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Joseph Ballirano, Esq.



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Zoning Board Members
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Joseph Anzelone

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Alfred P. Cianci

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Susan Leonardi

JOHNSTON ZONING BOARD OF REVIEW

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MINUTES

April 26, 2007

The Zoning Board of Review held its monthly meeting on the 26th day of April, 2007, 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 had been requested to be present at this time.

Present: Chairman Kenneth Aurecchia, Vice Chairman Richard Fascia, Secretary Douglas Jeffrey, Anthony Pilozzi, Joseph Anzelone, Bernard Frezza, Alfred P. Cianci

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

I. of Minutes

II. New Business

A. File 2007-15

Owner/Applicant: Angela M. Cucinotta
Location: 212 Cherry Hill Road; AP 20-1 - Lot 353
Lot Dimensions: Area: 25,478 sq. ft.
Zoning District: R-15 (Residential – 15,000 square feet) Zone
Existing Use: Three Family Dwelling
Development
 Proposal: Construct a detached 2-car garage 26' x 24' (624 sq. ft.)
 Dimensional Variance petitioned under Article III, Section G (7),
 Accessory Structures Larger than 150 sq. ft.

John Tzitzouris, surveyor for Veltri Surveying, was duly sworn. Mr. Tzitzouris presented the application to the Board. The applicant is requesting to build a detached 2-car garage on the premises. Angela Cucinotta, owner, was duly sworn and testified that the garage would be used to park their personal vehicles and to store assorted yard equipment. There is a small shed on the property that may stay. No abutters appeared for or against the project. Mr. Pilozzi made the motion to approve the application; seconded by Mr. Fascia. A voice vote was taken, all in favor.

B. File 2007-16

Owner/Applicant: Michael D. and Valerie J. McArthur
Location: Spring Drive; AP 63/Lot 97
Lot Dimensions: Area: 5,700 sq. ft.
Zoning District: R-40 (Residential – 40,000 sq. ft.) Zone
Existing Use: Vacant Land
Development

Proposal: Construct a 30' x 24' (720 sq. ft.) single family dwelling
Dimensional Variance petitioned under Article III, Section F,
Table III-F-1

Minimum Lot Size Required: 40,000 square feet; Proposed Lot
Size: 5,700 square feet; Relief requested for 34,300 square feet.

Minimum Lot Frontage Required: 140 feet; Proposed Lot
Frontage: 57 feet; Relief requested for 83 feet.

Minimum Lot Width Required: 140 feet; Proposed Lot Frontage:
57 feet; Relief requested for 83 feet.

Minimum Front Setback Required: 40 feet; Proposed Front
Setback: 30 feet; Relief requested for 10 feet.

Minimum Rear Setback Required: 75 feet; Proposed Rear
Setback: 46 feet; Relief requested for 29 feet.

Minimum Left Side Setback Required: 35 feet; Proposed Right
Side Setback: 14.07 feet; Relief requested for 20.93 feet.

Minimum Right Side Setback Required: 35 feet; Proposed Right
Side Setback: 12.93 feet; Relief requested for 22.07 feet.

Elizabeth Noonan, attorney for the applicant, presented the application to the Board. Nicholas Pampiano, engineer for the project, presented his qualifications. He has been licensed with the State of Rhode Island for 14 years and has testified for many different Boards and Councils in the state. Mr. Jeffrey made the motion to accept Mr. Pampiano as an expert witness. Mr. Fascia seconded the motion. A voice vote was taken, all in favor. Nicholas Pampiano and Michael McArthur were duly sworn. Ms. Noonan stated that the subject lot had been through a Buildable Lot Determination with the Planning Department, and then this application was filed with the Zoning Board. The property has received ISDS approval from DEM. Mr. Pillozzi stated that this lot has been before the Board a couple of times before and been denied. He asked if the applicant was aware of that. Mr. McArthur replied he was not. Mr. Pillozzi stated that his main concern is that some residents in the area are using wells for their water. There is a water problem in the area. The ISDS system must be 100 feet away from any working wells. Ms. Noonan stated that the applicant can certainly survey the neighbors regarding the wells. Mr. Pampiano stated that the nearest well is more than 100 feet from where the ISDS system will be located. Mr. Pampiano stated that the applicant is proposing a berm on the right side of the property to prevent the water from draining across the front of their property.

