

PLANNING COMMISSION MINUTES

May 5, 2004

7:30 PM

Jamestown Library

The meeting was called to order at 7:38 p.m. and the following members were present:

Gary Girard Andrew Kallfelz
Betty Hubbard Victor Calabretta
Jean Macgregor Brown William Kelly
Barry Holland

Also present:

Lisa Bryer, AICP – Town Planner
Cynthia Reppe – Recording Clerk
Richard Pastore – Town Engineering Consultant
John Murphy – Attorney
Joseph Manning
Peter Brockmann
Anthony Demedeiros
Lorana Demedeiros
Charlotte Zarlengo
Sav Rebecchi

I. **Approval of Minutes from April 21,2004**

A motion was made by Commissioner Kallfelz and seconded by Commissioner Brown to approve the minutes as amended. On Page 3 under Richard Pastore amend the last sentence strike ~~more water~~ and add after ultimately *you will have increased volume*. So unanimously voted. Commissioner Girard abstains.

II. **Correspondence**

1. CRMC – Assent – Stephen & Linda Mecca, 5 Aquidneck Court, Jamestown, RI 02835; to install a seasonal, aluminum boat ramp system on a (rocky) coastal beach. The proposed boat ramp system is not anchored, is approximately 2' wide, by 43'-9" long and will be located between mean low water (MLW) on the (rocky) beach face. This project may require a Special Exception pursuant to the RICRMP Section 300.4.D.6 and Section 130. Received.

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

Sav Rebecchi president of the Jamestown Shores Association stated that a lot on the corner of Spirketing and Beacon has been bringing in fill and leveling out the property creating a lot of disturbance to the site, he asked why this has been allowed. Town Planner Lisa Bryer stated she will ask Fred Brown the building inspector about this lot since she has no prior knowledge of this. Charlotte Zarlengo who is a steward for the Land Trust stated that all the water from the run off due to this lot being filled is flooding Ferry St.

IV. Reports

1. Town Planner's Report

Town Planner Lisa Bryer told the Planning Commission that the Zoning workshop is next Tuesday May 11. This will be a training session to discuss high groundwater ordinance, this is a workshop and there will not be any public input. Mr. Pastore stated that if the commissioners have any thoughts on this they need to be there to convey this to the Zoning Board members. Also if there are things that Mr. Pastore should emphasize, get in touch with him via e-mail. Commissioner Calabretta will present the presentation from last weeks meeting where he presented a house designed on piers. Commissioner Girard stated again that this meeting is not a public workshop that it is intended to be educational to various board members

2. Town Committees

a. Harbor – nothing at this time

b. Fort Getty

Commissioner Hubbard stated there is so much material that needs to be covered they didn't have a chance to cover it all and now they are identifying historical sites out there. There will be a public workshop meeting June 10th possibly during the day. Commissioner Hubbard stated that the first 10 minutes of every meeting will be devoted to public input. Commissioner Hubbard would like comments from the planning commissioners on what they for see for Fort Getty in the future. The committee will look at the existing Master Plan from 1994 to see if there should be changes. Commissioner Hubbard would like to see this on a future agenda, next meeting it will be on May 19th. Commissioner Girard asked the commissioners to send e-mails to Commissioner Hubbard with there ideas.

c. Buildings and Facilities – nothing at this time

d. Others

3. Sub Committees

V. Old Business

1. Manning 9 Lot Major Subdivision - Cedar Lane – Master Plan Review

Attorney John Murphy stated at the conclusion of the last meeting the comments from abutters were to request a hydro geologic study. Andrew Johnston engineer from Northeast Engineers & Consultants has prepared a scope of work for the hydrogeologic study, different from the previous scope of work from GZA. Commissioner Girard asked the planning commissioners to look at the scope of work outlined to see if this is what they want. Lisa Bryer, town planner just received this yesterday and met with Andrew Johnston briefly. Having the study done prior to Master Plan approval is what the Town solicitor Larry Parks has suggested. Lisa Bryer will be in contact with professionals to conduct this study. The commissioners can talk about the scope of study tonight and have the consultant look it over to make sure its OK. Commissioner Calabretta has a problem with making a recommendation based on information provided

