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Richard R. Fascia

Alternate Board Members

Bernard Frezza
Alfred P. Cianci

JOHNSTON ZONING BOARD OF REVIEW

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MINUTES

September 28, 2006

The Zoning Board of Review held its monthly meeting on the 28th day of September, at 7:02, 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 July 27, 2006 Zoning Board of Review Meeting

II. New Business

A. ZBR-2006-52

Owner/Applicant: Ronald Davis

Location: Sheridan Street; AP 34/Lot 137

Lot Dimensions: Frontage: 60feet; Depth: 90± feet; 5,400± square feet

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

Existing Use: Vacant Land

Development

Proposal: Construction of 22' x 35' (770 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")

Lot Frontage Required: 100 feet; Proposed lot frontage: 60 feet; Relief requested for 40 feet.

Lot Width Required: 100 feet; Proposed lot width: 60 feet; Relief requested for 40 feet.

Rear Setback Required: 45 feet; Proposed rear setback: 29.3 feet; Relief requested for 15.7 feet.

continued

Right Side Setback Required: 20 feet; Proposed right side setback: 18 feet; Relief requested for 2 feet.

Minimum Lot Size Required in R-15 Zone w/ sewers: 7,500 sq. ft.;

Proposed lot size: 5,400 sq. ft.; Relief requested for 2,100 sq. ft.

Note: Zoning Board approval of this project was recorded on 7-19-2005 which expired on 7-19-2006. A single time 6-month extension may be added to the original deadline per Zoning Ordinance.

Note: Planning Board approved the Improvement of Sheridan Street with sewers at the expense of the applicant at its 2-1-2005 Meeting.

Ronald Davis stated that he did not have an attorney present. Mr. Pilozzi stated that the project had prior approval and had Planning Board Approval. Mr. Pilozzi verified that Mr. Davis was putting public sewer and water in the street. No one appeared for or against the project. Mr. Aurecchia made the motion to grant the extension. Seconded by Mr. Maselli. A voice vote was taken, all in favor.

B. File 2006-45

Owner:	Robert Hawes
Applicant:	Thomas Pizzi
Location:	Enfield Street; AP 10 - Lot 100
Lot Dimensions:	Frontage: 100± feet; Depth: 63.01± feet; 8,321± square feet
Zoning District:	R-15 (Residential – 15,000 sq. ft.) Zone
Existing Use:	Vacant Land
Development Proposal:	Construct a 42' x 26' (1,092 sq. ft.) Single Family Home
	Dimensional Variance petitioned under Article III, Section F, Table III-F-1

Left Side Setback Required : 20 feet; Proposed left side setback: 16 feet; Relief requested for 40 feet.

Thomas Pizzi, after being duly sworn, stated that he needs four feet of relief on the left side. Mr. Pilozzi verified that the property in on a corner lot and the driveway will be on Jaffrey Street. Mr. Pilozzi asked if there were any abutters in the audience. Savino Dimunzio, after being duly sworn, was asked for his objections. Mr. Fascia stated that Mr. Dimunzio is a former employee under his supervision over 20 years ago and this will in no way influence his decision. Mr. Dimunzio stated that he feels the house is too big for the lot; it's a dangerous corner. Mr. Pilozzi verified where Mr. Dimunzio's property is in relation to the subject property. Mr. Dimunzio is an immediate abutter to the left. He does not want windows on the left side of the house because his bedrooms are on that side. Mr. Pizzi stated that his bedrooms will also be on that side of the house and that wall will be closets, no windows on that side of the house. Mr. Frezza questioned the placement of the driveway and garage. Mr. Pizzi stated that he plans to switch the garage and the family room so that the garage will be under the house instead of in front. James McHale, after being duly sworn, stated that he is concerned about the line of sight on the corner. Mr. McHale stated that if the house was turned the other way, no variances would be needed and the driveway would be on Enfield, away from the corner. Mr. Pizzi does not want to turn the house to

face the other direction. Mr. Pillozzi stated that the Board has no jurisdiction on where Mr. Pizzi places the house, only on the variances to be the least necessary. Mr. McHale asked if Mr. Pizzi was going to live in the house or sell it. Mr. Pizzi stated that he will sell this house. Motion to grant by Mr. Fascia, seconded by Mr. Anzelone. A voice vote was taken, all in favor. Motion passes.

