

ZONING BOARD OF REVIEW

Sitting as the

ZONING BOARD OF APPEALS

Barrington, Rhode Island

MINUTES OF THE MEETING:

At the call of the Chairman, Thomas Kraig, the Board met with Paul Blasbalg, Peter Dennehy, Dave Rizzolo and Stephen Venuti.

Also present was Mark Hadden, specially retained as counsel for the Board.

At 7:10 P.M., March 15, 2012, Mr. Kraig opened the hearing and the Board proceeded to hear the following matter.

Appeal of 251 Rumstick Road, LLC, 251 Rumstick Road, Barrington, RI 02806, from a Decision of the Building Official, Assessor's Plat 10, Lots 76 and 118, 247 Rumstick Road and 35 Fessenden Road, Barrington, RI 02806, holding that the two lots have not been merged.

Present: Martin P. Slepko attorney for Mr. & Mrs. Domingues, Slepko, Slepko &

**Associates, Inc., 1481 Wampanoag Trail, East Providence, RI
Edward Pimentel, AICP**

Rindy Domingues, 251 Rumstick Road, Barrington, RI

Robert Speaker, Building Official, Town of Barrington

**Andrew Teitz, counsel for Mr. Speaker, Ursillo, Teitz, & Ritch,
2 Williams Street, Providence, RI**

**Anthony DeSisto, attorney for the owners of the subject property, 450
Veterans Memorial Parkway,
Suite 103, East Providence, RI**

Before this matter began, Mr. Dennehy disclosed a prior professional relationship with Mrs. Domingues, an abutter. After discussion, the appellants, through their attorney Mr. Sleprow, indicated that they had no objection to Mr. Dennehy's participation in the case.

Mr. Hadden began by explaining to the Board that, on the record before the board, and based on the appeal here filed, the standards for reviewing a decision of the Building Official was that there is no presumption of the correctness of the decision of the Building Official, and that the Board determines facts and the law de novo and is not bound by the record below, which the parties are free to provide and supplement here ab initio.

Mr. DeSisto, counsel for owners of the property, objected to the procedure, stating that in his view this should not be an appeal of a decision of the Building Official; rather, if anything, it should be an appeal of a decision of the Administrative Officer for the Planning Board when the subdivision was approved in September of 2011 - thereby requiring different standards for the Board of Appeals to consider.

It should be noted that, procedurally, the appeal in fact submitted to this Board in writing is in fact an appeal from the opinion of the building official, supported by the opinion of the town solicitor, that the two lots in question have not been merged.

Mr. Slepko opened by stating that his clients were aggrieved by a January 10, 2012 determination by the Building Official that lots 76 and 118 on Assessor's Plat 10 had not been merged, leaving lot 118 as a buildable lot. He said that he intends to demonstrate that the lots are substandard lots of record, that they were therefore merged at some prior effective date according to the Zoning Ordinance, and that the Building Official was without authority to determine otherwise, and that therefore only the Zoning Board of Review has the power to unmerge these lots.

Mr. DeSisto objected, noting that in his view that the Domingues are not an aggrieved party under law.

Mr. Teitz stated that he wanted to reserve the right to object to the introduction of late provided submissions of the appellant or to request a continuance because of material received on March 15 - today's date of hearing - that neither he nor the Board had had an opportunity to adequately review or to respond to. Mr. DeSisto joined in this objection.

Mr. Sleprow noted that if a continuance were going to be requested by any party, he would prefer to have it requested now, rather than after he began his presentation, with set dates for all items to be submitted. Prior to the submission of any evidence, all parties agreed to the continuance, that the hearing would begin anew, with the submission and commencement of argument and evidence which shall be commenced at the next hearing date, including with whatever composition of the board's membership shall attend at that time;

MOTION: Mr. Venuti moved to continue this matter to the May 17, 2012 meeting, with the following conditions, and in accordance with the agreement of the parties above:

„« An outline of the standards for decision to be provided to the Board by the parties as well as by Mr. Hadden in consultation with the board;

„« All legal memoranda, reports, documentation, identification of witnesses and other supplemental material to be submitted by the parties and by those present for tonight's hearing to Ms. Carroll no later than 4:30 p.m. on April 23, 2012;

„« All replies and responses to the supplemental material must be submitted to Ms. Carroll no later than 4:30 p.m. on April 30, 2012;

Mr. Blasbalg seconded the motion and it carried unanimously (5-0).

ADJOURN:

At 7:52 P.M. Mr. Venuti moved to adjourn the meeting, to be continued anew to the above date. Mr. Blasbalg seconded the motion and the meeting was unanimously (5-0) adjourned.

Respectfully submitted,

Valerie Carroll, Secretary

Thomas Kraig, Chairman

cc: Mark Hadden

ZONING BOARD OF REVIEW

Barrington, Rhode Island

March 15, 2012

APPLICATIONS: #3658, and 3662

MINUTES OF THE MEETING:

At the call of the Chairman, Thomas Kraig, the Board met with Paul Blasbalg, Peter Dennehy, Dave Rizzolo and Stephen Venuti.

Also present was solicitor Andrew Teitz and Building Official Robert Speaker.