from the applicant at the meeting. Commissioner Girard stated that the commission can discuss what's in front of them tonight or put it off until next meeting. Commissioner Kelly made a motion to table until next meeting Commissioner Calabretta seconded. Commissioner Hubbard asked if the applicant has the scope of work from last time. Commissioner Kallfelz wanted to talk about it now. Commissioner Brown asked how long will it take to go through this. Commissioner Holland agrees with the motion. The applicant understands they have to do this study. The Planning Commission should be prepared to discuss the scope of work from GZA at the next meeting and compare the 2 proposals to see if they are the same. Commissioner Brown asked if there were any precedent for this type of data? The town should talk to a hydro geologist to look at everything involved to put a scope of work together. Mr. Murphy suggested that his firm is working for Mr. Manning. Town Planner Lisa Bryer stated that when this was discussed before, the applicant would hire a hydro geologist and then the town hires someone to review it. It would be more economical for the applicant if they agree on a consultant and work together. The burden of meeting these issues falls on the applicant Commissioner Calabretta stated. It would be easier for all to approach this in a unified way. Commissioner Calabretta is comfortable with Mr. Pastore working on this with Lisa. If they feel they need an expert then hire them. Mr. Pastore said they need a specialist. If you want it separate then fine, but an expert is needed. Commissioner Kallfelz suggested that they withdraw the motion or amend it for Mr. Pastore and Lisa Bryer to get an expert. The motion was withdrawn.

Commissioner Kallfelz made a motion to have Lisa Bryer and Richard Pastore find an expert to conduct the study and the applicant help to design the scope of work.

Commissioner Holland asked if this would be on the next meeting agenda or would it take a couple of months? Town Planner Lisa Bryer stated it would be discussed at the first available meeting. So unanimously voted.

Mr. John Dudley – 25 Steamboat St. - Study all wells in area or abutting wells only, concerned with all wells. Could number of lots be looked too. Maybe less lots.

2. Demedeiros – Bark Ave. - Plat 16 Lot 40 – Zoning Ordinance Section 314 - High Ground water table/ Impervious Layer Overlay district - Sub-District A review-continued

Commissioner Girard stated that this has been continued from the last meeting. Peter J Brockmann represents the applicants Anthony and Lorana Demedeiros. He gave a short synopsis. They came back on April 7 with a scaled down version since the 3/17 meeting. Some Commissioners suggested a swale be done which they did and this is where they stand. It was clarified by the Commission that at the April 21st meeting the applicant asked that this be continued until tonight. Commissioner Calabretta, stated that it was not a formal request of the commission which prompted a concern of his and that is not why he made the presentation. In addition, the commission was concerned with the drainage being channelized from the significant amount of fill added to the site and that they asked the applicant to handle the drainage issues related to this. They did not specifically ask for a swale. Commissioner Calabretta stated that a swale is counter to what they want to do with the surface water. The sketches that Commissioner Calabretta presented had some great concepts that they could apply to the site and possibly get the house that they wanted, without significant fill and impact to the site and the surrounding neighborhood. Peter Brockmann stated the problem the applicant is faced with, is that

