

**Chairperson**  
Kenneth Aurecchia

**Vice-Chairperson**  
Richard Fascia

**Secretary**  
Douglas Jeffrey

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



**Zoning Official**  
Bernard J. Nascenti, 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**

**May 28, 2009**

The Zoning Board of Review held its monthly meeting on the 28th day of May, 2009, at 7:00 p.m., at the Johnston Senior Center, 1291 Hartford 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., and Joseph Anzelone. Also present: Joseph Ballirano, Town Solicitor, Susan Leonardi, Bernard J. Nascenti, and Dianne Edson, Stenographer

Mr. Pillozzi made the motion to approve the minutes of the April, 2009 meeting, with the correction to include Mr. Fascia as attending. Mr. Jeffrey seconded the motion. A voice vote was taken, all in favor.

**A. File 2008-63**

LOCATION: 40 Pine Hill Road  
OWNER/ APPLICANT: Ernest N. Watson  
LOT: AP 45—Lot 3; 17.21± acres; R-40 Zone  
EXISTING USE: Single Family Dwelling  
PROPOSAL: Construct an additional single family dwelling on newly created rear parcel of property

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

	DIMENSION	MINIMUM REQUIRED	PROPOSED	RELIEF REQUESTED
LOT: —	<b>FRONTAGE</b>	<b>140'</b>	<b>25'</b>	<b>115'</b>
	— <b>WIDTH</b>			

Alfred Russo, Esq. presented the application to the Board and gave the history of the application. Mr. Russo submitted a letter to the Board as Exhibit A for the applicant. Mr. Pillozzi made the motion to accept the Exhibit; Mr. Fascia seconded the motion. A voice vote was taken; all in favor. Mr. Russo submitted another letter as Exhibit B for the applicant. Mr. Pillozzi made the motion to accept the Exhibit; Mr. Fascia seconded the motion. A voice vote was taken; all in favor.

Ernest Watson was duly sworn. Mr. Watson stated that the house that is currently on the property will be for his parents. The new home will be for him.

Nicholas Veltri, Professional Land Surveyor, was duly sworn. Mr. Veltri stated that the property has 105 feet of frontage on the right of way.

Mr. Russo explained the relief being requested from the Board.

No abutters appeared for or against the project.

Mr. Pilozzi made the motion to grant the application; Mr. Jeffrey seconded the motion. A voice vote was taken; all in favor.

**B. File 2005-57 – Remand from Superior Court**

Location of Proposal: 43 Golden View Drive; AP 45/Lot 232  
 Applicant: Valentino Cairo  
 Owner: John Ruggieri  
 Development Proposal: Applicant proposes to construct single family dwelling, 1,410 ± square feet, on 20,000 square feet vacant lot.

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

Minimum Side Yard Variance Requests:

- Required 35 feet each side yard
- Proposed 28 feet left yard; Relief requested for 7 feet (southerly side.)
- Proposed 27 feet right yard; Relief requested for 8 feet (northerly side.)

Herb DeSimone, Esq. presented the application to the Board. Mr. DeSimone detailed the history of the project to the Board. Mr. Pilozzi gave some additional history regarding the water problems in the area. Mr. DeSimone stated that the Board did not have an issue with the relief or type of home being requested at previous hearings. The water problem should not interfere with this hearing.

Mr. Jeffrey stated that the water problem will become an issue when building permits are applied for; this Board needs to focus on the dimensional relief being requested.

No abutters appeared for or against the project.

Mr. Pilozzi made the motion to grant the application. Mr. Jeffrey seconded. A voice vote was taken; all in favor.

**C. File 2009-17**

LOCATION: 1 Hillside Drive  
 OWNER: Marsocci Properties, LLC  
 APPLICANT: Edward Napolitano  
 LOT: AP 14 — Lot 267; 11,500 sq. ft.; B-2 Zone

EXISTING USE: Vacant Commercial Building  
PROPOSAL: Used automobile dealership

**Special Use permit** petitioned under Article III, Section D, Table III–D–1, Section 10.11

Edward Napolitano was duly sworn. Mr. Napolitano presented the application to the Board. He operates an existing business in Johnston and wishes to move it to the new location. There will be no body work; just minor repairs to the vehicles being sold. Mr. Frezza questioned in the ingress/egress of the site. Mr. Aurecchia questioned the wrong business name on the site plan. Mr. Napolitano stated that he received the plan from the surveyor that drew it. He is not affiliated with the company named on the plan. That company does body work for his company. Mr. Anzelone detailed his issues with the site/project.

Raymond Rocha, abutter, was duly sworn. Mr. Rocha detailed his objections to the project. He owns property directly across the street from the subject property.

