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JOHNSTON ZONING BOARD OF REVIEW

100 Irons Avenue, Johnston, Rhode Island 02919

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MINUTES

December 15, 2005

The Zoning Board of Review monthly meeting was held on the 15th day of December at 7:05 PM in the Library at the Ferri Middle School, 10 Memorial Avenue, Johnston, RI. All persons interested in the following proposals were requested to be present at this time.

I. Roll Call

Chairman Anthony Pilozzi; Vice Chairman Joseph Anzelone; Secretary Christopher B. Maselli; Kenneth Aurecchia; Bernard Frezza; Richard Fascia; James P. Howe, Solicitor; Dianne Edson, Stenographer

II. Approve minutes of previous meeting

III. Old Business:

A. Owner: Gerald E. Diodati
 Applicant: Nextel Communications of the Mid-Atlantic, Inc.
 Location: 3 John Street; Plat 4 - Lot 319
 Lot Dimensions: Frontage 30± feet; Depth: 73 ± feet; Area: 10,000± sq. ft.
 Zone: Industrial (I) Zone
 Present use: Industrial Building, existing 4,500± sq. ft. footprint
 Proposed: Installation and operation of 90± feet high antennae on top of existing building's smokestack and construction of 12 feet x 28 feet (336 sq. ft) ancillary equipment shelter.
 Special Use Permit petitioned under Article III, Section D, Table III-D-1, Subsection 5.

No show – continued to next agenda.

JOHNSTON ZONING BOARD OF REVIEW MINUTES FOR Dec. 15, 2005

- B.** Owner/Applicant: Guy D. Alba
Location: 9 Candice Court (Plat 20-2, Lot 316, Zone R-15)
Dimensions of lot: Frontage: 100', Depth: 290', Area: 28, 944 square feet
Present use: Single family home
Proposed: Dimensional variance to add a garage and all-season room to home

This application is under Article III, Table III F-1.

Mr. Pilozzi summarizes that the changes requested by the abutter have been made, except planting arborvitaes to screen the pumping station and the new garage. The new plan asks for a side setback of 9 feet. DEM approval has been obtained.

Testimony from Mr. White, abutter, concerns viewing the concrete foundation from the side. Mr. Pilozzi suggests more trees there.

Motion to grant made by Mr. Aurecchia, seconded by Mr. Pilozzi. A voice vote was taken, all approve.

IV New Business:

- A.** Owner/Applicant: Eric and Denise Grande
Location: 1 Wagon Trail (Plat 48-3, Lot 570, Zone R-40)
Dimensions of Lot: Frontage: 122.89±', Depth: 229.27±' Area: 40,000 ± sq. ft.
Present Use: Single family dwelling, 1,792± square feet
Proposed: Remove existing 256± square feet wooden deck; replace with construction of a 400± square foot addition for use as living space.

Dimensional Variance petitioned under Article III, Section F, Table III-F-1.

Minimum Rear Yard Variance Request: Required 75 feet rear yard; Proposed 63 feet rear yard; Relief requested for 12 feet, rear.

Mr. John Shekarchi, attorney for the applicant, states that the applicant would like to remove an existing deck and replace it with a 20x20 square foot addition to be used as living space. The applicant is requesting relief for 12 feet on the north side of the property. William Dilibero, a professional planner explained that because of the way the lot is laid out, there is no way to attach the family room without seeking relief. There is not an option to purchase additional land to adhere to required setbacks. Mr. Dilibero was accepted as an expert witness, Mr. Anzelone made the motion, seconded by Mr. Pilozzi. Mr. Pilozzi questioned if stairs were planned leading out side from the addition. Mr. Grande testified that the stairs would protrude from the side of the addition, not requiring any relief in side setbacks. The experts' report was accepted as Exhibit 1. Motion made by Mr. Aurecchia, seconded by Mr. Pilozzi. A voice vote was taken. All in favor. No abutters appeared in favor or against. Motion made by Mr. Aurecchia to grant application, seconded by Mr. Pilozzi. A voice vote was taken. All in favor.

JOHNSTON ZONING BOARD OF REVIEW MINUTES FOR Dec. 15, 2005

- B.** Owner/Applicant: Gary J. and May Ann Rianna
Location: 458 Greenville Avenue (Plat 48-1, Lot 389, Zone R-20)
Dimensions of Lot: Frontage: 70±', Depth: 122±', Area: 8,547± square feet
Present Use: Single Family Dwelling
Proposed: Dimensional variance petitioned under Article III, Table III F-1.

