

Approved As Amended 12-3-08  
PLANNING COMMISSION MINUTES  
November 19th, 2008  
**7:30 PM**  
**Jamestown Town Hall**  
**93 Narragansett Ave.**

The meeting was called to order at 7:35 p.m. and the following members were present:

Gary Girard                Michael Swistak  
Barry Holland            Richard Ventrone  
Alexandra Nickol        Nancy Bennett

Not present: Jean Brown

Also present:

Lisa Bryer, AICP – Town Planner  
Cinthia Reppe – Planning Assistant  
Wyatt Brochu – Assistant Town Solicitor  
John Lawless – PE Whalerock Engineering  
John Murphy – Attorney  
Stephen Ostiguy – Executive Director, Church Community Housing Corp.  
Mary Ann Olderwurtel  
Dave & Ellen Betzer

**I. Approval of Minutes November 5th, 2008**

A motion was made by Commissioner Swistak and seconded by Commissioner Bennett to accept the minutes with the following amendments:

Page 3, 6<sup>th</sup> paragraph strike and add the following:

**Don Powers stated we** ~~You~~ can define **the** artificial things in your ordinance ~~to~~. **He stated** red and white cedar shingles are good for this area. If he had a vote he would vote for no vinyl siding. He would regulate it on Narragansett Ave.

Commissioner Ventrone said if **we could have** a professional, **an architect**, designs and ~~installs it, it makes a big difference.~~ **specify how any siding would interface with the corner boards, the facia, the window frames and the entrances so that the interface is the same as wood and mimic the same structural discipline of wood.** It's an aesthetic issue.  
~~Commissioner Ventrone asked if we could define how the seams are installed and treated.~~

Page 3, 9<sup>th</sup> paragraph strike and add:

Commissioner Swistak asked ~~his~~ **Donald Powers** opinion.....  
So unanimously voted. Commissioner Holland abstains.

## II. Correspondence

1. CRMC – Residential Assent – William Perrett 37 Seaside Dr., Jamestown, RI 02835; to construct and maintain a recreational boating facility to consist of a 4'x149' fixed timber pier with stairways to a terminal 4'x20' access landing. The dock also includes a #1200 boat lift system and batter piles. The terminus of the dock extends to 77' beyond MLW requiring a 22' variance from the 50' MLW standard, located at Plat 14 Lot 13. noted

## III. Citizen's Non Agenda Item

Mary Brennan – Narragansett Ave, West Ferry area wants to let the Planning Commission know that the residents in her area are against changing the Use table for Commercial Waterfront under the mixed use category, and they will be attending the next meeting to object.

## IV. Reports

1. Town Planner's Report
2. Chairpersons report

Commissioner Girard stated due to the lack of heat in the council chambers the only thing being discussed tonight will be the Comprehensive permit application hearing and zoning will be on the agenda for the next meeting.

3. Town Committees
  - a. Harbor
  - b. Fort Getty – there will be a work session on January 22, 2009 for the Town Council, Harbor, Planning Commission, Wind Energy and Conservation Commission to discuss the proposed Sailing School at Fort Getty.
  - c. Buildings and Facilities
  - d. Tree Preservation and Protection
  - e. Affordable Housing Committee
  - f. Wind Energy – They will be invited to the January 22 Town Council Worksession
  - g. North Rd. Bike Path Committee
4. Sub Committees

## V. New Business

1. Comprehensive Permit Application - Public Hearing – 2 lot Subdivision – John Lawless Jr. – 14 Pemberton Ave. Jamestown, RI ; Plat 8 Lot 473  
Comprehensive Permit Application under the low to moderate income guidelines.

Commissioner Girard opened the public hearing at 7:42 p.m.

Mr. John Lawless, P.E., Applicant and Professional Engineer addressed the Planning Commission and the audience. He will address the proposed drainage, Mr. John Murphy is his attorney and Mr. Steve Ostiguy from Church Community will Answer any questions regarding the Affordable housing process. Mr. Lawless is the current owner of the existing house. He did a power point presentation to explain what this application will entail.