C. File-2006-51

Owner/Applicant: William and Barbara Schiefen
Location: 46 Lakeshore Drive; AP 61/Lot 67
Lot Dimensions: Frontage: 50± feet; Depth: 86± feet; 4,300± sq. ft.
Zoning District: R-40 (Residential, 40,000 sq. ft.)
Existing Use: Single Family Dwelling
Development
Proposal: Remove existing loft. Adding new second floor (bedroom and study) and garage. Number of bedrooms to remain the same.

Joseph Polisena, after being duly sworn, stated that he is an abutter and lives at 52 Lake Shore Drive. He is in favor of the project. William and Barbara Schiefen, were duly sworn. There were no other abutters in the audience for or against the project. Mr. Maselli made the motion to grant. Seconded by Mr. Aurecchia. A voice vote was taken, all in favor.

D. File 2006-43

Owner/Applicant: Donald and Kenneth DiOrio
Location: 95 George Waterman Road; AP 35 - Lot 70
Lot Dimensions: Frontage: 80± feet; Depth: 115± feet; 9,200± square feet.
Zoning District: R-15 (Residential - 15,000 square feet) Zone
Existing Use: Vacant Building
Development
Proposal: Two (2) Commercial Units
Special Use Permit Petitioned under Article III, Section M (1) Non-Conforming Development

Mr. DiOrio was duly sworn. Mr. Pillozzi stated that instead of granting a Special Use Permit that would pass with any sale of the building, suggested that the Board grant a Use Variance. If the building is sold, the use would revert back to Residential. Mr. Howe stated that the application and all advertising of the meeting stated "Special Use Permit". Mr. Pillozzi asked if there were any objectors in the audience in regard to changing the Variance requested from Special Use Permit to a Use Variance. No one appeared. Mr. Howe stated that because no one objected, it would be appropriate to go forward. Mr. Anzelone made the motion to amend the application. Seconded by Mr. Maselli. A voice vote was taken, all in favor. Mr. Cianci verified the off-street parking that would be available. Mr. DiOrio stated that there would be 10 off-street parking spaces. Mr. Pillozzi verified the location of these spaces. Mr. Cianci stated that it was too many spaces for the building. Mr. DiOrio offered to put in less. Mr. Cianci asked what the Zoning Ordinance required for parking for this size building. He also questioned whether or not a dumpster would be on the lot. Mr. DiOrio stated that there would be a dumpster in the rear. Mr. Anzelone stated that the dumpster would have to be fenced in with a non-see through fence. Mr. Howe stated that the Zoning Ordinance required 7 spaces. Mr. DiOrio and the Board agreed on 8 parking spaces for the building. Mr. Frezza asked if the Use Variance would be specifically for a barbershop and a

ceramics studio. Mr. Pilozzi replied that any small business could go in there. The Town Council has the final authority on what businesses can go there. No one in the audience appeared for or against the project. Motion to grant by Mr. Anzelone with the stipulations of 8 parking spaces and fenced-in dumpster. Seconded by Mr. Maselli. A voice vote was taken, all in favor. Mr. Pilozzi directed Mr. DiOrio to come to the Building Department at 100 Irons Avenue and amend the original application.

E. File 2006-50

Owner/Applicant: Steven and Michelle Lombardo
Location: 6 Green Valley Drive; AP 48/Lot 281
Lot Dimensions: Frontage: 100± feet; Depth: 100± feet; 10,000± square feet
Zoning District: R-40 (Residential - 40,000 square feet) Zone
Existing Use: Single Family Dwelling
Development
Proposal: Construct a second floor above garage and extend existing garage 6 ft. (Total of 600 sq. ft.)

Dimensional Variance petitioned under Art. III, Section F, Table III-F-1 and Article III, Section L (1), "Substandard Lot of Record"

Minimum Lot Width Required: 140 feet; Proposed Lot Width: 100 feet; Relief requested for 40 feet.

