

Approved As Amended 8-4-10  
PLANNING COMMISSION MINUTES  
July 21, 2010  
**7:30 PM**  
**Jamestown Town Hall**  
**93 Narragansett Ave.**

The meeting was called to order at 7:34 p.m. and the following members were present:

Nancy Bennett	Dan Lilly, Jr.
Susan Little	Duncan Pendlebury
Michael Smith	Michael Swistak

Not present:  
Richard Lynn

Also present:  
Lisa Bryer, AICP – Town Planner  
Cinthia Reppe – Planning Assistant  
Wyatt Brochu – Town Solicitor  
John Murphy – Attorney  
Steve Ostiguy – Church Community Housing Corporation  
Brigid Ryan – Church Community Housing Corporation  
Christian Belden - Church Community Housing Corporation  
Chris Fabiszak - Church Community Housing Corporation  
Michael Darveau – Land Surveyor

**I. Approval of Minutes July 7, 2010**

Commissioner Smith made a motion that was seconded by Commissioner Bennett to accept the minutes as written. So unanimously voted.

**II. Correspondence**

**III. Citizen's Non Agenda Item – nothing at this time**

**IV. Reports**

1. Town Planner's Report
2. Chairpersons report
3. Town Committees
  - a. Harbor
  - b. Buildings and Facilities
  - c. Affordable Housing Committee
  - d. North Rd. Bike Path Committee
4. Sub Committees

**PUBLIC HEARING**

Comprehensive Permit Application

3 lot subdivision

Public Hearing/Preliminary Approval

13 Swinburne St. - Plat 8 Lot 451

Town Planner Lisa Bryer gave an update on this application to those in attendance. Previously this application was before the planning commission for pre-application and the commission gave them some guidance. The applicant has sent out abutter notification and they were given approval for 2 new hook ups at the Water and Sewer meeting on July 19, 2010. The Town Council allocated \$200,000.00 from the Affordable Housing Trust Fund to use for this project. The applicant will go back to the Water and Sewer board on August 2<sup>nd</sup> ~~to get a waiver of~~ **regarding** the tying in fees for \$16,700. The applicant is here tonight for public hearing because this is a comprehensive permit and the Planning Commission is the sole authority for granting this application.

Planning Commission chair Michael Swistak laid out the process for this evening. The applicant will review the project for those in attendance, then the abutters will be able to ask questions, then commissioners and the hearing will stay open until the vote. Commissioner Swistak opened the hearing.

Attorney John Murphy stated it is his honor to represent Church Community Housing Corporation, a non profit corporation who have a track record of operating units in Jamestown, they have handled residential properties in addition to rental housing.

This is technically a minor subdivision. There is 1 house existing which will stay if it can be rehabbed. The existing house will get 5,000 sq ft parcel and the 2 others will be approx 4300 sq ft. All houses front on Swinburne St. There is a 10 foot wide way adjacent to the property that is important access to the properties that are existing behind and that will continue; the applicant respects the access and wants to preserve it.

Mr. Murphy introduced Brigid Ryan, from CCHC who is a Sr. project manager. She has her master degree in regional planning from UMass Amherst. Currently CCHC holds a P&S with the Page family who owns this property. Ms. Ryan gave a little background on CCHC. They formed over 40 years ago and have collaborated on many projects in Newport County. For the homeownership program they sell the house to an income qualified person that graduates from their class. The applicant must meet the income guidelines and they need to be mortgage ready. CCHC retains ownership of the land. CCHC is very proud of the fact that over 90 homes have been purchased and there have been no foreclosures to date. Attorney John Murphy asked Ms. Ryan if she is familiar with the state requirements and as a professional are you in agreement that this application meets the criteria requirements. Yes it does she stated.

Mike Darveau, professional Land Surveyor has been certified as an expert in the past from the planning commission stated Commissioner Swistak. Commissioner Smith made a motion seconded by Commissioner Bennett to accept Mr. Darveau as an expert witness. So unanimously voted.