He is proposing to subdivide his property into two lots, **which consists of 26,405 sq ft** into two lots, both conforming by size, one with **8,000** 26,405 sq ft one with 26,405 sq. ft. the other with 18,405. The new dwelling would be 3 bedrooms with

an approximate 1296sq ft. foot print with a total of 1600 sq ft of living area. Both water and sewer are available for the proposed subdivision but he will be installing a private well and a crushed stone pervious driveway for the new house. The new lot will meet all zoning requirements except for frontage. The same architectural type of dwelling is being proposed that is consistent with a village dwelling. He is using energy efficient passive and active solar, a storm water mgt system to detain the increase in run off.

This permit application will have a minimum impact on the town infrastructure, fulfills stated goal of TC to provide affordable housing, best use of an oversized parcel of land in the village consistent with neighborhood land use, enabling residents to gain ownership.

Steve Ostiguy Executive Director of Church Community Housing Corporation in Newport County said Mr. Lawless asked them to participate in this application. The towns funds will be used and their will be a deed restriction consisting of a 99 year land lease. When and if the property is sold they must come back to CCH. The owner of the affordable house pays taxes on the value of the property, not a discounted rate. There are potential homebuyers that have been on the waiting list for a very long time but one has not been selected yet. This will be for either a current Jamestown resident or a former resident that has been forced to leave Jamestown for more affordable housing opportunities.

Mr. Ostiguy explained the renovation of the property to the existing house. They will be re-doing the bathroom and kitchen and updating the electrical. It will be kept a 2 bedroom house. They do not intend on replacing the siding on the existing house because no exterior changes are proposed. They are just rehabbing the inside.

Commissioner Nickol said the sources and uses don't match up. Mr. Ostiguy said the difference will be made up from CDBG funds and affordable housing trust fund, but they could also apply for funds from RI proposition 9 from 2006, anyone of these sources can be used to fill that gap.

Commissioner Nickol also asked about the value of \$175,000 how was that determined? Mr. Ostiguy stated they had an appraisal done on the property, and they negotiated down.

Commissioner Bennett asked because of the credit situation isn't it going to be difficult for the homebuyers to get loans? Steve Ostiguy responded that they have not had a problem recently.

There are 3-4 residents of Jamestown already on the list. Commissioner Swistak asked if a candidate is eligible at the time of purchase and their income increases. Does it still count as affordable? Yes Mr. Ostiguy answered.

Commissioner Nickol thinks the commission should consider not subdividing the property until the Town Council makes a decision about the trust fund coming from the Town for one house; Commissioner Ventrone agrees. Town Planner Lisa Bryer reminded the Commission that the Affordable Housing Committee has endorsed this project with the understanding that some of the funding would come from the Affordable Housing Trust Fund. There is already \$50,000 that has been allocated from the Southwest Ave. project. Mr. Ostiguy said they are not that worried about getting money from other funding sources to fill the subsidy gap. Commissioner Holland asked if we can we make approval contingent upon the funding sources being in place. It appears that we will only be using \$15,000 from the town. Mr. Ostiguy pointed out you have a limited amount of funds and if you exhaust those funds you are apt to get more funding.

Commissioner Girard stated that a lot of the houses in the neighborhood are shingled and would you consider putting in cedar shingles on the houses? Commissioner Swistak said the existing house is what it is, he did not feel that the ordinance allowed the board to dictate that the siding has to be replaced with cedar shingles.

Commissioner Swistak asked Mr. Lawless about installing a well for the new construction. He is planning on drilling a well since it is a good area for that but reminded everyone that he is able to connect to Town Water and Sewer according to Steve Goslee.

Commissioner Holland said the attached garage does not show up anywhere on the subdivision plan, Mr. Lawless pointed it out to him, it is on the north side of the dwelling. A discussion ensued regarding how the driveway does not connect to the garage and he stated that it is more of a workshop.