Mr. Fascia stated that he has known Mr. Napolitano for several years. Mr. Napolitano is of the highest character and will operate his business to the highest standards possible.

Mr. Napolitano stated that vehicles will be brought in singly, not on car carriers. Mr. Napolitano stated that he was unaware of the prior issues with this site. Mr. Jeffrey stated that it is not the job of the Building official's office to tell applicants of prior issues. Mr. Napolitano stated that if he were made aware of these issues, he would have found another site.

James Cerullo, abutter, was duly sworn. Mr. Cerullo states that he lives next door to the subject property. Mr. Cerullo stated that he was at the original zoning hearing and the owner did not follow the stipulations imposed at that time. The building is very close to this property and he hears all the noise. He says the property should revert to two retail units, as originally agreed.

Councilman Joseph Wells was duly sworn. Mr. Wells stated that he is against the project. He has been involved with the residents in the area since the building was built. If the permit is granted, he would like to see stipulations in regard to parking and containing all vehicles on the property.

Mr. Fascia asked Mr. Napolitano if he would consider withdrawing the application without prejudice while he searches for an alternative site.

Mr. Fascia made the motion to allow Mr. Napolitano to withdraw the application without prejudice. This was seconded by Mr. Jeffrey. A voice vote was taken; all in favor.

**D. File 2009-18**

LOCATION: 583 Central Avenue  
OWNER/APPLICANT: Joseph E. Fillion, Jr.  
LOT: AP 44 — Lot 437; 40,180 sq. ft.; R-40 Zone  
EXISTING USE: Single Family Dwelling

PROPOSAL: Construct 16' x 28' (448 sq. ft.) storage shed

**Dimensional Variance** petitioned under Article III, Section G (7) (c)

Joseph Fillion, Jr. was duly sworn. Paul DiMaio, Esq. presented the application to the Board.

Mr. Fascia stated that he had a business relationship with the applicant several years ago and does not exist at this time. This relationship will have no bearing on his vote this evening and would not constitute a conflict of interest.

Mr. Pilozzi verified that the structure would be at least five feet off of all property lines, no business would operate out of the structure and no plumbing will be installed.

No abutters appeared for or against the project.

Mr. Pilozzi made the motion to grant the application. Mr. Fascia seconded the motion. A voice vote was taken. All in favor.

**E. File 2009-19**

LOCATION: 8 Dante Avenue  
 OWNER/APPLICANT: Antonio and Frances Alfieri  
 LOT: AP 15 — Lot 264; 5,000 sq. ft.; R-15 Zone  
 EXISTING USE: Two family dwelling  
 PROPOSAL: Construct a 20' x 26' two story addition

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

	DIMENSION	MINIMUM REQUIRED	PROPOSED	RELIEF REQUESTED
LOT:	— SIZE	15,000' sq.	10,000' sq.	5,000' sq.
SETBACK:	— REAR	45'	42.25'	2.75'
	— RIGHT	20'	8'	12'

Nicholas Veltri, Professional Land Surveyor and James McCue were duly sworn.

Antonio Alfieri was duly sworn.

Mr. Veltri presented the application to the Board. Mr. Anzelone verified how far the neighboring home was from the property line. The Board would like to see at least 10' on the side yard; Mr. McCue stated that that issue could probably be worked out.

Mark Ford, abutter, was duly sworn. Mr. Ford states that he lives next to the subject property. His home is closer to the property line than the subject property. Mr. Pilozzi verified that there will be no windows on that side of the addition.

Giovanni Stanziale, abutter, was duly sworn. Mr. Stanziale is concerned that the building will be converted to a three family with the new addition. Mr. Aurecchia stated that that will not happen.

Ellen Ford, abutter, was duly sworn. Mrs. Ford is concerned about the distance between the homes if there were a fire. The Board explained that there is ample room for fire apparatus.

Councilman Joseph Wells stated that he is neither for nor against this project. He has filed a complaint with the Minimum Housing Office regarding the condition of this property. This is rental property and it is not being taken care of. The bedrooms being added to the existing apartments are extremely large.

Mr. Caparrelli asked what the hardship was. The addition is for financial gain, not to alleviate a hardship. It is a rental unit, the addition is to allow the owner to charge a higher rent.

Mr. Jeffrey asked when the pictures that Councilman Wells had shown to the Board were taken. Councilman Wells stated that they were taken today. Mr. Alfieri stated that he purchased the home one month ago and has not done any maintenance; was waiting to start the construction.

Jennifer Lima, abutter, was duly sworn. Ms. Lima stated that the property is an eyesore; it doesn't need to be any bigger. It doesn't conform to the neighborhood.

