

**MINUTES
BOROUGH OF LAVALLETTE
WORKSHOP MEETING
OF THE PLANNING BOARD
Wednesday, August 3, 2016 – 6:45 P.M.**

Chairman Lionel Howard presiding

Roll Call: Lionel Howard, Chairman - present
William Zylinski, Vice Chairman - present
John Borowski - present
Joanne Filippone - present
Joseph Palinsky - present
Len Calderaro - present
Jack Sauer - absent
Anthony Cataline - absent
John Bennett – present

Barbara Brown - present
Vincent Marino - absent

Terry F. Brady – present

Public Notice Announcement:

This is the Borough of Lavallette Planning Board Workshop meeting of August 3, 2016. 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 were posted on the bulletin board located in the Borough Hall, filed with the Borough Clerk, and supplied to the official Borough newspapers.

Flag Salute: Chairman Howard dispensed with the salute for this meeting.

Review & Approval of Minutes:

A motion was made by Mrs. Brown to accept the minutes of the July 20, 2016, meeting; seconded by Mrs. Filippone with all present at that meeting voting in favor.

Resolutions Memorialized:

Application # 6-16, John & Joanne Sullivan, 125 Pershing Blvd., Block 959, Lots 1,2 & 1.01 – Riparian Subdivision – approved

Application # 7-16, McCrae Family Trust, 1605 Grand Central Ave., Unit 5, Block 17, Lot 32.5 – Alterations and Change of use – denied

New Business:

Chairman Howard wanted to discuss the possibility of recommending a 65 ft. loading zone on Reese Avenue to the Mayor & Council. After a brief deliberation, the Board voted not to pursue the idea.

Mrs. Filippone informed the Board members that Rosemary Robertson's grandson passed away. The Board secretary was asked to provide Rosemary's address to the members.

Public Hearing:

There were no applications schedule for this meeting.

Discussion:

Terry Brady, Esq., fielded some specific questions from Board members:

- Q. What if we find out during the hearing that the application is not complete?
- A. It is the applicant's application; the Board engineer deems it "complete," not the Board.

- Q. What is the appropriate action in the case where we do not have the correct information?
- A. Give the applicant the option to postpone or have the Board vote on what was presented.

- Q. When we don't have enough information, can't we just stop the hearing?
- A. If they say they are going to address the issue/s as put forth in the Engineer's summary.

- Q. Is our checklist specific enough; does it clarify what is existing and what is proposed?
- A. The Board secretary will circulate copies of our checklist at our next Workshop meeting.

Mr. Brady advised the Board that they should try not to redesign the application. He said, "don't forget, it does not have the benefit of Mike O'Donnell's review." He also cautioned that the public would not be aware of the change in the application. He noted that interior design is really not part of Zoning and Planning.

- Q. Who tells us that we are going beyond our scope?
- A. From a legal standpoint, Mr. Brady would make the suggestion to the Board.
- Q. If we give an applicant less than they asked for, is that redesigning their application?
- A. No
- Q. Suggested changes by the Board---would it be better to tell the applicant to put it on the plan?
- A. To be fair to the applicant, comments from all the Board members would be helpful.

Mrs. Filippone commented that we try to say yes by redesigning their plan instead of pointing out the negative issues of the application and letting the applicant change them. Change should come from the applicant; it is not our job to change the applicant's plan.

Mr. Brady replied that feedback is fair; redesigning is overboard. Mr. Bennett added that we should not make certain suggestions, and Mr. Calderaro said to keep in mind that the reason the applicant is here is because they already know what is wrong.

Gary Royer, Borough Zoning and Code Enforcement Official, told us that in most cases, he has gone over ways to make the applicant's proposed building compliant. Mrs. Filippone indicated that granting a variance is for the benefit of the community not the applicant.

Mr. Royer asked for clarification on several zoning issues that had come to his attention.

- Outside steps 5 ft. from side property line
- Accessory structures – gazebo?
- Site plan interpretation for code enforcement

Mr. Brady reminded Gary that, "if it is not specifically permitted, it is prohibited."

There was further debate about outdated ordinances and clarification of certain definitions. Mrs. Filippone confirmed that the recent Master Plan was presented to the Mayor and Council with a list of recommendations.

Mr. Royer sought advice regarding a property that is not compliant, and there has been no response to his warnings. Mrs. Filippone suggested writing summonses every day that the homeowner does not reply.

Mr. Royer thanked the Board for their input and left the meeting.

We resumed our training agenda with a discussion regarding D variances: special reasons and negative and positive criteria.

Mr. Brady explained a "hardship" as a property that cannot reasonably be developed for what it is zoned for. He spoke further about "use" variances for expansion of a non-conforming use and repairing and restoring them.

Mr. Brady explained some of the following terms:

- general welfare
- enhancements
- reduction of non-conformity
- minimizing intensity of use

Mr. Brady reminded the Board that:

- the burden of proof is on the applicant
- attorneys give legal arguments
- witnesses give testimony

There was a brief conversation about the definition of "self-created" hardships which are usually bulk and/or dimensional variances, i.e., front and rear condominiums on one lot.

Board members and Mr. Brady determined that at our next Workshop meeting, October 5, we will discuss the flexible c variance.

Adjourn:

A motion to adjourn the meeting was made by Mr. Zylinski, seconded by Mr. Calderaro, with all present voting in favor. The meeting was adjourned at approximately 9:10 p.m.

Respectfully submitted,

Joyce Deutsch, Secretary