Mr. Darveau made a presentation of the application and explained the drainage, land and houses. He explained the setbacks of each property. Mike Gray, town engineer does not want infiltrators in the plan because it could cause excess groundwater problems for the neighbors. Attorney John Murphy asked if this plan was developed with the town engineer Mike Gray; Darveau said yes. Commissioner Bennett asked if there will even be an increase **in square footage** since a lot of impervious surface is going to go away with the removal of the garage; Mike Darveau said **yes no**. A change made to plan recommended by Public Works Director Steve Goslee since he does not know where all the underground water and sewer lines are in that neighborhood. He wanted a note that says extreme caution will be taken during excavation and if anything is hit the applicant will repair it immediately. This is the only change on the site plan that is not on the commissioner's plan. The final plan will have the changes with Mike Gray and Steve Goslee's input.

Christian Belden was accepted as an expert witness, and has his master degree in planning from URI. Mr. Belden thinks they have produced a proposal that is consistent with the neighborhood in Jamestown. He will go through the requested variances. Ron DiMauro, a local Jamestown architect has designed the project which is complimentary to the Jamestown cottage style which is common in Jamestown. They are asking for relief from the requirements of glazing, street trees and parking on the side or rear of the house. The lot size is another variance for the 2 additional lots which are consistent with the area but do not meet the zoning regulations. The homes will be Green and Energy Star certified. During construction there will be a staff member on site, and assigned to this project. This is Chris Fabiszak who is a Jamestown resident he lives on Luther St. and just started working for CCHC. This application is consistent with the comprehensive plan, goals and need. The housing units are integrated, there are no significant negative environmental impacts, health and safety, and it has adequate and permanent access to the street.

John Murphy stated some of the neighbors that use the 10 foot wide way are in attendance tonight and he wants them to know that CCHC will enter in an agreement to allow the area to continue to cut across the subdivision property in the rear as it historically is now. Discussion ensued regarding the location of the traveled way and the abutters noted that there is a 1-2 foot grass strip along the subdivision property fence and then the traveled way traverses on both the 10' wide way area and on the abutting property and then cuts off about 1-2 feet of the southeast corner of the subdivision property. CCHC will allow the continuance of the cut across as it exists today. The board can recognize this and that is why it is in findings of fact, not conditions of approval, said Wyatt Brochu.

Mr. Murphy stated that the 10' wide way is not owned by the town it was owned by Mr. Knoll and he granted to several property owners that it could be used as access to property. Three other property owners share the ROW and they will all be responsible that no one blocks it. The town does nothing to maintain the wide way. Anything done is a community effort done by the users. Any maintenance agreement has nothing to do with the town. Wyatt Brochu said the row or travel way other than small triangle is not part of the subdivision property; only a small encroachment from the applicants property and currently the applicant can use it at this time.

Christian Belden thanked the commissioners and stated he wants to close their presentation at this time. Commissioner Bennett wants to know which trees will stay and which will go at this time. It does not look like any of the trees will be able to stay where they are. They want to keep the red maple but they will have to move it if it cannot stay where it is. They are hoping to place it in the

center of the middle lot. Town Planner Lisa Bryer put in her Memo that she will work with the tree warden if there is room to put some trees on the street right of way when the construction is done.

A discussion ensued with regards to the existing house being rehabbed and what if it cannot be. If the house must be torn down then an administrative subdivision will be done and the lots will be divided equally. The new structure will look like the cottages that have been designed for the other two lots.

Commissioner Swistak asked if the public had any comments.

Andrea Genest – 90 Narragansett Ave. - as the house exists right now the neighbors use the 10' wide way and to get to her property there is a triangle piece of the subdivision property that she uses for the last 35 years and she is worried that this will change.

Wyatt Brochu said the commission needs to focus the discussion as illustrated by the plan it does not appear that the project plan encroaches upon the row and he cautions the board on discussing historical use off the way unless it involves this property. He would consider it relevant to discuss where the applicant is proposing a driveway and do they have access to do that. Is there sufficient turning radius? These matters could be a condition to address at final approval.

Andrea Genest - the opening in the fence now can only accommodate a lawnmower. Andrea is questioning their legal right to use the way. CCHC is prepared to substitute putting the driveway on Swinburne.