Giovanni Stanziale, Jr., was duly sworn. He questioned why the owner was allowed to seek a variance. Mr. Aurecchia explained how the Zoning Board operated.

Mr. Aurecchia stated that the plans show 2, 4 bedroom units. Mr. Alfieri stated that it would be 2, 3 bedroom units. Mr. Aurecchia stated that he should reconsider and submit accurate drawings.

Mr. Ballirano stated that the applicant has two options. He can withdraw the application and resubmit a new or go forward with the current information. The applicant has not presented expert testimony. Mr. Jeffrey stated that the critical point is hardship. There isn't a hardship. Mr. Fascia stated that the applicant has not demonstrated a need for relief.

Mr. Alfieri stated that he will withdraw his application and resubmit a new package to the Zoning Board.

Mr. Pillozzi made the motion to allow the applicant to withdraw the application without prejudice. Mr. Jeffrey seconded the motion. A voice vote was taken; all in favor.

## **F. File 2009-13**

LOCATION:	21 Putnam Pike
OWNER:	Putnam Pike East LLC, c/o Puleo Realty
APPLICANT:	Janco Central Inc.
LOT:	AP 38 — Lot 140; 42,800 sq. ft.; B-2 Zone
EXISTING USE:	Fast Food Restaurant with drive-thru
PROPOSAL:	Install additional signage on building. Replacing 16 sq. ft. sign with 28.3 sq. ft. sign; Addition of two new signs of 54.5 sq. ft.; Changing orange faces to red faces on channel letters.

**Dimensional Variance** petitioned under Article III, Section J, Subsection 5.1

Joseph Fulford, Janco Central, was duly sworn. Mr. Fulford presented the application to the Board and detailed the signage relief being requested. The Board had no questions for the applicant and no abutters appeared for or against the project.

Mr. Pilozzi made the motion to approve the application. Mr. Jeffrey seconded the motion. A voice vote was taken; all in favor.

**G. File 2007-31**

Location of Proposal:	48 Golden View Drive
Lot Dimensions:	AP 45-Lot 218; 40,000± square feet; R-40 Zone
Owner/Applicant:	Joseph Santagata, Jr.
Existing Use of Property:	Single Family Dwelling
Development Proposal:	Construct an additional 75' x 30' (2,250 sq. ft.) single family dwelling.

**Special Use Permit** petitioned under Ordinance 2002-21, Buildable Lot Determination 2(3) – Relief from Merger Requirements

Alfred Russo, Esq. presented the application and history of the property to the Board.

Kerry Santagata was duly sworn. Mr. Russo asked Mrs. Santagata what the second home would be used for. Mrs. Santagata stated that she and her family would live in the new home and the current home would be used by her in-laws.

Mr. Russo submitted a map of the area to the Board. Mr. Pilozzi made the motion to accept the map as Exhibit A for the applicant. Mr. Jeffrey seconded the motion. A voice vote was taken; all in favor.

Mr. Russo stated that the property was originally two lots and merged by Ordinance; his client would like to have them unmerged. If unmerged, the new lots would be in conformance with the surrounding area.

Mrs. Santagata stated that the new home would face BayView Avenue and there would be no fence in the rear between the two properties. There is a pool in the back of the current home and both homes would use the pool. Mrs. Santagata stated that her in-laws are not in good health and she and her husband want them nearby. The current home is not large enough for everyone.

Rachel Cane, abutter, was duly sworn. Ms. Cane states that she lives across the street from the current home. She is against the project. She is concerned about the water issue on the street and no sewers in the area. She stated that the applicants are not quiet and considerate neighbors.

Mr. Jeffrey stated that it is up to the Building Official to make sure that there is no water run-off to other properties.

Mr. Pilozzi stated that Zoning is only the first step. From this Board it will appear before the Planning Board. If the application passes both of those, then the applicant can apply for a building permit. There is a process.

Mr. Jeffrey stated that most of the lots in the area are the same size as the new lot would be; it will conform to the area.

John Cane, abutter, was duly sworn. He questioned why the lots were merged earlier. Mr. Ballirano explained that the State passed a law several years ago in 1991. Mr. Cane stated that the prior owner merged the lots for tax purposes. It was not merged due to law. Mr. Pilozzi stated that this was hearsay because there is nothing to back it up. Mr. Cane stated that the applicant is creating their own hardship. Mr. Jeffrey explained that the variance being requested is minimal and it affects their property. Mr. Cane stated that the septic system is failing on their property. Mr. Jeffrey stated that that issue has nothing to do with this application.

Elena Beilawksi, abutter, was duly sworn. Ms. Beilawski asked what would happen if one lot were to be sold. The homes would be very close to each other. Mr. Jeffrey stated that this situation happens on a regular basis. The pool would have to be fenced before the property could be sold.

