

**MINUTES
BOROUGH OF LAVALLETTE
REGULAR MEETING
OF THE PLANNING BOARD
Wednesday, March 23, 2022 – 7:00 P.M.**

Roll Call: Anthony Cataline - present
Robert Brice - absent
John Borowski – present
Len Calderaro - absent
Joanne Filippone - present
Vincent Marino - present
Joseph Palinsky - absent
Thomas Restaino - absent
George Shenewolf - present

Richard Emery - present
Alex Barletta - present

Also Present: Terry Brady, Esq.

Flag Salute: Mr. Cataline

Public Notice Announcement:

This is the Borough of Lavallette Planning Board Regular meeting of March 23, 2022. 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.

Public Hearing:

Mr. Emery will sit for Mr. Brice and Mr. Barletta will sit for Mr. Calderaro.

Substantially Damaged Determination Appeals:

Case # 018 – 114A + B Trenton Ave. – Roger & Soraida Wilson

Mrs. Donato, applicants' attorney, submitted additional paperwork a few days prior to this meeting. The late submission did not allow time for the proper reviews by our Flood Plain Manager, Board Attorney, or Board Members. Therefore, a motion was made by Mr. Borowski, seconded by Mr. Shenewolf to carry this appeal to the April 27, 2022, Board meeting. Roll call vote: Borowski, yes; Shenewolf, yes; Filippone, yes; Marino, yes; Emery, yes; Barletta, yes; Cataline, yes.

Case # 025 – 98 Newark Ave. - Gail Billings & Lloyd De Pope

Mr. William De Pope of 167 Bogert Street, Totowa, NJ, and owner of 98 Newark Ave., was sworn in to give testimony. Mr. De Pope explained that he purchased the home after hurricane Sandy and was not aware of any substantially damaged determinations. He further stated that previous FEMA notifications may have been sent to 2300 (Unit 2) Grand Central Ave., which was the previous address. (Please note: this address change occurred in May of 2014.)

After reviewing the supporting documents submitted with Mr. De Pope's application, Chairman Cataline shared the comments from the Borough's Flood Plain Manager that additional information is necessary in order to prove compliance with our flood regulation or to reverse the substantially damaged determination. Mr. Brady recommended that the applicant obtain a professional appraisal and resubmit supporting documents showing same.

A motion was made by Mrs. Filippone, seconded by Mr. Borowski to grant a postponement to the April 27, 2022, meeting. Roll call vote: Filippone, yes; Borowski, yes; Marino, yes; Shenewolf, yes; Emery, yes; Barletta, yes; Cataline, yes.

Application # 2-22, Michael & Bonnie Goldman Zoning Appeal

Michele Donato, applicants' attorney, provided background information and the basis for this appeal. Mrs. Donato contends there was never a zoning permit for the two-story gazebo; the 2013 zoning approval was given to replace a storm-damaged porch/deck. She further stated that this somehow morphed into a two-story gazebo that was completed in 2017. Mrs. Donato presented the argument that the gazebo is an accessory structure, not a porch, and as such is subject to the ordinance prohibiting its use as living space.

There was discussion regarding:

- Mrs. Donato's e-mail correspondence to Mr. Brady dated 2-24-22
- Mr. Brady's determination that the applicant has waited too long to appeal and that the Board has no authority to order the Zoning Officer to enforce any of its regulations.

(It should be noted that Mr. Brady noticed a member of the audience videotaping the meeting. Although the gentleman has a first amendment right, Mr. Brady stressed that prior notification needed to be given.)

- Clarification of the purpose of this appeal
- Planning Board's ruling options
- Exhibits submitted by Mrs. Donato:
 - Exhibit A-1: Letter to Mr. Brady dated March 21, 2022, providing additional legal research for this application
 - Exhibit A-2: Letter to Mr. Brady dated February 24, 2022
 - Exhibit A-3: Application and Exhibits
 - Exhibit A-4: Photos of the two-story gazebo at 1504 Oceanfront
 - Exhibit A-5: Chapter 90. Zoning, Article V. Residence District A Ordinance 90-24, Area, yard and building requirements

Applicant, Michael Goldman, 1502 Oceanfront, Lavallette, NJ, was sworn in and gave testimony that he has lived at this address since the summer of 2006. He also confirmed the construction timelines; i.e., beginning in 2013 and completion in 2016. He stated the following:

- The gazebo is 5 ft. 4 inches from his bedroom.

