

**MINUTES  
BOROUGH OF LAVALLETTE  
REGULAR MEETING OF THE PLANNING BOARD  
Wednesday, February 27, 2013 - 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 - absent  
Barbara Brown - present

Terry Brady, Esq. - present

**Public Notice Announcement:**

This is the Borough of Lavallette Regular Planning Board meeting of February 27, 2013. 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 one of the official Borough newspapers, the Ocean Star.

**Flag Salute:** Chairman Howard

**Review & Approval of Minutes:**

A motion was made by Mr. Cataline, seconded by Mrs. Zaccaria to accept the Minutes of the Workshop Meeting of January 16, 2013. All in attendance voted in the affirmative.

A motion was made by Mr. Baginski, seconded by Mr. Marino to accept the Minutes of the Regular Meeting of January 23, 2013. All who attended that meeting voted in the affirmative.

**New Business:**

Mr. Howard turned the workshop portion of this meeting over to Mr. Brady to discuss how to deal with storm damaged non-conforming properties. Mr. Brady explained that the governing body along with the Planning Board have been trying to do everything possible to streamline the process for residents to rebuild or restore without trampling over the Land Use Laws. He wanted to dispel rumors that a Planning Board hearing would be eliminated. Mr. Brady stated that the Planning Board will be meeting twice a month in order to hear these cases and the hearings would be brief.

Mr. Brady added that most of the procedures will be determined by the Borough Administration. Some of the leg work would be done by the Planning Board Engineer and the Zoning Officer.

Mr. Brady prepared a Resolution Of Approval that would assist the Planning Board in expediting applications for rebuilding or restoring legal non-conforming properties. Although this is all being done in order to help people get through the process more quickly, property owners will still have to notice their neighbors, and will still have to have a public meeting, however, the process would go more quickly; i.e. 3, 4 or more applications per meeting. Mr. Brady asked the Board to review and approve the adoption of this resolution as a tool for the Planning Board.

Mr. Brady reiterated that any non-conforming properties wishing to expand their non-conformity will not qualify for the streamlined application process.

Mr. Parlow shared with us that he had met with the Mayor, and they are planning to have a resolution prepared for the March 11 Council Meeting that would give the Zoning Officer the ability to approve certain applications and guide him as to what he can or cannot approve.

Mr. Howard explained that the Planning Board will have to pass their own resolution as to what their part will be. Mr. Parlow interjected that the Planning Board's resolution would only apply to applications that come before them. He further stated that if the Council gives administrative authority to the Zoning Officer to approve certain applications, the Planning Board will not even see those applications.

In order to help this effort, Mr. Brady compiled a list for the Mayor and Council of what can and cannot be approved by the Zoning Officer legally. Mr. Howard took this opportunity to advise that if the Council passes a resolution that violates any State laws, the Planning Board will not follow it.

Mr. Parlow emphasized that the Mayor does not want to hold up the recovery of non-conforming uses in the town of Lavallette.

Mr. Baginski confirmed that the resolution would pertain to rebuilding or restoring a non-conforming structure on the same footprint with no changes with the exception of elevating to the required base flood elevation.

Mr. Parlow said that the Mayor has requested him to draft a policy to allow the Zoning Officer to approve the following:

1. A legal non-conforming property owner wishing to simply repair or replace what was existing to pre-Sandy conditions
2. A legal non-conforming property owner wishing to repair the existing structure and elevate it to comply with base flood elevations

Mr. Baginski gave his support.

Mr. Parlow pointed out that the Mayor believes that if a non-conforming property owner wishes to demolish the structure and rebuild, these applications should go before the Planning Board and fast tracked.

Anything above and beyond what has been outlined above will require the traditional variance process.

**Review of Cases:**

Application #1-13: Joseph Rizzo, 2307 Baltimore Ave., Block 50.02, Lot 32

The property is located on the northeast corner of Baltimore Ave. and Trenton Ave. in the Residential A District and contains 5,000 square feet. The site contains a two (2) story frame and stucco two (2) family dwelling and stucco shed. The applicant is proposing to demolish the existing dwelling and construct a new two (2) story dwelling using some of the existing foundation. The southwest corner of the building is being enlarged beyond the existing footprint by approximately 102 square feet.

**Public Meeting:**

Chairman Howard presiding.

**Roll Call:**

Vincent Marino, Designee of Mayor LaCicero - present (stood down)  
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 - absent  
Barbara Brown – present (stood down)

Terry Brady, Esq. - present

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**Dispensed with the Flag Salute**

**Public Hearing:**

Application #1-13: Joseph Rizzo, 2307 Baltimore Ave., Block 50.02, Lot 32

The property is located on the northeast corner of Baltimore Ave. and Trenton Ave. in the Residential A District and contains 5,000 square feet. The site contains a two (2) story frame and stucco two (2) family dwelling and a stucco shed. The applicant is proposing to demolish the existing dwelling and construct a new two (2) story dwelling using some of the existing foundation. The southwest corner of the building is being enlarged beyond the existing footprint by approximately 102 square feet.

