

**MINUTES  
BOROUGH OF LAVALLETTE  
RE-ORGANIZATION & REGULAR MEETING  
OF THE PLANNING BOARD  
Wednesday, January 8, 2020 – 7:00 P.M.**

The following Board Members were re-appointed for the appropriate terms:

Robert Brice, Class II  
Joanne Filippone, Class III  
Joseph Palinsky, Class IV  
Alex Barletta, Alternate #1

**Roll Call:** Anthony Cataline  
Mayor's Designee  
Robert Brice  
John Borowski  
Len Calderaro  
Joanne Filippone  
Vincent Marino  
Joseph Palinsky  
Thomas Restaino

Richard Emery  
Alex Barletta

**Also Present:** Terry Brady, Esq.  
Millis Looney, PE, CME

**Flag Salute:** Mr. Cataline

**Public Notice Announcement:**

This is the Borough of Lavallette Planning Board Re-Organization meeting of January 8, 2020. 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 Planning Board office at 1306 Grand Central Ave., filed with the Borough Clerk, and supplied to the official Borough newspapers, the Ocean Star and the Asbury Park Press.

This meeting is a judicial proceeding. Any questions or comments must be limited to issues that are relevant to what the Board may legally consider in reaching a decision and decorum appropriate to a judicial hearing must be maintained at all times.

**Re-organization:**

Joanne Filippone nominated Anthony Cataline to be Chairman for the year 2020, seconded by Mr. Calderaro. Roll call vote: Filippone, yes; Calderaro, yes; Borowski, yes; Brice, yes; Marino, yes; Palinsky, yes; Restaino, yes; Emery, yes.

Mr. Calderaro nominated John Borowski to be Vice Chairman for the year 2020, seconded by Mr. Palinsky. Roll call vote: Calderaro, yes; Palinsky, yes; Brice, yes; Filippone, abstain; Marino, yes; Restaino, yes; Emery, yes; Cataline, yes.

Mr. Cataline asked for a motion to appoint Joyce Deutsch as Planning Board Secretary for the year 2020. A resolution was moved by Mr. Calderaro, seconded by Mr. Palinsky. Roll call vote: Calderaro, yes; Palinsky, yes; Brice, yes; Borowski, yes; Filippone, yes; Marino, yes; Restaino, yes; Emery, yes; Cataline, yes.

Mr. Palinsky made a motion to approve a Resolution reappointing Brady & Kunz as the Planning Board Attorney for the year 2020, seconded by Mr. Calderaro. Roll call vote: Palinsky, yes; Calderaro, yes; Brice, yes; Borowski, yes; Filippone, yes; Marino, yes; Restaino, yes; Emery, yes; Cataline, yes.

Mrs. Filippone made a motion to approve a Resolution reappointing O'Donnell, Stanton & Associates, Inc., as the Planning Board Engineer for the year 2020, seconded by Mr. Brice. Roll call vote: Filippone, yes; Brice, yes; Borowski, yes; Calderaro, yes; Marino, yes; Palinsky, yes; Restaino, yes; Restaino, yes; Emery, yes; Cataline, yes.

Chairman Cataline asked for a resolution approving the meeting dates for the year 2020. A motion to approve the dates was made by Mr. Marino, seconded by Mrs. Filippone with all present voting in favor.

Chairman Cataline asked for a resolution approving the Ocean Star and the Asbury Park Press as the official Planning Board newspapers for the year 2020. A motion for approval was made by Mr. Brice, seconded by Mrs. Filippone with all present voting in favor.

Chairman Cataline asked for a resolution approving the change in Meeting Schedule to the Planning Board Rules and Procedures with all voting in favor.

### **Public Hearing:**

Mr. Emery sat for Mayor's Designee, who is yet to be assigned.

### **Application # 4-19, Hutchison Fiberglass Pools & Spas Inc., 126 Brooklyn Ave. – Block 54, Lot 9 – In-ground pool w/variance**

The property is located on the south side of Brooklyn Ave. approximately 200 linear feet west of Baltimore Ave. in Residential District A. The subject property contains 5,000 sq. ft. with a recently completed elevated tow-story, single-family dwelling, which was approved by the Lavallette Building Department. The Plot Plan also showed a proposed pool to be set back 3 feet from the rear and side property lines and received zoning approval. The as-built survey indicates the pool was built 3.16 feet from the side property line and 2.25 feet from the rear property line. Since the pool does not meet the required rear setback of 3 feet, the applicant submitted a variance application for the pool.

