

**MINUTES
BOROUGH
REGULAR MEETING OF THE PLANNING BOARD
Wednesday, June 28, 2023 – 6:00 P.M.**

Roll Call:

Alex Barletta – absent
John Bennett – present
Anthony Cataline – present
Joanne Filippone – present
Jennifer Hartman-Sica – present
Vincent Marino – present
Joseph Palinsky – present
Thomas Restaino – present
George Shenewolf – present

Mary Chyb - present

Also Present:

Terry Brady, Esq.
Millis Looney, PE, CFM
Michael Goldstein, PE, CFM

Flag Salute:

Public Notice Announcement:

This is the Borough of Lavallette Planning Board Regular meeting of June 28, 2023. 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:

Construction of Replacement Well No. 6 – Courtesy Review

John Berens, PE, and Senior Professional Engineer from Van Cleef Engineering, is the design engineer for this replacement project. He explained that the existing Well No. 3 will be replaced by Well No. 6. There was discussion regarding:

- the electrical system at the water treatment being replaced
- the system and generator being replaced
- BFE designed for Elevation 8
- two-year project with construction costs projected at 2.9M
- bids are being accepted
- work should begin in the Fall
- noise level after installation will be insignificant
- project will be fueled by oil

- there will be sufficient parking while the work is being done

Mr. Bennett stated that he wanted to make sure the Board knew about the change in our Capital Plan. The Board thanked Mr. Berens for his time, and the discussion ended.

Application # 1-23 – Steven and Janine Kolinsky, 227 Westmont Ave., Block 1113, Lot 41 – continued from May 24, 2023, meeting – revised plans submitted

The property is located on the north side of Westmont Ave., approximately 690 linear feet from New Jersey State Hwy. 35 South, in Residence District C. The property contains 4,250 sq. ft. The site currently contains a 2-story dwelling and deck.

The applicant is proposing to raise and renovate the existing 2-story dwelling. The proposal includes rebuilding the foundation to make the house square with the property. The existing deck will be removed. Two garages and two paver driveways are proposed.

A zoning permit was denied on 10/6/22 because “no increase in non-conformity allowed, addition in side yard setback.”

Chairman Cataline recused himself and assigned the Chairman duties to Co-chair, George Shenewolf. Ms. Chyb sat for Mr. Cataline.

Lynne Dunn, Esq., applicants’ attorney asked Robert Burdick, Principal of RC Burdick, PE, PP, PC out of Pt. Pleasant Beach to highlight the revisions in the architectural plans and explain the variances being requested as:

- front yard setback
- side setbacks
- structure coverage
- two 11 ft. curb cuts

He took the opportunity to explain that the second requested curb cut would be placed next to an existing fire hydrant.

Steven Kolinsky of 227 Westmont Ave., was sworn in and testified that the existing patios will be removed, and he went on to explain the expansion of the kitchen.

Ms. Dunn presented Allison Coffin, PP and AICP, whose credentials were accepted by the Board. Ms. Coffin testified that the remaining side setback variance was need as a result of lot being undersized and cited C1 hardship standard. She gave further testimony regarding:

- Flood compliant elevation
- Reduction of current ground and total coverage
- Second driveway to provide more total parking with no impact on street parking due to fire hydrant
- Four off-street parking spaces are proposed

There was further discussion regarding:

- Grill on covered deck
- Configuration of neighboring properties

At approximately 7:00 p.m. Chairman Cataline opened the hearing for public comment, and hearing none, the public portion was closed.

After Board deliberation, a motion to approve the application as presented was made by Mrs. Filippone seconded by Mr. Palinsky. Roll call vote: Filippone, yes; Palinsky, yes; Bennett, no; Marino, yes; Restaino, yes; Shenewolf, yes, Chyb, yes.

Mr. Barletta joined the meeting at 7:00 p.m.

At approximately 7:10 p.m. Michael Goldstein left the meeting

Applications # 11-22 and 12-22 Zoning Appeals – Lori Sempervive, 40 Dickman Dr. – Block 974, Lots 11, 11.01, 12 – continuation from April 26, 2023, meeting

Applicant's attorney has submitted two appeal applications for interpretation, corresponding to two applications for Zoning Permits submitted to the Borough and denied by the Zoning Officer.