Messrs. Joseph Rizzo, Sr. and Joseph Rizzo, Jr. of 2307 Baltimore Ave. were sworn in by Mr. Brady.

Mr. Rizzo, Sr. explained that he purchased the home in 1986 as a two-family and went before the Planning Board for a variance sometime in October or November of 1986. Unfortunately, their paperwork was destroyed in the flood, and they were unable to supply a copy of the variance to the Board. He explained that an OPRA request was submitted, however, the information would not be available until sometime next week. Mr. Rizzo did supply a copy of his tax bill showing the property as a two family. Mr. Parlow confirmed that the OPRA request was submitted to the Administration Office and further explained that the storage box which contained their information was damaged and is in the process of being restored.

Mrs. Zaccaria asked how many bedrooms are in the current structure. Mr. Rizzo, Sr. responded that there are 2 bedrooms on the 2<sup>nd</sup> floor and 3 bedrooms on the 1<sup>st</sup> floor. Mrs. Zaccaria confirmed that Mr. Rizzo was proposing to go from 2 to 5 bedrooms on the 2<sup>nd</sup> floor.

Mr. Cataline asked for the total number of bedrooms when the construction was complete, and Mr. Rizzo responded that there would be a total of 8 bedrooms.

Mr. Zylinski questioned if they were knocking down the entire house and asked if it would be a completely new house. Mr. Rizzo, Jr. answered, no, a portion of the footing and foundation would remain. Mr. Zylinski then asked if they had considered removing the entire foundation and making it conform to the designated lot coverage. Mr. Rizzo, Jr. responded that in order to square off the home, they were proposing an expansion of approximately 120 sq. ft.

Mr. Calderaro said that the bottom line is that they want to put an extension on the 2<sup>nd</sup> floor that will consist of 3 bedrooms and a bath.

Mrs. Zaccaria asked about parking. Mr. Rizzo, Jr. responded that there is enough room for three cars in their driveway and ample street parking. Also, there are brick pavers in front of the house that can be utilized for parking. Mr. Cataline mentioned that not having adequate parking for a home that size could create a problem for the other people in the neighborhood.

Mr. Howard asked for clarification on the plans that were submitted. Mr. Rizzo, Jr. assisted Mr. Howard explaining that the topical survey should help to explain the expansion.

Mr. Howard asked the current base flood elevation; Mr. Rizzo did not have that data, but stated that if allowed to rebuild, they would conform to the required base flood elevations.

Mr. Rizzo, Jr. submitted photographs, marked Exhibit A-1, showing the damage to part of the foundation. Mr. Brady clarified that the Rizzo's would be expanding the non-conforming use.

Mr. Baginski attempted to explain that expanding a non-conforming use is not allowed and that what the Rizzo's are proposing is a significant expansion of a non-conforming use.

Mr. Howard read Item #6 of page 4 of Mr. O'Donnell's February 5, 2013 letter which states that the applicant must satisfy the negative criteria, which includes a need to provide testimony to the satisfaction of the Board, that the granting of relief sought would provide "no substantial detriment to the public good" and "will not substantially impair the intent and purpose of the Zone Plan and Zoning Ordinance." For this application to be granted, the applicant must also make a "showing of peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the applicant arising out of:

- a. The exceptional narrowness, shallowness or slope of a specific piece of property, or
- b. By reason of exceptional topographic condition or physical features uniquely affecting a specific piece of property, or
- c. By reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing therein.”

Mr. Rizzo, Jr. reiterated that they were planning to build on the same footprint. However, it was brought to his attention that they were proposing a very substantial expansion. Mr. Brady asked about “special reasons”, and he wanted the Rizzo’s to be aware that the storm damage had no bearing on the proposed expansion.

Mr. Howard pointed out that the property is a legal two family and the legality goes on forever, however, when you choose to expand that property, you need to have special reasons under the law for doing so. Mr. Brady gave several examples.

**The meeting was opened to the public at 8:25 p.m.**

Mr. Robert Mikalouskas of 121 Trenton Ave. was sworn in and spoke on behalf of the Rizzo’s stating that they want to take the footing and add another story. Mr. Mikalouskas added that the expansion would make the house look better aesthetically. He also testified that there is currently plenty of parking in the area. Mr. Howard commented that by adding these bedrooms sooner or later there could be a parking problem.

Mr. Bill Smith of 2305 Baltimore Ave. was sworn in and gave a brief statement that the Rizzo’s have a large family and are great neighbors. He said that most of the visits from the family were during June, July, August and at Thanksgiving. Mr. Smith also said that they deserve the variance, and he would like to see them get it.

Mr. Baginski reinforced the fact that if it were a one family home, there would be no problem.