they are so far into the process and have gone through all this with DEM they can't just start it over again. There will always be a project that will result in less disturbance. Commissioner Calabretta asked, "Does DEM approve entire site plan or just the ISDS?" Nick Pompiano the engineer on this application stated that it came up in discussion this is why it is elevated it was looked at all together. Surface water flow is a comment that DEM looks at. He has provided swales. Was 4 feet of fill required around the foundation asked Commissioner Calabretta. Mr. Pompiano replied that it is a requirement to the east and south. Mr. Pastore stated that is correct. Mr. Pastore stepped up to the table with the planning commissioners and showed the commissioners what the engineer has designed. Engineer shows topography from wetland area. Relatively flat. Commissioner Kelly said he was at the site today and was up to his knees in water just behind the site. Mr. Pompiano and Mr. Brockmann were both out there and the site was dry on the site. Commissioner Calabretta stated that it has been established that you can do with just minimal fill around the house, take the house they saw last time and tell him why they can't build this house without the fill. Mr. Pompiano has stated before fill is needed around the ISDS. Commissioner Calabretta stated that if you took that house and put the piers down then you will not need that amount of fill. Mr. Pompiano stated that you need it on the back side. Commissioner Calabretta, asked if you put 12 inches of stone under the slab in the basement can't that be runoff area or storage? Commissioner Calabretta apologizes for being pushy, but this is the first application under review, they worked hard to get this ordinance, they don't want to be anti development in the shores and deny people the right to build, he has suggested methods for applicants to get exactly what they want with minimal site disturbance. Commissioner Calabretta stated that he could not support this application in good conscience because this is not the least disturbance to the site. Commissioner Kallfelz stated that the original house could be done on piers with less disturbance to the lot. A discussion ensued regarding the sheet flow and if it will get there faster with the swale, technically yes it will. Mr. Pompiano stated that not visibly. This is exactly opposite of what a level spreader does. Peter Brockmann stated that the applicant is at the end of the line as far as the runoff, they are the guy that needs protection. Members of the audience disputed that. The planning commission is obligated to act on the application before them if the applicant is not suggesting that they will make changes. Commissioner Hubbard made a motion that was seconded by Commissioner Girard to deny application on grounds that it does not meet section 82-308. C.1.b and d as follows:

- 1) The design fails to result in the least grading, filling or other disturbance(4 1/2' fill etc.)
- 2) The design creates a subsurface structure that will pose a threat to the public health and safety("dam" effect of solid foundation and result on groundwater flow)
- 3) The design and siting of the dwelling and ISDS does not represent the least disturbance as possible to the site (garage, storage basement plan with more than 600 sq. ft. imprint and living area greater than 800 sq. ft.)
- 4) The design provides insufficient storm water runoff control measures to protect nearby properties from adverse impacts (swale on north side merely channels water to street which may cause "puddling" for neighbor to north and/or flow across the street to flood neighbor to west)

Commissioner Brown said since we do not have a packet to give to them for guidance, this is a learning curve for all involved. We should help applicants to meet this ordinance. Lisa Bryer Town Planner replied that this it is not your job to re design this application. It is the applicants job to re design and find ways to best meet the ordinance. She cautioned the Planning Commission to give so much guidance. Commissioner Brown asked “ Are we not in a concrete manner defining minimum disturbance? Is this still verbiage that we are all interpreting in our own way.” Commissioner Girard stated, they are making a recommendation to the zoning board, they will address it and make the final decision. Commissioner Calabretta stated that the planning commission worked very hard on this ordinance at the direction of the town council and he as well as the other planning commissioners would like to see this work with some innovative ideas being presented to them. Since Commissioner Calabretta is the most qualified on the planning commission with porous foundation can a house be built with porous foundation or will DEM reject it? Mr. Pompiano stated it will be more costly for the foundation. Mr. Demedeiros stated that he had been dealing with DEM over the last few years back and forth and that he feels the Planning Commission is brainstorming at his expense and this is not fair. He submitted three separate designs submitted to DEM. The engineers are all qualified to make decisions. They have taken all steps to comply with state regulations and that should be good enough for the Town. He said he will sell the lot, the requests being made of them are unfair. The Commission stated that this ordinance was drafted because DEM was not looking at applications cumulatively and not addressing stormwater runoff. Commissioner Kallfelz feels the motion is premature. Commissioner Hubbard withdraws the motion.

Charlotte Zarlengo – chair of groundwater for the shores – swale goes down and carries water down to Bark St. and ends up in her property. No drain there. There are people down stream.

Leo Erera – Take a walk down Seaside Dr. it comes down in 2 streams.

David Gorelik – His concern with keeping the water from directly coming into his house the way they are designing it, it will absorb this is marsh land. This is not a build able area.

Anthony Demedeiros – DEM says it is.

David Gorelik – DEM doesn’t have our best interests in mind. Maybe piers would not be better, they could be sitting on Marsh.

Mrs. Greenburg – Planning Commission has a difficult job they are all trying in order to follow the ordinance don’t make exceptions, Mr. Calabretta was trying to help. She does know that swale will create water along the streets.

Phil Zarlengo – worked with the shores and with planning commission, walk along Seaside Dr. there are lower points that will be flooded.

Commissioner Girard – pointed out that sub-district A is the most difficult to develop. Without modern technology this area would never be able to be developed.