Minimum Rear Yard Variance Request: Required 50 feet rear yard; proposed 44.45 feet rear yard; Relief requested for 5.55 feet, westerly side.

Minimum Side Yard Variance Request: Required 25 feet side yard; proposed 16.13 feet side yard; Relief requested for 8.87 feet, northerly side.

Ms. Rianna, after being duly sworn, testified that the existing deck is to be removed and a 288± square foot family room built. Mr. Pilozzi verified that the addition was not to be used for a business or rented out. Ms. Rianna stated that neither was the case. Motion made by Mr. Aurecchia to grant the application, seconded by Mr. Pilozzi. A voice vote was taken, all in favor to approve.

- C.** Owner: Conchetta Ferrante
Applicant: Custom Sign Center, Inc.
Location: 1423 Hartford Avenue (Plat 53-3 - Lot 122, Zone B-2)
Dimensions of Lot: Frontage: 120±', Depth: 240±', Area: 0.479± acres
Present Use: Business
Proposed: Business (Tim Horton's)
Variance petitioned under Article III, Section J, 1(e)(8) (Menu Boards) and Section J, 1(e) (11) Wall Signs (aka Ordinance 998A, Section 5.1.8 and 5.1.11). Requests 1 additional set of "Menu Boards", in excess of maximum 1 board/establishment and in excess of 18 sq. ft maximum sign size; also requests 2 new "Wall Signs" in excess of maximum 36 sq. ft. sign size – 1 on east elevation and 1 on west elevation.

Steve Fielder, representative for Tim Horton's, after being duly sworn, testified, that the company requests the additional menu signs to accommodate a second drive-thru lane. The wall signs are requested so that patrons approaching from the west and/or east sides will read the company name and know that the store is there. After much discussion regarding sign pollution, light pollution, and the proximity to Town Hall, a historic building, comments from the audience were invited.

Gabriel DeFeo, after being duly sworn, stated that he does not want any more large, lit signs in that neighborhood. He feels it is defacing the neighborhood.

Michael Fargnoli, after being duly sworn, testified that he also does not want any more large, lit signs.

Alsabe Mazn, after being duly sworn, stated that he owns Contempo Coffee across the street from Tim Hortons. He stated that if Tim Hortons is allowed to put up more large lit signs, he will petition the board to do the same, adding to the sign pollution in the neighborhood.

Michael Fargnoli, spoke again, stating that owns commercial property in town and tries to keep his tenants from adding to the sign pollution.

After discussion, the motion to approve the menu signs and deny the wall signs was made by Mr. Maselli and seconded by Mr. Aurecchia. A voice vote was taken, unanimous.

JOHNSTON ZONING BOARD OF REVIEW MINUTES FOR Dec. 15, 2005

- D.** Owner: Amato and David DeCesare
Applicant: DICON Corporation
Location: 32 Merline Avenue (Plat 12, Lot 55, Zone R-10)
Dimensions of Lot: Frontage: 80±', Depth: 91±', Area: 7,996± square feet
Present Use: Vacant
Proposed: Application 2003-66 was denied by the Zoning Board on October 30, 2003; said denial was appealed by the applicant to Superior Court. Petition remanded back to Zoning Board from Superior Court relative to proposal for construction of single family dwelling, 1,560± square feet, for the lack of adequate findings of fact consistent with the decision.

Dimensional Variance petitioned under Zoning Ordinance Amendment – Ordinance 2002-21 (aka Johnston Zoning Ordinance Article III, Section L).

Minimum Side Yard Variance Request: Required 15 feet, Proposed 14.0 feet side yard; Relief requested for 1.0 feet, westerly side.

Minimum Rear Yard Variance Request: Required 40 feet; Proposed 37.0 feet rear yard; Relief requested for 3.0 feet.

- Owner: Amato and David DeCesare
Applicant: DICON Corporation
Location: 8 Craigie Avenue Plat 12, Lot 53, Zone R-15)
Dimensions of Lot: Frontage: 75±', Depth: 99±', Area: 6,958± square feet
Present Use: Vacant
Proposed: Application 2003-70 was denied by the Zoning Board on October 30, 2003; said denial was appealed by the applicant to Superior Court. Petition remanded back to Zoning Board from Superior Court relative to proposal for construction of single family dwelling, 1,400± square feet, for the lack of adequate findings of fact consistent with the decision.

