

Chairperson
Bernard Frezza

Vice-Chairperson
Anthony Pilozzi

Secretary
Joseph Anzelone

Counsel for the Board
Joseph Ballirano, Esq.



Building Official
Bernard J. Nascenzi, C.B.O.

Zoning Board Members
Richard Fascia
Thomas Lopardo

Alternate Board Members
Dennis Cardillo
Albert Colannino

Recording Secretary
Holli Stott

JOHNSTON ZONING BOARD OF REVIEW
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MINUTES

December 19, 2013

The Zoning Board of Review held its monthly meeting on the 19th day of December, 2013 at 6:30 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: Bernard Frezza, Chairperson, Anthony Pilozzi, Vice-Chairman, Joseph Anzelone, Albert Colannino, Richard Fascia, Thomas Lopardo and Dennis Cardillo. Also present: Joseph Ballirano, Esq., Bernard Nascenzi, Zoning Official, Susan Leonardi, Recording Secretary, and Diane Edson, Stenographer.

Mr. Pilozzi made the motion to approve the November 21, 2013 minutes. This was seconded by Mr. Anzelone. A voice vote was taken; all in favor.

Mr. Pilozzi questioned the previous months minutes and Mr. Ballirano told them that he will have the transcript included in the next packet so the minutes can be approved.

Mr. Pilozzi made the motion to approve the 2014 Calendar of Meetings. Mr. Anzelone seconded the motion. A voice vote was taken; all in favor.

A. File 2013-41

LOCATION: 6 Edwards Road
OWNER/ APPLICANT: Michael and Lori DiDomenico
LOT: AP 11 Lot 366; 13,500 sq. ft.; R-15 Zone
EXISTING USE: Vacant
PROPOSAL: Single Family Dwelling

Dimensional Variance petitioned under Article III § 340-9 Table of Dimensional Regulations

	DIMENSION	MINIMUM REQUIRED	PROPOSED	RELIEF REQUESTED
SETBACKS:	LOT SIZE	15,000'	14,250'	750'

Michael DiDomenico was sworn and presented the application to the Board. He wishes to build a single family dwelling on the vacant lot for his family. Minimal relief required. Mr. Pilozzi asked if Mr. DiDomenico would be purchasing an abutting lot and what it would be used for. Mr. DiDomenico stated that he is in the process of negotiation to purchase an abutting lot that would be used for a detached garage; the lots would also be merged if the purchase is completed. A. Pilozzi questioned the plans that show a garage. Mr. DiDomenico stated that the plans have been changed to make that into a master bedroom. Mr. Ballirano stated that the Board can make their motion subject to the applicant going to the Zoning Office and changing the plans to reflect master bedroom and not the garage. Mr. Pilozzi made the motion to allow the correction. J. Anzelone seconded the motion. A voice vote was taken; all in favor. Mr. DiDomenico stated that the Johnston Fire Department is aware of the change and will approve the plans accordingly. Mr. Colannino questioned the location of the house on the lot. Mr. DiDomenico stated that it is due to the slope of the land. No business will be run out of the home. May build an in-law apartment in the future, but will return to the Zoning Board before construction. No abutters appeared for or against the project. Mr. Anzelone made the motion to approve the application with the stipulation that the applicant amend the plans at the Zoning Office. Mr. Pilozzi seconded the motion with the stipulation. A voice vote was taken; all in favor.

