

**Chairperson**

Anthony Pilozzi

**Vice-Chairperson**

Joseph Anzelone

**Secretary**

Christopher B. Maselli, Esq.



**Zoning Official**  
*Bernard J. Nascenzi, C.B.O.*

**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

**E-Mail: zoning@johnston-ri.us**

**MINUTES**

**July 27, 2006**

The Zoning Board of Review held its monthly meeting on the 27<sup>th</sup> day of July, 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 Pilozzi, Vice Chairman Joseph Anzelone, Secretary and Attorney Christopher B. Maselli, Kenneth Aurecchia, Al Cianci, Richard Fascia, Bernard Frezza,

Also present: James P. Howe, Town Solicitor, Susan Leonardi, Secretary, and Dianne Edson, Stenographer

**I. Approve Minutes of the previous meeting (s)**

Minutes of June 27, 2006 Zoning Board of Review Meeting

**II. New Business**

**A. ZBR-2006-41**

Owner/Applicant: Barbara Rotella

Location: Golden Avenue; AP 9/Lot 248

Lot Dimensions: Frontage: 120± feet; Depth: 80± feet; 9,600± square feet

Zoning District: R-15 (Residential, 15,000 square feet) Zone

Existing Use: Vacant Land

Development

Proposal: Construction of 24' x 32' (800 sq. ft) single family dwelling

Dimensional Variance Petitioned under Article III, Section F, Table III-F-1, and Article III, Section L(1) ("existing lots of record without sewers")

Rear Setback Required: 45 feet; Proposed rear setback: 30 feet; Relief requested for 15 feet.

Minimum Lot Size Required in R-15 Zone w/o sewers: 10,000 sq. ft.;

Proposed lot size: 9,600 sq. ft.; Relief requested for 400 sq. ft.

Michael Megredichian, after being duly sworn, stated that he is the builder for the project. Mr. Pilozzi stated that the project had Planning Board Approval. No one appeared for or against the project. Mr. Maselli made the motion to grant the extension. Seconded by Mr. Anzelone and Mr. Pilozzi. A voice vote was taken, unanimous.

**B. File 2006-40**

Owner/Applicant: Robert Corio  
Location: 1263 Hartford Avenue; AP 20/2 - Lot 50  
Lot Dimensions: Frontage: 132.21± feet; Depth: 376.23± feet; 43,692± square feet  
Zoning District: B-2 (Business) / R-15 (Residential – 15,000 sq. ft.) Zone  
Existing Use: Jewelry Manufacturing  
Development  
Proposal: Two (2) Additions to existing building. Proposed change in use from Manufacturing to Retail  
  
Request for Extension of Approval granted on 9-25-03.  
  
Dimensional Variance originally petitioned under Article III, Section F, Table III-F-1; Corner Lot in B-2 Zone  
  
Front Setback (from Hartford Avenue) – Required: 40 feet;  
Proposed: 33.62 feet; Relief requested for 6.38 feet.  
  
Front Setback (from Elsie Drive) – Required : 40 feet; Proposed: 10 feet; Relief requested for 30 feet.

Robert Corio, after being duly sworn, stated that he is before the Board for an extension of prior approval. No one appeared for or against. Mr. Pilozzi questioned Mr. Corio about a sign attached to a telephone pole, “receiving”. Mr. Corio stated that it was not his sign. Motion to grant by Mr. Anzelone, seconded by Mr. Cianci and Mr. Maselli. A voice vote was taken, all in favor. Motion passes.

Mr. Cianci made the motion to Adjourn as the Zoning Board of Review. Seconded by Mr. Anzelone. A voice vote was taken, all in favor. Mr. Cianci made the motion to Convene as the Johnston Zoning Board of Appeals. Seconded by Mr. Maselli and Mr. Anzelone. A voice vote was taken, all in favor.

**A. File-2006-01-A**

Owner/Applicant: Greenville Holdings, LLC  
Location: Killian Road at I-295 Intersection; AP 50/Lot 66  
Lot Dimensions: Frontage: 1,720± feet; Depth: 600± feet; 24.6± acres.  
Zoning District: R-40 (Residential, 40,000 sq. ft.)  
Existing Use: Vacant Land  
Development  
Proposal: Residential Subdivision – 14 Lots Major Subdivision  
Approval: Planning Board Approval of 7 Lots with Conditions (6 house lots and 1 drainage lot)

Appeal Petition: Appeal per Rhode Island General Laws Title 45 (“Subdivision of Land”), § 23-32, §23-34, §23-62 and “ARTICLE C Section 3 (c) [and] ARTICLE B Section 12(b)” of unknown document. Remanded back to Town by RI Superior Court.

