

Approved As Amended  
PLANNING COMMISSION MINUTES  
May 16, 2012  
**7:30 PM**  
**Jamestown Town Hall**  
**93 Narragansett Ave.**

The meeting was called to order at 7:33 p.m. and the following members were present:

Michael Swistak – Chair	Duncan Pendlebury – Vice Chair
Rosemary Enright – Secretary	Mick Cochran
Richard Lynn	Michael Smith

Not present: Michael Jacquard

Also present:

Lisa Bryer, AICP – Town Planner  
Cinthia Reppe – Planning Assistant  
Justin Jobin – Environmental & GIS Specialist  
Nikki Schultz – PE, Island Engineers

**I. Approval of Minutes May 2, 2012**

A motion was made by Commissioner Enright and seconded by Commissioner Lynn to accept the minutes as amended:

Page 1, 2<sup>nd</sup> paragraph, 3<sup>rd</sup> line, comment of Seth Handy

So unanimously voted.

**II. Correspondence – nothing at this time**

**III. Citizen's Non Agenda Item**

Maureen Coleman liaison to the Planning Commission from the Conservation Commission would like to speak regarding the Wind Turbine. Commissioner Swistak said he would give her an opportunity during that portion of the meeting.

**IV. Reports**

1. Town Planner's Report
2. Chairpersons report  
Commissioner Swistak informed the commission that nominations and voting for Chair, Vice Chair and Secretary positions on the board will take place at the June 20 ~~16~~<sup>th</sup> meeting.
3. Town Committees
  - a. Harbor
  - b. Buildings and Facilities
  - c. Affordable Housing Committee
  - d. North Rd. Bike Path Committee

4. Sub Committees

**V. Old Business**

1. Town of Jamestown – Wind Turbine - Taylor Point – Development Plan Review – Continued

a. Discussion and scheduling field trip to Portsmouth RI

Commissioner Enright would be interested in going as would Commissioner Swistak if the time fits into his schedule. Town Planner Lisa Bryer will send some dates out to the Commission to schedule the field trip.

b. Discussion of additional information required by applicants

Commissioner Swistak informed the board that no public input will be taken tonight. It will be on the agenda for the June 6<sup>th</sup> meeting at which point public input will be allowed.

Commissioner Enright asked about getting a detailed picture and description of the transformer and high tension wires that will be located at Windmill Hill Historic District. Enright would also like information regarding the white light at the top of the turbine for instance how bright will it be, the field of view etc. Red lights are useful at night because the white interferes with vision at night. The view corridor from the historic district part of Shoreby Hill, what would be the effect on the view from there?

Town Planner Lisa Bryer added the question regarding what the commission's purview is in this application. She suggested this be asked of our solicitor if the commission is in agreement. Commissioner Swistak will send a memorandum. Commissioner Smith thinks the Commission itself should be the arbiter. Commissioner Lynn disagrees and feels the solicitor is. Commissioner Enright says we still need to get an opinion.

Commissioner Pendlebury said the low frequency noise impacts should be packaged with all noise impacts, source, distance to residents etc and have comparatives. He also said number 4 of the memo from the town planner should include a 3 dimensional diagram to show the effect of the blades and a rationale of the overhang of any setbacks and a clear definition of the failure scenarios specific to this site. We need this documented too. He said the state is working on a manual is there a draft available for us to take a look at? Commissioner Lynn said it is pretty much ready or very shortly will be and we may be able to ask for it, he was told this at a meeting he attended in the last few weeks. Ms. Bryer said Mike Gray presented this information at the first meeting. It was not available to the public yet according to Bryer. Commissioner Swistak agrees with Pendlebury. The commission will receive the most recent data if possible and the data that Mike Gray reviewed they would like to see.

Commissioner Smith said there are 4 windmills that everyone is familiar with. He wants to see a comparison of all 4 of them. Commissioner Enright said there are more than 4 in Rhode Island, she agrees with Smith.

Blake Dickinson would like to look at other towns ordinances with regards to Wind Turbines.

Maureen Coleman, Conservation Commission liaison said at the last meeting the Conservation Commission discussed the issues that the Planning Commission brought up and they previously had no objections but in light of the new information that was raised by the planning commission

they would like to review this again and will attend the planning meeting on June 6<sup>th</sup>. The issues they discussed at their meeting were in regards to the interconnect at Windmill Hill and setback of blade extension. Mr. John Murphy, attorney, left some correspondence with the planning office that was handed out to them prior to this meeting. Mr. Murphy sent an email to the town planner regarding a zoning issue, Ms. Bryer sent it to the town's solicitors.

