

**Chairperson**  
Kenneth Aurecchia

**Vice-Chairperson**  
Richard Fascia

**Secretary**  
Douglas Jeffrey

**Counsel for the Board**  
Joseph Ballirano, Esq.



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

**Zoning Board Members**  
Anthony Pillozzi  
Joseph Anzelone

**Alternate Board Members**  
Bernard Frezza  
Costanzo Caparrelli, Sr.

**Recording Secretary**  
Susan Leonardi

**JOHNSTON ZONING BOARD OF REVIEW**  
100 Irons Avenue, Johnston, Rhode Island 02919  
**Tel: 401-231-4135; Fax: 401-231-4181**

**MINUTES**

**June 28, 2007**

The Zoning Board of Review held its monthly meeting on the 28<sup>th</sup> day of June, 2007, at 7:02 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 Pillozzi, Bernard Frezza, Costanzo Caparrelli, Sr.

Also present: Joseph R. Ballirano, Town Solicitor, Susan Leonardi, Recording Secretary, Bernard Nascenzi, Building/Zoning Official and Dianne Edson, Stenographer

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

Mr. Pillozzi made the motion to approve the minutes of the May 31, 2007 meeting. This was seconded by Mr. Fascia. A voice vote was taken, all in favor.

**II. New Business**

Mr. Aurecchia announced that two petitions would not be heard that evening. The petitions for Golden View Drive and N.E. Ambulance Company had asked to be continued until the next meeting. Barbara Campbell, abutter for the Golden View Drive petition, stated that she was just verifying that the petition would not be heard.

**A. 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 square feet) Zone  
Existing Use: Vacant Land  
Development  
Proposal: Construct a 30' x 24' (720 sq. ft.) single family dwelling

continued

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 again to the Board. The petition was originally before the Board in April, and had been continued for more information. In regard to any working wells in the area, she submitted an affidavit from the only abutter that has a well within 100 feet of the septic systems. The affidavit states that the well is not a working well. Ms. Noonan also stated that Nick Pampiano, Engineer for the project, submitted a storm water management plan that addresses all of the run-off issues. Nicholas Pampiano was duly sworn. Mr. Jeffrey stated that the Board did not receive a copy of the affidavit. Ms. Noonan stated that she brought copies and distributed them to the Board. Motion to accept as Exhibit A for the applicant made by Mr. Pilozzi; seconded by Mr. Aurecchia. A voice vote was taken, all in favor. Mr. Pampiano stated that the storm water management plan reflects a 10-year storm and the driveway will be pervious. No abutters appeared for or against the project. Mr. Pilozzi made the motion to grant the application; seconded by Mr. Aurecchia. A voice vote was taken, all in favor.

**B. File 2007-22**

Owner:	1025 Realty, LLC
Applicant:	“Jesuschrist Fountain of Life” Pentecostal Church
Location:	1025 Plainfield Street; AP 1 Lot 98
Lot Dimensions:	Area: 1.505± acres
Zoning District:	B-2 (General Business) Zone

continued

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. This application was previously before the Board in April of this year. Mr. Landry stated that the occupancy rate and parking were the major issues. Mr. Landry handed the Board a parking plan showing parking on the lot and the lots across the street. Mr. Landry stated that the occupancy rate of this building will be based on the State Rehabilitation Code. Mr. Landry stated that the occupancy plan has been prepared by Warren Ducharme, who is both an architect and a state official with the building commission. Mr. Pilozzi made the motion to accept the plans as Exhibit 1 for the applicant; seconded by Mr. Frezza. A voice vote was taken, all in favor. According to Mr. Ducharme's plan, the building, used as a church, can have an occupancy rate of 989 persons. This number is overstated when classrooms and worship areas are actually calculated; the occupancy is down to 835 persons. Pastor Rosales testified at the last meeting that his congregation numbers around 450. In regard to parking, the rate is one space for every four people. The current membership of the church would require approximately 115 spaces. If the occupancy was maximized, the membership would require 240 spaces. Mr. Landry referred the Board to page two of the packet that was distributed. Mohamed Freeze, PLS, marked 96 spaces on the lot in question. Across the street, there are approximately 191 spaces. This totals approximately 287 spaces on both sides of the street. 287 spaces would support an occupancy rate of over one thousand persons. Mr. Frezza asked if the lots across the street are being sold to the Church along with the subject property. Mr. Landry stated that they are being sold to the Church. Mr. Landry stated that 1025 Realty, LLC will lease back the take-out operation. Mr. Frezza asked Mr. Nascenzi about the occupancy and the parking. Mr. Nascenzi stated that he physically counted 275 legal parking spots. The parking for employees needs to be deducted from the total. Mr. Lombardi stated that there will be no interior renovations. All dividing walls currently exist. Mr. Lombardi explained the floor plan and the current dividing walls. Mr. Nascenzi stated that the current parking spaces available meet the allowable occupancy level.