Recording of Planning Board Decision: 4-7-2006; Land Evidence Book #1695, Page 174  
Deadline for filing an Appeal: 20 days after Decision is Recorded  
Date Appeal Petition Filed with Johnston Board of Appeal: 5-5-2006

John Mancini, attorney for Greenville Holdings, LLC, addressed the Board. Mr. Howe, attorney for the Board, made a motion to accept the Planning Board record to the Zoning Board. Mr. Anzelone made the motion to accept. Seconded by Mr. Maselli. A voice vote was taken, all in favor. Planning Board records marked as Exhibit A. Mr. Howe stated that the abutters also have an attorney present and should enter his appearance into the record. Mr. Mancini objected to Mr. Moses' appearance. It is an appeal and the abutters are not part of the appeal. It was determined that Mr. Moses could not enter any new evidence or add testimony. Mr. Pilozzi asked Mr. Howe if the appeal could even be heard. The appeal was not received in the 20 days allowed by law. Mr. Howe stated that "the statutory authority upon which the Zoning Board of the Town of Johnston sits as an appellate board reviewing the decision of the Planning Board, is given to the this Board by pursuant to Rhode Island General Laws 45-23-67. The statute's entitled "Appeals/Process of Appeal," Subparagraph (a) of that statute reads: 'An appeal to the Board of Appeal from a decision or action of the Planning Board or administrative officer may be taken by an aggrieved party to the extent provided in 45-23-66,' which is the previous statute which deals with grounds and certain issues such as that, which is not really a question at this point. 'The appeal must be taken within 20 days after the decision has been filed and posted in the office of the City or Town Clerk.' The decision from the Planning Board was posted in the Town Clerk's office on April 7, 2006. The appeal must be filed within 20 days, which would be April 27, 2006. The record before us discloses that this appeal was filed on May 5, 2006. Thomas Moses, attorney for the abutters, addresses the Board and states that the appeal must be dismissed because it was not filed in a timely manner. Mr. Moses also stated that in regard to the hearing before Judge Fortunato, the abutters were not notified and the Planning Board was not represented. Attorney Michael DeSisto is representing the Town on a damage claim that was raised by Greenville Holdings, LLC. It is a separate issue and not related to the appeal.

Mr. Mancini stated that the Complaint names the Town and the Planning Board members. It is a question of declaratory judgment on whether the Town appropriately applied a 200' buffer and the legality of the buffer. Greenville Holdings, LLC is also questioning whether or not the Planning Board acted within the requirement of the Rhode Island Open Meetings Statute. Mr. Pilozzi stated that this issue should be raised with the Attorney General, not the Zoning Board. Mr. Mancini stated that he is only trying to clarify the complaint filed with the Superior Court. Mr. Mancini stated that Greenville Holdings, LLC is before this Board per order of Justice Fortunato, and the appeal was filed in a timely manner because of the Complaint of a declaratory judgment filed in Superior Court. Mr. Pilozzi stated that the dates are right on the paperwork. Mr. Mancini stated that the decision was not posted on April 7, 2006. Mr. Howe verified that the Complaint was filed in Superior Court, Providence County, Civil Action Number 06-2112 on April 17, 2006. Mr. Howe then stated that his copy of the Order from Justice Fortunato is unsigned and asked Mr. Mancini if he had a signed copy of this Order. Mr. Mancini replied that he has a signed copy of that order. Mr. Howe stated that he has read the transcript of the hearing before Justice Fortunato and the Zoning Board does not have the authority to make a judicial determination. The Order does not seem to agree with the transcript of the hearing. Mr. Mancini agreed that the Zoning Board does not have the authority to make the judicial determination. Mr. Mancini stated that he has spoken with Mr. DeSisto and they believe that the judge meant for the Zoning Board to review it's own Subdivision Regulation and Zoning Ordinance to determine whether or not the 200' buffer is in excess of what is necessary.

Mr. Moses stated that the transcript says, "The matter is remanded to the administrative process to the Town to allow Greenville Holdings to take an appeal before the Zoning Board of Appeals". Greenville Holdings, LLC did not meet the absolute requirement jurisdiction.

