

Minutes for Wednesday January 12, 2005 Cranston Zoning Board of Review

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A meeting of the Cranston Zoning Board was held in the Cranston City Hall Council Chambers on Wednesday, January 12, 2005 at 6:30pm. Chairwoman Joy Montanaro called the meeting to order. Also present, Frank Corrao, Edward DiMuccio, Curtis Ponder and alternates Richard Vespia and Craig Cardullo. Attorney Vito L. Sciolto was counsel to the Board. Donald Curran was not present. The Board heard the following applications:

**MINH HUYNH 187 CONCORD AVENUE CRANSTON RI 02910
(OWN/APP) 1096 PARK AVENUE**

**MARIA C VALLENTE 176 TERRACE AVENUE CRANSTON RI 02920
(OWN/ APP)**

**REO PROPERTIES INC 900 PARK AVENUE CRANSTON RI 02920
(OWN/APP) 42 SUMNER STREET**

**VINCENT R AND CAROLYN T VOLPE 25 JOY STREET JOHNSTON RI
02919 (OWN) AND NEMO AUTO SALES INC 952 PLAINFIELD STREET
JOHNSTON RI 02919 (APP) 1400 CRANSTON STREET**

**RICHARD AND DEBORAH CAMPOPIANO 176 FLORIDA AVENUE
CRANSTON RI 02920 (OWN/APP) 121 A STREET**

**KIMCO REALTY CORPORATION 3333 NEW HYDE PARK RD SUITE
100 NEW HYDE PARK NY 11042 (OWN) AND THE ACADEMY OF
HAIRDRESSING LLC 225 BROADWAY PROVIDENCE RI 02903 (APP)
AND THE ACADEMY OF HAIRDRESSING LLC 1400 OAKLAWN
AVENUE CRANSTON RI 02920 (LESSEE)**

OLD BUSINESS

**HIRCANIA GARCIA 111 PONTIAC AVENUE CRANSTON RI 02910
(OWN/APP)**

Continued to February 9, 2005.

**GINO A AND PAULA MAZZENGA 571 UNION AVENUE PROVIDENCE
RI 02909 (OWN/APP)**

Continued to March 9, 2005.

**MARIPOSA HOLDINGS LLC 50 LIBERA STREET CRANSTON RI 02920
(OWN) AND DOMESTIC BANK 815 RESERVOIR AVENUE CRANSTON
RI 02910 (APP) Continued to March 9, 2005**

**JEAN AND RICHARD VAN DYKE 81 DIXWELL AVENUE CRANSTON RI
02910 (OWN/APP)**

CONTINUED to allow the applicant to obtain a class 1 survey of the

property.

Stephen W Riales, Secretary

By order of the Zoning & Platting Board Review.

MINH HUYNH 187 CONCORD AVENUE CRANSTON RI 02910 (OWN/APP) has filed an application for permission to build a 10' X 53' kitchen addition with second story addition to an existing legal non-conforming building with restricted rear and side yard setback and off-street parking at 1096 Park Avenue. AP 9/4, Lot 2924, area 6960+/- SF, zoned C-1. Applicant seeks relief from Section 30-28

Variance, 30-17 Schedule of Intensity, 30-18 Off-Street Parking. No attorney.

This application was APPROVED with CONDITION on a motion by E. DiMuccio and seconded by F. Corrao and so voted unanimously by the Board. C Cardullo and D Curran did not vote on this application.

Condition: Plant a 6 foot high arborvitae evergreen buffer 3 feet on center along the rear property line.

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Decision: The Board made the following findings of fact based upon the evidence presented: (a) the property is located in a Commercial C-1 District (Office business) and has an approximate area of 6960+/- SF; (b) the Planning Commission recommended approval with conditions for the original Zoning Board application for a one-story addition of the same dimensions upon October 5, 2004; (c) the proposed second story addition will be 5 ft. higher than the existing restaurant's roofline height; (d) the second floor will only be over the

proposed addition; (e) the applicant's testimony was presented by a registered architect, registered in the State of Rhode Island, who prepared the plans for the original application, and the plans for the present application; (f) the proposed second story addition will be used for storage purposes only, and not for customer service; (g) the proposed second story addition will not alter the footprint of the building, which will remain the same; (h) no one testified in opposition to the application; (i) the Planning Commission unanimously voted to recommend approval of the application, with a previous condition, which recommendation and condition the Board shall adopt. In this case, the Board further finds that the application involves a hardship that is due to the unique characteristics of the property, and is not due to a physical or economic disability of the applicant, that the hardship does not result primarily from the desire of the applicant to realize greater financial gain, will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the comprehensive plan, is the least relief necessary, and further in granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience, and that the Applicant met the requirements of the Zoning Code, Section 30-28.

