

**Chairperson**

**Kenneth Aurecchia  
Nascenzi, .C.B.O.**

**Zoning Official**

**Bernard J.**

**Vice-Chairperson**

**Richard Fascia Anthony Pilozzi**

**Zoning Board Members**

**Joseph Anzelone**

**Secretary**

**Douglas Jeffrey .**

**Alternate Board Members**

**Bernard Frezza**

**Counsel for the Board**

**Alfred P. Cianci**

**Joseph R. Ballirano, Esq.**

**Recording Secretary**

**Susan Leonardi**

## **MINUTES**

**February 22, 2007**

**The Zoning Board of Review held its monthly meeting on the 22nd**

**day of February, at 7:00 p.m. 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 Kenneth Aurecchia, Vice Chairman Richard Fascia, Anthony Pillozzi, Joseph Anzelone, Bernard Frezza, Alfred Cianci, and Bernard Frezza**

**Also present: Joseph R. Ballirano, Town Solicitor, Susan Leonardi, Secretary, and Dianne Edson, Stenographer**

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

**Minutes of January, 2007 Zoning Board of Review Meeting**

**II. Old Business**

**A. ZBR-2007-06**

**Owner/Applicant: Mount Development Group**

**Location: Steere Drive; AP 62 / Lot 71**

**Lot Dimensions: Area: 6573 ± sq. ft.**

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

**Existing Use: Vacant land**

**Development**

**Proposal: Construct a 34' x 26' (884 sq. ft.) Single Family Dwelling**

**Application 2005-14 was denied by the Zoning Board on April 28, 2005; 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, 884 ± 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 Right Side Yard Variance Request: Required 35 feet; Proposed 11 feet side yard; Right Side Relief Requested for 25 feet.**

**Minimum Left Side Yard Variance Request: Required 35 feet; Proposed 11 feet side yard; Left Side Relief Requested for 25 feet.**

**Minimum Rear Yard Variance Request: Required 75 feet; Proposed 37 feet rear yard; Relief requested for 38 feet.**

**Minimum Lot Size in R-40: 20,000 sq. ft.; Proposed lot size: 6,573 sq. ft.; Lot Size Relief Requested: 13,427 sq. ft.**

**Lauren Jones, attorney for Mount Development Group, presented the information to**

**the Board. He explained that the case had been heard by the Board previously, and is**

back on a remand from Superior Court. Mr. Fascia asked Mr. Jones to outline some of the high points of his memorandum, since Mr. Fascia was not a member of the Board at the time of the original presentation. Mr. Jones explained that his client is seeking Dimensional Variances from lot size, width, and frontage and side yard setbacks in order to construct a single family dwelling. Three experts provided testimony at the original hearing and ISDS approval was submitted. The home will conform to the surrounding area, which have similar size lots. The applicant is not seeking greater financial gain, just to build a single family dwelling. Mr. Jones explained that none of the working wells on neighboring properties were for drinking water, since the area is served by public water supply. Members of the Board stated that the lot was too small and the proposed dwelling would be too close to neighboring homes. Abutter, James Johnson, stated that the abutters were never notified of what the court decided. Mr. Jones stated that his office sent notice by first

class mail to all the abutters. He has a list of those abutters and will submit a copy to the Zoning Office for the file. Catherine Tata, abutter, stated that she also did not receive anything in the mail from Mr. Jones' office. Anna Accetturo, daughter of abutters, the Lachappelles, stated that her parents also never received anything but the certified notice of this hearing. Mr. Jones stated that the abutters are not talking about the notice that was sent on September 9, 2005, rather about the notice of this hearing.

Mr. Jones stated that he would email a copy of the list in the morning to Mrs.

Leonardi at the Zoning Office. Mr. Anzelone made a motion to deny the application

based on Section O of the ordinance, specifically subsections B, C, and D. The

proposal is a public health and safety concern and the lot is too small for the area.