Mr. Moses cited Mauricio versus the Zoning Board of Review, City of Pawtucket. 1991 case: If it's not received within 20 days, it fails. Mr. Mancini stated that the facts of the Mauricio case are not the same as the Greenville Holdings, LLC case. Mr. Howe stated the citation of the Mauricio case, 590 A.2d 879, a 1991 decision of the Rhode Island Supreme Court, states that the appeal must be received within 20 days. "When the language of the statute is unambiguous and expresses a clear and sensible meaning, there is no need for statutory construction or the use of interpretative aids." Mr. Howe stated that his legal opinion is that the Board cannot act on this appeal as it now stands until these legal issues are determined: 1. Whether it was timely filed and 2. Whether the Complaint tolled the statute or the filing period.

Mr. Maselli stated that the Board needs to address the procedural issue first, then if voted to proceed, then proceed to the other issues. Mr. Pilozzi asked for a motion. Mr. Maselli made the motion to not hear the appeal, as it was not filed in a timely manner. Mr. Anzelone seconded the motion. A voice vote was taken, all in agreement not to hear the appeal as it was not filed in a timely manner.

Mr. Maselli made the motion to Adjourn as the Zoning Board of Appeals and Reconvene as the Johnston Zoning Board of Review. Seconded by Mr. Cianci. A voice vote was taken, all in favor.

**D. File 2006-37**

Owner/Applicant:	Thomas and Barbara Aquilante
Location:	23 Scituate Avenue; AP 44/1 - Lot 4
Lot Dimensions:	Frontage: 115± feet; Depth: 137± feet; 15,755± square feet.
Zoning District:	R-15 (Residential - 15,000 square feet) Zone
Existing Use:	Two Family Dwelling
Development	
Proposal:	Construction of a 24' x 15' (360 sq. ft.) single story addition for additional living space
	Dimensional Variance Petitioned under Article III, Section F, Table III-F-1
	Front Setback Required: 25 feet; Proposed front setback: 14.42 feet; Relief requested for 10.58 feet.

Barbara Aquilante, after being duly sworn, stated that she would like to put an addition on her home. No one in the audience appears for or against the project. Mr. Fascia questioned the above ground pool. Mrs. Aquilante stated that the pool will be removed at the end of the summer. Motion to grant by Mr. Aurecchia. Seconded by Mr. Maselli. A voice vote was taken, all in favor. Motion passes

**E. File 2006-36**

Owner/Applicant: Joseph and Eleanor Balassone  
Location: 92 Simmonsville Avenue; AP 29/Lot 62  
Lot Dimensions: Frontage: 100± feet; Depth: 100± feet; 10,000± square feet  
Zoning District: R-20 (Residential - 20,000 square feet) Zone  
Existing Use: Vacant Land  
Development  
    Proposal: Construction of a 24' x 24' (576 sq. ft.) garage with breezeway connecting to existing house  
  
Dimensional Variance Petitioned under Article III, Section F, Table III-F-1  
  
Rear Setback Required: 50 feet; Proposed rear setback: 39.23 feet; Relief requested for 10.77 feet.  
Right Side Setback Required: 25 feet; Proposed right side setback: 12.41 feet; Relief requested for 12.59 feet.

Mr. Pilozzi explained the application to the Board and the audience. Al Russo, attorney for the applicant, explained that there will be no plumbing in the garage. No one in the audience appeared for or against. Mr. Aurecchia made the motion to grant. Seconded by Mr. Maselli. A voice vote was taken, all in favor. Motion passes.

**F. File 2006-39**

Owner: Toria Realty, Inc.  
Applicant: Ministerio Cristiano Salem  
Location: 7 Pezzullo Street; AP 4/Lot 125  
Lot Dimensions: Frontage: 90± feet; Depth: 100± feet; 9,000± square feet.  
Zoning District: B-1 (Business) Zone  
Existing Use: Office  
Development  
    Proposal: Office / Church  
  
Special Use Permit Petitioned under Article III, Section P, Table III-D-1, Subsection 4 (1), "Churches and other places of Worship".