MARIA C VALLENTE 176 TERRACE AVENUE CRANSTON RI 02920 (OWN/ APP) has filed an application for permission, pending minor subdivision, to leave an existing 2-family dwelling on a proposed

5942+/-SF undersized lot with restricted front and corner side yard set back [parcel 2] and build a new 30' x 38' 2-story single family dwelling on the remaining 6000+/- SF [parcel 1] at 176 Terrace Avenue. AP 7/1, lots 445, 453, 454 and 3133, area 11,942+/- SF, zoned B-1. Applicant seeks relief from Section 30-28 Variance, 30-17 Schedule of Intensity. Atty. John O. Mancini.

This application was APPROVED with CONDITIONS on a motion by R Vespia and seconded by E. DiMuccio and so voted unanimously by the Board. C Cardullo and D Curran did not vote on this application.

Conditions: Remove the third unit in the applicant's existing house at 176 Terrace Avenue. Draft and record the 2 ft. wide encroachment easement in the City's Land Evidence Records prior to final approval of the minor subdivision. Pave a parking area for the existing multi-family that is at least 20 ft. deep from the street property line.

Decision: The Board made the following findings of fact based upon the evidence presented: (a) the property is located in a Residential B-1 District (Single-family and two-family dwellings), with an approximate area of 11,942+/- SF; (b) the minor subdivision has received a preliminary approval from the Planning Commission; (c) the proposed single family will be built upon a legally sized lot and meets all yard setbacks; (d) the applicant's existing dwelling is not a two family, but taxed as a three unit (since 1954) per the City's Tax Assessor's Office (three-story building), and the application states

the request is for dimensional relief from Section 30-17, which requires 8,000 sq. ft. for a multi-family dwelling; in actuality, only two-family dwellings are allowed upon 8,000 sq. ft. in a B-1 District; in the correct District (B-2), 14,000 sq. ft. is required for a three family; (e) the abutting property at 156 Terrace Avenue has a 3 family upon 7,337 sq. ft. (double lot); (f) directly across the street, at 161 Terrace Avenue, is a 2 family upon 8,823 sq. ft.; (g) within 300 ft. of the applicant's lots upon Terrace there are five 3 family dwellings upon lots that average 5,869 sq. ft.; (h) the existing three-family building encroaches 1.1 ft. onto the Bailey Street right-of-way; (i) the application's site plan proposes a 2 ft. wide encroachment easement; (j) the existing parking area for the existing three-family is only 10 ft. in from the property line, requiring $\frac{1}{2}$ of any vehicle to park upon the City's sidewalk right-of-way; (k) no one testified in opposition to the application; (l) the Planning Commission unanimously voted to recommend approval of the application with three conditions, which recommendation and conditions the Board shall accept. In this case, the Board further finds that the application involves a hardship that is due to the unique characteristics of the property, and is not due to a physical or economic disability of the applicant, that the hardship does not result primarily from the desire of the applicant to realize greater financial gain, will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the comprehensive plan, is the least relief necessary, and further in granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional

variance is not granted amounts to more than a mere inconvenience, and that the Applicant met the requirements of the Zoning Code, Section 30-28.

REO PROPERTIES INC 900 PARK AVENUE CRANSTON RI 02920 (OWN/APP) has filed an application for permission to leave an existing legal non-conforming single family dwelling on a 3978+/- sf undersized lot [780] with restricted frontage and front yard setback and build a new 20' x 28' two story home on the abutting 4111+/- sf undersized lot [779] at 42 Sumner Street. AP 7/2, lots 780 and 779, area 8089+/- SF, zoned B-1. Applicant seeks relief from Section 30-28 Variance, 30-17 Schedule of Intensity.

This application was CONTINUED to March 9, 2005.