In order to prevent that water from draining into the street, the applicant is proposing that all the new run-off is infiltrated into a galley system. Mr. Jeffrey asked if an easement was recorded on this property. Mr. McArthur stated that the easement is for his home on the next street over. It is a 25 foot fill perimeter easement for the ISDS system on Mr. Macarthur's property. Mr. Pilozzi stated that the two lots should be merged. Ms. Noonan stated that the Buildable Lot Determination stated that they were not merged. Mr. Nascenzi stated that the lots have frontage on different streets, which is why they were not merged. Mr. Nascenzi recommends no basement, a slab on grade construction. This will help alleviate some of the run-off. Joanne Cabral, abutter, was duly sworn. Ms. Cabral stated that her property is a direct abutter to this lot. She is concerned about water coming to her property if this lot is built upon. She has not had a water problem in the past. Motion to continue the application to the June meeting made by Mr. Fascia; seconded by Mr. Pilozzi. A voice vote was taken, all in favor.

C. File 2007-17

Owner/Applicant: Roger Mandarelli
 Location: 81 Waterman Avenue; AP 16/Lot 289
 Lot Dimensions: Area: 4,800 sq. ft.
 Zoning District: R-15 (Residential – 15,000 sq. ft) Zone
 Existing Use: Single Family Dwelling
 Development
 Proposal: Demolish existing dwelling and construct a 26' x 26' (1,352 sq. ft) Single Family Dwelling

Dimensional Variance petitioned under Article III, Section F, Table III-F-1; and Section L (1) – Undersized Lot of Record

Minimum Lot Size Required: 15,000 square feet; Proposed Lot Size: 4,800 square feet; Relief requested for 10,200 square feet.

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

Minimum Lot Width Required: 100 feet; Proposed Lot Frontage: 60 feet; Relief requested for 40 feet.

Minimum Front Setback Required: 25 feet; Proposed Front Setback: 15 feet; Relief requested for 10 feet.

Minimum Rear Setback Required: 45 feet; Proposed Rear Setback: 39 feet; Relief requested for 6 feet.

Minimum Left Side Setback Required: 20 feet; Proposed Right Side Setback: 12 feet; Relief requested for 8 feet.

Roger Mandarelli, after being duly sworn, stated that he would like to demolish the existing house on the property and build a new single family dwelling. The existing house is in bad shape. The new home would be about four feet larger than the existing house. Michael Soares and Donald Bessette, abutters, were duly sworn. Mr. Soares states that they both live behind the subject property. They feel that the lot is too small for the dwelling that Mr. Mandarelli would like to build. They are worried that construction would bring rats. Mr. Jeffrey stated that construction does not attract rats. Mr. Jeffrey asked the gentlemen if they wouldn't prefer looking at a new home as compared to what is currently on the property. Mr. Bessette asked how tall the new structure would be. Mr. Pilozzi stated that Mr. Mandarelli is staying within the zoning guidelines for height. Mr. Bessette verified that the existing building would be knocked down. He also stated that there is a water problem in the area. Mr. Mandarelli stated that he is aware of the water problem and will work to alleviate it. Mr. Pilozzi stated that the Town has a 0 run-off policy. Mr. Mandarelli will have to ensure that no water runs off his lot onto abutting lots. Mr. Nascenzi explained that when a structure is demolished, a checklist must be completed to ensure that no utilities are still in operation. Mr. Nascenzi also explained the Town's run-off policy for water. Mr. Pilozzi made the motion to grant the application based on the applicant satisfying code 942, Section O; seconded by Mr. Aurecchia. A voice vote was taken, all in favor.

D. File 2007-18

Owner/Applicant:	Gualter J. Botas
Location:	11 East Scenic View Drive; AP 46/Lot 159
Lot Dimensions:	Area: 11,484 sq. ft.
Zoning District:	R-40 (Residential – 40,000 sq. ft.) Zone
Existing Use:	Single Family Dwelling
Development	
Proposal:	Construct a 15' x 30' foot dog kennel on a cement slab Special Use Permit petitioned under Article III, Section D, Table III-D-1; Subsection 1 (2) and Dimensional Variance petition under Article III, Section G (7) – Accessory Structure larger than 150 sq. ft.