Minimum Lot Frontage Required: 140 feet; Proposed Lot Frontage: 100 feet; Relief requested for 40 feet.

Minimum Rear Setback Required: 75 feet; Proposed Rear Setback: 37.58 feet; Relief requested for 37.42 feet.

Minimum Left Side Setback Required: 35 feet; Proposed Left Side Setback: 8.77 feet; Relief requested for 26.23 feet.

Minimum Right Side Setback Required: 35 feet; Proposed Right Side Setback: 20.78 feet; Relief requested for 14.22 feet.

Lot Coverage Required: 15%; Proposed Lot Coverage: 17.33 %; Relief requested for 2.33%.

Minimum Lot Size Required: 20,000 sq. ft; Proposed Lot Size: 10,000 sq. ft; Relief requested for 10,000 sq. ft.

Steven Lombardo, after being duly sworn, stated that he would like to put an addition above the existing garage for an additional bedroom space. Mr. Pilozzi verified the hardship is because Mr. Lombardo's parent, sister and her baby live in the house with him and his wife. Mr. Cianci verified that there will not be a separate entrance to the addition. No one appeared for or against this petition. Mr. Aurecchia made a motion to grant. Seconded by Mr. Anzelone. A voice vote was taken, all in favor.

F. File 2006-53

Owner: Arlene Parisella.
Applicant: Domenic Parisella
Location: 4 Hill Drive; AP 62/Lot 85
Lot Dimensions: Frontage: 149.04± feet; Depth: 100± feet; 13,401± square feet.
Zoning District: R-40 (Residential – 40,000 sq. ft.) Zone
Existing Use: Single Family Dwelling
Development
 Proposal: Construct a 12' x 20' (240 sq. ft.) addition for additional living space
Dimensional Variance Petitioned under Article III, Section F, Table III-F-1 and Section L (1)
Minimum Rear Setback Required: 75 feet; Proposed Rear Setback: 35.2 feet; Relief requested for 39.8 feet.
Minimum Right Side Setback Required: 35 feet; Proposed Right Side Setback: 33.5 feet; Relief requested for 1.5 feet.
Minimum Lot Size (with sewers) Required: 20,000 sq. ft.; Proposed Lot Size: 13,401sq. ft.; Relief requested for 6,599 sq. ft.
Minimum Front Setback Required: 40 feet; Proposed Front Setback: 27.6 feet; Relief requested for 12.4 feet.

Domenic Parisella, after being duly sworn, explained to the Board why the project was started before applying to Zoning or for a Building Permit. Mr. Parisella explained that he was handling part of project and his mother the other part. He trusted his contractor and that is how this happened. He has taken over the entire project, so there won't be any more problems. Mr. Pilozzi asked Mrs. Leonardi how the Building Department became aware that the project was started without permits. Mrs. Leonardi explained that someone called in the project to the Building Department; the Building Official investigated, and stopped the job until all permits were taken. Mr. Parisella agreed. Mr. Frezza questioned that the building plans show the building above the ground. Mr. Pilozzi explained that the Building Official may not allow that and Mr. Parisella will have to follow whatever the Building Official says. No one appeared for or against the project. Mr. Anzelone made the motion to grant the application. Mr. Aurecchia seconded the motion.

G. File 2006-54

Owner/Applicant: Jacob and Marisa Abbruzzese
Location: 5 Capri Drive; AP 20/Lot 167
Lot Dimensions: Frontage: 95± feet; Depth: 83.39± feet; 7,922± square feet.
Zoning District: R-15 Residential, (15,000 square feet) Zone
Existing Use: Single Family Dwelling
Development
 Proposal: Construct a 480 sq. ft. addition for additional living space
Dimensional Variance Petitioned under Article III, Section F, Table III-F-1

Minimum Rear Setback Required: 45 feet; Proposed Rear Setback: 23.9 feet; Relief requested for 21.1 feet.

Minimum Right Side Setback Required: 20 feet; Proposed Right Side Setback: 9.8 feet; Relief requested for 10.2 feet.