Anthony – We are all concerned about the environment

Sav Rebecchi– Shores Association president, when houses are built they join the association to stop development. This still gives us the best chance to insure safety.

Lorana Demedeiros – DEM was a nightmare she feels they are the guinea pigs, they have a much larger lot. Made applications to build with DEM before the ordinance was passed, their building application was made after.

Commissioner Girard – reason it was asked of the Planning Commission to come up with this is because DEM was not strict enough.

Anthony Demedeiros –gave a history of the lot he purchased. He is frustrated with the whole process.

Commissioner Hubbard made a motion that was seconded by Commissioner Girard to deny this application because there has been no change to the plan.

Commissioner Kelly stated that the applicant has heard various commissioners with suggested ideas, what was suggested is minimal disturbance, a reduction in fill and to his knowledge a reduction in price not having to build a foundation all around the house.

Anthony Demedeiros -If they come back with design of a porous foundation will the board approve or consider it.

The Planning Commission cannot approve anything that is not before them.

Commissioner Brown - what I am hearing here is, there are solutions to building in sub-district A but we don't know what they are and we won't share them.

Commissioner Calabretta – Disagrees with Commissioner Brown, either the architect or the engineer should come up with an alternative, innovative plan.

Commissioner Kallfelz – this is the Planning Commissions recommendation to the zoning board.

Commissioner Hubbard – she was taught and practiced that water runs down

Commissioner Girard asked the Planning Commissioners if they are willing to continue past 10:00pm. They were all in agreement.

After continued discussion regarding the proposed motion with suggestions being made by Commissioner Holland and other Commissioners, Commissioner Hubbard changed the motion to read as follows:

This application will be denied on the grounds that it does not meet section 82-308. C.1.b and d as follows:

- 1) The design fails to result in the least grading, filling or other disturbance(4 1/2' fill etc.)
- 2) The design, scale and siting of the dwelling and ISDS does not represent the least disturbance as possible to the site (garage and storage basement plan)
- 3) The proposal may create adverse impacts (swale on north side merely channels water to street which may cause "puddling" for neighbor to north and/or flow across the street to flood neighbor to west)

Commissioner Girard recused himself for this next issue and left the table.

VI. New Business

1. Slice of Heaven – Development Plan Review – Proposed Change to approved plan

Mary Meagher presented a new set of plans that show the changes they would like.

The use of the restaurant and a variety of different things has prompted these changes.

They would like to provide more open air seating. The commissioners have the previous proposal and the current one too. Commissioner Hubbard asked if this changes the total seating.

No the room that was built is actually shorter and they have less seating than originally proposed. They can seat 61, they are not increasing that amount. The applicant was asked if the cistern is built? They have rain barrels

collecting 200 gallons now. The cistern was part of the original approval. It needs to be done. The cistern was a best effort, the rain barrels are collecting, and it is adequate. Commissioner Kallfelz asked where the current roof run off goes. To the back stated the applicant, it runs in to the rain barrels. No complaints as far as run off so far. Will the seating change as far as numbers go? No. Commissioner Kelly wants to know if 61 seats includes inside and outside how many in and how many out? Interior can be more crowded in the winter. There are 30 outside, 30 inside. What is the fire code number? What is the timing? They would like to complete this before July 4th. Commissioner Kallfelz asked about lighting. Outside low wattage lights will be used, and a couple to highlight the menu board, very minimal. A motion was made by Commissioner Hubbard and seconded by Commissioner Kelly to approve the development plan with the following condition:

Add another 80 gallon capacity in the form of a rain barrel on top of the 200 gallon capacity that is now in place for the storm water run off and where possible create an impervious surface under the proposed deck. So voted:

Andrew Kallfelz – Aye

Victor Calabretta – Aye

Betty Hubbard – Aye

Jean MacGregor Brown – Aye

William Kelly – Aye

Barry Holland – Aye

Motion passes by a vote of 6-0

A motion to adjourn was made by Commissioner Kallfelz at 10:30 p.m. and it was seconded by Commissioner Kelly. So unanimously voted.

Attest:

Cynthia Reppe

This meeting was recorded on 1 micro-cassette