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VINCENT R AND CAROLYN T VOLPE 25 JOY STREET JOHNSTON RI 02919 (OWN) AND NEMO AUTO SALES INC 952 PLAINFIELD STREET JOHNSTON RI 02919 (APP) has filed an application for permission to operate a n auto sales and auto repair business from an existing legal

non-conforming building with restricted front and side yard setback at 1400 Cranston Street. AP 8, lots 2740 and 2765, area 35,427+/- SF, zoned M-1. Applicant seeks relief from Section 30-28 Variance, 30-17 Schedule of Intensity Regulations, 30-8 Schedule of Uses, 30-18 (f), (P) Parking Requirements and 30-18 (r) Signage. Attorney John S. DiBona.

This application was APPROVED with CONDITIONS on a motion by F Corrao and seconded by R Vespia and so voted unanimously by the Board. C Cardullo and D Curran did not vote on this application.

Conditions: Not more than 25 vehicles for sale on the lot at any one time. Any increase in vehicles will require the owner/applicant to re-appear before the Zoning Board of Review for approval.

Decision: The Board made the following findings of fact based upon the evidence presented: (a) the property is located in an Industrial M-1 District (Restricted industry), and has an approximate area of 35,427+/- SF; (b) upon June 5, 2001, and August 5, 2003, the Planning Commission recommended denial for the same use variance, stating the Comprehensive Plan calls for industrial use of this property; and that the request was inconsistent with the Comprehensive Plan; (c) the Zoning Board approved the August, 2003, application with the restriction that auto repair only be allowed; no auto sales, auto-body repair, or paint shop; (d) the building was originally built and used as a gasoline filling station and auto repair since 1954 and was used as

such through 1985, at which time the gasoline dispenser pumps were removed and the building was used for auto repair until 2000, which is evidence of commercial usage for a significant period of time; (e) the present application involves the applicant's intentions to operate an auto sales business and to do auto repair work, only as an incidental to the applicant's sale of automobiles; (f) the neighboring and surrounding area includes many commercial uses, including the sale of automobiles; (g) certain of the surrounding similar auto sales uses, are located in a Residential B-1 District (Single-family and two-family dwellings), and said similar auto sale uses are a more intensive use in a less intensive District; (h) the applicant's request for permission to sell automobiles is a request for a less intensive use in the more intensive Industrial M-1 District (Restricted industry); (i) no signage relief is being requested, although previously recited, by the applicant; (j) no off-street parking relief is required, or being requested; (k) notwithstanding any approval granted, by the Board, the applicant must still appear before the City of Cranston Council Safety Services Committee, to secure the required licensing; (l) the applicant intends to engage in both the wholesale and retail sale of automobiles; (m) the applicant has already commenced extensive interior and exterior renovations of the property, including roof work, siding, windows and doors; (n) the applicant has been in the auto sales business for approximately 20 years; (o) the intended hours of operation are from 9:00 a.m., to 5:00 p.m.; (p) the applicant anticipates that it will employ one or two employees, at the site; (q) the applicant's testimony is that the State of Rhode Island Dealers'

Licensing Commission requires the applicant, and all other auto sales operations, to maintain a limited auto repair capacity, as an incidental activity in connection with the sale of automobiles, which repairs would pertain to automobiles being sold, by the applicant; (r) the applicant does not intend to conduct an auto repair business open to the general public; (s) the applicant presents three photos, which the Board shall accept, as exhibits, which photos depict the condition of the premises, prior to the applicant beginning the aforementioned interior and exterior renovation work, and also presents four photos, which the Board shall accept, as exhibits, which photos depict the present condition of the premises, including a clean up of previously discarded debris; (t) the applicant indicates that it intends to market 10 to 20 automobiles, for sale, at any given time, and further that it intends to be the sole business occupant of the premises; (u) the dimensional relief requested is not in connection with lot size, but rather in connection with front and side yard requirements, and further, the footprint of the building is not going to change; (v) an individual, as a representative of an abutting owner, Cranston Print Works Co., testified in opposition to the application, with concerns including that the application would involve an increased intensive use of the property, and further that an auto sales operation would not be in conformity with the surrounding area; (w) the Planning Commission unanimously voted to recommend denial of the application, which recommendation the Board shall not accept, given the above-referenced testimony, and the within findings of fact. In this case, the Board further finds that the application involves a

hardship that is due to the unique characteristics of the property, and is not due to a physical or economic disability of the applicant, that the hardship does not result primarily from the desire of the applicant to realize greater financial gain, will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the comprehensive plan, is the least relief necessary, and in granting the use variance, the subject land or structure cannot yield any beneficial use, if it is required to conform to the provisions of the Zoning Ordinance, and further in granting a dimensional variance, that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience, and that the Applicant met the requirements of the Zoning Code, Section 30-28.