Commissioner Lilly asked if the fence currently is located on the applicants property; yes it is.

A discussion ensued regarding who owns the ROW or wide way. This is something that was in the deeds of the abutters that are currently present that front on Narragansett Ave. and has not been named as to whom it is owned by. The abutters just want to maintain this way in and out of their properties.

Steve Ostiguy from CCHC has said he will give the Genest's permission to continue to use that portion of property that is currently being used.

A motion was made by Commissioner Lilly and seconded by Commissioner Smith to close the public hearing. So unanimously voted.

Commissioner Bennett made a motion that was seconded by Commissioner Smith to approve the motion as detailed in the Memorandum from the Town Planner dated July 16, 2010 with the following amendments:

| To grant Comprehensive Permit approval for the project titled "13 Swinburne Street" in accordance with the Town of Jamestown Zoning Ordinance including Article 17 – *Low and Moderate Income Housing* and Subdivision Regulations, RIGL 45-23-37 and the plans entitled "**Minor Subdivision Plan for Church Community Housing Corp, Plat 8 Lot 451, 13 Swinburne Street, Jamestown, Rhode Island, Sheets 1 and 2 of 2**"; Property Owner John E. Page Trustee of the Page Family Trust, 13 Swinburne Street; prepared by **Darveau Land**

**Surveying, Inc., P.O. Box 7918, Cumberland, RI 02864, (401-475-5700; dated June 8, 2010, revised June 24, 2010** based on the following Procedural History, Project Description, Findings of Fact and subject to the following ~~Decisions, Limitations and~~ Conditions of approval:

**A. PROCEDURAL HISTORY**

1. An application for Comprehensive Permit was received on June 7, 2010 and, subsequent to the receipt of the Letter of Eligibility on July 9, 2010, was certified as complete on July 15, 2010. The application is for three single family dwelling units. The project is entitled 13 Swinburne Street.
2. The applicant, Church Community Housing Corporation (CCHC) is a not-for-profit affordable housing developer serving Newport County and CCHC has been the Town of Jamestown's affordable housing services partner since 1987. The applicant controls the site by virtue of a purchase and sales agreement dated April 29, 2010. CCHC is eligible to pursue a Comprehensive Permit pursuant to R.I. Gen. Laws § 45-53 and a letter dated July 9, 2010 from Amy Rainone, Director of Policy, Rhode Island Housing which states that Church Community Housing Corporation is "eligible to pursue a Comprehensive Permit application in the Town of Jamestown to develop 13 Swinburne Street. Modifications to this proposed development resulting from the local review process do not require an additional letter of eligibility."

Other materials entered into the record through application to the Planning Commission include:

- Application for Comprehensive Permit Pursuant to Section 82-1701 of the Jamestown Zoning Ordinance and RIGL Title 45, Chapter 53 as amended.
  - Narrative Description
  - Proposed Master Plan, Proposed Street Façade, Proposed Front Elevation for Cottage 1 and 2, Proposed 1<sup>st</sup> and 2<sup>nd</sup> floor plan and Proposed Front Elevation for Existing House by Ronald F. DiMauro Architects, Inc., Jamestown, RI
  - Model Ground Lease
  - Construction Pro-forma
  - Drainage Computations by Darveau Land Surveying, Inc.
  - Existing Conditions Aerial Photograph and RI Soil Survey map and soil description for site.
  - Letter from Attorney for Applicant John A. Murphy dated June 30, 2010 requesting administrative Final Plan approval.
3. The application states that all three dwellings will be low and moderate income units that will remain affordable through a land lease for ninety-nine (99) years or such other period that is either agreed to by the applicant and town. The homes will provide ownership opportunities to households whose incomes do not exceed 80% area median income.
  4. This application was heard by the Planning Commission for pre-application on June 16, 2010. A Public Hearing was held on July 21, 2010 and opened in a timely manner: The hearing was closed on the same evening by motion and vote of the Planning Commission. Notice of the public hearing was sent to the abutters with the required notice area, published in the July 1, 2010 Jamestown Press, posted at the Town Hall, the Police Station

and the Jamestown Philomenian Library and also posted on the Town of Jamestown web site and the RI Secretary of State's public meeting web site.