Minimum Front Setback Required: 25 feet; Proposed Front Setback: 24.7 feet; Relief requested for .3 feet.

Minimum Lot Frontage Required: 100 feet; Proposed Lot Frontage: 95 feet; Relief requested for 5 feet.

Minimum Lot Width: 100 feet; Proposed Lot Width: 95 feet; Relief requested for 5 feet.

Jacob and Marisa Abbruzzese, after being duly sworn, stated that they would like to build a 2 car garage with 2 bedrooms above. They currently have 4 bedrooms. They have an 18-month old son, an 11 year old coming to live and they want to have another baby. Mr. Pillozzi verified the relief requested. No one appeared for or against. Motion to grant by Mr. Anzelone. Seconded by Mr. Aurecchia. A voice vote was taken, all in favor.

H. File 2006-48

Owner/Applicant: United Better Homes, LLC
Location: Greenville Avenue; AP50 /Lots 1
Lot Dimensions: Frontage: 317.76± feet; Depth: 332.25± feet; 50,954± sq. ft.
Zoning District: R-40 (Residential – 40,000 sq. ft.) Zone
Existing Use: Vacant Land
Development
 Proposal: Construct a 2,200 sq. ft. Single Family Dwelling
Dimensional Variance petitioned under Article III, Section F,
Table III-F-1

Front Setback Required: 40 feet; Proposed front setback: 28 feet;
Relief requested for 12 feet.

Brian Coutcher, after being duly sworn, states that he needs the front relief because the rear portion of the lot is wetlands. Mr. Maselli asked if Mr. Coutcher received DEM approval for the wetlands and Mr. Coutcher replied that he had not. If this is approved, he will then go to DEM. Marie and Walter Otto Thierfelder, were duly sworn. Mrs. Thierfelder stated that she does not believe another septic system should be allowed near the wetlands. Mr. Pillozzi stated that only DEM has jurisdiction over that issue. Mr. Maselli asked where Mr. and Mrs. Thierfelder lived in relation to the subject property. Mrs. Thierfelder replied that they live across the street. Mr. Thierfelder stated that his concern is that they live at the bottom of Snake Den and they are concerned about run-off. Mr. Pillozzi explained that the Town has a 0 run-off policy. If run-off occurs, Mr. Thierfelder is to call the Building Official and it will be handled. Mr. Thierfelder asked if Mr. Coutcher was going to live in the house. Mr. Coutcher explained that he will sell the house and the lot to the right is too wet to build on so he will probably sell that lot with the house. Mr. Anzelone made the motion to grant the application, subject to DEM approval. Seconded by Mr. Maselli. A voice vote was taken, all in favor.

I. File 2006-30

Owner: Franco and Lynn Petrone
Applicant: Campagnone Investment Group, Inc.
Location of Proposal: 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 1,045 sq. ft. single family dwelling
 Dimensional Variance Petitioned under Article III, Section F, Table
 III-F-1 and Section L (1)

Lot Frontage Improved Required: 100 feet; Proposed frontage
Improved : 60 feet; Relief requested for 60 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: 13 feet;
Relief requested for 12 feet.

Rear Setback Required: 40 feet; Proposed rear setback: 18 feet
(including deck); Relief requested for 22 feet.

Left Side Setback Required: 15 feet; Proposed left side setback: 11
feet; Relief requested for 4 feet.

Minimum Lot Size: 5,000 sq. ft.; Proposed lot size: 4,200; Relief
requested for 800 sq. ft.

Alex Corrente and Frank Petrone were duly sworn. Mr. Pilozzi reminded everyone that this application was back before the board with revised house plans. The plans submitted for this meeting show a smaller home by 400 sq. ft. Mr. Petrone testified that the well that is a concern of the Board is away from the subject property. Exhibit A for the applicant was submitted. "Zoning and Land Use Summary for Arcadia Avenue". Motion by Mr. Anzelone to accept, seconded by Mr. Maselli. A voice vote was taken, all in favor. Ms. Morris, attorney for the project, explained the new relief being requested. Mr. Anzelone verified the placement and the length of the driveway. Discussion about whether or not to keep the deck. If the deck were removed, the driveway could accommodate two cars, as it is presented, it is a one car driveway. The deck will stay. Motion to grant by Mr. Aurecchia, seconded by Mr. Fascia. A voice vote was taken, all in favor.