Joseph Lopes, abutter, after being duly sworn, stated that would like to review the plan. He reviewed the plan and has no objection.

Mr. Nascenzi stated that based on the 25,000 sq. ft. of the building, it could accommodate 3,589 occupants. After removing kitchen and bathroom areas, the occupancy rate was reduced by 589 occupants. Based on the classification of the building, removing all kitchens, bathroom, hallway and offices, the occupancy load is roughly 1000 people. Mr. Frezza verified that the Church would be bound by the occupancy load set in the minutes. Mr. Nascenzi stated that he would be.

Mr. Frezza made the motion to grant the application. Mr. Aurecchia seconded the motion. A voice vote was taken, 3 in favor, 2 opposed. Mr. Pilozzi voted nay and explained that the traffic, parking, and safety are his issues. Mr. Fascia voted nay. Mr. Jeffrey voted aye. Mr. Aurecchia states that motion passes. (Please note matter to be

reviewed at July Meeting for clarification on effect of the 3-2 vote and whether or not the matter is actually passed per Johnston Zoning Ordinance.)

**C. File 2005-07**

Owner/Applicant: Joseph Baginski  
 Location: 25 Hedley Avenue; AP 14 Lot 260  
 Lot Dimensions: Frontage: 40'; Depth: 100'; Area: 4,000 sq. ft.  
 Zoning District: R-15 (Residential – 15,000 square feet) Zone  
 Existing Use: Vacant Land  
 Development  
 Proposal: Application 2005-07 was denied by the Zoning Board on March 31, 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, 1,120 ± square feet, for the lack of adequate findings of fact consistent with the decision.

Construct a 20' x 28' (1,120± sq. ft.) Single Family Dwelling  
 Dimensional Variance petitioned under Article III, Section F,  
 Table III-F-1 and Section L – Substandard Lot of Record

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

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

Minimum Front Setback Required: 25 feet; Proposed Front Setback: 14 feet; Relief requested for 11 feet.

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

Minimum Lot Size Required: 7,500 sq. ft; Proposed Lot Size: 4,000 sq. ft.; Relief requested for 3,500 sq. ft.

Pasquale Scavitti, attorney for the applicant, presented the application to the Board. He explained that this matter is a Remand from Superior Court for reconsideration of the finding of fact. Mr. Frezza asked Mr. Scavitti to explain the Court decision. Mr. Scavitti explained that Judge McGuirl found that the Board was remiss in their application of a dimensional variance standard and misapplied the Special Use Permit standard and secondly, stated that the findings applied had no rational basis. Mr. Frezza stated that there is a water problem in the area. Mr. Aurecchia stated that the water problem will be addressed. Joseph Baginski, after being duly sworn, stated that he knows he is liable for any water run-off. He plans on a permeable driveway tied into the storm drains. Mr. Baginski stated that the water running into the lot is actually coming from an abutting

property. Mr. Pillozzi asked if Mr. Baginski was going to build the same house as originally submitted. Mr. Scavitti stated that the applicant is following the original application. Mr. Jeffrey verified the number of bedrooms. Mr. Baginski stated that the house will have 2 bedrooms and a den. Mr. Pillozzi made the motion to grant the application; seconded by Mr. Fascia. A voice vote was taken, all in favor.