5. John A. Murphy appeared as legal counsel on behalf of the Applicant. The Applicant's Registered Land Surveyor and subdivision designer is Michael Darveau of Darveau Land Surveying, Inc.
6. During the Planning Commission meetings and Public Hearing, the Commission received comments and reports from the Town Planner. The Town Engineer reviewed the plans and met with the project RLS regarding drainage and groundwater issues in the area. The Town's legal counsel, Wyatt Brochu advised the Commission as well.
7. Neighbors (abutters) were also present at the public hearing and submitted additional information to the Board for their consideration. The concerns of the abutters were discussed by the Commission and given consideration during the review process and included:
  - a. actual location of the traveled way to the east of the property verses the historic and present use pattern of current access;
  - b. Siting of the driveway for the existing dwelling (Lot C) accessing the 10' wide way.
8. An Archaeological Assessment took place on site by PAL of Pawtucket, RI who found no Native American cultural materials during the on Phase I (a/b) reconnaissance archaeological survey. PAL provided a Technical Memorandum on this Assessment dated May 2010.

**B. PROJECT DESCRIPTION and FINDINGS OF FACT**

1. The proposed project is described on the plans by Darveau Land Surveying Inc. as indicated above, marked as Exhibit 1 and made a part of the record. The Applicant has also submitted architectural renderings by Ronald F. DiMauro Architects, Inc., marked as Exhibit 2 and made a part of the record.
2. The property on which the project is proposed is located at 13 Swinburne Street and shown on Assessor's Map 8 Lot 451. The property contains approximately 14,008 square feet (.32 acres) and is presently developed with one single family dwelling. The property is cleared with several trees present and is gently sloping to the west. It is located directly across the street from the Jamestown Philomenian Library and Town playground. The remaining surrounding area is exclusively single family with lot sizes ranging from 3,000 square feet to almost 11,000 square feet.
3. The proposed development is consistent with local needs as identified in the Jamestown Comprehensive Plan - Affordable Housing Plan which states the following:  
**Goal:** Create a diversity of housing types (such as homeownership, rental, employee preference, etc.) to meet the needs of Jamestown's low-moderate income residents, employees, and special populations while maintaining Jamestown's unique mixture of village and rural character.  
**Strategy:** Strengthen partnerships and build community support for Affordable Housing.

**Action Item 1.2:** Work with CCHC and other non-profit developers to develop affordable housing in Jamestown.

4. The Planning Commission ~~recommends~~preliminarily approves granting the necessary Zoning Ordinance relief based on the justification in the Memorandum dated July 16, 2010 by the Town Planner and attached as Exhibit 3. The Commission finds that the relief is preliminarily granted because the local concerns do not outweigh the State and Local need for affordable housing.  
The applicant has requested the following Zoning Relief:
  - a. Chapter 82-301, Table 3.2: lot size, lot width, private frontages
  - b. Chapter 82-1102 (B) 1b: street trees, 1, c: Rain Gardens, 1d: porous concrete; 3a; trees, 3c: perennial landscapes
  - c. Chapter 82-1108: glazing
  - d. Chapter 82-1111 (A) 1: parking
  - e. Chapter 82-1112 (B) 1: street trees
  - f. Chapter 82-1113 (A) 5: perennial landscapes – No variance required
5. The application, as described in the plans, is for three single family dwelling units on three separate lots. All three lots will be offered for purchase as “affordable units” with the land to remain in CCHC land trust. The two new dwelling units are proposed to be 1.5 story units with a footprint of 924 square feet. The two new units will consist of 3 bedrooms, 1.5 baths with a covered front porch. The units are compatible in scale and architectural style to the surrounding units in the neighborhood.
6. The Planning Commission has been presented with no facts evidencing significant negative environmental impacts from the proposed development as shown on the plans, with all required conditions of approval. The Technical Review Committee reviewed the plans at a meeting on July 19, 2010. They had no outstanding issues or objection with the application as proposed.
7. There will not be significant negative impacts on the health and safety of current or future residents of the community. The applicant has coordinated with the Town Engineer to insure that the new development will not impact the abutting residences with respect to stormwater runoff. Each lot will have a graded swale at the western (downhill) property boundary to direct runoff to the public street where stormwater drainage is available.
8. All lots in the subdivision will have adequate and permanent physical access to a public street in accordance with the requirements of § 45-23-60(5). Swinburne Street is the public road to which the project will have access is a local road in Jamestown and is adequate condition to service the project. The ~~two new~~ proposed lots/dwelling units will have access to said public road via driveway access. ~~The existing house will have access to Swinburne Street via an unnamed 10’ wide public way that runs perpendicular to Swinburne Street and services 3 additional homes that front on Narragansett Avenue.~~
9. The proposed development will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent

regulations and building standards would be impracticable. The homes have been designed by Ronald R. DiMauro Architects, Inc. specifically for the lots as proposed.

10. All subdivision lots have adequate water for the intended use and adequate provision for wastewater disposal. The Applicant proposes public water and sewer for all dwelling units and received approval for such hook-ups at the July 19, 2010 Jamestown Board of Water and Sewer Commissioners meeting.
11. The required subsidy for this affordable housing development includes:  
State Subsidy: \$125,000 - Community Development Block Grant (CDBG) and \$195,000 - Building Homes Rhode Island (BMRI)  
Local Subsidy: ~~\$216,700~~ 200,000 – Jamestown Affordable Housing Trust Fund  
The Town Council approved the use of the Affordable Housing Trust funds- in the amount of \$200,000. The Affordable Housing Committee will consider an additional allocation of funds in the amount of \$16,700 on August 2, 2010 as a subsidy to pay for the Water and Sewer hookups per the Town Council, who will also vote on the additional funding at a meeting that same evening. The State funds are pending approval by the appropriate State agencies.
12. The traveled way to the east side of the property is encroaching on the south-east boundary of the subdivision property. The applicant has stated that encroachment does not interfere with the proposed development.

**C. CONDITIONS OF APPROVAL**

1. The approval is for a total of 3 lots;
2. That payment of a fee in-lieu-of land dedication shall not be required for this subdivision as required by Article IIID of the Jamestown Subdivision Regulations;
3. Granite monuments or where granite monuments are not suitable, other suitable survey markers other than concrete, shall be placed at all corner points at the new property lines;
4. The project shall be built in accordance with the final approved plans;
5. The developer, property owner and monitoring agent for this affordable housing development will be Church Community Housing Corporation, Inc.;
6. CCHC has stated that if the existing house is not able to be rehabilitated, a new dwelling will be built in its place and the lots will be adjusted to be equal size. In this instance, no further Planning Commission review will be necessary as long as the new dwelling has similar appearance and size characteristics as the other two new dwellings- as reviewed and approved by the Town Planner and Town Engineer. An administrative subdivision will be required to change lot lines;
7. The subdivision designer has coordinated with the Town Engineer regarding stormwater controls for the subdivision and agreed that infiltrator units do not serve the needs of the



development proposal or surrounding homes and that swales at each western property line should be provided. This proposed grading shall be shown on the final plan and approved by the Town Engineer;

8. There may be unknown sewer and/or water laterals located within the construction area. If any existing sewer and/or water services are disturbed during excavation the developer must immediately repair such service to its previous function;

9. Each lot shall provide two (2) off-street parking spaces as required by the Jamestown Zoning Ordinance and shall be shown on the Final plans;

10. The Planning Commission delegates Final Review to the Town Planner with the signature of the Planning Chair to appear on the Final Record Plan;

~~9.11.~~ This approval shall be recorded by the applicant with the Office of the Town Clerk and the Planning Office shall post the approval outside the Planning Office within 30 days of the date of approval; and,

~~10.12.~~ This approval shall expire one year from the date of approval by the Planning Commission unless final approval is granted within that time.

**V. Old Business – nothing at this time**

**VI. New Business – nothing at this time**

Attest:



Cinthia Reppe  
Planning Assistant

This meeting was digitally recorded