J. File 2005-57

Applicant: Valentino Cairo of Johnston, Rhode Island
Owner: John Ruggieri of Johnston, Rhode Island
Location of Proposal: 43 Golden View Drive; AP 45/Lot 232
Lot Dimensions: Frontage 100'±; Depth: 200'±; Area: 20,000± square feet
Zone: R-40 (Residential) Zone
Present use: Vacant Land
Proposed: Single Family Dwelling, 1,410 ± square feet on a 20,000 sq. ft. lot

Dimensional Variance petitioned under Art. III, Sect. F, Table III-F-1.

Required Left Side Setback: 35 feet; Proposed Left Side Setback: 28 feet. Relief requested for 7 feet left side.

Required Right Side Setback: 35 feet. Proposed Right Side Setback, 27 feet right yard, Relief requested for 8 feet.

Mr. Pilozzi explained that this is the third time this application has been before the Board. The Board was waiting for a letter from the Town regarding the water problem in the area. The letter was never received. Valentino Cairo was duly sworn. Mr. Pilozzi stated that the water problem still has not been solved. Mr. Aurecchia stated that he does not feel that anything be built on that street until the water problem is solved. Mr. Frezza asked if there was drainage in the street; Mr. Maselli stated that there is not. Mr. Russo, attorney for the project, stated that this application was continued the first time so the applicant could do a drainage study. The study was completed and reflected that this project will have 0 impact on the run-off. The second hearing was continued so the Town could correct the problem, which didn't happen. His client has waited the six months that Board requested. Mr. Maselli verified that Mr. Cairo did not own the property yet. Mr. Pilozzi verified that Mr. Russo had submitted a report by Jeff Campopiano, Engineer, that there would be 0 run-off. This report was submitted at the second appearance. Mr. Pilozzi stated that that report is considered expert testimony. The Board has heard nothing from the abutters and since the Town has no Engineer... Mrs. Leonardi stated that the Town does have an Engineer, Armand Desvoyeaux. He started working for the Town in May. Mr. Pilozzi stated that the Board still has not received the letters saying the problem is fixed and it is okay to build. Mr. Russo stated that his client should not be penalized just because the Town did not do what they were supposed to do. The lot is in conformance with the rest of the neighborhood, and the applicant is not requesting a lot of relief. Mr. Fascia asked if Mr. Cairo had closed on the purchase of the lot. Mr. Russo stated that he had not. Mr. Fascia verified that Mr. Cairo had not made a significant financial investment in the property. Mr. Russo replied that outside of the drainage reports, ISDS approvals, and the Zoning Application fee, he had not. Mr. Frezza asked who had installed the berms on the properties in the area. Mr. Maselli stated that the Town did. Mr. Pilozzi asked if there was anyone in the audience for or against the project. John Ruggieri, owner of the property, after being duly sworn, stated that he lived in the area for 38 years and there was never a water problem until the house directly across from the subject lot was built. The builder filled in a low spot, the water had no where to go. This is why that house is built on a slab. Mr. Pilozzi asked how long the house had been there. Mr. Ruggieri stated 7 years, same as the water problem. Mr. Ruggieri testified that only one side of the street seems to have a problem with water, and it is the opposite side of the subject property. Mr. Pilozzi stated that he could not understand holding the applicant responsible for a pre-existing problem, especially if he provided an expert witness that testified that there was going to be 0 run-off from the project. Mr. Pilozzi asked for a motion to grant or deny. Mr. Fascia made the motion to grant the application. Mr. Pilozzi asked for a second. Mr. Pilozzi seconded. Mr. Howe stated that the Chairman was not allowed to second the motion. Mr. Pilozzi withdrew the seconding. Motion died. Mr. Aurecchia made the motion to deny. Seconded by Mr. Maselli. A voice vote was taken, Mr. Anzelone deny; Mr. Fascia approve; Mr. Pilozzi approve; Mr. Aurecchia deny; Mr. Maselli deny. Motion is denied vote 3 to2.