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RICHARD AND DEBORAH CAMPOPIANO 176 FLORIDA AVENUE

CRANSTON RI 02920 (OWN/APP) have filed an application for permission to convert the loft of an existing detached two-car garage to a one-bedroom apartment with restricted rear and side yard setback on an undersized lot at 121 A Street. AP 11/3, lot 2819, area 7481+/- SF, zoned B-1. Applicant seeks relief from Section 30-28 Variance, 30-17 Schedule of Intensity, 30-8 Schedule of Uses and 30-12 More Than one Dwelling Structure on any Lot Prohibited. No attorney.

There was a motion to approve made by C Ponder and seconded by E DiMuccio. The motion did not carry, and therefore the application was DENIED. The vote was 2/3. Voting against the application were J. Montanaro, F. Corrao and R. Vespia. C. Cardullo and D. Curran did not vote upon this application. For reasons set forth more fully below, pursuant to R.I.G.L. §45-24-57(2)(iii), the application is DENIED.

Decision: The Board made the following findings of fact based upon the evidence presented: (a) the property is located in a Residential B-1 District (Single-family and two-family dwellings), with an approximate area of 7,481+/- SF; (b) in March, 2001, the Planning Commission and Zoning Board recommended approval for an apartment over the garage; (c) the apartment was never built; (d) the assessor's plat shows the area of the lot is 7,110 sq. ft.; (e) the lot currently has a single family upon it upon the corner of Atwood Avenue; (f) the proposed apartment will have a 5 ft. side yard setback (8 ft. is required) and 10.34 ft. rear yard setback (20 ft. is required); (g)

the apartment has frontage upon A Street; (h) there are two two-family properties next door and across the street; (i) the lot is 519 sq. ft. short of the minimum lot size for a two-family house; (j) the testimony is that the lower level of the garage will be kept for storage purposes and for the maintenance of mechanical systems for the proposed garage loft residence; (k) an abutting neighbor testified in opposition to the application, with concerns including his position that the application is not compatible with the surrounding area and that the granting of the same would have an adverse impact upon the neighborhood; (l) the Planning Commission unanimously voted to recommend approval of the application. In this case, two members of the Board further found that the application involves a hardship that is due to the unique characteristics of the property, and is not due to a physical or economic disability of the applicant, that the hardship does not result primarily from the desire of the applicant to realize greater financial gain, will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the comprehensive plan, is the least relief necessary, and further that the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience, and that based upon the testimony presented, the Applicant met the requirements of the Zoning Code, Section 30-28.

Three members of the Board further found that the application does not involve a hardship that is due to the unique characteristics of the

property, will alter the general character of the surrounding area, or impair the intent or purpose of the zoning ordinance, or the comprehensive plan, is not the least relief necessary, and further believe that the hardship suffered, by the owner of the subject property, if the dimensional variance is not granted, does not amount to more than a mere inconvenience, and further believed that the applicant demonstrated no hardship, particularly since the owner/applicant would not be residing in the subject property, and further believed that the applicant is already making reasonable use of the property, as a single-family dwelling, with a detached garage, and had additional concerns relative to the precedent that would be established in future similar circumstances, and that based upon the testimony presented, the applicant did not meet the requirements of the Zoning Code, Section 30-28.

Pursuant to R.I.G.L. §45-24-57(2)(iii), since the concurring vote of four (4) of the five (5) members of the Board of Review sitting at a hearing is required to decide in favor of an application, which concurrence was not obtained, the within application is hereby, by operation of law, DENIED.

KIMCO REALTY CORPORATION 3333 NEW HYDE PARK RD SUITE 100 NEW HYDE PARK NY 11042 (OWN) AND THE ACADEMY OF HAIRDRESSING LLC 225 BROADWAY PROVIDENCE RI 02903 (APP) AND THE ACADEMY OF HAIRDRESSING LLC 1400 OAKLAWN AVENUE CRANSTON RI 02920 (LESSEE) have filed an application for

permission to operate a trade school from a portion of an existing shopping plaza 1400 Oaklawn Avenue. AP 18/3, lot 1030, area 8.87+/- acres, zoned C-4. Applicant seeks relief from Section 30-28 Variance, 30-8 Schedule of Uses. Attorney Frank Lombardi.