## VI. New Business

1. Bartholomew Catanzaro – Plat 5, Lot 164 – Beach Ave. - Zoning Ordinance Section 314 Sub District A Review, High Ground Water Table – Impervious Overlay District – Section 308, Setback to Freshwater Wetlands - Recommendation to the Zoning Board

Nikki Schultz, Island Engineers, is a civil and professional engineer. She is a Class 2 septic designer and a storm water designer. She has received her Bachelor's Degree from URI and her Masters from Northeastern. She has been practicing for 3 years as a licensed engineer but has 8 years experience. A motion was made by Commissioner Smith and seconded by Commissioner Enright to accept Ms. Schultz as an expert witness. So unanimously voted.

Ms. Schultz said the only disturbance is the drilling of the well to the wetlands within the setbacks. The impervious area is the house itself. They are mitigating any stormwater impacts by designing a rain garden/bio swale, planted with plants that can handle both stormwater and rainwater. The siting of the house was a concern, keeping the house away from wetlands. She explained why the house was sited where it is and why.

Commissioner Pendlebury said there was mention of a garage. It is attached and part of the structure? Yes. He did not see anything on the plan where the setbacks are. It appears that it is encroaching on the side yard setback. This is a corner lot so what is the setback that is being proposed once the garage is built?

Commissioner Swistak asked if bio retention swales work and for how long? Yes Ms. Schultz said they do work and the life expectancy depends on the maintenance ultimately. They need to be maintained and designed and constructed properly. Commissioner Swistak asked if this will keep more water on the lot after it is constructed compared to the runoff currently. Yes it will.

Justin Jobin, Environmental Scientist for the Town of Jamestown reiterated Ms. Schultz's last point by pointing out that during the site visit to the lot following a rain event, there was no evidence of runoff onto riptide from the property which was currently being maintained as overflow parking. Mr. Jobin asked why moving the garage or dwelling south 10 feet would interfere with the OWTS, Schultz responded that she can't address the actual placement of the system due to the fact that she is not the designer of record. However, she said if it were to be moved it would trigger the state to look at it again. Mr. Jobin referenced the approved OWTS application showed the dwelling located more southerly than Shultz's drawing. Ms. Schultz stated that they would revisit moving the dwelling 10 feet south to eliminate the need for the dimensional variance.

Commissioner Smith said the well is outside of the haybale area and it extends into the buffer, why won't DEM let you mow the area? Any re-growth would not impact the well.

Commissioner Lynn said since we have addressed rain gardens and bio swales are similar have we actually come up with general maintenance requirements? No the applicant presents it. What is the enforcement he asked, because it is on the deed so the next owner will have to go along with it. Ms. Bryer and Justin Jobin have discussed this and they might be coming up with an inspection for it similar to the Inspections of the Septic Systems we currently have in place. It would be a violation of the zoning approval by the next homeowner if they did not maintain the bio-swale.

Commissioner Enright asked how many have we approved so far? There have been 62 applications for high groundwater so far but rain gardens/ bio swales have been showing up since 2009. Most of the new applications have them. Mr. Jobin said that he can provide this information for a meeting in the future. Bio retention is a step up from a rain garden.

A motion to was made by Commissioner Swistak and seconded by Commissioner Cochran to recommend to the Jamestown Zoning Board, approval of the application for B. Catanzaro, Plat 5 Lot 164, Beach Ave. The recommendation for approval is for Zoning Ordinance Section 314 Sub District A – High Groundwater Table – Impervious Overlay District. The recommendation for approval is based on the following findings of fact and subject to the following conditions of approval:

Findings of Fact:

1. The applicant proposes to construct a 3 bedroom dwelling on the above reference 21,600 square foot, vacant lot.
2. The applicant seeks the following relief from the Zoning Board:
  - a. 35' relief from Section 82-308
  - b. Special Use Permit under Section 82-314
  - c. Dimensional Variances:
    - i. Front Yard Setback – 40' required, 30' shown, 10' requested
    - ii. Corner Side Setback – 30' required, 20' shown, 10' requested
3. The soil evaluation report indicates that the seasonal high groundwater table is 24" and the depth to impervious soils is 31", placing this application in Section 314, sub-district A.
4. The applicant is not proposing significant use of fill or grading on the lot; consistent with Section 314.
5. The proposed Advantex on site wastewater treatment system (OWTS) and bottomless sand filter leach field provides advanced treatment in compliance with Section 314.
6. In order to mitigate the increased runoff from the proposed improvements the applicant has proposed the use of a bio-retention swale and pervious driveway. This has been designed by Island Engineering, Inc., Nikki Schultz, PE and required as part of the RIDEM Freshwater Wetlands approval.
7. The Ordinance requires that the applicant exclude the area of wetland on the lot when determining the amount of impervious coverage. After excluding the 6,038 sf of wetlands on the lot, the proposed impervious coverage of 13% still meets the requirements of the ordinance.
8. RIDEM requires maintenance off the stormwater system by the owner. This is critical to the continued mitigation of runoff. The RIDEM Wetland approval dated January 13, 2012

states what is required in terms of maintenance and is recorded in the Jamestown Land Evidence Records under Book 749 and Page 169.

9. Nikki Schultz, P.E. of Island Engineering was accepted as an expert witness, but only for the components of the design she personally completed; design of the bioretention swale and completion of the Freshwater Wetlands Permit. Peter Suorsa (deceased) of Coventry Survey (John Rockwell) are responsible for OWTS design and permitting.
10. The RIDEM OWTS permit shows the leachfield placed approximately 115 feet from the freshwater wetland edge, which requires a variance of 35 feet from Zoning Section 308.
11. The Conservation Commission reviewed this application and provided a recommendation dated April 16, 2012. They concluded that “the design of this proposal represents little or no addition to the cumulative impacts on nearby freshwater wetlands.” They voted to recommend approval of this variance request under section 82-308.
12. Town of Jamestown Memorandum to Lisa Bryer, Town Planner: From Michael Gray, PE – Town Engineer and Justin Jobin – Environmental Scientist; Re: Bartholomew Catanzaro; dated May 11, 2012 is attached to this motion for Zoning Board review.

Conditions:

1. The proposed development is constructed in substantial conformance with the final Zoning Board approved plans.
2. The bio-retention area shall be installed and maintained in accordance with RIDEM Freshwater Wetlands Approval. The bio-retention area shall be graded in substantial conformance with the final Zoning Board approved plans in perpetuity.
3. Any substantial change to the final approved plans shall require approval by the Jamestown Zoning Board per Section 314 of the Jamestown Zoning Ordinance.
4. The Final Jamestown Zoning Board approved plan including maintenance plan, grading and final conditions shall be recorded in Jamestown Land Evidence Records.
5. The applicant shall investigate shifting the building south in an attempt to eliminate the need for a side yard setback variance prior to appearing before the Zoning Board.

So unanimously voted.

2. Ft Getty – Discussion - How Planning Commission can assist Town Council

Town Planner Lisa Bryer stated the council had a workshop on the 23<sup>rd</sup> of April and they talked about forming a committee. In lieu of that or in addition to that you may want to offer that role up to the town council. The planning commission gets involved in planning issues and if there are changes like a change in use or zoning amendment you would get involved. Do you think this is in your purview if you do then maybe you should offer your services to the Town Council.

Commissioner Lynn agrees with this. Commissioner Swistak said Fort Getty has been debated for a long time if we get involved will it be helpful? An offer of service may be something they have not thought about. Commissioner Smith said they know we are here if they want us involved they will ask. Ellen Winsor said they did not take a vote on forming a committee. Commissioner

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Pendlebury said he would feel more comfortable if they were given a specific mission or goal.

Commissioner Smith said no action is often good action.

Commissioner Swistak said we should send a memo that says do you want planning to be involved and how? The Record's Sav Rebecchi said the minutes of that Town Council meeting were approved and it did say something about forming a committee but a letter to the editor from Council president Mike Schnack stated different. All in favor of the planning commission sending a memo to the Town Council, 5 in favor -1 against, Commissioner Smith.

All in favor of adding caviot of council going forward 5in favor -1against, Commissioner Smith.

A motion to adjourn at 8:50 by Commissioner Cochran and seconded by Commissioner Lynn. So unanimously voted.

Attest:



Cynthia L Reppe

This meeting was digitally recorded