H. File 2005-47

Owner/Applicant: David Marsocci
Location: Atwood Avenue; AP 3 – Lots 188 and 193
Lot Dimensions: Frontage: 50± feet; Depth: 300 ± feet; Area: 15,000± sq. ft.
Zoning District: R-15 (Residential, 15,000 square feet)
Existing Use: Vacant Land
Development
Proposal: Construct 26' x 44' (1,144 sq. ft) Single Family Dwelling
Dimensional Variance originally petitioned under Article III, Section F, Table III-F-1

Right Side Setback Required: 20 feet; Proposed Right Side Setback: 16 feet; Relief requested for 4 feet.

Left Side Setback Required: 20 feet; Proposed Left Side Setback: 8 feet; Relief Requested for 12 feet.

Note: This case remanded back to Zoning Board of Review by Superior Court, C.A. NO. PC 03-2254 for rehearing and written decision complete with appropriate findings of fact and conclusions of law.

Jack McGreen, attorney for the applicant, submitted revised plans showing new setbacks for the proposed home. 5 feet on the left; and 15 feet on the right. David Marsocci, Linda Mollicone, and Thomas Sweeney were duly sworn. Mr. Marsocci stated that he would like to construct a 25' x 42' single family home. It will be a long narrow home that will fit on the 50' x 300' lot. Mr. Sweeney asked Mr. Marsocci if he purchased the lot as is or subdivided the lot. Mr. Marsocci replied that he purchased the lot as is, he did not create his own hardship. It is the smallest house that could be put on the lot. Mr. Pilozzi stated that the Board does not like “shotgun ranch” homes. It does not conform to the neighborhood. Mr. McGreen stated the home will be a “shotgun ranch”. It was even put on the plan, the applicant is not trying to hide anything. Mr. Pilozzi asked why the relief requested was 5 and 15, why not 10 and 10? Mr. McGreen stated that they are trying to give abutters the most room. If the house were moved, there would not be room for a driveway. The revised house plans were submitted as Exhibit A for the applicant. Mr. Anzelone made the motion to accept, seconded by Mr. Aurecchia. A voice vote was taken, all in favor. Exhibit B is the full submission by the applicant. Motion to accept by Mr. Anzelone, seconded by Mr. Aurecchia. A voice vote was taken, all in favor. Mr. Pilozzi stated that because the property is near the Pocasset River, the Town cannot grant anything without approval of the RI EMA. The Town has a \$500,000 grant from the Federal Government that Pam Pogue of the RI EMA oversees, based on property near the Pocasset River. Mr. McGreen stated that this has nothing to do with the application in front of the Board. Mr. Pilozzi wanted to make RI EMA approval a stipulation of the Board’s approval, should the application be granted. Mr. Aurecchia stated that this was up to the Building Official, not the Zoning Board. Mr. Aurecchia verified that the property has town water and sewer. Mr. Pilozzi asked Mr. Marsocci how far the rental unit buildings were away from their property line. Mr. Marsocci stated that they were about 25 feet. Mr. Pilozzi verified that the only relief needed were the two side yards. Mr. Pilozzi asked Mr. Sweeney, in his opinion, how much of the lot would be usable. Mr. Sweeney stated that his opinion would be about 2/3 of the lot is usable. The rest is wetland buffer. Mr. McGreen stated that Mr. Marsocci is building the