**D. File 2007-29**

Owner: Lori-Ann Pettinicchio  
 Applicant: Brookfarm, LLC  
 Location: Endicott Street; AP 34 - Lot 73  
 Lot Dimensions: Frontage: 80 ft.; Depth: 60 ft.; Area: 4,800 sq. ft.  
 Zoning District: R-15 (Residential – 15,000 sq. ft.) Zone  
 Existing Use: Garage  
 Development  
 Proposal: Demolish existing garage and construct a new 42' x 26' (1,092 sq. ft.) single family home.

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

Minimum Lot Size Required: 15,000 sq. ft.; Proposed Lot Size Requested: 4,800 sq. ft.; Relief Requested for 10,200 sq. ft.

Minimum Lot Width Required: 100 ft.; Proposed Lot Width: 60 ft.; Relief Requested for 40 ft.

Minimum Lot Frontage Required: 100 ft.; Proposed Lot Frontage: 60 ft.; Relief Requested for 40 ft.

Minimum Rear Setback Required: 45 ft.; Proposed Rear Setback: 29 ft.; Relief Requested for 16 ft.

Minimum Left Side Setback Required: 20 ft.; Proposed Left Side Setback: 9 ft.; Relief Requested for 11 ft.

Minimum Right Side Setback Required: 20 ft.; Proposed Right Side Setback: 9 ft.; Relief Requested for 11 ft.

Roger Lemieux, of Cataldo Associates, after being duly sworn, presented the application to the Board. Mr. Lemieux presented partial copies of Assessor's Plat 34 to the Board. Motion to accept as Exhibit 1 for the applicant was made by Mr. Frezza; seconded by Mr. Jeffrey. A voice vote was taken, all in favor. Mr. Lemieux stated that all of the lots around the subject site were substandard lots of record. He explained the relief being requested. The applicant proposes to build a 42' x 26', 3 bedroom home. Mr. Jeffrey stated that the applicant built his first home for him; he is a very honorable man. This will have no bearing on his decision. Albert Coutu, abutter, after being duly sworn,

stated that he has no problem with the application and believes it will improve the neighborhood. Mr. Coutu stated that he has appeared before the Board before when the asphalt plant was in the neighborhood. Mr. Aurecchia asked if the neighbors were upset when the asphalt plant was in the neighborhood. Mr. Coutu stated that a neighborhood group had been formed, "Society to Prevent Cruelty to Humans". Mr. Fascia made the motion to grant the application; seconded by Mr. Frezza. A voice vote was taken, all in favor.

**E. File 2007-30**

Owner/Applicant: Michael and Carrie Troiano  
 Location: 10 Milner Field Road; AP 42 - Lot 55  
 Lot Dimensions: Frontage: 100 ft.; Depth: 160 ft.; Area: 16,000 sq. ft.  
 Zoning District: R-40 (Residential – 40,000 sq. ft.) Zone  
 Existing Use: Single Family Dwelling  
 Development  
 Proposal: Construct an attached 20' x 24' (480 sq. ft.) garage with living space above.

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

Minimum Lot Size Required: 40,000 sq. ft.; Proposed Lot Size Requested: 16,000 sq. ft.; Relief Requested for 24,000 sq. ft.

Minimum Lot Width Required: 140 ft.; Proposed Lot Width: 100 ft.; Relief Requested for 40 ft.

Minimum Lot Frontage Required: 140 ft.; Proposed Lot Frontage: 100 ft.; Relief Requested for 40 ft.

Minimum Front Yard Setback Required: 40 ft.; Proposed Front Yard Setback: 28.9 ft.; Relief Requested for 11.1 ft.

Minimum Right Side Setback Required: 35 ft.; Proposed Right Side Setback: 14.2 ft.; Relief Requested for 20.8 ft.

Michael Troiano, after being duly sworn, stated that the addition is for a playroom for the children. The family is growing and more space is needed. Mr. Frezza asked if Mr. Troiano would be running a business out of the garage. Mr. Troiano stated that he would not. Mr. Pillozzi verified that Mr. Troiano has a well and a septic system. The addition would be set back from the septic system. No abutters appeared for or against the project. Mr. Jeffrey made the motion to grant the application; seconded by Mr. Fascia. A voice vote was taken, all in favor.