Gualter Botas, after being duly sworn, stated that he is asking to build a dog kennel to house 6 dogs. He is also asking for permission to have more than the three pets allowed by Town Ordinance. Mr. Pilozzi stated that he received a letter from an abutter, State Representative Stephen Ucci. Mr. Ucci has no opposition to this petition. Mr. Fascia verified with Mr. Botas that the photographs included in the application were of the current kennel on the property. Mr. Botas stated that this kennel would come down and the new one would be built on a cement slab to make maintenance easier. Mr. Fascia asked how the solid waste is/would be handled. Mr. Botas stated that it is picked up every day and the area is disinfected with "green" chemicals daily. Mr. Fascia is concerned about the noise 6 dogs would generate. Mr. Botas explained that the dogs wear "bark collars" at night to prevent them from barking. In the winter, they are brought into the house nightly. Mr. Pilozzi stated that the Board would control the number of

dogs that Mr. Botas could have. Mr. Nascenzi stated that this granting of the kennel would be for domesticated animals only, not for boarding other people's dogs. Mr. Fascia verified that Mr. Botas would be breeding these animals. Mr. Nascenzi stated that if Mr. Botas were to begin breeding, it would become a business, and that is a different license. Mr. Botas would have to come back before the Board for that license. Mr. Botas stated that he would not begin breeding the dogs initially, when he decided to do that, he would then come back before the Board to obtain the necessary approvals. Grace Bagley, an abutter, was duly sworn. Mrs. Bagley stated that she has a letter and some pictures for the Board. Motion to accept letter and pictures as evidence made by Mr. Anzelone and seconded by Mr. Pillozzi. Mrs. Bagley is concerned that the kennel could bring property values down. She does not breeding done in the neighborhood. Mr. Aurecchia asked Mrs. Bagley about the noise and any smell. She stated that there is no noise and she has not noticed any smell in the past; she also stated that Mr. Botas keeps it very clean. Her grandson played with the dogs last year when they were puppies. Mr. Pillozzi asked exactly where in the yard the kennel would be located. Mr. Botas explained that he didn't realize that accessory structures have to be 5 feet off of property lines until he spoke with Mrs. Leonardi in the Zoning Office. He will be relocating the kennel to an area of his yard that is away from the property lines and away from Mrs. Bagley's property. Mrs. Bagley stated that the location of the kennel is not the problem; she thinks 6 dogs are too many. Mr. Aurecchia asked what kind of dogs? Mr. Botas explained that they are boxers and weigh an average of 45-75 pounds each. Mr. Aurecchia asked how many dogs are currently on the property. Mr. Botas explained that he has two and two belong to a relative that will be taking them shortly. Mr. Jeffrey asked if Mr. Botas had any intention of boarding dogs. Mr. Botas stated that he did not. Mr. Jeffrey asked if the dogs had ever woken her up at night barking. She stated that they had not. She hears them during the day, but not at night. Mr. Pillozzi verified that there will usually only be two dogs. Mr. Botas explained that there will be a minimum of 3. Mr. Jeffrey verified with Mr. Nascenzi that there is recourse for the neighbors if there should be a smell or noise issue. Jeanne Parrillo, after being duly sworn, asked if Mr. Botas would be breeding the dogs. Mr. Pillozzi stated that he will not be breeding with additional approvals. Mr. Botas stated that if he begins breeding, the puppies stay within the house until they are 8 weeks old. Then they will be placed with other owners. They will not be placed in the kennel. Jim Nixon, after being duly sworn, asked if the dogs could get out of the kennel and roam the neighborhood. He is concerned about safety. Mr. Botas explained that the kennel is inside a completely fenced yard. It is very unlikely that the dogs could get out. David McCauley, after being duly sworn, stated that these dogs are pets, not just some dog at the breeder. They have a lot of human contact. The dogs love people. Mr. McCauley stated that he has 2 dogs and that Mr. Botas' yard is cleaner and better kept than his own. Mr. Pillozzi made the motion to approval the kennel with no more than 6 dogs. The motion was seconded by Mr. Jeffrey.

