

MINUTES
BOROUGH OF LAVALLETTE
REGULAR MEETING OF THE PLANNING BOARD
Wednesday, June 25, 2025 – 5:00 P.M.



ROLL CALL:

Alex Barletta – present

John Bennett – absent

Anthony Cataline – present

Joanne Filippone – present

Jennifer Hartman-Sica – present

Vincent Marino – present

Joseph Palinsky – present

Thomas Restaino – present

Mary Chyb – present

Jennifer DeRienzo – present

Also Present: Terry F. Brady, Esq. and Michael Goldstein, PE, PP, CFM

Flag Salute: Chairman Cataline

Public Notice Announcement:

This is the Borough of Lavallette Planning Board Regular meeting of June 25, 2025. 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 Clerks 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 Hearings:

- **Application # 7-2025 – 115 Magee Ave, Michael and Lucille Jarosinski, Block 35.02, Lot 22**

The applicant's attorney, Michele Donato, Esq., opened the application stating her clients inadvertently were affected by a change in an ordinance in 1985. The ordinance was written to remove the construction of future two family homes in zone Residential A. She stated that the original garage was converted to a dwelling unit approximately in the 1930's, prior to the ordinance change. She introduced the property record card from 1976 (exhibit A-1) which showed the property having a two family. Mrs. Donato stated that the applicant is asking for a certificate of non-conformity for the rear cottage to continue to be used as a cottage/two family on the property. Approximately during the 1983 revaluation the cottage was changed to a garage. The owners were unaware of the change.

Witnesses for the applicant:

1. Jerry R. Skinner, 112A Magee Ave., Lavallette, NJ
 - a. His family moved to Lavallette in 1958. Lives across the street.
 - b. Stated that as he grew up the home on 115 Magee was always, since 1958, a cottage.
2. Geraldine Halley, 119 Magee Ave., Lavallette, NJ
 - a. Has lived in Lavallette for over 50 years
 - b. Stated that the structure in the rear of the property has been a dwelling unit since 1971.

3. Michael Morano, 125 Magee Ave., Lavallette, NJ
 - a. Family has been a neighbor since 1960 when he was only 5 years old.
 - b. Stated that the structure in the rear of the property has been a cottage, dwelling unit since 1960.
4. Affidavits from other neighbors who could not be here to state the same is true of the structure for the given time frames.
 - a. Robert Lamb of 121 Philadelphia Ave, Lavallette, NJ, whose knowledge was from 1930's to January 3, 1980.
 - b. Kathy DiLascio of 113 Magee Ave., Lavallette, NJ, whose knowledge was from 2001.
 - c. Daria Hajisafari of 116 Magee Ave., Lavallette, NJ, whose knowledge was from 2008
 - d. Kyle O'Brien of 112 Magee Ave., Lavallette, NJ, whose knowledge was from 1990.
5. Michael and Lucille Jarosinski, 1305 Bay Blvd., Lavallette, NJ.
 - a. Structure has been a cottage since the 1930's, reinforced by neighbors.
 - b. Owners of the property, 115 Magee LLC, husband and wife together.
 - c. Home was purchased in 1980 by a partnership with the parents. In 2013 husband and wife became sole owners of the property, 2 houses.
 - d. Attempting to fix and repair the cottage, led them to find out the property record card used for the property stated the cottage was a garage.
 - i. The property record card from 1976 did have two dwelling units.
 - e. Lucille initially met with the tax assessor and discussed the card
 - i. EXHIBIT A-1 1976 PROPERTY CARD : 2F = two family
 1. 4 pages, page 2 and 3 each describe one of the dwellings = 2 dwellings
 2. Property record card is only a guide to help us understand, not dispositive
 - f. Lucille met with the Tax Assessor who showed her the card and then also saw the same at the construction office.
 - g. Lucille stated that they continued to pay a minimum water bill for the structure as a dwelling.
 - i. EXHIBIT A-2 WATER BILL FOR THE PROPERTY, CURRENTLY PAYING FOR 2 UNITS
 - ii. Water is supplied to the building
 - iii. One meter
 - h. Michael added, there is currently 1 meter on the property.
 - i. EXHIBIT A-3 SURVEY FROM 1979, BY WALTER T. TOTH
 - i. Did the property have flood insurance? Yes. Homeowners insurance? Yes.
 - i. EXHIBIT A-4 TWO UNITS WITH FEMA FLOOD INSURANCE during Superstorm Sandy 2016
 - ii. EXHIBIT A-5 HOMEOWNERS INSURANCE, 2ND PAGE FROM OHIO CASUALTY
 - j. Has the structure been inhabited? Not since the Superstorm Sandy.
 - k. Do you have any current dwelling insurance? Yes, but not homeowners on the structure. None since Sandy, 2016.
 - l. What is your intention? To elevate and make structure livable for their daughter.

