

PLANNING BOARD YEARLY REPORT – 2009

**PREPARED BY: Rosemary Robertson, Secretary
Planning Board**

WHEREAS, pursuant to N.J.S.40:55D-70.1:

The Board of Adjustment shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by Resolution a report on its findings on zoning ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The Board of Adjustment shall send copies of the report and Resolution to the governing body and Planning Board, and

WHEREAS, the purpose of the Statute is to bring to the attention of the Lavallette Council particular provisions of the zoning ordinance which created problems for the Board over the preceding year.

WHEREAS, the Joint Planning/Zoning Board of the Borough of Lavallette heard the following appeals in the calendar years of 2009:

Ralph & Sylvia Axcelson, 6-08, Block 54, Lot 10, 127 New Brunswick Avenue, R-A, one-family residential District; Applicant is requesting relief from the Zoning Ordinance for approval for making alteration to a non-conforming use; (increasing the head room in the bedroom and bathroom on the second floor). Variances existing square footage, two single family dwellings on one lot, lot coverage, side yard and rear yard setback. Applicant is requesting the following variances: Section 90-9 (1)© no non-conforming use may be altered enlarged etc.; Section 90-9(1)(d) no substantial alteration to any building containing a non-conforming use. **Result:** There is no increase in square footage of the dwelling proposed and no increase in the height of the ridge of the roof proposed; the applicant must provide four (4) off street parking spaces; the second floor windows must be installed on the side of the dwelling to improve potential emergency egress from the second floor

A Resolution granting the application was adopted January 14, 2009.

Philip & Francine DellaSanti, 8-08, Block 54, Lot 1.02 1400 A & B Baltimore Avenue, R-A, one-family residential District. Applicant is requesting relief

to alter and expand an existing on-conforming use by demolishing Unit B and one shed and replacing it with a larger structure. The condominium unit is located to the rear of Unit A and has frontage on Brooklyn Avenue. The property contains two single family dwellings which are two separate condominium units A & B; Applicant owns Unit B located to the rear of Unit A. The following variances are existing; Section 90-8E(12) no more than one shed per 5000 square feet of property permitted; two exist; Section 90-22 one dwelling permitted, two exist; Section 90-24A requires 15 foot front yard setback, 9.7 on Unit B and 14.7 on Unit A; Section 90-24A side yard setbacks; Section 90-24D(2) 20% ground coverage permitted, 29.5 existing ; Section 90-24G one 12 foot curb cut permitted, 2 existing. Applicant is requesting the following variances Section 90-9(1)© no nonconforming use may be altered , enlarged etc., Section 90-24 (1)(d) no structural alterations or substantial changes to a building containing a non-conforming use, Section 90-22 One single family dwelling permitted per lot, 2 exist, Section 90-24H minimum setback to porch 7 feet allowed, 5.6 proposed. There were three hearings held on this application, September 24, 2008, November 19, 2008 and December 3, 2008 and a Resolution of denial was memorialized on January 14, 2009. **Result:** The Board found that applicant had not proven that the granting would not be a substantial detriment in the public good and not impair the zone plan, Master Plan and Land Use Ordinance of the Borough of Lavallette. The Board determined that the applicant should be denied the requested relief.

A Resolution denying the variance was adopted January 14, 2009.

Applicant filed an appeal in the Ocean County Superior appealing the Planning Board denial of the special reasons variance application. Following Pre-Trial, Briefs and hearings the Superior Court upheld the Board's denial of the variance application and the Court agreed that the expansion of a second house in the single family zone is a D variance-expansion of a nonconforming use.

Robert & Margaret Astorino, 9-08, Block 23, Lot 5, 2 Elizabeth Avenue, R-A, one-family residential District. The property contains 5000 square feet and a two-story building in the front of the lot which contains two dwelling units and a one-story frame dwelling in the rear of the lot containing one-dwelling unit. Applicant is requesting relief to demolish the front dwelling and construct a single family two-story dwelling. Section 90-9© no non-conforming use may be altered, modified, enlarged, extended or increased; Section 90-22 one single family dwelling allowed per lot, three units exist; Pre-existing variances are: Section 90-22 three single family units existing; Section 24-A required minimum front yard setback is 15, 14.4 existing; Section 90-24A required minimum side yards setbacks 5 and 10 feet, 0 feet to rear dwelling stoop and 11.55 feet existing to the rear dwelling; Section 90-24A required minimum rear yard is 20 feet, 5.7 feet existing to shower; Section 90-24G minimum curb cut is 12 feet allowed, 28.9 feet existing. **Result:** There was testimony of special reasons by the applicant reducing the non-conformity by eliminating one of the living units in the front dwelling as well as reducing the existing front setback non-conformity and

improving on-site parking and there is no variance for lot coverage. The application was granted conditioned upon no increase in lot coverage; the siding on the rear house must match the siding on the proposed front house; the heating system in the rear dwelling will be removed; attic will be six feet to the ridge.

Burdi (Nicholas & Christina), Block 9, Lot 1, 800 Oceanfront, R-1 Residential District, Applicant received approval for variances for front yard setback from Vance Avenue; applicant is now proposing to demolish existing dwelling to be replaced with a new single-family home requiring bulk variances and are seeking a waiver from the requirements of Section 44-B. The proposed residence will be constructed in the general footprint of the existing dwelling and existing porch except the proposed porch will be beyond the footprint. Front setback 15 feet required; 8.41 **Result:** Application was granted and Resolution of Approval was adopted.