E. File 2007-19

Owner/Applicant: David Cloxton
Location: Heath Street; AP 1/Lot 301
Lot Dimensions: Area: 9,026 sq. ft.
Zoning District: R-15 (Residential – 15,000 sq. ft.) Zone

Existing Use: Vacant Land
 Development
 Proposal: Construct a 30' x 47.6' (1,428sq. ft.) single family dwelling
 Dimensional Variance petitioned under Article III, Section F,
 Table III-F-1
 Minimum Lot Size Required: 15,000 sq. ft.; Proposed Lot Size:
 9,026 sq. ft.; Relief Requested for 5,974 sq. ft.

Alfred Russo, attorney for the applicant, presented the application to the Board. Mr. Cloxton would like to construct a single family dwelling on the vacant lot. The only relief the applicant is requesting is for lot size. The applicant can meet all the setbacks and is consistent with surrounding properties. No abutters appeared for or against the project. Motion to approve the project is made by Mr. Pilozzi; seconded by Mr. Aurecchia. A voice vote was taken, all in favor.

F. File 2007-20

Owner/Applicant: Donald Lisi
 Location: Heath Street; AP 1 – Lots 297
 Lot Dimension: 10,000 sq. ft.
 Zoning District: R-15 (Residential – 15, 000 sq. ft.) Zone
 Existing Use: Vacant land
 Development
 Proposal: Construct a 30' x 60 (1,800sq. ft.) single family dwelling with deck
 off rear of dwelling
 Dimensional Variance petitioned under Article III, Section F,
 Table III-F-1
 Minimum Lot Size Required: 15,000 sq. ft.; Proposed Lot Size:
 10,000 sq. ft.; Relief Requested for 5,000 sq. ft.

Donald Lisi, after being duly sworn, stated that he is requesting to build a single family home on the property. Mr. Pilozzi asked if this property was next to the last petition. Mr. Lisi verified that it was. It is slightly larger than the other property and only needs relief on the lot size. He can meet all the setbacks. Mr. Jeffrey verified that water and sewer are available. No abutters appeared for or against the project. Mr. Pilozzi made the motion to approve the petition and this was seconded by Mr. Fascia. A voice vote was taken, all in favor.

A motion was made by Mr. Pilozzi to approve the minutes of the March and April, 2007 meetings. Seconded by Mr. Aurecchia. A voice vote was taken, all in favor.

G. File 2007-21

Owner/Applicant: Turning Stone Realty
 Location: Sheridan Street; AP 34 – Lots 138
 Lot Dimension: 5,400 sq. ft.

Zoning District: R-15 (Residential – 15, 000 sq. ft.) Zone
 Existing Use: Vacant land
 Development
 Proposal: Construct a 36' x 26' (936 sq. ft.) Single Family Dwelling
 Dimensional Variance Petitioned under Article III, Section F,
 Table III-F-1 and Section L (1)
 Minimum Rear Setback Required: 45 feet; Proposed Rear
 Setback: 39 feet; Relief requested for 6 feet.

Minimum Lot Size (with sewers) Required: 10,000 sq. ft;
 Proposed Lot Size: 7,200 sq. ft.; Relief requested for 2,800 sq. ft.

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

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

David D'Agastino, attorney for the applicant, presented the application to the Board. This application was previously approved; the applicant just needs an extension of the prior approval. The one year granting has expired. Mr. Pilozzi asked if anything had changed with the house plans. Mr. D'Agastino stated that nothing had changed. The delay is due to extensive galley systems and road development. Carlos Dos Santos, abutter, after being duly sworn, stated that he is having a water issue due to construction. Mr. Nascenzi stated that no Certificate of Occupancy will be issued if there any run-off problems from this lot or the neighboring lot and the houses being built upon them. Mr. Pilozzi made the motion to extend the approval. Mr. Aurecchia seconded the motion. A voice vote was taken, all in favor.