- m. Was there heat? At one time
 - i. EXHIBIT A-6 PHOTO 2014 on MUELLERREPORTS.COM
- n. Personal issues shared.
- o. After Superstorm Sandy the damaged property was designated a single family home.
- 6. M. Goldstein clarified with regards to BFE and time to come to the board after Sandy.
 - a. 2 family prior to ordinance change, continued use as nonconforming use, was there permits filed post Sandy? Not rehabilitated 13 years ago. Post Superstorm Sandy was the time to confirm structure status.
 - b. Note: Regardless of non-conforming use – concerning the elevation the structure; cannot go higher than the BFE plus freeboard without coming back to the board, since that would be expanding on a non-conforming use. Based on BFE applicant cannot go to 12.5' ft. elevation as stated on the plot plan provided from MCH Engineering, Inc., dated 3/06/2025, 115 Magee Ave, Block 35.02, Lot 22 provided in the application.
 - c. MD disagreed and discussed the terms of abandonment and intent of the owner. Both owners say their intent was to continue a two family property. Confirmed with the township attorney that the decision for a certificate of non-conformity is up to the Board and generally it is a matter of intent and there is no definitive test available for intent.
- 7. Mr. and Mrs. Jarosinski discussed sequence of the priorities of their four properties after Superstorm Sandy.
- 8. Was there ever a garage door on the structure?
 - a. Yes, originally a two family.
 - b. Then a garage? Yes, prior to the testimony of the witnesses – before the 1930's. 1979 survey was garage/cottage because the garage was converted to a dwelling unit prior to their purchase in 1980. Also before the change in the town ordinance. The tax reevaluation person confused the dwelling with a garage.
 - c. Family purchased property in 1980's with barn doors on second dwelling structure, changed to garage door. Has a side door/storm door.
 - d. Not used as a garage since the 1970's.
- 9. Tenants? No, only family use since 1980.
- 10. Family was unaware of change on tax card as a single family in 1984.
- 11. Discussion of whether any improvements were made to the structure from the 1980's prior to Superstorm Sandy? Not many.
 - i. EXHIBIT A-5 OHIO CASUALTY INSURANCE CO 1/3/2015 TO 1/3/2016
 - ii. EXHIBIT A-6 MUELLERREPORTS.COM EXTERIOR (PHOTOS) ON-SITE REPORT
 - iii. EXHIBIT A-7 2023 FINAL/2024 PRELIMINARY TAX BILL
- 12. M. Donato discussed that the Notice of Violation for the work that was being done to the structure is not the subject of the hearing
 - a. Applicants received from the town and then hired counsel.
 - b. Photos of exterior after Superstorm Sandy from March 2024 in Notice of Violation
 - i. EXHIBIT B-1 NOTICE OF VIOLATION ZONING/CODE ENFORCEMENT 3/13/2024
 - ii. EXHIBIT A-8 MUELLERREPORTS.COM: EXTERIOR PHOTOS

- c. Was there sheetrock on the walls prior to Sandy?
- i. No, open studs painted, no insulation, no sheetrock
 - ii. M. Donato requested question to be asked again, sheetrock is on interior walls, open studs on garage door wall; ceiling around the garage doors not sheet rocked.
 - iii. Mrs. Jarosinski clarified further; Kitchen, bath, bedrooms sheet rocked, but the garage door wall was not. Everything was there when they purchased, kept things up. No knowledge of Certificate of Occupancies issued for property.
 - iv. EXHIBIT A-8 INTRODUCED DURING THE MEETING (house at ground level) - Exterior diagram sketch part of insurance coverage, 2014, rear building condition from Muellerreports.com– not accurate per L. Jarosinski. What it shows as attached garage is really the living room. Sketch doesn't show bathroom, etc.
 - v. Notice of violation photos from Code Enforcement 3/13/2024 (B-1) confirmation of photos as to accuracy, yes. Not relevant to case per M. Donato. Does this structure look the same since Sandy? Yes, then clarified to have interior walls after Sandy which are not shown in photos. Photos are accurate about a year before Notice of Violation. After the Notice of Violation in 2024; they stopped all work, proceeded to seek counsel in order to straighten out situation, to the current codes once discovering the inaccurate tax card.

