

**MINUTES
BOROUGH OF LAVALLETTE
REGULAR MEETING OF THE PLANNING BOARD
Thursday, July 25, 2013 - 7 P.M.**

Chairman 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
Rosangela Zaccaria - present
Anthony Cataline - absent
Len Calderaro - present
Joseph Palinsky - present

Barbara Brown - present

Terry Brady, Esq. - present

Public Notice Announcement:

This is the Borough of Lavallette Regular Planning Board meeting of July 25, 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.

Salute to the Flag – lead by Mr. Howard

Mr. Howard asked for a moment of silence in memory of Mr. Joseph Baginski.

Mrs. Brown will sit for Mr. Cataline.

Public Meeting:

Chairman Howard presiding

Application #3-13, Charlotte Abajian, 20 Haddonfield Ave.

Applicant appeals the decision of the Zoning Officer for refusing to enforce the bulk requirements and the coverage requirements of the zoning ordinance at 22 Haddonfield Ave

Mrs. Donato, applicant's attorney, requested another continuance in a letter e-mailed to the Planning Board Secretary dated July 25, 2013.

A motion was made to deny the continuance of this application to the August 29 Planning Board Meeting by Mrs. Filippone, seconded by Mr. Parlow. On roll call: Filippone, yes; Parlow, yes; Marino, yes; Palinsky, yes; Calderaro, yes; Zylinski, yes; Zaccaria, yes; Brown, yes; Howard, yes.

A motion was made by Mr. Parlow, seconded by Mrs. Brown to deny the applicant's appeal without prejudice. On roll call: Parlow, yes; Brown, yes; Marino, yes; Filippone, yes; Palinsky, yes; Calderaro, yes; Zylinski, yes; Howard, yes.

Application # 9-13, Rolando & Maureen Cibischino, 113B New Jersey Ave., Unit 2, Block 45.02, Lot 20

The property is located on the northwest corner of New Jersey Avenue and Route 35 Southbound in the Residential District A and contains 5,000 sq. ft. The site contains a two story frame dwelling in the front of the property and a one story frame dwelling in the rear of the property. The Applicant is proposing to demolish the rear dwelling and construct a two story dwelling, with the finished floor elevated 4.82 feet above the Advisory Base Flood Elevation. The dwelling will be generally located in the same area as the existing dwelling but will have a second floor balcony, landing and steps added to the east side.

In a letter dated July 25, 2013, to the Planning Board Secretary, Mrs. Donato, applicant's attorney, requested a continuance to the August 29 Board Meeting; an e-mail sent later in the day asked that the application be carried to the September 26 Board Meeting.

A motion was made by Mr. Parlow, seconded by Mr. Zylinski, to grant the continuance. On roll: Parlow, yes; Zylinski, yes; Palinsky, yes; Calderaro, yes; Zaccaria, Yes; Brown, yes; Howard, yes.

Since both requests for continuance were made on the same day as the Planning Board Meeting, the Board questioned Mr. Brady as to whether or not there was a standard deadline for requesting such action; and if not, could we implement such a deadline in our procedures. Mr. Brady said that he would research this and report back to us.

Resolutions to be Memorialized:

Application #10-13, Deborah & Michael Gilhooley, 114A President Ave., Block 33.02 Lot 21.02 (non-conforming lot)

The property is located on the south side of President Ave. approximately 75 feet west of Route 35 southbound in the residential district. The property contains 2,500 square feet with a two-story frame dwelling with a detached garage. The Applicant is proposing to demolish the existing dwelling and detached garage and construct a new two-story single family residence with garage below. The lowest horizontal structural member of the residence will be constructed above the stated Advisory Base Flood Elevation (ABFE). The property is located in the V Zone of the new FEMA Maps.

Review & Approval of Minutes:

A motion was made by Mrs. Brown seconded by Mr. Palinsky to accept the minutes of the Workshop Meeting of June 13, 2013 with a change on page 2. All members who attended the June 13 meeting voted in the affirmative.

The minutes of the Regular Planning Board Meeting of June 27, 2013, will be presented for approval at the August 15, 2013 meeting.

Mr. Marino and Mrs. Filippone were excused from the remainder of the meeting.

**Application # 7-13, NVR Holding Company, LLC, 109 Magee Ave., Block 35.01
Lots 12, 14 & 16**

The property is located on the southeast corner of Magee Avenue and Route 35 Southbound, is in Residential District A and contains 13,400 sq. ft. The site contains a one story, 5,700 sq. ft. commercial use and a 4 bedroom, 1,900 sq. ft. residential use over the eastern portion of the building. The residential use has a 214 sq. ft. deck on the south side and a 476 sq. ft. deck on the north side. The site also contains an 11 car parking lot on the east side and 4 parking spaces including 1 handicap space on the south side. The applicant is proposing to change the layout of the residential unit, Apartment #1, to have 2 bedrooms. A new kitchen and living area are proposed to be constructed over the north deck and the 2 remaining bedrooms will be added to this unit, i.e., Apartment #2. Internal modifications will be made to the commercial unit below to accommodate entry to Apartment #2.