Barbara Campbell, abutter, was duly sworn. Ms. Campbell stated that she has a water problem and is concerned about that issue being exacerbated when construction begins. Mr. Aurecchia stated that the Town has a zero run-off policy and no water may leave the site. Ms. Campbell stated that her lot is larger than the subject property. Mr. Jeffrey showed Ms. Campbell a map that shows that most of the lots in the area are 20,000 sq. ft.

Marie Accetturo, abutter, was duly sworn. Ms. Accetturo stated that her home is directly behind the subject property. She has no problem with the project. Her land is slightly lower than the subject property and if there is any water run-off, which she knows is not allowed, it would come to her property.

No other abutters appeared for or against the project.

Mr. Jeffrey made the motion to grant the application. Mr. Aurecchia seconded the motion. A voice vote was taken; all in favor.

**H. File 2009-10**

LOCATION: Truman Street  
 OWNER/APPLICANT: Linda Mollicone  
 LOT: AP 48/1 — Lot 28; 13,000 sq. ft.; R-20 Zone  
 EXISTING USE: Vacant Land  
 PROPOSAL: Construct 26' x 36' single family home with garage

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

	DIMENSION	MINIMUM REQUIRED	PROPOSED	RELIEF REQUESTED
LOT:	— SIZE	<b>20,0</b>	<b>13,0</b>	<b>7,00</b>
SETBACK:	— REAR	<b>50'</b>	<b>38.1</b>	<b>11.1</b>

Stephen Peterson, Esq. presented the application to the Board and detailed the relief being requested.

Linda Mollicone, owner, was duly sworn. Ms. Mollicone answered questions by her attorney detailing how long she has owned the property, what her plans for it are, etc... Ms. Mollicone stated that she is in possession of a Buildable Lot Determination signed by George Corrente. Mr. Peterson submitted a copy of the Determination to the Board. This was marked as Exhibit A for the applicant. A letter from Mr. Corrente was marked as Exhibit B for the applicant. Mr. Peterson summarized the documents for the Board.

Mr. Ballirano stated that the document was never recorded in the Land Evidence records at Town Hall. Mr. Peterson stated that Ms. Mollicone was given that document when she bought the property. Mr. Ballirano stated that he must instruct the Board to disregard the document.

Mr. Pilozzi verified that the home would not be sold. Ms. Mollicone stated that it will be for her and her two children. Mr. Anzelone verified that the home has access to public water and sewer. Mr. Pilozzi stated that it is a large home for the lot.

Ms. Mollicone asked the Board if she can go back to the seller and get her money back because she bought the land based on the Buildable Lot Determination. Mr. Pilozzi referred her to her attorney; that is not something the Board can get involved with.

Mr. Peterson asked if the Board would be amenable to having Mr. Corrente testify as to the validity of the document. Mr. Pilozzi stated that his testimony would not help with the lot size. Mr. Jeffrey stated that some of the language in the document is vague. Mr. Corrente would have to clarify some of the points in the document.

Mr. Ballirano asked if the deed shows 13,000 square feet. Mr. Peterson verified that it does. Mr. Peterson gave Mr. Ballirano a copy of the deed. It is a corrective deed recorded in 2005. The original deed contained a typographical error. The “neighborhood setback” was repealed last year. The determination is no longer valid.

Mr. Ballirano stated that if this document had been recorded, it would have appeared in a title search. It did not.

Monica Spicer, abutter, was duly sworn and stated that she lives next to the subject property and is concerned about the size of the home. She would be more comfortable with a smaller home.

Sharon Theliaferri, abutter, was duly sworn and stated that she lives behind the subject property and across the street from Ms. Mollicone's brother. Her brother's property is a disgrace and an eyesore. It looks like a junkyard. Ms. Theliaferri is concerned that Ms. Mollicone will treat her property the same way. Ms. Theliaferri submitted pictures of her property and Ms. Mollicone's brothers' property to the Board. Ms. Theliaferri stated that she has contacted the Building Department and the Mayor's Office, but nothing has been done. Ms. Theliaferri stated that the proposed home is too large for the lot. Mr. Ballirano took Ms. Theliaferri's phone number and stated that he would forward it to the appropriate party.

Mr. Peterson requested a continuance of the application until the July meeting.

Mr. Fascia made the motion to continue the matter until the July, 2009 meeting. Mr. Pillozzi seconded the motion. A voice vote was taken; all in favor.

File 2005-44 – Justice Realty was continued. Mr. Fascia made the motion to continue; Mr. Jeffrey seconded the motion. A voice vote was taken; all in favor.

Meeting adjourned at 11:30 p.m.