H. File 2007-22

Owner/Applicant: 1025 Realty I, LLC
 Location: 1025 Plainfield Street; AP 1 – Lots 98
 Lot Dimension: 1.505 ± acres
 Zoning District: B-2 (General Business.) Zone
 Existing Use: Restaurant with Entertainment and Liquor
 Development
 Proposal: Church or Other Place of Worship
 Special Use Permit petitioned under Article III, Section D, Table
 III-D-1; Section P – Special Use Permits

William Landry, attorney for the applicant, presented the application to the Board. The property is currently a restaurant, it is zoned B-2. The applicant is seeking a Special Use Permit under Section D, Table III-D-1, Sec 4.1, Church or Other Place of Worship. Steven Lombardi is duly sworn. Mr. Landry asked Mr. Lombardi what his relationship to

1025 Realty 1, LLC was. Mr. Lombardi stated that he and his brother are members. 1025 Realty, 1 LLC has owned the subject property for 8 years. Mr. Lombardi stated that although 1025 Realty 1, LLC owns several parcels in the area, only the parcel with the restaurant will be sold. Mr. Landry stated that the parking lot across the street will be made available to the Church if they should require it. There are 300 spaces across the street. The building originally could have an occupancy of 1200; with the new fire codes they were reduced to 800 and now to 420. In the past, patrons have utilized the parking lots on both sides of the street as well as parked on the street. Mr. Landry submitted a site plan as Exhibit A for the applicant. Mr. Pilozzi made the motion to accept the site plan as Exhibit A for the applicant; seconded by Mr. Fascia. A voice vote was taken, all in favor. Mr. Lombardi stated that if the Board grants this application, the restaurant will lease back the property from the Church until other accommodations can be found. Mr. Landry verified with Mr. Lombardi how many parking spaces are on the lot itself. Mr. Lombardi stated that there are approximately 120-130 spaces. Mr. Landry then asked Mr. Lombardi about the spaces across the street. Mr. Lombardi replied that there are an additional 300 spaces. Pastor Jose Rosales was duly sworn. He stated that the Church has been in existence for approximately 12 years. Mr. Landry asked Mr. Rosales where the Church is presently holding services. Mr. Rosales stated that they have 3 sites. One across from Providence Place Mall, a building in Attleboro, MA, and 1205 Westminster Street in Providence. They are looking to consolidate into one building. Worship services are conducted 3 days per week. Tuesday, Thursday and Sunday morning. Tuesday night is a Bible study for approximately 200-250 people. Thursday night is Worship and Praise service. Approximately the same number of people attends this service. Sunday morning has an attendance of approximately 400 people. Mr. Landry asked Mr. Rosales if more than person usually arrived in the same vehicle. Mr. Rosales stated that that is normal. It is a family church. The Church offices will also be located in this building. No external modifications will be made to the building. No outside worship services. No internal modifications are planned at this time. The restaurant and liquor will no longer operate on the premises. Mr. Rosales feels that there is adequate parking for his congregation on the lot and possibly utilizing the lot across the street. The Church has held a few services in the building to try it out for acoustics and other issues. They have found it acceptable. Mr. Fascia asked Mr. Rosales why they wanted a building that could technically house more than 3 times the size of the current congregation. Mr. Rosales stated that they hoped to grow the Church. Mr. Pilozzi verified that the largest congregation at any one time is 400-450. Mr. Landry asked Mr. Rosales if the other buildings are being leased or are owned. Mr. Rosales stated that they are leasing them and they desire to own their own building. Mr. Pilozzi asked Mr. Rosales if the traffic and parking were problems when the Church tried the building. Mr. Rosales replied that they were not. Mr. Pilozzi stated that currently, when there are large numbers of people at the building, a policeman or crossing guard is hired to handle the traffic. Mr. Rosales stated he has noticed that when he has driven by the building. Mr. Pilozzi stated that another Church is located next door to the subject property. Mr. Rosales stated that they are not affiliated. Mr. Fascia asked Mr. Lombardi if the Church will be allowed to utilize the lot across the street for parking, then 1025 Realty 1, LLC will never develop that lot. Mr. Lombardi replied that the Church will have first right of refusal on that lot. Mr. Lombardi stated that the former Chief of Police tried to have caution lights installed at the area, but it never happened. Mr. Lombardi stated that a