At this time, Mr. Rizzo, Jr. asked Mr. Brady if aesthetics would qualify as a “special reason?” Mr. Brady then explained that just because it would look better is not a sufficient special reason.

Mr. Howard closed the public meeting at 8:35 p.m.

A motion to deny this application was moved by Mr. Cataline and seconded by Mr. Baginski. The vote to deny this application was unanimous. Mr. Marino was not eligible to hear this case due to the use variance, and Mrs. Brown who would have been the alternate for Mrs. Filippone was also not eligible to hear this case.

Mr. Howard called a five minute recess.

The meeting reconvened at 8:40 p.m.

Mr. Brady reviewed the drafted resolution for the repair/restoration of existing non-conforming use/structure. The Planning Board would be able to utilize this resolution by filling in the blanks, thus fast tracking these types of applications.

A motion was made by Mr. Calderaro, seconded by Mr. Baginski to recommend this Resolution Of Approval be adopted for applications as a result of the damage caused by Hurricane Sandy. All present voted in the affirmative and the motion carried.

Mr. Howard opened the meeting to the public at 8:45 p.m. to answer any questions they might have.

Janet Hayes-Deltufo of 105 President Avenue told the Board that she has two single-family houses on one lot and wants to demolish the rear property and replace it with a prefab.

Mr. Howard suggested that she go to the Zoning Officer to find out what she can do. She asked how she could proceed without spending a lot of money and move quickly. Mr. Parlow reiterated that she should go to the Zoning Officer first in order to get the appropriate permits. He also said she is the perfect candidate for the Planning Board to consider the new format for fast tracking her application.

Mr. Parlow told Ms. Hayes-Deltufo that the Zoning Officer will have the necessary packet of information after March 11, 2013. He also recommended that she submit photographs of what she had and plans for what she wants to build, showing that she will be putting in like for like. He also reconfirmed that she will need a variance, and her application will have to go to the Planning Board, however, with the proposed fast track checklist and resolution format, it should not take that long. It was also confirmed that the Zoning Officer does not yet have the check list showing the required documents. There was a brief discussion about Planning Board fees. Unfortunately, the only way to adjust the current fees would be by ordinance or by resolution, and that is being discussed.

Mr. Parlow encouraged Ms. Hayes-Deltufo to start gathering her drawings and paperwork now so that she will be ready after March 11. The more information she can supply, the less testimony will be required; therefore, shortening the length of the board hearing. When she asked about adding a bathroom, Mr. Baginski asked if it would be built within the same footprint

Elizabeth Garruto, 128 Virginia Avenue, wished to thank everyone for all the hard work they have been doing since the storm. She then asked for some direction about knocking down her house and rebuilding since her foundation was compromised. Mr. Parlow ascertained that the house was in an A zone. Their diagram showed that they were requesting to build 6' above the required base flood elevation. Mr. Parlow said that the drawing being shown to us was for a V zone house and explained that she would not be permitted to go up that high. Mr. Parlow cautioned that if the Garruto's choose to do that, they will have to shrink their house down, otherwise the house would be 42 feet above the curb, and the town does not permit it.

When asked why, they wanted to be so high up, Henry Garruto responded that they do not want to pay for flood insurance. Mr. Parlow again cautioned that if they choose to be higher than the ordinance suggests, they will have to take it off the top and shorten the house. Mr. Howard commented that they are proposing a home that is unrealistic according to the figures that are in the ordinance. They appreciated our time and guidance

Andrew Feranda, 3 ½ Princeton Ave., told the Board that he lost his entire house and that he is getting ready to rebuild. He asked for guidance as to what to do next. He has already been denied by the Zoning Officer because of set-back non-compliance. Mr. Feranda described his non-conforming property to us. He is the back condominium unit on a 50 X 100 lot. Mr. Howard

explained that since it is a condominium, it must be treated as a single property, and Andrew must have the approval of whoever owns the other unit. Mr. Feranda said that the other owner suffered over 50% damage herself and has no problem with his plans to rebuild.

Since Mr. Feranda wants to get going right away, and his plan is to get the foundation in the ground on pilings; he asked what paperwork would be necessary. Mr. Parlow said he knew the property, and based on what he just heard, Andrew has the same type of application as Ms. Hayes-Deltufo, i.e., elevating and reconstructing within the same footprint.

There was further discussion about what would be necessary to make the house compliant with side yard set-backs. Mr. Parlow explained that he will need a variance. Once he has the plans ready to be reviewed by the Zoning Officer and the new administrative policy is adopted; a determination will be made as to whether or not his application can be fast tracked.

Mr. Howard closed the public meeting.

**Adjourn:**

On motion by Mr. Cataline, seconded by Mr. Zylinski with all members voting in favor, the meeting was adjourned at 9:25 p.m.

Respectfully submitted,  
Joyce Deutsch, Secretary