

Chairperson

Anthony Pillozzi

Vice-Chairperson

Joseph Anzelone

Secretary

Christopher Maselli, Esq.



Zoning Official

George E. Corrente, P.L.S.

Zoning Board Members

Kenneth Aurecchia

Richard R. Fascia

Alternate Board Members

Bernard Frezza

Alfred P. Cianci

Johnston Zoning Board of Review

100 Irons Avenue, Johnston, Rhode Island 02919

(401) 231-4135 — Fax: (401) 231-4181

MINUTES

May 25, 2006

The Zoning Board of Review held its monthly meeting on the 27th day of April, at 7:04 , in the Library, at the Ferri Middle School, 10 Memorial Avenue, Johnston, RI. All persons interested in the following proposals requested to be present at this time.

Present:

Chairman Anthony Pillozzi, Vice Chairman Joseph Anzelone, Secretary and Attorney Christopher B. Maselli, Kenneth Aurecchia, Al Cianci

Also present: James P. Howe, Town Solicitor

I. Approve Minutes of the previous meeting (s)

II. Old Business

A. ZBR-2004-18

Owner/Applicant: Kenneth and Jeanine Lantini

Location: Pine Hill Avenue/Blueberry Lane; AP 49/2 - Lot 187

Lot Dimensions: Frontage: 148± feet; Depth: 120 ± feet; Area: 15,756± sq. ft.

Zoning District: R-40 (Residential, 40,000 square feet) Zone

Existing Use: Vacant Land

Development

Proposal: Construction of a 1,520 ± sq. ft. Single Family Dwelling

Dimensional Variances petitioned under Article III, Section F, Table III-F-1 and Section L (1)(b-2).

Rear Setback Variance Request: Required 75 feet width; Proposed 39.7 feet; Relief requested for 35.5 feet.

Lot Size Variance Request: Required 40,000 square feet (20,000 square feet per Section L(1)(b-2) – “pre-existing lot in R-40 Zone without sewers”); Proposed 15,756 square feet; Relief requested for 4,244 square feet

Mr. Pillozzi stated that there would be no more testimony on this case. Motion to deny made by Mr. Aurecchia. Seconded by Mr. Maselli. Mr. Pillozzi stated the following finding of fact; the Zoning Ordinance states that the minimum lot size is 20,000 sq. ft. This lot is

undersized and should be merged with the other two lot based on Section L of the Ordinance. All in agreement, application denied.

III. New Business

B. File 2006-23

Owner/Applicant: Stephen and Rhonda Podmaska
Location: 5 Deer Run Trail; AP 59 - Lot 321
Zoning District: R-40 (Residential, 40,000 square feet) Zone
Existing Use of Property: Single Family Dwelling
Development Proposal: Construction of a 12' x 20' (240 ± sq. ft.) tool shed
Dimensional Variance petitioned under Article III, Section G, Section – 7 (c). Accessory structure larger than 150 sq. ft.

Rhonda and Stephen Podmaska, after being duly sworn, testified that they are requesting to build a 12' x 20' tool shed. Mr. Pilozzi verified that the shed would have no electric or plumbing and no business would be conducted out of the shed. It would be for storage only. No one appears for or against. Mr. Maselli makes a motion to grant, seconded by Mr. Pilozzi. A voice vote was taken, all in favor.

C. File 2006-22

Owner/Applicant: Highland Memorial Park
Location: One Rhode Island Avenue; AP 38 Lot 71
Zoning District: R-15 (Residential, 15,000 sq. ft.) Zone
Existing Use of Property: Sign and Garden
Development Proposal: Sign and Garden
Dimensional Variance petitioned under Article III, Section J, Signs. Proposed sign height, 13.5 feet.

Joe Swift, after being duly sworn, stated that he is the President of Highland Memorial Park Center. Mr. Pilozzi read a letter written by an abutter who could not attend the meeting. Mr. David Rotondo, owner of D. Rotondo Nursery. He is concerned that the larger sign would block his sign and corner clearance. Letter is accepted as Exhibit A for the abutters. Mr. Swift described the sign currently in place. The new sign will be approximately 3 feet wider and 8 feet high. Mr. Aurecchia raised the fact that the fee for the application was waived by Mayor Macera. Mr. Swift stated that he never asked for the fee to be waived, he was informed by Mr. Corrente and the Mayor's office that there would be no fee. He was and still is willing to pay the fee. Motion to grant variance with two (2) stipulations by Mr. Aurecchia, seconded by Mr. Pilozzi. The 2 stipulations are 1. corner vision clearance determined by Building Official; 2. Application fee is paid the to Zoning Office. A voice vote was taken, passes 5-1. Nay vote for Mr. Fascia.