B. File 2013-44

LOCATION: Ludlow Street
 OWNER: Schwartz-OConnor c/o Peter Rosendale
 APPLICANT: Edward Mitson
 LOT: AP 10 Lot 336; 5,460 sq. ft.; R-15 Zone
 EXISTING USE: Vacant
 PROPOSAL: Single Family Dwelling

Dimensional Variance petitioned under Article III § 340-9 Table of Dimensional Regulations

	DIMENSION	MINIMUM REQUIRED	PROPOSED	RELIEF REQUESTED
SETBACKS:	LOT SIZE	15,000'	5,460'	9,540'
	LOT FRONTAGE	100'	60'	40'
	LOT WIDTH	100'	60'	40'
	REAR YARD	45'	36'	9'
	LEFT SIDE YARD	20'	15'	5'
	RIGHT SIDE YARD	20'	15'	5'

Edward Mitson was sworn and presented the application to the Board. Mr. Mitson provided the history of the lot. No abutters appeared for or against the project. Mr. Pilozzi made the motion to approve the application. Mr. Anzelone seconded the motion. A voice vote was taken; all in favor.

C. File 2013-37

LOCATION: 2750 Hartford Avenue
 OWNER: HAPRI, LLC
 APPLICANT: NERP Holding and Acquisitions Company, LLC
 LOT: AP 57 Lots 208, 287; 289,561± sq. ft.; B-2 Zone
 EXISTING USE: Vacant Motel
 PROPOSAL: Tractor Supply retail store signage

Dimensional Variance petitioned under Article VIII § 340-43 Signs permitted in B districts

Elizabeth Noonan, Esq. presented the application to the Board. She described the signage relief being requested and also requested to amend the application for the amount of relief being requested. Mr. Pilozzi made the motion to allow the application to be amended and this was seconded by Mr. Anzelone. A voice vote was taken; all in favor.

Mr. Pilozzi verified signage size and placement on the building. Landscaping was discussed and the reduction in street trees being requested. 8 are required and the applicant is requesting 2 with the other 6 to be placed elsewhere on the property. The reduction is being requested to aid in vision clearance for the ingress/egress and so that the building is visible from the street.

James Stachelek, NERP, was sworn. He stated that the Ordinance requires 880 sq. ft. of landscaping on the property and the applicant is providing 3500 sq. ft. He verified that the 6 trees will be placed elsewhere on the lot.

Mr. Colannino verified that the septic system for the proposed restaurant will be a separate system. Mr. Fascia discussed the proposed traffic pattern for the restaurant and is concerned about back-up onto Route 6. Mr. Pilozzi questioned the placement of a traffic signal for the ingress/egress. Ms. Noonan stated that the signal was denied by RIDOT.

No abutters appeared for or against the project.

Motion to approve the application was made by Mr. Pilozzi and seconded by Mr. Anzelone. A voice vote was taken; all in favor.

Motion to recess as the Zoning Board of Review and convene as Board of Appeals was made by Mr. Pilozzi and seconded by Mr. Anzelone. A voice vote was taken; all in favor.

Prior to adjournment the board shall convene as the Board of Appeals and hear the following matter:

A. File 2013-42 (Appeal from a decision from the Building Official pursuant to Art. XVIII Sect § 340-129)

LOCATION: 21 Beechnut Drive
 OWNER/ APPLICANT: Joseph H. Rossi
 LOT: AP 43 — Lot 298; R-40 Zone
 EXISTING USE: Single Family Dwelling
 ISSUE: Appeal Notice of Violation dated November 7, 2013

William Conley, Esq. representing the Town of Johnston stated that there are two appeals and the petitioner is not present. To preserve the record, the appeals will be heard and asks that they are summarily denied and to put the merits on record.

Peter DelPonte, Code Enforcement Officer for the Town of Johnston, was sworn. Mr. DelPonte explained his duties performed for the Town. Mr. Pilozzi made the motion to accept Mr. DelPonte as a qualified witness. Mr. Frezza seconded the motion. A voice vote was taken; all in favor.

Mr. DelPonte stated that about 9:00 am on November 7, 2013 he received a call from the RI State Police that marijuana was being grown and possible code violations at 21 Beechnut Drive, Johnston. Odor outside the home was very intense. The State Police provided Mr. DelPonte with a respirator mask to use while he was inside the home. Mr. DelPonte took a series of photos during his visit to the property and stated that they are reasonable and accurate of the situation inside the home.