Claudia Cornejo and Luis Ventura, are duly sworn. Paula Cuculo, attorney for the owner, explained the application to the Board and the audience. Mr. Pilozzi asked about parking. Ms. Cuculo stated that there are 28 spaces on the lot. The business on the first floor does not use all of them. Mr. Pilozzi verified the current use of the building. The Church will hold 3 services a week and has less than 20 members. Mr. Pilozzi asked when the services would be held; and Ms. Cornejo verified that the services would be held in the evening. Mr. Pilozzi stated that there are not 28 legal parking spaces on that lot. The trucks from the first floor take up most of the available parking. The church is not an appropriate use for this lot. Mr. Pilozzi asked if there was anyone in the audience against the project. Evelyn Riccio, after being duly sworn, stated that she does not want more traffic on Pezzullo Street. There is not enough parking. Carmela Rich, after being

duly sworn, stated she does not want a church in the neighborhood. Paul. Mandarini, after being duly sworn, does not want more traffic, there's no place to put snow, and not enough parking. William Santilli, after being duly sworn, states that he is the Councilman for this District. He is concerned about traffic, noise, and parking. Americo Aurecchia, after being duly sworn, stated that he is for the project. He would rather have a church in the neighborhood than another business. Ms. Cornejo stated that the Ministry has started in their home and they want to grow, which is why they need the church. She states that the Ventura's have already signed a lease with the owner of the building. Ms. Cuculo states that the lease is contingent on the Zoning Application being granted. Mr. Pillozzi suggested the applicants keep looking for an appropriate place. Mr. Maselli made the motion to deny the application. Seconded by Mr. Aurecchia. A voice vote was taken, all in agreement, application denied.

**G. File 2006-30**

Owner:	Franco and Lynn Petrone
Applicant:	Campagnone Investment Group, Inc.
Location:	Arcadia Avenue; AP 12/Lot 38
Lot Dimensions:	Frontage: 60± feet; Depth: 70± feet; 4200± square feet.
Zoning District:	R-10 Residential, (10,000 square feet) Zone
Existing Use:	Vacant Land
Development Proposal:	Construction of a 1,397 sq. ft. single family dwelling Dimensional Variance Petitioned under Article III, Section F, Table III-F-1. Lot Frontage Improved Required: 100 feet; Proposed frontage Improved : 60 feet; Relief requested for 40 feet. Lot Width Setback Required: 100 feet; Proposed lot width setback: 60 feet; Relief requested for 40 feet. Front Setback Required: 25 feet; Proposed front setback: 20 feet; Relief requested for 5 feet. Rear Setback Required: 40 feet; Proposed rear setback: 22 feet; Relief requested for 18 feet.

Mr. Thomas Moses, attorney for the applicant, requested a continuation until September to submit a redesigned house plan. Mr. Maselli made the motion to continue until September. Seconded by Mr. Aurecchia. A voice vote was taken, all in favor.

## **H. File 2006-38**

Owner: 195 Associates, LLC  
Applicant: 195 Associates, LLC  
Location: 1386 Atwood Avenue; AP44/2 /Lots 56, 357, 358, 359 and AP  
44/4 Lot 66  
Lot Dimensions: Frontage: 240± feet; Depth: 810± feet; 13.34± acres  
Zoning District: B-2 (Business) Zone  
Existing Use: Retail Shopping Center  
Development  
Proposal: Shopping Center with veterinary use within the Petsmart premises.  
Special Use Permit Petitioned under Article III, Section D, Permitted  
Uses Subsection 9 (5), “Veterinary Office or Animal Hospital”.

Frank Lombardi, attorney for the applicant, presented the application to the Board. Kelly Coates, property manager for the shopping center, after being duly sworn, states that the building is currently under construction and all permits have been obtained. Todd D’Alessandro, of Banfield Pet Hospitals, after being duly sworn, states that they will rent space from PetSmart. Mr. Pilozzi asked what veterinary procedures will be performed in the hospital, waste disposal, hours of operation, and percentage of revenue. Mr. Pilozzi verified that no cremation or euthanizing of animals would be done on premises. No outside kenneling. Thomas Sweeney, real estate expert is duly sworn. Mr. Maselli made the motion to accept Mr. Sweeney as a qualified witness. Seconded by Mr. Cianci. A voice vote was taken, all in favor. Mr. Sweeney states that this Special Use permit will be compatible with the surrounding area and will not have a negative impact on the area or the environment. No one appeared for or against. Mr. Coates discussed the ingress/egress for the shopping center with the Board. Mr. Maselli makes the motion to grant the application. Seconded by Mr. Anzelone. A voice vote was taken. All in favor.

Mr. Anzelone makes a motion to approve the minutes of the June, 2006, Zoning Board meeting. Seconded by Mr. Aurecchia.

Motion to adjourn by Mr. Anzelone, seconded by Mr. Frezza. A voice vote was taken, all in favor.

Meeting adjourned at 9:07 p.m.