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Anthony Pilozzi

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Joseph Anzelone

Counsel for the Board
Joseph Ballirano, Esq.



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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 17, 2015**

The Zoning Board of Review held its monthly meeting on the 17th day of December, 2015 at 7:00 p.m., at the Johnston Senior Center, 1291 Hartford Avenue Johnston, RI 02919.

Present: Chairperson Frezza, Vice-Chairperson Pilozzi, Secretary Anzelone, Member Fascia, Member Lopardo, Alternate Member Cardillo, Alternate Member Colannino, Building Official Ben Nascenzi, Legal Counsel Joseph R. Ballirano, Esquire, Holli Stott Recording Secretary.

Mr. Pilozzi made a motion to accept the minutes. Mr. Anzelone seconded. A voice vote was taken; all in favor

File 2015-49:

LOCATION: 22 Belfield Drive
OWNER/ APPLICANT: Sharon Taraksian-Essex
LOT: AP 54 — Lot 18; 190,357 sq. ft.; R-40 Zone
EXISTING USE: Single Family Dwelling with detached garage
PROPOSAL: Single Family Dwelling with detached garage addition

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

The matter was continued to the January meeting at the request of the Applicant who was ill that night. The Board did allow the immediate abutters who appeared to speak on the record so they did not have to come back next month. The Abutters were VINCENT AND RACHEL DIPIPPA, they reside at 20 Belfield Drive and were sworn in, they are the immediate neighbors to the left of the property. They just wanted to know if the construction was coming closer to their property and as long as it was not they did not have an objection with the petition.

File 2015-53:

LOCATION: 167 Borden Avenue
OWNER/ APPLICANT: Frank Ciaramello Jr.
LOT: AP 22 — Lot 525; 19,987 sq. ft.; R-15 Zone
EXISTING USE: Single Family Dwelling
PROPOSAL: Single Family dwelling with addition

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

This hearing was continued from a prior date. Attorney Alfred Russo represents the Applicant who was present Mr. Frank Ciaramello, Jr. with Nicholas Veltri, a registered land surveyor. Mr. Veltri was sworn and testified for the petition that the addition proposed will sit on the original footprint and just add living space on a second floor which will be used as a bedroom for their children and the reason we're before the Zoning Board is because the existing house on the right side the code requires 20 feet of side yard and we only have 9 feet. Frank Ciaramello was then sworn in and testified that he did everything the Board asked and cleaned the debris and old cars out from the property. Abutters to the property were also sworn and testified Vincent Francis did not raise objection to the project as a whole but wanted confirmation the Applicant pulled permits to put up his pool and lattice fence. Attorney Russo agreed that any relief granted would be subject to Applicant pulling permits for the pool and fence. Motion to grant the Application was made by Mr. Pilozzi and seconded by Mr. Anzelone. A roll call vote of 5 to 0 was recorded in favor of the Application.

File 2015-68:

LOCATION: West Scenic View Drive
 OWNER/APPLICANT: Circle, LLC c/o Val Cairo
 LOT: AP 46 — Lot 151; 9,182 sq. ft.; R-40 Zone
 EXISTING USE: Vacant
 PROPOSAL: Single Family Dwelling

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

This hearing was continued from a prior date. Attorney Alfred Russo represents the Applicant who was present Mr. Val Cairo, with Nicholas Veltri, a registered land surveyor. The Board heard testimony that the Applicant owns a non-conforming lot of record and needs minimal variances to build a spec house on the property. The property is serviced by Town water but does not have sewers. Abutter Alfred Masciarelli had questions of the Applicant all of which were answered to his satisfaction. A Motion was made by Mr. Pilozzi to approve the relief asked for is minimal, there's plenty of room there for emergency vehicles. I'm going to place a stipulation on my motion to approve that Mr. Cairo was aware it's 0 tolerance for water runoff. Mr. Cairo take out any trees that are leaning and that are deemed to be not healthy especially on Mr. Mascarelli's side because he's concerned of the danger. Motion was seconded by Mr. Anzelone. A roll call vote of 5 to 0 was recorded in favor of the Application.

File 2015-69:

LOCATION: 7 Strawberry Lane
 OWNER/APPLICANT: Thomas Lopardo
 LOT: AP 47 — Lot 195; 7,900 sq. ft.; R-20 Zone
 EXISTING USE: Single Family Dwelling
 PROPOSAL: Single Family Dwelling with detached two car garage and storage space above
Dimensional Variance petitioned under Article III § 340-9 Table of Dimensional Regulations

This matter was heard with Alternate Member Cardillo participating as the Applicant was a member of the Board, Mr. Lopardo recused himself. Mr. Lopardo was present with his expert Mr. Barry Sullivan, who the Board qualified as an expert in real estate being that he was a certified appraiser and broker.