Dimensional Variance petitioned under Zoning Ordinance Amendment – Ordinance 2002-21 (aka Johnston Zoning Ordinance Article III, Section L).

Minimum Side Yard Variance Request: Required 20 feet, Proposed 10.0 feet side yard; Relief requested for 10.0 feet, both sides.

Minimum Rear Yard Variance Request: Required 45 feet; Proposed 32.0 feet rear yard; Relief requested for 13.0 feet.

Note: The information regarding this Application, ZBR File 2003-70, was published incorrectly in the Providence Journal Legal Classified Advertisement which appeared on December 1, 2005. This item was re-advertised in the Providence Journal Legal Classified Advertisements on December 8, 2005, with the corrected information.

These 2 files were discussed concurrently because of having same owner/applicants, and being remanded together from Superior Court.

Mr. Pilozzi stated that Mr. Fascia would be abstaining from the vote due to having a personal friendship with the representative for DICON Corporation.

JOHNSTON ZONING BOARD OF REVIEW MINUTES FOR Dec. 15, 2005

Mr. David Iascone, representative for DICON Corporation and Peter DeSimone, attorney for DICON Corporation, first being duly sworn, state that 32 Merline Avenue should never have been a Zoning Application. With the guidelines of the new Ordinance, no relief is needed. The lot size exceeds the 5,000 square foot minimum. Craigie Avenue did not meet the minimum lot size requirement. Discussion between the board and Mr. Iascone and Mr. DeSimone centered on variances required in regard to setbacks. It was finally decided that the house would sit sideways on the lot, reducing the dimensional variance needed, and the variance would be granted, with stipulations. Stipulations are: house must be no larger than 24 x 30, and the town must keep the catch basin and lines clear. Motion to grant made by Mr. Aurecchia, seconded by Mr. Frezza.

F. Owner: John Ruggieri
Applicant: Valentino Cairo
Location: 43 Golden View Drive (Plat 45, Lot 232, Zone R-40)
Dimensions of Lot: Frontage: 100±', Depth: 200±' Area: 20,000 ± square feet
Present Use: Vacant Property
Proposed: Construct a single family dwelling, 1,410± square feet

Dimensional Variance petitioned under Article III, Section F, Table III-F-1.

Minimum Side Yard Variance Request: Required 35 feet rear yard; Proposed 28 feet side yard; Relief requested for 7 feet, southerly side. Proposed 27 feet right yard; Relief requested for 8 feet, northerly side.

Mr. Russo, attorney for the owner/applicant, verified the dimensional variance relief being requested.

Mr. Ruggieri and Mr. Cairo were duly sworn.

Michael and Lisa Dacchioli, abutters to the property, after being duly sworn, testified that they would like the proposed property set back a little more from theirs, and arborvitaes along the property line. Another issue is the water problem in the area. According to Mr. Pillozzi, the Town Engineer does not feel anything should be built on this lot at this time. The town has contracted PARE Engineering to do a study on the water table. Once water problems are corrected, then proceed with any building plans.

Question arose regarding this lot possibly being merged with an abutting lot. Mr. Russo stated that Jeanne Tracey had researched this and the two lots were never merged because they did not have the same legal ownership.

Mr. Maselli stated that he lives on Golden View Drive, although not within 200' feet of the property in question. According to Mr. Maselli, there is a large problem with water, due to inadequate drainage. Drains are being put into the street, but not until the fall of 2006.

Discussion regarding the water table, variances needed, and location of property on lot. Motion made by Mr. Aurecchia and seconded by Mr. Pillozzi to continue until January, 2006.

JOHNSTON ZONING BOARD OF REVIEW MINUTES FOR Dec. 15, 2005

V. Discussion

Communication Tower located at 1225 Hartford Avenue – Green Mountain Communications, et. als, Lessee(s); Michael Pezza, property owner; AP 6 – Lot 357; Replacement of previous communication tower in 2003-2004 with new tower. Zoning appearance on 11-20-2003.

Donna and John A. Ricci, first being duly sworn, testified that the tower in question was originally placed for in-home CB radio communications. The small monopole was replaced with a large tower, without town approval. Cellular communication companies have antennas on this new tower. Mr. Pillozzi advised the complainants to go before the Town Council and have the situation researched. The new tower never came before the board. Because they never came before Zoning, the Zoning Board has no jurisdiction.

Motion to adjourn by Mr. Maselli, seconded by Mr. Fascia. Meeting adjourned at 10:32 p.m.

Meeting adjourned at 9:23 PM.