

JAMESTOWN ZONING BOARD OF REVIEW

Minutes of the April 27, 2010 Meeting

A regular meeting of the Jamestown Zoning Board of Review was held at the Jamestown Town Hall, 93 Narragansett Avenue. The Chairman called the meeting to order at 7:00 p.m. The clerk called the roll and noted the following members present:

Thomas Ginnerty  
Richard Boren  
Joseph Logan  
David Nardolillo  
Dean Wagner  
Richard Cribb  
Richard Allphin

Also present: Brenda Hanna, Stenographer  
Pat Westall, Zoning Clerk  
Fred Brown, Zoning Officer  
Wyatt Brochu, Counsel

MINUTES

Minutes of February 23, 2010

A motion was made by Thomas Ginnerty and seconded by Joseph Logan to accept the minutes of the February 23, 2010 meeting as presented.

The motion carried by a vote of 5 -0.

Thomas Ginnerty, Richard Boren, Joseph Logan, David Nardolillo, and Dean Wagner voted in favor of the motion.

Richard Cribb and Richard Allphin were not seated.

CORRESPONDENCE

A letter from Alan McKibben re: Terry Allen request for a variance 2/23/10 was referred to the Solicitor.

An e-mail from James Donnelly requesting that the Perik application be withdrawn without prejudice.

NEW BUSINESS

Perik

A motion was made by Thomas Ginnerty and seconded by David Nardolillo to withdraw the Perik application without prejudice at the request of their attorney James Donnelly.

The motion carried by a vote of 5 -0.

Thomas Ginnerty, Richard Boren, Joseph Logan, David Nardolillo, and Dean Wagner voted in favor of the motion.

Richard Cribb and Richard Allphin were not seated.

Stanley/Carton

A motion was made by Richard Boren and seconded by to Joseph Logan to **deny** the request of Harlan F. Stanley & Margaret K. Carton, whose property is located at 23 Standish Rd., and further identified as Tax Assessor's Plat 8, Lot 370, for a variance and special use from Article 7, Sections 703, 704, 705 and Article 3, Section 311, (Maximum Size of Accessory Buildings) and Table 3-2 (District Dimensional Regulations) to extend the existing garage/apartment 12' along the existing 5' building line from the northerly lot line and to extend existing deck approximately 5' along the existing building line which is 10' from Coronado St.

This Board has determined that this application does not satisfy the requirements of ARTICLE 6, SECTION 600, SECTION 606, and SECTION 607, PARAGRAPH 2.

This motion is based on the following findings of fact:

1. Said property is located in a R20 zone and contains 16,704 sq. ft.
2. The apartment/garage is at present a non-conforming use in a R20 zone.
3. The applicant seeks to expand the accessory dwelling from 460 sq. ft. to 700 sq. ft.
4. The apartment/garage is presently 5 feet from the property line.

5. 82-703 provides that a non-conforming use of a building may be continued, subject to the building not being enlarged.
6. The applicants have not met their burden for a dimensional variance, nor are applicable for a use variance if the applicant is controlled by the definition of nonconforming use, Definition 108 (a).
7. 82-311 provides for the maximum size of an accessory building be specific to lot size. The proposed enlargement to the structure will exceed the footprint in an R20 zone.
8. The applicant has not met the burden for a variance regarding 82-311.
9. 82-1400 provides that the accessory apartment shall not be permitted in any zoning district except as part of a permitted two-family or multifamily dwelling structure.
10. There was significant testimony from both the applicant and the objector who resides across the street. The applicant failed to meet his burden of proof regarding the need for a variance.
11. Section 82-303 provides that not more than one principal residence shall be permitted on a residential lot.
12. Since the structure does not meet the requirements of definition (4) i.e.: Accessory dwelling unit not having more than 600 sq. ft. of living space, if the Board was to grant the application, the structure would not be a subordinate dwelling unit, but would be a second principal residence, which is not allowed under our zoning ordinance.

The motion carried by a vote of 5 -0.

Thomas Ginnerty, Richard Boren, Joseph Logan, David Nardolillo, and Dean Wagner voted in favor of the motion.

Richard Cribb and Richard Allphin were not seated.

### Bell

A motion was made by David Nardolillo and seconded by Dean Wagner to grant the request of Victor Bell, EPI Real Estate Holdings, LLC, whose property is located at 41 Narragansett Ave., and further identified as Tax Assessor's Plat 9, Lot 211 for A special use permit from Article 3, Table 3.1 to construct a wind generator in the CD district. Generator to be placed on roof of building previously granted a special use permit.

This Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTIONS 600 and 602.

This Special Use Permit is granted with the following restriction/condition(s) :

1. This project must be constructed in strict accordance with the site and building plans duly approved by this Board.
2. Be 40'6" in total height maximum.
3. Emits a maximum of 35 dB of noise.
4. Require the use of the Swift Wind Turbine with rotor dimension of 7' (as specifications supplied with the application) or another turbine which is manufactured to the same specifications or similar the 8' maximum rotor.

This motion is based on the following findings of fact:

1. Said property is located in a CD zone and contains 10210 sq. ft.
2. Said variance is in keeping with the environmental friendly goals of the building now completing construction.
3. The installation of the wind turbine will accomplish close to a net 0 metering.

The motion carried by a vote of 5 -0.

Thomas Ginnerty, Richard Boren, Joseph Logan, David Nardolillo, and Dean Wagner voted in favor of the motion.

Richard Cribb and Richard Allphin were not seated.

#### Sherman

A motion was made by Dean Wagner and seconded by David Nardolillo to grant the request of Stephen Scott Sherman, whose property is located at 5 Narragansett Ave., and further identified as Tax Assessor's Plat 9, Lot 251 for a Special Use Permit under Article 3, Table 3-1, G. Miscellaneous Retail, #7. Fuel Oil, Bottled Gas, etc. including storage. To install a mini propane fill station per 911 regulations, to allow filling of propane tanks.

This Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTIONS 600 and 602.

This Special Use Permit is granted with the following restriction/condition(s) :

1. This project must be constructed in strict accordance with the site and building plans duly approved by this Board.
2. This project will pass all inspections required by the Jamestown Fire Department.
3. The State Fire Marshall approves and gives certificates of approval.

This motion is based on the following findings of fact:

1. Said property is located in a CD zone and contains 8930 sq. ft.
2. The Jamestown Fire Marshall has no objections on behalf of the Jamestown Fire Department.
3. Four abutters wrote letters in favor of the application.
4. The granting of the special use permit will not result in conditions inimical to the public health, safety, morals and welfare.
5. The granting of the application will not substantially or permanently injure the appropriate use of the property.

The motion carried by a vote of 5 -0.

Thomas Ginnerty, Richard Boren, Joseph Logan, David Nardolillo, and Dean Wagner voted in favor of the motion.

Richard Cribb and Richard Allphin were not seated.

#### Valentine/Hutchinson

A motion was made by Joseph Logan and seconded by Dean Wagner to grant the request of Victoria Valentine and William Hutchinson, whose 32.2+ acre property is located at 83 Hamilton Ave., and further identified as Tax Assessor's Plat 9, Lot 534 and Plat 10, Lot 85 for three variances from Section 82-302 (Table 3-2) for relief from street frontage requirements as follows:

First: Proposed Lot 1 (16.9458 acres) will have 40 feet of frontage on Hamilton Ave. and 25.97 feet on Stanton Rd.; 150 ft. of street frontage is required in the R40 zone.

Second: Proposed Lot 2 (12.7681 acres) will have 46.53 feet of frontage on Hamilton Ave; less than one-half acre of this lot is in the R80 zone in which 200 ft. of street frontage is required. The remainder of Lot 2 is in the R40 zone in which 150 ft. of street frontage is required.

Third: Proposed Lot 3 (2.4980 acres) will have no street frontage, but will have driveway access to Highland Dr. over an existing private right of way. Said proposed lot is situated in the R40 zone in which 150 ft. of street frontage is required.

This Board has determined that this application does satisfy the requirements of ARTICLE 6, SECTION 600, SECTION 606, and SECTION 607, PARAGRAPH 2.

This Variance is granted with the following restriction/condition(s):

This project must be constructed in strict accordance with the site and building plans duly approved by this Board and the conditions 1-8 listed in the Planning Commission decision of April 7, 2010.

This motion is based on the following findings of fact:

1. The application has been thoroughly reviewed and unanimously approved by the Planning Commission.
2. The design is clearly in accord with the comprehensive plan to preserve the rural character of Jamestown.
3. There were no objectors

The motion carried by a vote of 5 -0.

Thomas Ginnerty, Richard Boren, Joseph Logan, David Nardolillo, and Dean Wagner voted in favor of the motion.

Richard Cribb and Richard Allphin were not seated.

#### Solicitor's Report

Nothing at this time.

#### EXECUTIVE SESSION

Nothing at this time.

#### ADJOURNMENT

A motion was made and seconded to adjourn at 9:52 p.m.  
The motion carried unanimously.