Subsection B – the hardship is not the result of any prior action of the applicant and

does not result primarily for the applicant to realize greater financial gain. Subsection

C – The granting of the variance will not alter the general character of the

surrounding area; Mr. Anzelone thinks it will impair the intent or purpose of the ordinance of the Comprehensive Plan. Subsection D – the relief granted is not the relief necessary. Motion seconded by Mr. Pillozzi. He is basing his decision on the same facts, the distance of the wells from the ISDS, and the public health and safety under Section O of Ordinance 941. A voice vote was taken, unanimous to deny.

**B. File 2005-06**

**Owner: Angelo Calcagni**

**Applicant: Louis Calcagni**

**Location: 97 Waterman Avenue; AP 16 - Lot 296**

**Lot Dimensions: Frontage: 90± feet; Depth: 80± feet;**

**Area: 7,200± sq. ft.**

**Zone: R-15 Zone (Single Family Residential, 15,000 sq. ft)**

**Present Use: Vacant Land**

**Proposal: Construct a 44' x' 28' (1,232 sq. ft.) Single Family Dwelling**

**Dimensional Variance petitioned under Article III, Section F, Table**

### **III-F-1 and Section L (1)**

**Note: Zoning Board approval of this project was recorded on 10-3-2005 which expired on 10-3-2007. Applicant is requesting a three-month extension.**

**Louis Calcagni explained that engineering on the road extension has delayed the project. Mr. Aurecchia made the motion to grant the extension. Seconded by Mr. Fascia. A voice vote was taken, all in favor.**

### **III. New Business**

#### **A. File 2006-55**

**Owner/Applicant: Robert and Teresa Russillo**

**Location: 8-10 Auburn Avenue; AP 16/Lot 505**

**Lot Dimensions: Area: 15,300 sq. ft.**

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

**Existing Use: Two-Family Home and Detached Garage**

**Development**

**Proposal: Modify existing garage into an 896 sq. ft. additional Two-Family Home on the same lot**

**Variance petitioned under Article III, Section F, Table III-F-I and Article III, Section D, Use Regulations**

**Right Side Setback Required: 22 feet; Proposed right side setback: 1.45 feet and 2.49 feet; Relief requested for 20.55 feet and 19.51 feet.**

**Brian LaPlante, attorney for the Russillo's, presented the application to the Board. He stated that the applicants have owned the property for about 20 years. They lived there until the family became too large and now they rent it out to tenants. When the applicants bought the property, it was 3 separate lots. They thought they would be able to have the house and develop the other two lots. They were subjected to the merger provision of the Town and ended up with one large lot. Mr. Pillozzi questioned who lived in the two-family house; Mr. LaPlante explained that it is rented to two separate tenants, both of whom have been there long term. The Russillo's live in another home on Pine Hill Road that they own. Mr. Fascia asked if the Russillo's were going to give up their residence on Pine Hill Road and move into the renovated garage, if the proposal were approved. Mr. LaPlante stated that they would not. Mr. LaPlante stated that the footprint of the garage will not be altered. They want to give their oldest daughter a place to live when she goes to college and possibly another family member will live in the other unit. Mr. Pillozzi stated that multifamily dwellings are not allowed in the zone. The existing building is pre-existing to the current zoning ordinance. Mr. Pillozzi stated that the applicants are asking for, 1. It is a non-permitted use. There isn't enough land; 2. They are creating their own hardship. Mr. Frezza verified that 4 families would be living on this one lot. Mr. LaPlante stated that they**

are other multi-family dwellings in the area, on much smaller lots. The area is not consistent with single family dwellings. Mr. Pillozzi stated that having 2 two-family homes on one lot will be creating a rooming house community. Mr. Nascenzi stated that the building permit application was submitted to him and denied it based on a non-conforming use. Mr. LaPlante stated that the application is due to the unique characteristics of the lot, not of the surrounding area. Mr. Anzelone verified the dimensional variances requested by the applicant. Mr. Anzelone stated that the existing garage was not built correctly. It should have been 5 feet off of the property line; it is currently only 1.5 feet off the line. Mr. Pillozzi stated that the applicants are creating rental properties and this not allowed in that zone. Mr. LaPlante asked if the Board would look more favorably on a single family dwelling being made out of the garage. Mr. Russillo, after being duly sworn, stated that there is more than 12 feet between the proposed dwelling and the neighbor's dwelling. Mr. Russillo stated that the application shows the dimensions incorrectly. The dimensions referred to are actually the rear, not the right side. Mr. Pillozzi made the motion to amend the application, seconded by Mr. Fascia. A voice vote was taken, all in favor. Mr. Fascia made the motion to accept the photographs as Exhibit 1 for the applicant. Seconded by Mr. Pillozzi. A voice vote was taken, all in favor. Mr. Russillo stated that the rear of the proposed dwelling will be masonry because of the building codes and fire-ratings. Mr. Pillozzi stated that even if the plans were amended to a single family dwelling, there still isn't enough land. The Ordinance requires 15,000 square feet per