Philip Mylod, applicant's attorney, was sworn in and testified that the owner of NVR Holding Company, LLC is Robert D'Anton, and declared that it is a family owned property. He further explained that the building sits on three (3) buildable lots; the first floor is used as a professional office, and the second floor is a residence with four bedrooms. There is a gym on the first floor that is used by the employees. Mr. Mylod said that the applicant wants to alter and modify the space from a one to a two-family residence.

Mr. Mylod introduced Matthew Jarmel, Licensed Architect, Jarmel/Kizel 42 Okner Parkway, Livingston, NJ. After being sworn in, Mr. Jarmel established his credentials before the Board and presented Exhibit A-1, existing first floor and second floor plans. He explained that part of the office area was demolished by the recent hurricane. Mr. Jarmel then submitted Exhibit A-2, proposed first floor and second floor plans showing the enclosure of a 476 sq. ft. porch to create an entry and a two bedroom apartment.

Mrs. Zaccaria asked if the apartments would be connecting, to which Mr. Jarmel said, yes. Mr. Jarmel further indicated that the owner will testify that he proposes to use the residence for family and colleagues. Mr. Jarmel added that he does not see this plan as a substantial change in the building; pointing out that the porch enclosure would be better aesthetically and improve their neighbors' privacy. Mr. Mylod added that enclosing the porch would also make the building safer.

Mr. Howard mentioned that the Borough Code requires two (2) parking spaces for each unit. Mr. Jarmel pointed out that there are currently fifteen (15) parking spaces on the lot and one is handicapped.

Mr. Mylod verified that enclosing the porch at the rear of the building and installing the stairs were the only changes being made.

Mr. Howard asked if the parking spaces would be designated for the residents and suggested they might want to do that in order to separate the commercial parking from the residential parking. Mr. Jarmel testified that he can dedicate four (4) spaces for the residential portion of the building and that will leave an additional eleven (11) parking spots.

Mr. Mylod pointed out that the number of employees has been reduced, and Mr. Jarmel stated that the # of desks will be reduced from ten (10) to three (3).

Mr. Parlow asked if there will be a new air conditioning unit added to accommodate the new apartment; and if so, where will the condenser be placed. Mr. Jarmel responded that the existing units are already on the roof.

Mr. Palinsky stated that in this residential zone, the rear yard setback is 20 feet and that the property would be encroaching into the setback by enclosing the second floor porch. Mr. Mylod responded that there would be further on this issue. Mr. Palinsky asked if there was a site plan filed on this property. Mr. Mylod responded that the owner had previously obtained approvals for the work done in 1997 and answered Mr. Palinsky's question that the deck was on the original application.

Mr. Zylinski verified that the property consists of three (3) individual lots. He then asked what would prevent Mr. D'Anton from building a home where the parking lot is located. Mr. Brady interjected that if Mr. D'Anton only receives one tax bill since they were merged by the tax assessor, he has no freedom to put a house in the parking lot without subdividing.

Mr. Brady asked for verification that the proposed enclosure goes into the setback; to which Mr. Jarmel answered in the affirmative.

Mr. Robert James D'Anton of 1454 Latash Court, Toms River was sworn in. He testified that he is the sole owner of NVR Holding, LLC, and that he purchased this property in November, 1995. Mr. D'Anton explained that he appeared before the Planning Board in 1997 in order to change from commercial to professional use. He testified that his parent company, AST Developers operates twenty to twenty-five different companies. At one time there were 15 to 20 people employed at this location and there was never a parking problem. Mr. D'Anton stated that in 1995 the property was in bankruptcy, and after he purchased it, it was gutted and renovated to its present condition. Currently there are only four permanent employees and that professionals visit the building weekly. He mentioned that there is a possibility of adding two to four more employees.

Mr. Mylod asked Mr. D'Anton to explain his plans for the upstairs residence. Mr. D'Anton testified that the apartments would be used by his family members and business partners. He further testified that he has never rented and does not intend to rent. He informed the Board that his hours of operation are from 8 a.m. to 6 or 6:30 p.m. explaining that they arrive at about 6 or 7 a.m. to workout at the gym.

Mr. D'Anton testified that in 1997, he filed a full application and the deck was approved at that time. He also mentioned that he has no plans to expand the downstairs portion of the building and that the apartment would be predominantly for seasonal use.