Evan Zimmerman, Esq., applicant's attorney, outlined the reason for the application, and introduced Barbara Ehlen, PP, AIPP from Beacon Planning in Colts Neck, NJ. The Board accepted Ms. Ehlen's credentials. Referencing the "as built survey," she presented Exhibit A-1.

A-1: three color photos of the property; one showing the front elevation, one showing the SE view

of the pool, and one showing a West view of the pool and the home.

Ms. Ehlen presented her arguments as follows:

- the difference in the rear setback is de minimis
- the pool doesn't have the same intrusion as a garage or a shed
- moving the pool would create more of a disturbance to the neighborhood than the current placement of the pool
- the applicant is requesting a C-2 variance, not a C-1, which would require proof of hardship
- the cite can accommodate the error
- no precedent would be established since each application stands on its own merits

There were further discussions regarding:

- contractor error may not be sufficient for a variance
- setting a precedent
- pool cover

Mr. Joe Hutchinson, owner of Hutchinson Fiberglass Pools & Spas, 3100 Long Beach Blvd, Brant Beach, NJ, was sworn in and there was further conversation regarding:

- safety
- no inspection was scheduled for the hole before the pool was dropped
- placement of their fence (pre-existing)
- there was a bonding inspection
- pool is made of fiberglass
- there is a one-foot coping around the entire pool

Mr. Zimmerman responded that all points are well taken, however, in his opinion, the eight-inch encroachment is negligible, and the better zoning alternative would be to allow the pool to remain. Mrs. Filippone countered with her opinion that deviating from the ordinance does not improve our zoning.

Chairman Cataline opened the meeting for public comment at approximately 7:50 p.m.

Charles Thorwarth, owner of 126 Brooklyn Ave. testified that he has owned the property for 14 years. He has been a full-time resident since September and hopes that the Board will vote in favor of his application.

Barry Forst, 122 Brooklyn Ave. testified in favor of the application.

Sheila Porcelli, 125 Brooklyn Ave. stated that she is in favor of the application.

The public portion was closed at approximately 8:05 p.m.

Mr. Brice asked Mr. Hutchinson what has to be done to move the pool.

Mr. Zimmerman summarized:

- the coping creates a safe condition
- the in-pool features allow people to get in and out
- the benefits outweigh the detriments
- this is a de minimis deviation = 8-inch encroachment

Mr. Zimmerman asked for a brief recess in order to confer with the applicants. Chairman Cataline adjourned for a recess at approximately 8:15 p.m.

At approximately 8:25 p.m. the hearing reconvened.

Mr. Zimmerman stated that after deliberating with his clients, they would be willing to install a pool alarm and would move the fence if necessary. He also pointed out that there are no other non-conformities on the property and that the home was built in accordance with our ordinances.

Mr. Barletta commented that, in his opinion, contractors make a lot of mistakes, and we are only talking about 8 inches in this case.

Mr. Borowski expressed his opinion that this is an error plain and simple and needs to be corrected.

Mr. Brice offered that the procedure for relocating the pool would be an imposition on the community; and he doesn't think granting relief would set a precedent for another contractor.

Mr. Borowski made a motion to deny the application. The motion failed.

A motion to approve the application with conditions was made by Mr. Brice, seconded by Mr. Calderaro. Roll call vote: Brice, yes; Calderaro, yes; Borowski, no; Filippone, yes; Marino, yes; Palinsky, yes; Restaino, yes; Emery, yes; Cataline, yes.

**Resolutions Memorialized:**

N/A

**Review & Approval of Minutes:**

Mrs. Filippone made a motion to accept the minutes from the Regular Planning Board meeting of December 4, seconded by Mr. Palinsky with all who were present at the meeting voting in favor.

**New Business:**

The Board unanimously recommended that the Annual Report be forwarded to Mayor & Council.

The Board Secretary reported that the office is undertaking a project to digitalize Planning Board variances, which will be stored in the block and lot files on the Borough's server.

**Adjourn:**

A motion to adjourn the meeting was made by Mr. Marino, seconded by Mr. Palinsky with all present voting in favor. The meeting was adjourned at approximately 8:50 p.m.

Respectfully submitted,

Joyce Deutsch, Secretary