This application was APPROVED on a motion by R Vespia and seconded by F Corrao and so voted unanimously by the Board. C Cardullo and D Curran did not vote on this application.

Decision: The Board made the following findings of fact based upon the evidence presented: (a) the property is located in a Commercial C-4 District (Highway business), and has an approximate area of 8.87 +/- acres; (b) the 62'8"x 120' commercial unit will be used as a hairdressers school (formerly Gateway Computers); (c) Seventy-two (72) parking spaces have been designated for the school's use; (d) the Comprehensive Plan calls for commercial and services for this area of the city; (e) the proposed trade school will be supported by a well-established Rhode Island salon service business;

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(f) the testimony is that the trade school will service approximately 120 students, who after completing training, will immediately be ready to commence work in their field, without any apprenticeship being required; (g) the applicant expects to employ up to five (5) employees, which number may eventually increase; (h) it is expected that the proposed trade school will eventually receive national accreditation; (i) the application presented the testimony of a commercial real estate witness, who testified, as a fact witness, in support of the application; (j) no one testified in opposition to the application; (k) the Planning Commission unanimously voted to recommend approval of the application. In this case, the Board further finds that the Application involves a hardship that is due to the unique characteristics of the property, and is not due to a physical or economic disability of the Applicant, that the hardship does not result primarily from the desire of the Applicant to realize greater financial gain, will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan, and is the least relief necessary, and in granting the variance, the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the Zoning Ordinance, and that the Applicant met the requirements of the Zoning Code, Section 30-28.

OLD BUSINESS

GINO A AND PAULA MAZZENGA 571 UNION AVENUE PROVIDENCE RI 02909 (OWN/APP) has filed an application for permission, pending minor administrative subdivision, to leave an existing single family dwelling on a proposed 20,829+/- SF lot with restricted frontage and build a new single family home on the remaining proposed 21,398+/- SF lot with restricted frontage at 510 Hope Road. AP 24, lot 202, area 42,227 +/- SF, zoned A-20. Applicant seeks relief from Section 30-28 Variance, 30-17 Schedule of Intensity. Continued to March 9, 2005.

MARIPOSA HOLDINGS LLC 50 LIBERA STREET CRANSTON RI 02920 (OWN) AND DOMESTIC BANK 815 RESERVOIR AVENUE CRANSTON RI 02910 (APP) have filed an application for permission to request that the Zoning Board reconsider a single condition imposed at the March 10, 2004 meeting, specifically, no more than 50 employees occupy the premises at one time at 50 Liberal Street. AP 12/4, lot 3139 & 3140, area 56,305+/- SF, zoned M-1. Applicant seeks relief from Section 30-28 Variance, 30-8 Schedule of Uses, 30-17 Schedule of Intensity and 30-18 (P) Off-Street Parking. Attorney Joshua Berlinsky. Continued to March 9, 2005

HIRCANIA GARCIA 111 PONTIAC AVENUE CRANSTON RI 02910 (OWN/APP) has filed an application for permission to build a 24' x 38' two-story single family home with 8' x 16' attached deck on an undersized lot with restricted frontage at 111 Pontiac Avenue. AP 6/2, lot 1553, area 5762+/- SF, zoned B-1. Applicant seeks relief from

Section 30-28 Variance, 30-17 Schedule of Intensity. Continued to February 9, 2005.

JEAN AND RICHARD VAN DYKE 81 DIXWELL AVENUE CRANSTON RI 02910 (OWN/APP) have filed an application for permission to build a pressure treated deck to an existing single family dwelling with restricted front, side and rear-yard setback on an undersized lot at 81 Dixwell Avenue. AP 5/4, lot 2022, area 4,125+/- SF, zoned A-6. Applicant seeks relief from Section 30-28 Variance and 30-17 Schedule of Intensity. No attorney.

CONTINUED to allow the applicant to obtain a class 1 survey of the property.

Ron Ronzio took the stenographic records.

The meeting was adjourned at 10:00 PM

Stephen W Rioles, Secretary

By order of the Zoning & Platting Board Review.