Mr. Pilozzi made the motion to accept the photos as Exhibit A for the Town of Johnston. Mr. Anzelone seconded the motion. A voice vote was taken; all in favor.

Mr. DelPonte explained each photo in the array. Mechanical hoists were shown in the first photograph. These were used to lift heavy items. These were found in a room that appears to be a converted garage. The second photo shows several of the mechanical hoists holding grow lights in several rows and the cables used to hold them. They appear to be commercial / industrial equipment. The third photo shows at least 4 rows of grow lights in the area. These lights are centrally wired through commercial wiring. Photo number 4 shows the same lights from a slightly different angle.

Mr. Conley verified that the respirator mask in no way interfered with Mr. DelPonte's vision during the time the photos were taken.

Photo number 5 depicts the hoists, grow lights, commercial wiring and the plants. There are approximately 80-100 plants in the room. Photo number 6 shows the exhaust system for the room. The State Police stated that they were called to the home by a neighbor approximately 100 ft away complaining of the odor. Mr. DelPonte stated that in the course of his home inspections over the years, he has not seen an exhaust system of this magnitude in a residential setting. The living room was set up as a gym; minimal furniture in the house. Mr. Fascia asked if a permit was pulled for the wiring and Mr. Nascenzi stated that there was not. Photo number 7 appears "bleached out" due to the brightness of the grow lights. Photo number 8 shows the side of the house with vent ducts for the ventilation system; slightly larger than dryer vents. Photo number 9 shows a makeshift circulation system. Basically a household fan sitting on top of an upside-down laundry basket. It was positioned at the entrance to the growing room. Photo number 10 shows the fans, duct work and exhaust system to the exterior of the home located upstairs in the attic. Photo number 11 shows the electric meter on the home detailing that they have 200 amp electrical service. Photo number 12 shows debris on the outside of the home under the deck. The debris appears to be residential and commercial in nature. Photo number 13 shows more of the same. Photo number 14 shows the breaker box. Photos number 15 and 16 show approximately 20 direct current converters and a control box. Photo number 17 shows a water filtration and fertilization system including a pump. Mr. Conley verified that Mr. DelPonte had never seen this type of filtration/fertilization system in a residential setting previously.

As a result of the inspection of the premises, Mr. DelPonte sent a violation notice to the owner's address, which is 22 Beechnut Drive. This notice detailed each of the 10 violations:

- No permit for electrical work under RIGL 23-27.3-113.7. A copy of this statute was submitted to the Board.
- Air quality control test needed to ensure safe levels of mold and/or bacteria under RIGL 23-27.3-100. A copy of this statute was submitted to the Board along with Building Code Section 6, 305.1
- A C.O. inspection is required to regain the Certificate of Occupancy under RIGL 23-27-3-120.6
- All debris must be removed from the property under Section 6 of the Building Code 302.1

- Use of the structure will result in a fine of not less than \$10 and not more than \$500 for violation specifically cited under Building Code Section 6.4.1.2
- Property is subject to a \$500 fine per day per violation under RIGL 23-27.3-122.3
- Owner shall provide and maintain mechanical and electrical facilities and equipment in compliance with 6.601.2
- Mechanical appliances under 6.603.1
- Electrical equipment shall be properly installed and maintained in a safe and approved manner under 6.605
- All means of egress shall be kept clear and unobstructed under 6.702.1

The property owner did not contact Mr. DelPonte at any time to discuss the violations prior to filing the appeal.

Mr. Pillozzi made the motions to uphold the Notice of Violation and deny the appeal. Mr. Anzelone seconded the motions. A voice vote was taken; all in favor.