MR. SULLIVAN presented to the Board that:

"I'm presenting the zoning petition on behalf of the Zoning Board on behalf of Mr. Tom Lopardo, who was just recused. Mr. Lopardo is applying as his application states, for a dimensional variance. Mr. Lopardo's provided proper certified mail receipts to the people within 200 foot radius of the home located at 7 Strawberry Lane, otherwise designated as tax Assessor's Plat 47 lot 195. Mr. Lopardo has already also provided surveyors plan

for the proposed site and proposed use. The proposed use is 24 by 24 wood frame garage with storage above. Said will have no heat no plumbing and provide no additional living area. The intend use is to parking for 2 automobiles and storage above. In light of that when I did the neighborhood analysis it was obvious that the 2 car garages are very commonplace in the neighborhood. I'll get back to that in a moment. The subject is zoned R-20, so Mr. Lopardo is seeking a variance based on Section 340, Article III, table dimensional regulations. Mr. Lopardo is seeking relief as follows: 12,100 square feet for lot size, 41 lot frontage feet, had 1 lot width feet, six and a half building height feet. Also relief from 45 rear yard setback feet and 20 yard side yard setback feet. Legal grounds forth variance based upon my experience in 30 years as a real estate appraiser if granted the lot size proposed accessory structure will conform to the surrounding area and no adverse impact on the community. Mr. Sullivan submitted into evidence 7 letters from neighborhood residents who are aware of the details of the project and in favor of it. MR. SULLIVAN continued his presentation and noted that in the neighborhood, 2 car garages are very commonplace. As a matter of fact, there's a similar garage located to the abutting property located approximately 50 feet from Mr. Lopardo's fence. It is a two-car garage of similar size and also has loft area above. The Board accepted pictures in support of Mr. Sullivan's contention about other garages in the immediate vicinity of the subject parcel.

The Board heard from Mr. Joseph Passerretti, who was not a lawyer but presented to the Board that he represented A&A, LLC, which owns an abutting parcel. MR. PASSARETTI read a letter into the record on behalf of A and A, L.L.C. and Anthony and Assunta Lombardo, we're in opposition of the proposed relief specifically the applicant's request for dimensional variance for a detached two-car garage and storage space above. The basis for our objection is specific to 2 elements of relief. Building height dimensional variance and rear and left side yard setback dimensional variance dimensional variance. First the max height in R-20 zones for accessory structures is 15 feet. The applicant is going to build a two-car garage having a height of 21 and a half feet. He's also seeking to construct the garage within a mere 5 feet of the rear lot line requesting 45 feet of relief and a mere 5 feet from the left side of the lot requesting a 20 foot variance. The Johnston Zoning Ordinance State law the criteria for any dimensional relief is in granting the variance the following standards be entered into the record. That hardship from which the applicant seeks relief is due to the unique characters of the subject land or structure and not to the general characteristics of the surrounding area. And so not due to a physical or economic disability of the applicant. 2 that the hardship is not the result of any prior action of the applicant does not result desire of the applicant to realize financial gain. 3 that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this and 4 that the relief is granted is the least necessary. The Zoning Board shall in hey digs to the above standards require evidence be entered into the record of the proceedings showing that in grants ago dimensional variance the hardship that will be suffered by the owner shall amount to more than a mere inconvenience. Which shall mean there is no hotter reasonable alternative to enjoy a legally permitted beneficial use of one's property. The fact that a use may be more profitable or a structure may be more valuable after the relief is granted shall not be grounds for relief. Both of the dimensional variances will be addressed together as the first criteria that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not from the general characteristics of the surrounding area or physical or -- on this point the applicants need for relief is based on the proposal for a detached two-car garage which includes post storage space on the second floor. Assuming the second floor is going to be used as the applicant suggestion and not satisfy the first element to receive relief because the proposed construction is an R-20 Zone that has small lot area, the hardship of the structure of the two-car garage with a second floor is most certainly derived from the general characteristics of the surrounding area. Accessory structure in is a compact area of the proposed height will amount to more than a mere inconvenience. The second criteria that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain. While there is no evidence that the need for this relief is based on a prior action of the applicant the fact that the proposed accessory structure that is a two-car garage with a second floor is going added to the property will certainly increase the property of the value unless the applicant can demonstrate with such evidence that he needs such a large structure for so I hardship the construction of the same will allow him at structure on a small lot. There is likely no evidence that failure to grant the dimensional relief on this second criteria amount to more than a mere inconvenient. The third criteria that the request of the requested variance will not impair or impact the intent or purpose of this chapter or the Comprehensive Plan on which the chapter is based on this point the construction of such a large accessory