Church is a better use for the building than a nightclub, which the area is zoned for. Mr. Landry asked Mr. Rosales if the Church would be amenable to providing crossing guard assistance as necessary. Mr. Rosales agreed. Mr. Jeffrey stated that the Church is going to be faced with the same problem as the 1025 Club, sprinkler system. Mr. Lombardi stated that Churches are exempt from the fire alarm and sprinkler codes. The Club was spent \$9000 on a sprinkler plan for that building; he will pass those plans on to Mr. Rosales, so if it is ever required, he will have the plans. Mr. Nascenzi stated that as soon as the use of a structure changes, it is no longer exempt from the codes. It has to be a fully sprinklered facility. The only time a church is exempt, is when it is a pre-existing facility. Mr. Cianci asked what the legal occupancy is right now. Mr. Lombardi replied that it is 440. Because the State knows they made mistakes, they are not pushing the issue. Mr. Lombardi is working with George Farrell to fix the problem. Mr. Nascenzi stated that with the Int. Building Codes, when a structure has an occupancy rate of 300 or more, the IBC Chapter 4 kicks in and the only way to get a variance is to go to the State Fire Marshall. Mr. Lombardi stated that his occupancy rate is based on a table and chair set-up, the Church's will be based on auditorium style seating. Mr. Pilozzi stated that we have heard several occupancy rates and he cannot get the number of parking spaces to work out. Mr. Jeffrey stated that with this business leaving town, a large void will be left where civic groups used to have meetings. Would the Church be amenable to letting civic groups still hold meetings there? Mr. Rosales stated that the Board of Directors of the Church would consider that. Mr. Lombardi stated that the 1025 Club is looking at other properties in Johnston. Mr. Lombardi also stated that they have been approached by other businesses looking to buy the building, one of them being a nightclub. That will only make the traffic issue worse. Mr. William Coyle, appraiser, is duly sworn. He stated that he has been a real estate appraiser for over 30 years. He has testified many times before Zoning and Planning Boards over the years. Mr. Jeffrey made the motion to accept Mr. Coyle as an expert witness. This was seconded by Mr. Fascia. A voice vote was taken, all in favor. Mr. Coyle evaluated the property at the request of Mr. Landry, prior to the meeting. In his opinion, it will not have an adverse impact on the neighborhood. Mr. Landry distributed copies of Mr. Coyle's report on the building, including his qualifications. Mr. Pilozzi made the motion to accept his reports as Exhibit B for the applicant. This was seconded by Mr. Jeffrey. A voice vote was taken, all in favor. Mr. Anzelone stated that he would rather have a church in this building, than a nightclub. Mr. Landry stated that the applicant is not asking the Board to waive any requirements; they are willing to bring the building up to code. Mr. Landry requested that the Building Official to visit the site and count the parking spaces. Mr. Nascenzi stated that the capacity parking does not include dedicated handicapped spaces, van accessible. Mr. Lombardi stated that there have been no accidents in relation to this property. All the recent accidents in this area are related to the methadone clinic. Mr. Landry stated that there is no state law that says you can't have a church within 500 feet of a nightclub or liquor establishment, it is the other way around. Mr. Jeffrey asked Mr. Nascenzi, if the building were a place of worship right now, what would the legal capacity be? Mr. Nascenzi stated that he would have to do the measurements and research to answer that correctly. The Zoning Ordinance requires 1 space for every four occupants. Mr. Jeffrey stated that the Board would like to see the use of the lot across the street formalized, so they can't be double counted for the different businesses. Mr. Ballirano stated that out of caution, this matter should be continued so the occupancy rate

and parking spaces can be accurately determined. After these numbers are determined, if the Special Use Permit is granted, the decision can accurately reflect any stipulations the Board may have. Mr. Lombardi stated that he has a couple of concerns regarding the parking and fire sprinkler. Mr. Rudolph Lombardi, after being duly sworn, stated that he feels it is not fair that his family has to move their business due to overly restrictive regulations. Their family has a chance to sell the building and start again. The Board is making it very difficult. The state came in after the Station Fire and labeled the business a “nightclub”. We are not a nightclub; we are a restaurant with banquet facilities. The officials won’t admit they made a mistake. Businesses should be separated by what they are, not grouped. The 1025 Club pays a lot in Town taxes. Mr. Jeffrey stated that he appreciates what the 1025 Club has done for the Town. Unfortunately, the Board has to act in accordance with Town Ordinance, not personal feelings. Mr. Fascia stated that on behalf of the parents and children of Johnston, we would like to thank you for your service to the youth of the town, and regrettably it has come to this point. What you have done for the children and the families of this town cannot be measured in dollars and we thank you. A motion was made to recess the application so Mr. Landry can confer with his clients. Seconded by Mr. Pillozzi. A voice vote was taken, all in favor.