**F. File 2007-32**

Owner: Town of Johnston  
 Applicant: Polisena Construction, Inc.  
 Location: Rome Avenue; AP 5 – Lots 20, 21, 22  
 Lot Dimensions: Frontage: 120 ft.; Depth: 80 ft.; Area: 9,600 sq. ft.  
 Zoning District: R-20 (Residential – 20,000 sq. ft.) Zone  
 Existing Use: Vacant Land  
 Development  
 Proposal: Construct a 48' x 28' (1,344 sq. ft.) single family dwelling.

Dimensional Variance petitioned under Article III, Section F, Table III-F-1 and Section L (1)

Minimum Lot Size Required: 20,000 sq. ft.; Proposed Lot Size Requested: 9,600 sq. ft.; Relief Requested for 10,400 sq. ft.

Minimum Rear Yard Setback Required: 50 ft.; Proposed Rear Yard Setback: 22 ft.; Relief Requested for 28 ft.

Mr. Aurecchia stated that there is no collusion between Polisena Construction and the Mayor of the Town of Johnston. Mr. Aurecchia stated that he received no calls regarding this application and polled the Board members. No one received calls. Mr. Nascenzi stated that the newspaper did call the Zoning Office.

Vincent Polisena, after being duly sworn, stated that the Public Hearing Notice that was sent out contained a couple of errors and he would like to correct them. The last line states “front” yard setback, it should read “rear”. Mr. Pilozzi made the motion to correct the information; seconded by Mr. Frezza. A voice vote was taken, all in favor. Mr. Fascia states that the paperwork shows the owner as the Town of Johnston. Mr. Polisena stated that he purchased the land at a tax sale. He owns the tax title. The previous owner did not pay the taxes so the Town took over and he has purchased the land. The Town’s computers have not caught up. Mr. Caparrelli verified that the Town never actually owned the land; they took it in a tax sale. Mr. Polisena stated that someone else purchased the land and he bought it from them. It is public knowledge. Christopher Maselli, attorney for the applicant, stated that he represents Mr. Polisena in Superior Court on the tax lien issue. The owners had one year to redeem their rights, they did not so the property has been foreclosed and the sale should be complete before the end of summer. Mr. Maselli is not representing Mr. Polisena on the variance issue before the Board, just on the tax sale issue. Mr. Polisena stated that there is an error on the application. The right side yard setback should read 33 feet, not 25. Mr. Pilozzi verified that the 3 lots will be merged. Mr. Polisena stated that he has a well variance from DEM and an approved septic design. Mr. Polisena stated that the Planning Department will not merge the lots until the redemption is complete. Joseph McCauley, a member of the Waste Water Management Board, after being duly sworn, asked how far the well would be from the septic. Mr. Polisena stated that he has a variance from DEM because he cannot meet the 50-foot requirement. Mr. McCauley stated that the distance should be 150 feet. Mr. Aurecchia stated that he was under the impression that the well needed to

be 100 feet away from the septic. Mr. Polisena stated that he received the variance because he is putting a very expensive, state-of-the-art system in for the septic. Mr. Nascenzi stated that the State supersedes the Waste Water Management Board. Mr. McCauley stated that DEM gave the Waste Water Management Board power to supersede them. Mr. Nascenzi stated that he can make Waste Water Management Board approval a part of the process of issuing a building permit, but he was unaware of the requirements. Mr. McCauley stated that he will send a letter to Mr. Nascenzi detailing the procedure so this does not happen in the future. Mr. Fascia made the motion to accept the letter from the Waste Water Management Board as Exhibit 1 for the applicant; seconded by Mr. Frezza. A voice vote was taken, all in favor. Mr. Fascia made the motion to grant the application; seconded by Mr. Frezza. A voice vote was taken, all in favor.

Mr. Pilozzi stated that it has been past practice not to hold a meeting in August. He made the motion to suspend the August meeting; seconded by Mr. Fascia. A voice vote was taken, all in favor.

Adjourned at 10:50 p.m.