Irwin H. Kizel, of Jarmel/Kizel, 42 Okner Parkway, Livingston, NJ was sworn in as a planning expert and recited his credentials. Mr. Kizel explained the overall improvements in this building will be very attractive and a dynamite improvement benefitting the town. He further testified that he believes there are no negative criteria connected with this application. Exhibit A-3, a map highlighting the multiple family use properties in the area, was presented.

Mr. Brady pointed out that the plan as presented is not reducing any existing non-conformities.

Mr. Howard opened the meeting for public comment.

Mr. Matthew Deedy, 11 Cherry Tree Circle, Howell, NJ was sworn in and wanted to speak on behalf of his parents who live behind the applicant's property. His concern is that there will be little or no access for fire equipment and that increasing the residential portion of the property would create more potential for fire. Mr. Mylod objected to Mr. Deedy's testimony citing that he is not an expert on fire safety; to which Mr. Deedy replied that, in fact, he does have some

experience with fire safety. Mr. Deedy said his parents were also concerned about the potential for increased noise level.

Mr. Deedy further voiced concerns regarding drainage and questioned the run-off from the parking lot. Once again, Mr. Mylod cross-examined and asked if Mr. Deedy could qualify himself as an expert in this category. Mr. Mylod established that there had been no prior complaints about drainage.

Isabelle Amato, 10 Riverside Avenue, Lyndhurst, NJ, was sworn in and testified that she is a property owner on Vance Avenue. She too is concerned about drainage in the parking lot. Mr. D'Anton commented that if drainage became a problem; it would be mitigated. Ms. Amato asked to see where the windows were on the expansion since she was concerned about privacy. Ms. Amato testified that in the thirteen years she has lived there, no one has ever used the rear deck, however, once enclosed, people would be able to look onto her property. Mr. Mylod did ascertain that Ms. Amato does not really object or oppose the proposed construction.

Due to the late hour, Mr. Howard requested that we end the hearing and asked if the application could be carried to the next meeting. Mrs. Zaccaria suggested that we cover the drainage issues at the next meeting. A motion by Mrs. Zaccaria to carry the application to the August 15, 2013 meeting, was seconded by Mr. Zylinski. On roll: Zaccaria, yes; Zylinski, yes; Palinsky, abstained; Calderaro, no; Parlow, yes; Brown, yes; Howard, yes. The motion for continuance was granted.

Mrs. Zaccaria left the meeting.

At 9:25 p.m., Mr. Howard called for a 5 minute recess.

Application # 11-13, Suzanne DiGiovanni, 101A Vance Ave., Block 34.01, Lot 4.02

The property is located on the north side of Vance Avenue approximately 65 feet west of Route 35 Northbound in the B-2 Downtown Business District. The property contains 1,750 sq. ft. with a 1 ½ story frame dwelling, shed, and wood deck. The applicant is proposing to demolish the existing dwelling and construct a new 2 ½ single family dwelling in the same footprint.

Jeffrey Wells, AIA, 347 West Eighth Street, Ship Bottom, NJ was sworn in and presented his credentials as the applicant's architect.

Ms. Suzanne Di Giovanni, 5 Charles Street, Belleville, NJ, was sworn in and testified that she is the applicant.

After reviewing the plans, the Board established that the property is a two-story structure, that the utility room is part of the bathroom and laundry. Mr. Brady asked if the house could be moved in order to comply with the five (5) foot side yard set-back.

Meeting was opened for public comment.

A motion to approve this application with the stipulation to move the structure six (6) inches closer to the east side property line was made by Mr. Palinsky, seconded by Mr. Zylinski. On roll: Palinsky, yes; Zylinski, yes; Calderaro; Parlow, yes; Brown, yes; Howard, yes.

Mr. Howard presented a draft amending Chapter 90 of the Code of the Borough of Lavallette to allow two (2) stories above a garage for homeowners raising properties as a result of FEMA regulations. Moved by Mr. Zylinski, seconded by Mrs. Brown, the Board voted in favor of the

recommendation. On roll: Zylinski, yes; Brown, yes; Palinsky, yes; Calderaro, yes; Parlow, abstain; Howard, yes.

Mr. Howard opened the meeting to the public.

Mr. James Miller, 30 Dickman Drive, Lavallette had some zoning questions. Mr. Parlow explained that these were not issues for the Planning Board.

The public portion of the meeting was closed at 10:10.

Adjourn:

A motion to adjourn was made by Mr. Zylinski, seconded by Mrs. Brown with all present voting in favor. The meeting was adjourned at 10:15 p.m.

Respectfully submitted,
Joyce Deutsch, Secretary