house for his sister, Linda Mollicone. He will transfer ownership after it is built. Mr. Pillozzi stated that Mr. Marsocci has hardship as owner, as builder on the previous application, he did not have a hardship, he had financial gain. Mr. McGreen quoted Almeida vs. Azar which speaks directly to the issue of hardship and whether it's created or not. Mr. Marsocci did not create his own hardship. Mr. Sweeney stated that he is an appraiser with Robin Real Estate and Sweeney Real Estate. He has been a broker and an appraiser for over 20 years. Mr. McGreen asked the Board to consider Mr. Sweeney a qualified witness. Mr. Anzelone made the motion, seconded by Mr. Aurecchia. Mr. Sweeney provided the Board with photos of the property. The slope of the property was discussed. The parking and driveway were discussed. Mr. Sweeney discussed how this property would fit in with the surrounding neighborhood. It is consistent with other small lots in the area and the home design is also consistent. In his opinion, this is the least relief necessary for this lot. Mr. Louis Gautieri, after being duly sworn, testified that he is the owner of the rental property abutting the subject property. His buildings are 20 feet from the property line, not 25 as previously stated by Mr. Marsocci. He does not want a small house close to the property line. He is afraid the structure or cars parked there might catch fire and harm the residents of his rental units. Mr. McGreen asked if Mr. Gautieri had cars on his property. Mr. Gautieri replied that he does and has adequate parking for them. Mr. Pillozzi asked Mr. Gautieri how many rental units he has. Mr. Gautieri stated that he has 2 – 12 unit buildings, 24 units in all. Mr. Gautieri does not feel that 25 feet between buildings is enough. Mr. Aurecchia asked what the additional 15 feet would do for him. Mr. Gautieri stated that the more room you have when firemen come and more space for smoke to ventilate. Mr. Aurecchia stated that 25 feet was more than enough room for a fire truck. Mr. Gautieri disagreed. Mr. Maselli asked Mr. Gautieri if he ever offered to buy the lot. Mr. Gautieri stated he was offered the lot several times, but doesn't want it. Mr. Aurecchia made the motion to grant. Mr. Maselli seconded the motion. A voice vote was taken, all in favor. Mr. Howe stated that the Board members need to state their findings of fact in light of the remand from Superior Court. Mr. Aurecchia amended his motion and now makes his motion to grant under Section O of the Zoning Ordinance. Mr. Howe stated the motion should also address Subsections 1, 2, and 3. Section 2 addresses the issue regarding whether the hardship is due to the unique characteristics of the land and the like. Mr. Maselli questioned whether the 2 lots would be merged; since there is a paper street behind the back lot that may be built at some time in the future, merging the lots would prevent anyone from building on the slope. Mr. Howe asked Mr. Aurecchia to restate his motion. Mr. Aurecchia made the motion to grant under Section O, that the hardship from which the applicant seeks a relief is due to the unique characteristics of the subject land and not to general characteristics of the surrounding area. It is not due to the physical or economic disability of the applicant. B. That the hardship is not the result of any prior action of the applicant or does not result primarily by the desire of the applicant to realize greater financial gain and that the granting of the requested variance will not alter the general characteristic of the surrounding area or impair the intent or purpose of the ordinance of the Comprehensive Plan upon which the ordinance is based; that the relief granted is the least necessary; all under Section O of variances. They must seek the recommendation of the approval of the Building Inspector of the Town of Johnston and from the Federal Coordinator of the Pocasset River plan. Mr. Howe also stated that the Board may want to address that there was uncontradicted testimony of an expert witness the Board accepted. He assumes that any vote in favor of this motion is based on that testimony. Mr. Aurecchia amended his motion to add that he based his decision on the expert testimony of Mr. Sweeney and on Mr. Marsocci's testimony to the unique characteristics of the land. Mr. Maselli seconded the motion. Mr. Pillozzi voted aye based on Mr. Sweeney's expert testimony as to conformance to the neighborhood and Mr. Marsocci's testimony that he will widen the driveway so cars will not back out onto Atwood Avenue causing harm to

themselves or other motorists. Mr. Fascia voted aye based on the testimony and evidence presented, Section O, part 2, parts A, B, C, and D. The argument presented is consistent with all these parts. Mr. Anzelone voted aye based on all the stipulations and variances of Section O. Mr. Maselli voted aye based on the unique characteristics of the land and on the considerations that have been made by the applicant making the house smaller and addressing the driveway concerns. All in favor, motion passes.

Meeting adjourned at 9:26 p.m.