Chairman Cataline opened the hearing for public comment.

- None

M. Donato summarized:

- a. Question for the Board is; was this a dwelling unit/two family before the ordinance change in the 1985 Ordinance that prohibited two family homes?
- b. If the question of abandonment or intent is leading to your decision, M. Donato would like to present legal proofs of further case law.
- c. Sticking to the 'use' of the structure prior to the ordinance change.

Board comments & questions:

- a. Seen numerous properties and believe it was a dwelling unit, after Sandy there were liberal standards for all and believes can sit empty without being fixed.
- b. Tax bill does not show 2 family, should have raised a red flag. Therefore, abandonment of property.
- c. Desire to see photos right after Sandy inside and out. Would be really easy if had photos inside the house at any time prior to Sandy. Difficult case without any family photos inside the structure or construction photos prior to Sandy.
- d. Agreement with after Sandy that structure was not updated is OK, but question the timeframe from the 1980's to Super storm Sandy and why nothing was brought up.
- e. Two major town wide tax reevaluations and a mid-reassessment have taken place since Sandy. Three changes in the homeowner's tax bill opened up opportunities to bring any concerns to the borough.

- f. Doors of structure wouldn't open, was ok.
- g. Tax cards are not the only piece of evidence presented to make a decision.
- h. MLUL states deliberate publicly
- i. MLUL - Within the first year of an ordinance change the zoning officer will make the determination, greater than 20 years the resident must come to the Board for a certificate of non-conformity.
- j. Plot plan presented by the MCH Engineering Inc., dated 03/06/2025, was not reviewed or approved by the Township Engineer, M. Goldstein, PE, PP, CFM. Any action should not reference the plot plan that was included in the package.

After Board deliberation, a motion to accept the application for a certificate of non-conformity two family as occupied made by Mr. Palinsky, seconded by Mrs. Hartman-Sica.

Roll call vote: Barletta, Nay; Bennett, Absent; DeRienzo, Nay; Filippone, Nay; Hartman-Sica, Aye; Chyb, Nay; Marino, Abstain; Palinsky, Aye; Restaino, Nay; Cataline, Nay.

The vote; 2 Aye and 6 Nay, the motion is denied.

Resolutions to be memorialized:

- **Application # 2-2025 – 10 Sturgis Rd, Gerri and Patrick Ryan, Block 964, Lot 2**
Application withdrawn & dismissed without prejudice

Site Description:

The property is situated in Residential District B, along the south side of Sturgis Road, 260FT. from Dickman Dr. and 160 FT. from Newark Ave. The lot currently contains a raised single-family two-story dwelling with a front porch, a paver drive, raised deck, and a stone yard. To the east, west and south, are single family dwellings.

Application:

The applicant seeks setback variance relief to install an 11 foot by 29-foot inground pool.

Application is withdrawn and dismissed without prejudice and can return to the Board should they wish.

All votes were in favor, none opposed and none abstained.

- **Application # 3-2025 – 110 Ortley Ave., Brian and Jenna Quinn, Block 28.01, Lot 15**
Appeal of Zoning Denial. 90-24C (1), approved with conditions

Site Description – plans for a half story above second story, denied by Zoning Official

A motion was made by A. Barletta to accept the resolution; approved with conditions, seconded by J. Filippone.

All votes were in favor, none opposed, and none abstained.

Review and Adoption of Minutes:

Planning Board Meeting of June 25, 2025.

A motion was made by J. Filippone to accept the minutes, seconded by A. Barletta.

All votes were in favor, none opposed, and none abstained.

Old Business:

- None

New Business:

- Next meeting July 23, 2025

Correspondence: (on file in the Planning Board Office for your review)

- None

Discussion:

- None

Adjourn:

On motion by Mr. Barletta, seconded by Mr. Cataline the meeting was adjourned at 6:48 pm. All in favor of adjournment.

Respectfully submitted,
C. Nunziato, Secretary