

JAMESTOWN ZONING BOARD OF REVIEW

Minutes of the October 25, 2022 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:

Richard Boren, Chair
Dean Wagner, Vice-chair
Terence Livingston, Member
James King, Member
Jane Bentley, Member
Judith Bell, 1st Alternate

Also present: Peter Medeiros, Zoning Officer
Wyatt Brochu, Counsel
Brenda Hanna, Stenographer
Pat Westall, Zoning Clerk

MINUTES

Minutes of September 27, 2022

Dean Wagner stated that the minutes needed to be amended to say he did not vote to approve them as he was not at that meeting.

A motion was made by James King and seconded by Jane Bentley to accept the minutes of the Sept. 27, 2022 meeting as amended.

The motion carried by a vote of 5 -0.

Richard Boren, Terence Livingston, James King, Jane Bentley and Judith Bell voted in favor of the motion.

Dean Wagner was not seated and John Shekarchi was absent.

CORRESPONDENCE

An e-mail from Christian Infantolino, Esq. as a withdrawal of Doherty, 283 Highland Dr. application.

There were two letters in regards to the Doherty, 283 Highland Dr. application.

OLD BUSINESS

McGivney

A motion was made by Richard Boren and seconded by Terence Livingston to grant the request of Mark and Betty Lou McGivney whose property is located at 20 Westwood Road, and further identified as Assessor's Plat 9 Lot 403 for a Variance from Article 3, Section 82-302, District Dimensional Regulations, Front setback of an Accessory structure pool, and Article 6, Section 82-605 through 607, Variances Authorized by this Ordinance, to construct a pool 21.7 feet from the front yard line, instead of the required 50', abutting an undeveloped overgrown paper street.

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):

- A. This project must be constructed in strict accordance with the site and building plans duly approved by this Board.
- B. The vegetative screen shall be no higher than 6 feet in height.
- C. The steps from the lawn to the pool shall be no wider than 4 feet.
- D. The proposed pool shall not be greater than 15 feet in width.
- E. Any fence enclosure shall not be greater than 4 feet in height.

This motion is based on the following findings of fact:

- 1. Said property is located in an R20 zone and contains 30,492 square feet.
- 2. A swimming pool is a permitted use in a R20 zone.

3. The property in question is in a R20 zone.
4. The existing residence is 2338 sq. ft.
5. The proposed swimming pool will be 912 sq. ft. (now somewhat smaller).
6. The proposed swimming pool will be 21.7 ft. from front setback where 50 feet is required under the Zoning Ordinance.
7. Sec. 82-606 Conditions for Granting a Variance.

In granting a variance, the zoning board of review shall require that the following evidence be entered into the record:

1. the hardship is due to the unique characteristics of the land.
 2. the hardship is not the result of any prior action of the applicant.
 3. the granting of the relief will not alter the general character of the surrounding area.
 4. the relief to be granted is the least relief necessary.
8. Sec. 82-607 (2) provides that in granting a dimensional variance, if the variance is not granted, the hardship shall amount to more than a mere inconvenience.
 9. Patrick Freeman, a registered professional engineer at American Engineering, testified on behalf of the applicant.
 10. Mr. Freeman was a credible witness.
 11. Mr. Freeman provided the following facts which the Board accepts as findings of fact:
 - a) The property in question is on Westwood Road.
 - b) Westwood Road starts as a graveled road and ends at a wooded area near the applicant's garage. From that point on Westwood Road is a "paper" road approximately 40 feet wide.
 - c) The "paper" road curves around the applicant's property and it is this "paper" road that requires the need for a setback.
 - d) The "paper" road is heavily vegetated.
 - e) For purposes of this application a paper road is a road that appears on Town maps but has not been built.
 - f) The witness credibly explained why the adjoining lot, in the McGivney's title, would not be the least relief necessary if the lots were merged. Because of the configuration of the lots and the coastal feature, a pool could not be built any further south
 - g) The applicants are limited in being able to site a pool. There is no other location where feasible.

- h) In addition to town setbacks, CRMC setbacks from the coastal feature are required (50 feet).
 - i) The engineering design has to site the pool the farthest distance from the coastal feature and still have the feasibility of a pool.
 - j) The pool elevation relative to the ocean, will be 4 feet high at its highest point.
12. Lisa Frazier, a registered landscape architect, testified on behalf of the applicant.
13. Ms. Frazier provided credible testimony.
14. Ms. Frazier provided the following facts which the Board accepts as findings of fact:
- a) In order to site the pool, Ms. Frazier was tasked with balancing the pool setback with the coastal feature and incurs the least amount of zoning relief.
 - b) The goal was to meet CRMC setbacks and create a design that has the lightest touch to the topography.
 - c) A pool must be level plateau, and therefore a retaining wall is necessary.
 - d) For safety, there will be a four-foot fence.
 - e) Plantings will be added to soften areas where walls have been added.
 - f) Ms. Frazier testified that based upon her site analysis, the removal of trees in order to install the pool, will open up the view of the coastal feature to the Neris and the Hansens, the objecting abutters.
 - g) Ms. Frazier testified, and the Board finds as fact that Ms. Frazier, in her design, layout, and location has satisfied the requirements of 82-606 and 82-607.
 - h) In response to zoning board questions, Ms. Frazier testified that lawn area is necessary for circulation around the pool.
 - i) Likewise, Ms. Frazier testified that the proposed stone steps will be 7 feet in width, but could be 4 feet in width.
15. Mark McGivney, applicant testified and was credible.
16. Mr. McGivney provided the following facts, which the Board accepts as findings of fact:
- a) placement of the pool is as low impact location as possible.
 - b) meets all coverage requirements.
 - c) the paper street has created the issue.
 - d) applicants are the only house that abuts the paper street that has right of access to the property from that street.

17. Daniel Neri testified in opposition to the application. Mr. Neri was a credible witness. Mr. Neri testified:
- a) West Ferry neighborhood is a special place - very rural - no swimming pools - no fences - no walls - a pool will disrupt the neighborhood.
 - b) The wisdom of the setbacks serves the community well.
 - c) The pool can be sited on the lot without variances by being closer to the house and closer to the 50-foot CRMC setback.

The motion carried by a vote of 4 -0.

Richard Boren, Terence Livingston, James King, and Judith Bell voted in favor of the motion.

Jane Bentley abstained, Dean Wagner was not seated and John Shekarchi was absent.

New Business

Ross

There was some discussion as to sheds being allowed in the front yard and what the applicant should be seeking relief from. The Board requested the solicitor's office to research and respond.

A motion was made by Dean Wagner and seconded by Terence Livingston to continue the request of Randy Ross and Jill D. Smith to the November 15, 2022 meeting.

The motion carried by a vote of 4 -0.

Richard Boren, Dean Wagner, Terence Livingston, James King, and Jane Bentley voted in favor of the motion.

Judith Bell was not seated and John Shekarchi was absent.

ADJOURNMENT

A motion was made and seconded to adjourn at 7:30 p.m. The motion carried unanimously.