D. File 2006-21

Owner: Charles and Rita Gagnier
Applicant: Charles and Rita Gagnier
Location: 285 Central Avenue; AP 23 Lot 90
Zoning District: R-20 (Residential, 20,000 sq. ft.) Zone
Existing Use of Property: 2 Single Family Dwellings on one parcel
Development Proposal: Dimensional Variance to subdivide land to create a single family dwelling on each parcel.

Relief petitioned under Article III, Section F, Table III-F-1.

Lot Frontage Required: 120 feet; Proposed frontage: 90 feet; Relief requested for 30 ft.

Lot Width Required: 120 feet; Proposed width: 90 feet;
Relief requested for 30 feet.

Charles and Rita Gagnier, after being duly sworn, testified that they want to subdivide the land to create one house on each parcel. Mr. Pilozzi verified that each house would have public water and sewer. Mr. Pilozzi asked what is to be done with the second house. Mr. Pagliarini, attorney for the applicant, stated that the Gagniers' would be downsizing to the smaller house. The larger house would be sold. Mr. Maselli made the motion to approve with the stipulation that the house be tied in to public sewer. Seconded by Mr. Pilozzi. A voice vote was taken, all in favor.

E. File 2006-28

Owner: Johanne Polisena
Applicant: Polisena Construction, Inc.
Location: 20 Salina Avenue; AP 48-1 Lot 79
Zoning District: R-20 (Residential – 20,000 sq. ft) Zone
Existing Use of Property: Single Family Dwelling
Development Proposal: Construction of a 30' x 6' (180 sq. ft.) addition for living space

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

Minimum Lot Rear Setback Variance Request: Required
50 feet rear; Proposed 44 feet; Relief requested for 6 feet.

Mr. Vincent Polisena, after being duly sworn, stated that his mother recently purchased the home with the intent to live there. He is asked for 6 feet of relief on the rear setback. No one appeared for or against. Motin to approve made by Mr. Maselli. Seconded by Mr. Aurecchia. A voice vote was taken, all in favor.

F. File 2006-25

Owner/Applicant: Thomas and Cheryl Lamoureux
Location: 70 Taylor Road; AP 31 Lot 48
Zoning District: R-20 (Residential, 20,000 square feet) Zone
Existing Use of Property: Single Family Dwelling
Development Proposal: Construction of a 1800 ± sq. ft. addition for additional living space

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

Minimum Lot Width Setback Variance Request: Required 120 feet width; Proposed 25 feet; Relief requested for 95 feet.

Minimum Lot Frontage Setback Variance Request: Required 120 feet rear proposed 25 feet; Relief requested for 95 feet.

Minimum Lot Rear Variance Request: Required 50 feet right side; Proposed 40.22 feet width; Relief requested for 9.78 feet.

Minimum Lot Left Variance Request: Required 25 feet width; Proposed 20.71 feet left side; Relief requested for 4.29 feet.

Cheryl Lamoureux and Phil Pare, contractor for the project, after being duly sworn, stated that the house in front of Mrs. Lamoureux belongs to her parents. Mr. Pilozzi stated that he could not visit the project site because of the water “cascading” down the driveway. He asked if there were a spring or a pond up above the project site. Mrs. Lamoureux stated that there is a spring in the lower part of her land. Mr. Pilozzi verified that Mrs. Lamoureux was building an 1800 sq. ft. addition, larger than usual. Mrs. Lamoureux replied that 900 sq. ft. of the addition was for garage space. Mr. Pilozzi verified where the addition would be on the property. Mr. Pilozzi stated that provisions would have to be made to get rid of the water problem. DEM would have to approve project. Mr. Pilozzi verified what the other 900 sq. ft. would be used for. Mrs. Lamoureux stated that because her house is oddly shaped, the bedrooms are very small. She would be adding a master bedroom and a great room. Motion to grant by Mr. Aurecchia, with stipulations regarding Planning approval, Town Council approval and DEM approval for wetlands. Seconded by Mr. Maselli. A voice vote was taken, all in favor.

G. File 2006-24

Owner: Elaine F. Dichiaro
Applicant: Eaton Development, Inc. c/o Robert Eaton
Location: Gano Avenue; AP 38 Lot 291

Zoning District: R-15 (Residential, 15,000 square feet) Zone
Existing Use of Property: Vacant Land
Development Proposal: Construction of a 1,196 ± sq. ft. Single Family Dwelling with a 12' x 10' (120 sq. ft.) rear deck

Dimensional Variance petitioned under Article III, Section F, Table III-F-1; Section L (1)b.1.(b)2.

Lot Frontage Required: 100 feet; Proposed lot frontage: 80 feet; Relief requested for 20 feet.

Lot Width Required: 100 feet; Proposed lot width: 80 feet; Relief requested for 20 feet.