**dwelling. Mr. Fascia asked, if at the time of the original merging, did the applicants protest? Mr. LaPlante stated that the applicants did protest, but the Town merged the lots. Barbara Sweet and Robert Sweet, abutter, after being duly sworn, stated that they are the neighbors on the left side of the property. Mrs. Sweet stated that she has lived there for 17 years. The second garage used to be a shed. She stated that she enjoys the space she has and does not want another house in the area. She stated that she has had problems with some of the tenants in the past. Mr. Anzelone made the motion to deny based on Sections B, C, and O of the Johnston Zoning Ordinance. The lot is too small for two two-family dwellings. There will be financial gain in having 4 rental units. There is very little space in the rear of the building. There is a public health and safety issue having that many tenants living on one lot. Motion seconded by Mr. Fascia. A voice vote was taken, all in agreement – application denied. Mr. Pillozzi stated his findings of fact for the record. He does not believe that a hardship exists. A two-family dwelling currently exists on the property and the family could use one of those units for the daughter.**

**B. File 2007-02**

**Owner/Applicant: Dolben Company**

**Location: Federal Way; AP 44/3, Lot 79**

**Lot Dimensions:**

**Zoning District: R-10 (Residential - 10,000 square feet) Zone**

**Existing Use: Vacant Land**

**Development**

**Proposal: Construct twenty-six (26) structures containing twelve (12) units for a total of three hundred and twelve (312) housing units. –**

**Comprehensive Permit**

**Dolben Company respectfully requests clarification of Section III, Paragraph 8 of the Zoning Decision previously recorded on April 1, 2005.**

**David Igliozi, attorney for the Dolben Company, presented the request to the Board. He stated that in the original agreement with Mr. Carpionato, an abutting property owner, Dolben would deed Mr. Carpionato a 50-foot strip of land. A condition of the deeding required that a fence be constructed between the two properties. However, some of that strip is a drainage easement and it doesn't make sense to put a fence on top of water. The Dolben Company is here before the Board requesting that the location of the fence be changed to place it at the edge of the pavement. Motion to agree to the change is made by Mr. Anzelone, and seconded by Mr. Aurecchia. A voice vote was taken, all in favor.**

#### **IV. Miscellaneous**

**Mrs. Leonardi addressed the Board. She stated that the Zoning Office/Building**

**Department is assisting the Town' attorney with discovery on the Marian Marocco**

**situation. They are asking for any written rules of conduct, bylaws, oaths or conditions**

**that this Board is bound by. If so, copies are requested. I also need any documents from the Attorney General regarding the situation that any of you may have received**

**personally, we need them for the attorney. Mr. Nascenzi stated that the entire Board is involved. The arbitration is the beginning of April, so any and all documents have been requested. Mr. Cianci stated that Michael DeSisto has all of that. Mr. Pillozzi stated that the Board is said to have an open meetings violation. The Town Attorneys could not represent us, so we were told to find our own attorneys. Subsequently, the final decision from the Attorney General exonerated the Johnston Zoning Board, found no reason, whatsoever, the Town did not prove any wrongdoing on our part. That's public record. Mr. Pillozzi stated that he has not been deposed yet. He has been served, but not deposed. Mr. Pillozzi asked if these documents would help in their defense. Mr. Nascenzi replied that it would not, it just help the Town in the arbitration matter. Mr. Pillozzi stated that it would be much simpler for Mr. Nascenzi to call the Attorney General's office; the information is public record and have them forward copies to you.**

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

**Meeting adjourned at 8:35 p.m.**