- He has witnessed underage drinking and partying in the gazebo with noise and loud music.
- There are couches, chairs, and tables in the gazebo.
- The property at 1504 Oceanfront is rented weekly.
- Previous application made in 2020 and subsequent withdrawal
- Police were called regarding the lighting on the gazebo.

Mrs. Donato called full-time resident, Ms. Jeryl McLaughlin, of 14 New York Ave., Lavallette. Mrs. McLaughlin was sworn in and testified that on several occasions she witnessed large groups of 25 to 30 younger people in the front yard from approximately 9 a.m. to 6 p.m. On another occasion she saw both the top and the bottom gazebos filled with people. In December of 2021 she noticed flashing lights that lit up the entire side of Mr. Goldman's house. In her opinion, she feels that the gazebo decks and staircase are not safe.

Mrs. Donato called Mr. Brian Dowling of 19 Overhill, East Brunswick. Mr. Dowling was sworn in and testified that he summers at his home at 4 New Brunswick Ave. in Lavallette. He told the Board that he has witnessed the same situation as Ms. McLaughlin and added seeing the groups drinking and hearing profanity.

Lisa Stefanelli, 22 Dogwood Lane, East Hanover, and the owner of 1504 Oceanfront, was sworn in and testified that their home was damaged in the 2012 storm. She further stated that the family hired all licensed professionals to do the repairs, filed all the required permits and had all the required inspections. The gazebo construction was challenged by the Goldman's, and an issue over the fence halted the job for a while. The Stefanelli's architect submitted the plans. Mrs. Stefanelli confirmed that the gazebo has been up for over six years, and she received a letter from Mrs. Donato in October, 2021, citing that the structure is illegal. She will remove the lights on the gazebo but also mentioned Mr. Goldman's floodlights. During Mrs. Donato's cross examination, she made reference to documents presented in the application packet: Building Subcode Tech Sheet dated July 3, 2013 and Construction Permit #13-01209.

Mr. Leonard Stefanelli of 11 Dogwood Lane, East Hanover, and owner of 1504 Oceanfront was sworn in and presented the following Exhibits:

- Exhibit O-1: Copy of Construction Permit Notice dated 9-17-14
- Exhibit O-2: Copy of Approval for Building

Mr. Stefanelli informed the Board that they have owned this property since 2008 and started renting in 2017.

Chairman Cataline opened the meeting for public comment at approximately 9:17 p.m.

Ms. Paula Sturm of 1600 Oceanfront, was sworn in and attested that she has been a full-time resident since 2008 and has found the Stefanelli's to be considerate neighbors.

Mr. Cesare Stefanelli of 39 Kanouse Lane, Montville, NJ, and owner of One Magee Ave., Lavallette, was sworn in and indicated that while the gazebo was being built, the builder was being harassed by the neighbor. At this point, Mr. Brady, Board attorney, cautioned that this is irrelevant testimony for the Board.

Mr. Leonardo Stefanelli, 118 Easton Ave., New Brunswick, NJ, was sworn in and read a statement about the benefits of the gazebo to his family.

The public portion of the hearing was closed at approximately 9:35 p.m.

Mr. Brady commented that this appeal belongs in the Superior Court. Mr. Barletta voiced his agreement. There was brief deliberation among the Board members. A motion of “no action” was made by Mr. Borowski, seconded by Mr. Barletta. Roll call vote: Borowski, yes; Barletta, yes; Filippone, yes; Marino, yes; Shenewolf, yes; Emery, yes; Cataline, no.

Resolutions Memorialized:

N/A

Review & Approval of Minutes:

A motion was made by Mr. Emery, seconded by Mr. Borowski to accept the minutes of the February 23, 2022. All who were present at that meeting voted in favor.

New Business:

Discussion:

Adjourn:

Chairman Cataline adjourned the meeting at approximately 10:00 p.m.

Respectfully submitted,

Joyce Deutsch, Secretary