Axcelson (Ralph & Sylvia), Block 54, Lot 10, 127 New Brunswick Avenue, Residential A District. The property is located on the north side of New Brunswick Avenue and contains 5000 square feet and two single family dwellings. Applicant is proposing to make alterations to the roof of the front dwelling that requires variances to the existing non-conforming use. Property contains existing non-conformities. Section 90-9A(1)© no non-conforming use may be altered, enlarged, extended or increased; Section 90-A(1)(d) no structural alterations or substantial changes shall be made in any building containing a non-conforming use. **Result:** Application was granted subject to the usual conditions and provision for four off street parking spaces, windows to provide emergency egress from second floor and Resolution was adopted.

Mauriello (Joseph & Vivian), Block 55, Lot 4, 1506 Baltimore Avenue, Residential A District and contains 5000 square feet, an existing 1 ½ story dwelling and a garage. Applicant proposes to install an inground swimming pool in the front yard and construct a 6 foot PVC fence around the pool along the property line; vehicular traffic to garage will be blocked by pool, a variance is required for pool construction and a waiver for proposed fencing. Section 90-8A & 58-3 no accessory building (pool) shall be located in front yard; 15 foot setback is required and proposed pool setback is 5 feet; Section 90-24D91) 37% is maximum structure permitted, 41.7 proposed (Waiver) Section 26-2A for fence. **Result:** Application was heard on 6/25/08 and 7/23/08. The Board suggested the pool location be reconfigured. On July 23, 2008, applicant withdrew application by reason of reconfiguration of the pool location and variances were not required.

Delli Santi (Philip & Francine), Block 54, Lot 1.02, 1400B Baltimore Avenue, Residential A District and contains 5000 square feet and two single family houses which are two separate condominium units A and B. Applicant owns Unit B which is located to the rear of the lot behind Unit A and fronts on Brooklyn Avenue. Applicant proposing to demolish the existing dwelling and one shed and construct a new dwelling. Special reasons D variance is required because lot has two dwellings which is a non-conforming use. Section 90-9A(1)© no non-conforming use may be altered, enlarged, extended or increased; Section 90-A(1)(d) no structural alterations or substantial changes shall be made in any building containing a non-conforming use; Section 90-22 one single family dwelling allowed per lot; two single family dwellings proposed; Section 90-24H minimum setbacks to porch 7 feet permitted; 5.6 feet proposed. **Result:** Application had three hearings. Application was denied and Resolution of Denial was adopted January 28, 2009. ****

******This denial was appealed by the applicant in the Superior Court of New Jersey Ocean County and a decision was recently handed down upholding the Planning Board's denial of the application.**

Astorino (Robert & Margaret), Block 23, Lot 5, 2 Elizabeth Avenue, Residential A District and contains 5000 square feet. The site contains a 2 story frame dwelling in the front of the lot which contains 2 dwelling units and a 1 story frame dwelling in the rear of the lot which contains one dwelling unit. Applicant proposes to demolish the front dwelling and construct a single family dwelling resulting in the non-conformity being reduced from three families to two families. There are existing non-conformities. Special reasons D variance is required because lot has two dwellings which is a non-conforming use. Section 90-9A(1)© no non-conforming use may be altered, enlarged, extended or increased; Section 90-A(1)(d) no structural alterations or substantial changes shall be made in any building containing a non-conforming use; Section 90-22 one single family dwelling allowed per lot. **Result:** Application was granted subject to usual conditions and reduction of non-conformity from three dwelling units to two dwelling units; and revised plan to show no interference by the front steps with the parking spaces; the removal of the heating system from the rear dwelling; utilities placed in attic and siding on rear house to be done to match front house. Resolution adopted April 8, 2009.

An administrative Approval request was also heard on June 24, 2009 to allow the half story above the living room to exist for storage and to allow the entrance stairs to be to the west to eliminate parking problems. **Result:** Application was granted and Resolution was adopted August 26, 2009.

NOW, THEREFORE BE IT RESOLVED, by the Joint Planning

Board/Board of Adjustment of the Borough of Lavallette on this 10th day

of December, 2009 that this Resolution be forwarded to the Borough Council
of Lavallette pursuant to N.J.S. 40:55D-70.1.

ROLL CALL VOTE

Moved by: Mr. Parlow

Seconded by: Mr. Marino

Affirmative Vote: Mr. Parlow, Mr. Marino, Mr. Baginski, Mr. Calderaro, Mr. Zylinski, Mrs. Zaccaria, Mr.

Cataline, Mr. Palinsky, Mrs. Brown and Mr. Howard

Negative Vote: ---

Abstaining: ---

Absent: Mrs. Filippone

CERTIFICATION

I, ROSEMARY ROBERTSON, Secretary to the Joint Planning Board/Board of
Adjustment of the Borough of Lavallette, do hereby certify that the foregoing is a true copy of
the Resolution duly adopted by the Joint Planning Board/Board of Adjustment on the 10th
day of December, 2009.

ROSEMARY ROBERTSON, SECRETARY
Planning Board/Board of Adjustment
Borough of Lavallette