B. File 2013-43 (Appeal from a decision from the Building Official pursuant to Art. XVIII Sect § 340-129)

LOCATION: 21 Beechnut Drive
 OWNER/ APPLICANT: Joseph H. Rossi
 LOT: AP 43 — Lot 298; R-40 Zone
 EXISTING USE: Single Family Dwelling
 ISSUE: Appeal Notice of Zoning Violation dated November 7, 2013

Bernard Nascenzi, Deputy Director of the DPW and CBO/ZO was sworn. Mr. Nascenzi stated that he issued the zoning violation after being made aware of the commercial equipment being installed and used inside of a residential structure at 21 Beechnut Drive. He made two unsuccessful attempts to gain entry into the property; after which he issued the violation. He based his notice on the photographs taken by Mr. DelPonte. Mr. Pillozzi made the motion to use the photos taken by Mr. DelPonte in Mr. Nascenzi's testimony. This was seconded by Anzelone. A voice vote was taken; all in favor.

Mr. Nascenzi stated the following:

- Photo 16 shows a specific lighting controller with inverter systems. These systems have a set of direct current winches. These converters take the alternating current power in the house and converting it to direct current to power the winches. Electric current in residential dwellings are not set up to handle this type of power requirement. It does not comply with N.F.P.A. 70A, the National Electrical Code. It is not fire-rated or ventilated properly. Mr. Nascenzi has never seen this type of electrical set-up in a residential dwelling previously. In his opinion, this was not installed by a licensed electrician. The area is not sprinklered.
- Photo 3 shows the winches. These are exterior winches for snow plows that have been modified to accommodate the tracking system to raise and lower the lights. The lights also appear to have been modified to lose the U.L. rating. This system would have cost upwards of \$100,000. This system is incompatible with residential use.
- Photo 6 shows a ventilation system. The photo shows a commercial collar. This collar allows ductwork to go around corners in a commercial building above a dropped ceiling. He has never seen this in a residential dwelling and is inconsistent with residential uses.
- Photo 1 shows the winches and demonstrates how they were rigged to be raised and lowered. It is the purpose of the direct current inverts to feed these winches. If there were run off of

alternating current, the power surges would have caused the system to short out. I identified approximately 10 winches, but there could be more. These are inconsistent with a residential use.

- Photo number 9 shows the fan on top of the upside-down laundry basket. It appears to be a fan that was removed from the top of a pole. This motor will heat up and is a fire hazard. It appears to be a way to get fresh air into the growing space. The fan blades are not enclosed in a grid, making it a safety hazard also.
- Photo 8 shows two exhaust vents on the outside of the dwelling. These appear to be commercial vents because they are larger than normal dryer vents and are made slightly different to force the air downward. Consistent with a commercial operation, not a residential use.
- Photo 10 shows distribution boxes for the ventilation system. They are boosters to move the air in a more efficient manner. Not consistent with a residential use.
- Photo 7 shows the brightness of the lights being used. They are cased in a reflective unit to intensify the light. This is inconsistent with a normal residential use.

Mr. Nascenzi stated that the original Certificate of Occupancy shows it was approved for a single family dwelling. The property never appeared before the Zoning Board of Review for a change of use. The property owner had 10 days to respond to the Notice of Violation and never contacted the office for a compliance inspection. Failure to comply will result in fines of up to \$500 per day.

Mr. Pilozzi made the motion to uphold the Notice of Violation. This was seconded by Mr. Anzelone. A voice vote was taken; all in favor.

Mr. Fascia made the motion to deny the appeal. This was seconded by Mr. Anzelone. A voice vote was taken; all in favor.

Mr. Frezza stated that Mr. Ballirano would like to move the February meeting date to February 20, 2014 from February 27, 2014. Mr. Anzelone made the motion to accept the change of date. Mr. Fascia seconded the motion. A voice vote was taken; all in favor.

Mr. Pilozzi stated that a karate school is operating at a property on Greenville Avenue and he is unsure if they pulled the proper permits to make the renovations. Mr. Nascenzi stated that he would look into it.

Mr. Anzelone made a motion to adjourn. Mr. Fascia seconded the motion A voice vote was taken; all in favor.

Adjourn 8:47 p.m.