Rear Setback Required: 45 feet; Proposed rear setback: 17 feet; Relief requested for 28 feet.

Left Side Setback Required: 20 feet; Proposed left setback: 17 feet; Relief requested for 3 feet.

Right Side Setback Required: 20 feet; Proposed right setback: 17 feet; Relief requested for 3 feet.

Elaine Dichiara, owner, and Robert Eaton, applicant, after being duly sworn, testified that Mrs. Dichiara is selling the land to Mr. Eaton to fund her 401k. Mr. Eaton stated that he plans to build the home and sell it. Mr. Pilozzi states that the lot is in conformance with the rest of the neighborhood. The home Mr. Eaton proposes is also in conformance with the rest of the neighborhood. Mr. Eaton stated that he spoke to most of the neighbors last week, showed them his plans and procured signatures on a petition, stating that they had no problem with the proposal. Petition accepted as Exhibit 1 by Mr. Aurecchia, seconded by the Chair. Maureen Rotondo, after being duly sworn, stated that she is an abutting neighbor to the rear. She is concerned about people living in the proposed house being able to look into her home from the deck or rear windows of the home. Mr. Pilozzi suggested arborvitaes along the rear property line to give Mrs. Rotondo privacy. Motion to grant application by Mr. Aurecchia, with the stipulation that arborvitaes are planted along the rear property line. Seconded by Mr. Pilozzi. A voice vote was taken, all in favor.

H. File 2006-29

Owner: Gerald Diodati
Applicant: Omnipoint Communications
Location: 3 John Street; AP 4 Lot 319
Zoning District: I (Industrial) Zone

Existing Use of Property: Business, telecommunications, and industrial
Development Proposal: Communication antennas to be mounted on smokestack with BTS cabinets installed in existing building at base of stack.

Special Use Permit petitioned under Article IV, Section D, Table III-D-1, Subsection 5.

Gerald Diodati, owner, and Shaikh Mahmood, engineer for the project, after being duly sworn, testified that he is not an absentee landlord, he occupies the building, has a business there. Mr. Giammarco, attorney for Omnipoint, states that Omnipoint would like to install 3 antennas at the 82 foot mark, painted to match the smokestack. The back-up would be battery, not propane. An alarm would go off, and a technician would have a key to the building to go fix the problem. Mr. Mahmood, read his qualifications for the Board, motion to accept as a qualified witness by Mr. Aurecchia, seconded by Mr. Pilozzi. A voice vote was taken, all in favor. Mr. Mahmood showed a cell coverage plot plan for Johnston. Mr. Pilozzi verified which areas would be served by the new antennas. Mr. Pilozzi stated the criteria that the Board follows in deciding whether to grant or deny cellular antenna applications. "Congress adopted the Federal Telecommunications Act in 1996. Which generally leaves local governments free to regulate the location of such towers but imposes three basic limitations. Applications must be process with reasonable prompt necessary. Denials of applications must be in writing and supported by substantial evidence contained in a written record, which when we deny, we do, and 3, the Zoning Board's decision must not effectively prevent the provision of cellular service in the area, which we never do. We may deny one area but try to help a company find another. As you know, I've been here many times. So these limitations were explored and implied with partial victory from abutting landowners. In significant recent decision by the United States District Court for Rhode Island, the First Circuit Court of Appeals subsequently upheld a Zoning Board's decision to deny a cell tower permit on aesthetic grounds." Mr. Pilozzi stated that the Board likes the application, the painting of the antennas to match the smokestack and the back-up provisions. The condition of the property is the concern of the Board. The previous time this property came before the Board, Mr. Pilozzi voiced his concerns over the condition of the property to Mr. Sousa, another attorney, and within 2-3 weeks it was cleaned up. Mr. Diodati stated that his property has been clean since he purchased it approximately 1 year ago. It was a mess before that. Mr. Pilozzi insisted that it was not cleaned up until after the last Board appearance. Then the garbage was picked up, and the grass cut and trimmed. Mr. Diodati stated that his property has no grass. It is completely paved. Mr. Diodati stated that the Town also has his address listed incorrectly. The Town has it listed as 3 John Street and it is actually 1 Victoria Mount. He has gone to the Town Offices numerous times to get this corrected, but so far, it has not been done. Mr. Pilozzi apologized to Mr. Diodati for the incorrect information and for insisting the property stay clean. A motion was made by Mr. Aurecchia to change the address on the application to 1 Victoria Mount, Building 3. Seconded by Mr. Pilozzi. A voice vote was taken, all in favor. Motion to grant the application is made by Mr. Aurecchia. Seconded by Mr. Anzelone. A voice vote was taken, all in favor.

Meeting adjourned at 9:06 p.m.