At 7:04 P.M. Mr. Kraig opened the meeting. At 7:10 the Board of

Review temporarily adjourned in order to meet as the Zoning Board of Appeals. At 7:53 the Board of Review meeting was reopened and the Board proceeded to hear the following matters. At 8:45 P.M. the public participation portion of the meeting was closed and the Board proceeded to deliberate and vote on applications it had heard

Before the applications began it was noted that due to quorum issues it would be necessary to move the April meeting from April 19th to April 26th.

MOTION: Mr. Venuti moved to change the April meeting date to April 26, 2012. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

Continuation of application #3658, Timothy and Jill Lukens, 291 Narragansett Avenue, Barrington, RI 02806, applicants and owners, for permission to construct an 8' x 8' shed and a 6' x 4'7" shed; Assessor's Plat 1, Lot 289, R-10 District, 291 Narragansett Avenue, Barrington, RI 02806, requiring a dimensional variance for a sheds within 5' of the primary structure, sheds within the side yard setback, as well as for exceeding lot coverage.

Mr. Kraig read into the record a request from Mr. Lukens to continue this matter to April.

MOTION: Upon a motion by Mr. Venuti, with a second by Mr.

Dennehy, the Board voted unanimously (5-0) to continue this application to the April 26, 2012 meeting.

Application #3664, J.G.M. Realty Associates, LLC, 5 Abby Road, Barrington, RI 02806, applicants, Ryan Family Limited Partnership, 30 Argyle Ave, Apt. 201, Riverside, RI 02915, owner, Prestige Cleaners, 5 Abby Road, Barrington, RI 02806, lessee, for permission to create a new dry cleaners business with the existing second floor residential unit to remain; Assessor's Plat 23, Lot 37, Business District, 286 County Road, Barrington, RI 02806; requiring a Special Use Permit as well as front yard parking relief.

**Present: Anthony DeSisto, attorney for the property owners, 450 Veterans Memorial Parkway,
Suite 103, East Providence, RI**

Joseph Merlino, J.G.M. Realty Associates, LLC, 5 Abby Road, Barrington, RI

In the audience:

John Codega, 8 Hamilton Avenue, Barrington, RI

Mr. DeSisto explained that Mr. Merlino currently operates a dry cleaning business, Prestige Cleaners, in the Princess Hill plaza. He is seeking to relocate to the 286 County Road address because it gives him the opportunity to own the building as opposed to renting. The first floor of the building would contain the dry cleaning business while the second floor would remain an apartment. Dry cleaning and

shirt laundering services would be done on site, while leather and suede cleaning would be sent out. The layout will have the cleaning operations in the back part of the premises, while the residence is above the front part, and there is a solid wall between the two parts of the first floor.

The Board asked about the chemicals used in the cleaning process. Mr. Merlino stated that he uses a hydrocarbon, DF 2000 by Exxon, a class 3 solvent with a flash point of 199. No perchloroethylene is used with his machines. Additionally, each machine is a self-contained unit, there is no disposal of chemicals on-site and any venting that is done is strictly limited to steam. There will be no environmental impact on the surrounding area, nor will there be any odors from the cleaning. At the current location the closest residence is within 50 feet of the building and there have not been any complaints.

In regards to the parking, there are 15 spaces available, which is more than adequate to support the apartment, the employees and the business traffic. The business averages 50 customers a day, with approximate 10 per hour during peak times, and the average stay in the store lasts approximately five minutes. Relief is required because the parking is located within the front yard setback and it will require cars to back onto Hamilton Avenue. However, it was noted that these are existing conditions and at that point Hamilton Avenue has very little traffic beyond customers to that business.

Mr. Codega inquired about the chemicals used in the cleaning process. He also asked if the existing hedge would be maintained and if the owner planned to rent the second floor apartment. The applicant assured Mr. Codega that he would leave the hedge in place and maintain it. Mr. Merlino also noted that he does intend to rent the second floor apartment and is installing additional fire alarm systems to provide additional protection to any tenants.

MOTION: Mr. Dennehy moved to approve the application. Mr. Venuti seconded the motion and it carried unanimously (5-0).

DISCUSSION:

The Board members stated they were in favor of approving the application for the following reasons:

- „« The business has been established for over 16 years**
- „« The residence will not be directly over the cleaning operation**
- „« The parking is an existing condition, not a proposed parking plan**
- „« There will be no additional hazards to the area**

REASON FOR DECISION:

It was the judgment of the Board that the standards in Section §185-73 have been met: That A). The public convenience and welfare will be substantially served, B). It will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan, C). It will not result in or create conditions that will be inimical to

the public health, safety, morals and general welfare of the community and D). It will not substantially or permanently injure the appropriate use of the property in the surrounding area or district.

MINUTES OF THE PREVIOUS MEETING:

A motion was made by Mr. Rizzolo and seconded by Mr. Venuti to accept the February 16, 2012 Zoning Board of Review minutes as written. The motion carried unanimously (5-0).

ADJOURN:

There being no other business, Mr. Venuti moved to adjourn at 8:50 P.M. Mr. Dennehy seconded the motion and the meeting was adjourned.

Respectfully submitted,

Valerie Carroll, Secretary

Thomas Kraig, Chairman

cc: Andrew Teitz, Solicitor