both sides and to be lenient about rebuilding non-conforming properties and streamline the process to get them to rebuild.

Mr. Baginski offered that the non-conforming property owner be allowed to rebuild on the existing footprint to the current building for a period of 6 months in order to recapture the ratables.

The Mayor asked Mr. Coronato if there were any shortcuts to the Planning Board process. Mr. Coronato did not think so, but suggested grand fathering again. He pointed up the Mayor's concern about the tax dollars and borrowing against anticipated tax revenues. He also pointed out that tax spending is out of our control. If we don't keep property values where they are, our taxes will go higher. The Mayor explained that we will be getting a break on the county taxes for a while, but the sooner we can get back on our feet, the better; and time is of the essence in getting these variances approved.

Mr. Marino agreed that it is important to get the community back as quickly as possible. He also pointed out that the business community is hurting right now, and it is imperative that we get back to normal.

Mr. Coronato mentioned that summer people are not able to get FEMA funds, because it is not their primary residence and that these people will have a problem. Businesses also are ineligible for FEMA funds.

Gary Huntsinger, residing at 8 Philadelphia Ave., asked if the town will look different? Mr. Coronato explained the procedure and discussed the process. If a house is destroyed on an undersized lot, that property must be offered for sale to the neighbors on each side of the property.

Bob Marra residing at 102 President Avenue asked that if you reside on an undersized lot and the building was totaled do you have to offer the property to your neighbors on either side? Mr. Coronato answered, yes. The law says that you have to offer the property to your neighbors and also ask if they have property that you can purchase in order to make your lot conforming. If they do not want to buy your property and if they do not have land for you to purchase, then this creates a hardship, and you can go before the Planning Board for a variance.

Gary Royer, Zoning Official for Lavallette, explained that whether or not a property has been totaled is determined by the extent of the damage, and the town building officials will make that call. Mr. Royer pointed out that he will need more direction in this matter in order not to inundate the Planning Board. Mr. Royer asked for a resolution to help the process along. Mr. Coronato said if we grand father these properties for a certain period of time; it would help to expedite the process.

Janet Hayes, residing at 105 President Ave., explained that she has two houses on a lot, and the back house is cinderblock house which cannot be raised, could it be knocked down and rebuilt higher. Mr. Howard said, technically no. Mr. Royer commented that many people have already asked if they can knock the second house down and rebuild in the same footprint according to the current code. Mr. Parlow said that a variance would be required if the plan is to knock it down and rebuild.

Mr. Cataline is in favor that, for a limited period of time, property owners be allowed to level their homes and rebuild within the same footprint.

The Mayor asked that the variance process be streamlined to allow the people to rebuild to the same footprint and height code. Mr. Howard suggested that we set up a sub-committee to review plans prior to their applications and also to perhaps have weekly meetings for this purpose. Mrs. Filippone suggested that the candidates show the current survey and the new construction plans. Mr. Royer told us that he has already been asking property owners to do this as well as supply photographs and an engineer's report. Mr. Howard reiterated that the Board would be willing to meet once a week to hear these cases. It was also pointed out that residents can help to expedite their requests by submitting all the necessary information.

Mr. O'Donnell added that the flood elevation certificate should accompany the survey, and Mr. Howard pointed out that in some cases a soil borings survey should also be included because if FEMA says we must go up 5 ft. we need to know if the footings can support it.

The Mayor explained that we face an economic crisis for the borough and a hardship for the home owner as well, and therefore, can the Board consider making these adjustments for perhaps 6 months or whatever is necessary to make it as quick and as painless as possible.

Mrs. Filippone said that the question may come up not to expand the non-conforming use; i.e., heating a back house that doesn't currently have heat. It was discussed that this would be an expansion of use and it will not be allowed. If the house is heated now, then it's okay, if it is not heated now, then it cannot be without a variance.

The Mayor announced that the Governor will allow residents to take up permanent residency starting Saturday @ 8 a.m. as long as gas service has been restored. Residents will not have restrictions, only non-residents will have to abide by the access rules. The Mayor then explained that the southwest corner of Lavallette has no gas, and therefore, cannot take residence.

Chris Parlow asked if Mr. George is going to draft up the new zoning ordinance about the modifications of building heights, etc. Mrs. Filippone said that she would contact him. Mr. Parlow also asked if Mrs. Filippone would also speak to Mr. George about the lot coverage discussion, i.e., since any structure above 18 inches is included as lot coverage, and if FEMA requires the houses to be raised, wouldn't the construction of additional steps leading to the home be more than 18 inches and therefore increase lot coverage?

Mr. Coronato suggested that we decide whether it will be a 27 ft. or a 28 ft. building height above the first floor

There was a review of the 2013 meeting dates at which time it was decided to add three new dates to our workshop sessions: January 16, March 13, and May 8. It was further proposed that we conduct Planning Board business at these workshops.

It was decided that the Board Secretary would contact the Lavallette School to see if the January meetings could be held in their cafeteria.

Adjournment:

On motion, made by Mrs. Filippone and seconded by Mrs. Brown the meeting was adjourned at 9:10 p.m.

Respectfully submitted,
Joyce Deutsch, Secretary