In terms of landscaping, Mr. Lawless explained that a diseased tree will be taken down by the driveway and he is going to put some buffers in that will consist of arborvitaes on the north boundary and a 6 ft cedar fence on the south side of the property.

Mr. John Murphy is representing Mr. Lawless in this historic and first for the Town of Jamestown application under section 1700 of the zoning ordinance. Had a developer purchased this property it could be a duplex or two separate lots with a road and that no affordable housing benefit is required. A certificate of completeness was submitted for the record. The Planning Commission is the sole permitting authority on this application. Notice was given to the abutters. Town Planner Lisa Bryer prepared a public notice and the applicant sent out the notices by certified mail. There are not any negative environmental impacts with this application. The drainage is being taken care of on the property. There is no basis in enabling legislation for the Planning Commission to deny this application. The 99 year leases have been established and around for years throughout this country. He is asking that the Planning Commission grant this application.

Mary Ann Olderwurtel-27 Pemberton Ave - commends him for what he has done. But when she went to zoning she was told she has to have wood shingles on her house. She wants to see the plans for the new house with the setback next to her house. She wants to see the landscaping plan for her privacy. Any expansion of the existing affordable house would have to meet zoning or require a variance. Ms. Olderwurtel thinks they should be required to do the same thing as far as the siding.

Dave and Ellen Betzer 15 North Rd. – also representing the neighbors George and Virginia Berman asked them to read a letter for the record. Please see attached Letters from both the Bermans and Betzers. There are existing Water problem in the area. They said that from May-July there is standing water on the property that Mr. Lawless owns. They object to a fence being put up also since it will cut down on their natural sunlight to their garden which is on the property line.

Attorney Brochu noted that said he is subdividing a lot with an existing house, and that the Board should be caution with any requirements for the new house. Commissioner Bennett said under 45-53-4 4. iv. (C) it states that the Board must find that all low and moderate income housing units proposed are compatible in scale and architectural style to the market rate units within the project and therefore she thinks they can look at the exterior of the house in terms of shingling. She also thinks Groundwater is an issue. She was told the high groundwater ordinance does not pertain to this area of town. Zoning does not dictate building materials on a variance for frontage issues in Wyatt Brochu's opinion. He opined that a condition of cedar shingles needs to be reasonably related to the variance being requested.

Attorney Brochu – he reminded the board that this is a public hearing and to qualify witnesses for the record.

Commissioner Swistak addressed Attorney Brochu– one of the abutters brought up the issue of her house that was expanded and requested a variance and the Zoning Board required wood shingles. The existing home is not being expanded and do we have the authority to request cedar shingles? Whether or not this condition is reasonably related to the relief they are seeking ~~he~~ **Attorney Brochu** hesitates to address this question but advised that he has told the Zoning Board that they do not have the authority in a variance situation to require wood shingles.

At the request of the Town Planner, the Town Engineer prepared a written report on the drainage calculations that he received yesterday that was handed to the Chair.

Commissioner Girard said then he (**Girard**) thinks **Attorney Brochu's** ~~your~~ interpretation is they cannot require cedar shingles. Mr. Brochu said in article 17 the standards of analysis **for the Planning Commission** is different than what the zoning board is looking at.

After a 2 minute recess Commissioner Ventrone made a motion to continue the public hearing until the December 17th meeting because there was no heat in the council chambers, Commissioner Girard seconds the motion. Commissioner

Swistak says we should continue until the next meeting Dec 3<sup>rd</sup> since this is not the applicants fault, he recommends we amend the motion to continue until the December 3<sup>rd</sup> meeting. Commissioner Ventrone amended the motion and it was seconded by Commissioner Girard. This is the only notice the audience will receive. So unanimously voted.

## VI. Old Business

1. Jamestown Zoning Ordinance Amendments – Continued Discussion – continued until Dec 3<sup>rd</sup>, 2008 meeting due to lack of heat in the room

A motion to adjourn at 9:15 was made by Commissioner Swistak and was seconded by Commissioner Bennett. So unanimously voted.

Attest:



Cinthia L Reppe  
Planning Assistant

This meeting was digitally recorded