structure 2 stories in height with a mere 5 feet to the next property line will definitely alter by proposing a large shoe bond into a small lot within mere feet of the neighboring property. Part of the Zoning Ordinance acknowledges that modifications be quote reasonably necessary for the full enjoyment of a permitted use and quote the modification will substantially injure or impair the neighboring property. In this case will be directly front of the neighboring property that will substantially impair and injury said neighboring property with the construction of a large two-car garage with a second story accessory structure. Once again, if the Board fails to grant this dimensional relief there's no evidence that the failure to grant it will amount to more than just a mere inconvenience. The forth and final criteria that the relief granted is at least is the least necessary. On this point there's no further evidence that supports the erection of this 2 story two-car garage within mere feet of the rear and side property lines as being the least necessary. The applicant should be made at least to redesign the proposed structure in manner that reduces or eliminates the adverse impact on the neighboring property and the need for such significant dimensional relief. The Town's dimensional criteria are to ensure without fear of unnecessary unreasonable encroachment. That's why the Zoning Ordinance requires that when relief is requested, it be the least necessary. So as to limit the impact on the neighborhood more importantly neighboring properties. Sufficient evidence must be developed by the applicant to demonstrate compliance with the 4 the prong ever this ordinance of the without it I can't see how you can grant the relief. We are primarily concerned with implementing the adverse impact of the development of the character of the neighborhood and neighboring and adjoining properties. Mr. Lopardo mentioned the height of the garage next-door. That garage was built in the mid to late 80s sometime. The Board heard rebuttal testimony from Applicant's expert witness:

MR. SULLIVAN: From a real estate perspective 2 things. Mr. Lopardo's house is larger than the average house in the neighborhood and in direct relationship to the height variance, if he was denied that, that would be -- it would be a smaller garage, it wouldn't look right aesthetically from a real estate perspective not having this garage next to his house. If he had a little raised ranch you can make the argument that smaller garage would do. That's number one. No. 2 is, since it is a rental, I've been doing this 30 years and I've never heard tenant every say they would pay lowers more rent if you put a garage with a loft on in never happens so it's not going impact anything to the tenants 306789 I don't think anybody in 30 years with a rental would ever bring that up. I want to go pot record saying a tenant is not even going to care about this, whether it sits 5 feet or 7 feet or the height restriction so that's from a real estate perspective I just wanted to get that in thank you.

A Motion to grant the dimensional relief was made by Mr. Pilozzi, "MR. PILOZZI: A lot of testimony I've heard tonight is especially at this time of the year it's supposed to be happy and festive and it's not. Going by the standards applied, my interpretation first of all thank you for your presentation, thank you for your interpretations, however, going back to the need, the hardship, this Board always looks at hardship and takes into consideration family. We get a lot of additions that have to go on, and our record will show past practice that we ask the question: How big is your family, how many cars do you have and are you going to run a business out of there, these are our standard questions. We do our investigation, we do our site inspections and as I said earlier, if I deem it and for my particular vote, if the properties are too close, I vote to deny and my colleague Joe does we're the two tough ones here because we worry about safety with the emergency vehicles. But I just can't get over the fact that that garage is there and there are tenants there. I can't see how -- I know the garage whether it's 50 feet away, 60 feet away it's at least that from the garage and then even more some from the house, I don't understand how (more so j how this is going to effect the quality of life of anybody in the neighborhood and we do have a number of people who did sign individual letters come in on behalf of the applicant; some almost as close as Mr. Passaretti's family, his in laws, so a lot of questions are still unanswered as to the paper street, as far as the duplex; that's really germane to this because you're in the 200 foot radius of an applicant. So this comes up and we look into it and I hope you do have all the proper paperwork and that was done correctly in the past and the only reason I brought it up was to show that without that, we wouldn't have been here he could have gone in on metes and bounds and if there was another way and I can't see it down sizing a garage with 4 grandchildren and if you're going to do it you do it once, you make it just like everything else you make it conform to the neighborhood. It's so like the one that's owned by the family next-door, Mr. Passaretti's in laws it's almost identical to that

garage. He'd not going to overwhelm the neighborhood and if he could jockey it around, fine, but he can't based of the left side of the house. It has to go within 5 feet of that property line because if you tried move it more to the right, you'll never make the turn to get in the garage so I'm going base my motion to approve my findings of fact on that. Motion was seconded by Secretary Anzelone. A roll call vote was unanimous to approve this application for dimensional variances.

File 2015-65 (Appeal from a decision from the Building Official pursuant to Art. XVIII Sect § 340-129)

*LOCATION: Pinewood Avenue
OWNER/ APPELLANT: Guiseppe Paliotta
LOT: AP 9 — Lots 114, 134, 322 and 328; R-15 Zone
ISSUE: Zoning and Building code violations*

The matter was continued to March 31, 2016.

Adjournment: MR. ANZELONE made a motion to adjourn which was seconded by MR. FASCIA, a roll call vote was unanimous to adjourn as all items on the agenda were addressed. (Meeting Adjourned at 8:09 P.M.)