Michele Donato, Esq., addressed the Board as to the crux of this appeal and explained that she intends to present testimony that will end this case. She then asked Mr. Joseph Grabas, certified land title professional, about the determination of property lines.

Mrs. Filippone questioned why the Board was listening to all this testimony. At this point, Chairman Cataline allowed the objectors' attorney, Michael Dolan, to cross examine Mr. Grabas testimony. Mr. Dolan cited the last page of Exhibit A-31 (submitted on April 26, 2023) and asked for further explanation.

Mrs. Donato called Jason M. Marciano of East Coast Engineering who was sworn in and gave testimony in his capacity as Flood Plain Manager. He submitted Exhibit A-39 (Survey Map with topography dated June 1, 2023). He said that it was similar to what the Board had seen previously, however it established set back compliance and showed the rear set back in excess of 20 feet.

A discussion of Ordinance 90-35, *Permitted principal uses and buildings*, and 90-8, *Accessory buildings and uses* followed with arguments regarding:

- Interpretation of Ordinance: "If it is not listed, it is not permitted."
- NFIP Chapter 31
- Definition of a structure
- Description of the existing structure

Exhibit A-40, revised architectural plans dated March 13, 2023, were submitted.

Michael Dolan cross examined this witness with regard to the differences between the revised architectural plans and the original Gravatt Plan dated 1/24/22. He also pointed out that the central issue here is whether this structure is a building.

Planner David Roberts who was still under oath from our February 22, 2023, hearing was questioned by Mrs. Donato regarding his January 9, 2023, specifically page 5, Item 3c. After Mr. Roberts gave his interpretation of the governing body's intention when creating these ordinances, Mrs. Donato confirmed that his report states that the Sempervive structure is a permitted use.

Mr. Dolan was allowed to cross examine this witness. He questioned how a Zoning Official makes his determinations; to which Mr. Roberts replied that the Zoning Officer relies on a professional survey.

Mrs. Donato called Gordon Gemma, PP, who was also under oath from his previous appearance on April 26, 2023. He reconfirmed that in his opinion this is a permitted accessory citing Ordinance 90-6, *Intent*.

Mr. Dolan noted the following:

- Violation notices
- Twenty day zoning appeal rule
- Jurisdiction of Planning Board
- Violation of side yard setbacks
- Rear yard setback not measured from a defined line
- Magnitude of items
- Flood Plain review not included in application
- Confusion as to what the applicant is asking for
- Missing NJDEP and CAFRA approvals

He called Mr. Peter G. Steck, PP, NJPO Board of Planning Advisors, of 80 Maplewood Ave., Maplewood, NJ, as the objectors' witness. The Board accepted Mr. Steck's credentials. He presented his Planning Memorandum as Exhibit: O-1.

Since it was 11:00 p.m. and our Rules and Procedures state that no hearings will continue after that hour, it was determined to adjourn. The applicant's attorney requested a special meeting date for the continuance of this appeal. A motion was made by Mr. Cataline to continue on Tuesday, July 25, 2023, at 5:00 p.m, seconded by Mr. Barletta with all members in attendance voting in favor.

Resolutions Memorialized:

Application # 13-22 – Michael Swartz, 146 Elizabeth Ave. – Block 62, Lot 29 – expansion of non-conforming use – denial

Application # 2-23 – Richard & Virginia Bender, 110 New York Ave., Block 45.01, Lot 15 – approved with conditions – revised plans required

Review & Approval of Minutes:

Mr. Bennett made a motion to accept the minutes from the Regular Planning Board meeting of May 24, 2023, seconded by Mr. Marino with all who were present at that meeting voting in favor.

New Business:

Discussion:

Adjourn:

Mr. Barletta moved to adjourn the meeting, seconded by Mr. Bennett. The meeting adjourned at approximately 11:10 p.m.

Respectfully submitted,

Joyce Deutsch, Secretary