After hearing the next petition and a 10-minute recess, the rest of the discussion followed.

Mr. Landry stated that his client agrees with Mr. Ballirano that the capacity of the building and the parking issues need to be resolved before this can go any further. He suggested granting the Special Use Permit tonight with stipulations regarding the parking and capacity. Mr. Aurecchia stated that the issues need to be resolved before the permit is granted. Mr. Ballirano stated that it is an appropriate factual determination for the Board to verify parking and capacity versus the condition of a lease and public health, safety and welfare and the future enforcement thereof. Mr. Lombardi stated that if he followed the same guidelines that are being discussed, he is in serious violation. The 1025 Club did not get any help from the state or the town with the new regulations. The Johnston Police use the parking lot to pull over vehicles and check for inspections. He has never complained. Mr. Lombardi stated that no one ever cared about the traffic problem until it was announced that the 1025 Club was going to relocate; now it is an issue. There is a catch basin in front of his property large enough to “swallow a child”. He has made numerous complaints to the Town and the State and nothing has been done. Mr. Aurecchia stated that enough testimony had been heard and asked for a motion. Mr. Anzelone made the motion to grant the Special Use Permit. No one seconded the motion, it dies. Mr. Fascia made the motion to deny the application. This was seconded by Mr. Pillozzi. His findings of fact are as follows:

- Traffic hazard has not been adequately addressed
- Health, safety and welfare issue
- Sprinkler system
- 2nd Church 50 feet away

Mr. Aurecchia asked for a voice vote. All those in favor of denial, say aye.

Mr. Fascia – aye

Mr. Pilozzi – aye
 Mr. Anzelone – nay
 Mr. Jeffrey – nay
 Mr. Aurecchia – any

Motion does not carry. Mr. Ballirano asked the members of the Board that voted against denying the motion to address their reasons. Mr. Jeffrey stated that the applicant has not adequately addressed the parking issues. Mr. Aurecchia stated that his issues are also with the parking. Mr. Fascia stated that the site plan provided to the Board does not include the area across the street. It is specific to the lot in question. Mr. Landry stated that the applicant is willing to continue the matter and come back with a parking plan. Mr. Landry asked to be included in the May, 2007 agenda; Mr. Aurecchia stated that the agenda for May is closed; it will have to be June. Mr. Landry asked if the testimony at the Public Hearing in June could be limited to the parking issues. Motion to continue the matter until June is made by Mr. Anzelone; seconded by Mr. Jeffrey. A voice vote was taken, all in favor.

I. File 2007-23

Owner/Applicant:	Alliance Development Corp.
Location:	173 Simmonsville Avenue; AP 28 – Lots 231
Lot Dimension:	9,707 sq. ft.
Zoning District:	R-20 (Residential – 20,000 sq. ft.) Zone
Existing Use:	Vacant Land
Development	
Proposal:	Construct a 26' x 37.5' (975 sq. ft.) single family dwelling Dimensional Variance petitioned under Article III, Section F, Table III-F-1 Minimum Lot Size Required: 20,000 sq. ft.; Proposed Lot Size: 9,707 sq. ft.; Relief Requested for 10,293 sq. ft. Minimum Front Setback Required: 30 ft.; Proposed Front Setback 10.4 ft.; Relief Requested for 19.6 ft. Minimum Rear Yard Setback Required: 50 ft.; Proposed Rear Yard Setback: 18 ft.; Relief Requested for 32 ft.

Matteo Alibrio, after being duly sworn, stated that he had originally brought this application to the Board a little over two years ago. He was given approval at that time. He now needs an extension of that approval. The original year had passed, so he is back before the Board again. He was waiting on ISDS approval from DEM; he just received it. Mr. Pilozzi asked why there was a problem with DEM. Mr. Alibrio replied that there is a brook that runs along the rear of the property, he had to obtain an Insignificant Alteration Permit from DEM to allow construction and the ISDS needed to be approved. Mr. Pilozzi verified that Mr. Alibrio was staying within the same footprint. No one

appeared for or against the project. Mr. Jeffrey made the motion to grant the application. It was seconded by Mr. Aurecchia. A voice vote was taken, all in favor.

III. Adjournment

Meeting adjourned at 10:13 p.m.