

Approved As Written
PLANNING COMMISSION MINUTES
May 15, 2013
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:

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
Cynthia Reppe – Planning Assistant
David Petrarca – Town Solicitor
John Murphy, Attorney
Michael Darveau – Darveau Land Surveying
Noreen Drexell
Robert Marcello – Knollwood Builders
Betty Hubbard

I. Approval of Minutes May 1, 2013

A motion was made by Commissioner Enright and seconded by Commissioner Pendlebury to accept the minutes as written. So unanimously voted.

II. Correspondence – nothing at this time

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

IV. Reports – nothing at this time

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

V. New Business

1. Beaverhead Farms Administrative Subdivision, Plat 11 Lots 7, 44 and 45, Referral to the Planning Commission by Administrative Officer with Recommendation for approval.

John Murphy Attorney gave a presentation on behalf of Noreen Drexel and William O'Farrell, owners of the property. It is a 3 lot redivision, they are asking to adjust the lot line so it will still be a 3 lot subdivision. The farmhouse will have access to Beavertail Rd which is a state highway road. The TRC approved this unanimously.

Mr. Darveau Professional Land Surveyor that has been accepted as an expert witness from the Planning Commission will be giving a brief description of the subdivision. Mr. Murphy has reviewed the conservation easements and there is nothing about the easements that prohibit the use of this farmland. He has given his opinion to the town regarding the easements and language.

Mr. Darveau, stated the entire parcel is approx 56 acres, Plat 11 Lot 7 contains 10 acres of land. Lot 44 is 24.6 acres. The cemetery is not part of the property it belongs to an abutting property. Lot 45 is 18.6 acres the majority of lots 44 and 45 is currently all fields. He explained the existing driveway.

He showed the planning commission how the lots will look after the subdivision. He also showed the easements. It is the intention of the owners to maintain an access to their property utilizing Fort Getty Rd. and an easement will be recorded.

The two dwellings on lot 44 preceded zoning. Town Planner Lisa Bryer said see condition #7 the property has been to the zoning board and it was added to plan. Town Solicitor Mr. David Petrarca was at the TRC meeting.

They are becoming more in conformance by separating the three dwellings on one lot.

Mr. Murphy was involved when Anna Templeton Cottle made the provision to the new owner. Commissioner Smith asked them if they can give us in a couple of sentences what the purpose is. It is to give the farmhouse an appropriate address. Smith was concerned that the barn will not be with the main house and most of the farmland. Noreen Drexel owner of the property said the barn has been used for occasional livestock problems, she needs to note that choosing to keep livestock on the property is not something that is required of them. There can be no further building on the protected field for open space but they have the ability to farm.

There were additional conditions made that will be added to the approval.

A motion was made by Commissioner Swistak and seconded by Commissioner Cochran to approve the motion with the noted changes as follows.

At the May 15, 2013 Planning Commission meeting, the Commission voted to grant Administrative Subdivision approval in accordance with the Town of Jamestown Subdivision Regulations, RIGL 45-23-37 and the plans entitled "**Administrative Subdivision Plan for William J. and Noreen D. O'Farrell, Plat 11 Lots 7, 44 and 45, Fort Getty Road and Beavertail Road, Jamestown, Rhode Island; prepared by Darveau Land Surveying, Inc.;**

dated February 18, 2013, revised May 14, 2013 based on the following Findings of Fact and subject to the following Conditions of Approval:

A. Findings of Fact

1. The subdivision is consistent with the requirements of the Jamestown Comprehensive Plan and/or shall satisfactorily address the issues where there may be inconsistencies. Jamestown's Comprehensive Community Plan encourages maintenance of active farmland such as is deeded for the subdivision property;
2. No building lot is designed and located in such a manner as to require relief from Article 3, Section 308 of the Zoning Ordinance as long as future proposed systems are located further than 150 feet from the edge of any wetland on lot 7;
3. There will be no significant negative environmental impacts from the proposed development as shown on the plans, with all required conditions for approval;
4. The subdivision as proposed will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and buildings standards would be impracticable;
5. All subdivision lots have adequate and permanent physical access to a public street, namely, Fort Getty Road and Beavertail Road. Lot frontage on a public street without physical access shall not be considered compliant with this requirement;
6. The subdivision provides for safe circulation of pedestrian and vehicular traffic, for adequate surface water runoff, for suitable building sites and for preservation of natural, historical, or cultural features that contribute to the attractiveness of the community. All lots in the subdivision have access to either Ft. Getty Road or Beavertail Road and no new streets are being created through this subdivision;
7. The design and location of streets, building lots, utilities, drainage improvements, and other improvements in the subdivision minimize flooding and soil erosion;
8. All lots are located in the rural service area where public water, when available, is regulated by the Jamestown Board of Water and Sewer Commissioners;
9. The subdivision parcels are subject to conservation easements by The Nature Conservancy, the Conanicut Island Land Trust and the Audubon Society. The applicant and the applicant's attorney have stated that this subdivision does not effect the existing conservation easements on this property;
10. In reference to the farms on both the north and south side of Ft. Getty Road, The Historic Landscape of Rhode Island book by RIHPHC states that:
Farmed since the settlement of Jamestown, these two farms were one parcel originally owned by the Arnold Family. – *The Law Farm's building complex (Beaverhead Farm) forms a rough quadrangle, including a mid-18th century farmhouse, wood-shingled barn with three wooden silos, and shingled outbuildings; rectangular fields spread to the south and west. **This rural landscape is one of the finest on the island;***
11. The RIHPHC's Historic and Archaeological Resources of Jamestown RI lists the Jonathan Law Farmhouse (mid-18th century): along the south side of Ft. Getty Road is a shingled residence with a large, off-center brick chimney and a 1 story ells on the east side. Nearby is a large, wood shingled barn, another shingled outbuilding is located near the road. Governor Arnold's grandson Benedict left the farm to his nephew Jonathan Law in 1733. It was later the property and residence of Hazard Knowles, then was owned by several other families. Benedict Arnold is buried on a small plot on the farm, as are a number of his siblings, his father, Josiah Arnold, and Josiah's two wives;

12. This application was reviewed by the Technical Review Committee (TRC) meeting on May 14, 2013 at which time they voted to recommend approval of this subdivision to the Planning Commission subject to additional conditions.
13. Attorney John A. Murphy represented the applicant and stated at the TRC meeting that there are no “legal” impediments related to the conservation easements to recording of this administrative subdivision; and
14. Michael Darveau, PLS, Darveau Land Surveying Inc., represented the applicant and was accepted as an expert witness, and provided a detailed explanation of the subdivision plans, prepared by him;

B. Conditions of Approval

1. This subdivision is for the purpose of modifying lot lines between three existing lots. No new lots are being created.
2. This subdivision approval does not supersede any previous zoning approvals;
3. It is the intent of this subdivision that all recorded easements, and the rights and restrictions appurtenant thereto, shall continue in full force and effect, irrespective of the changes made to lot lines as a result of this Administrative Subdivision;
4. That payment of a fee in-lieu-of land dedication shall be required for this subdivision as required by Article IIID of the Jamestown Subdivision Regulations because “a new lot for development” is being created;
5. The access easement over lot 44 to lot 45 (the main farmhouse) shall be created and recorded by the applicant contemporaneously with the Final Plat;
6. Any new proposed house on Lot 7 will require a new OWTS and well. Any new requests for additional or amended water hookups for any of the lots shall require approval of the Jamestown Board of Water and Sewer Commissioners;
7. The Plans shall be amended to show the following:
 - a. Note the previous Zoning approval with conditions related to 953 Ft. Getty Road
 - b. a note that lot 7 has a minimum of 80,000 square feet of upland as required by the Subdivision Regulations.
8. This approval shall be recorded with the Town Clerk contemporaneously with the Final Plat; and,
9. This approval shall expire three months from the date of approval unless the Final Plat is signed by the Administrative Officer and recorded in the office of the Town Clerk of the Town of Jamestown.

So voted:

Michael Swistak - Aye
Rosemary Enright - Aye
Richard Lynn – Aye

Duncan Pendlebury – Aye
Mick Cochran - Aye
Michael Smith - Aye

Motion carries 6-0

VI. Old Business

1. **Donna Perry - Stern St. Plat 14 Lot 147 - Zoning Ordinance Section 314 High Groundwater Table and Impervious Overlay District Sub-district A review – Remanded from the Zoning Board for further review and Recommendation to the Zoning Board**

A brief discussion ensued regarding the draft motion and findings of fact.

A motion was made by Commissioner Cochran and seconded by Commissioner Smith to accept the draft memo from the Planning Commission to the Zoning Board with one correction on Finding of Fact 17 as follows:

At the February 20 and May 1 Planning Commission meeting, the Planning Commission unanimously voted to recommend to the Jamestown Zoning Board, approval of the application for Donna Perry – Stern St. Plat 14 Lot 147 - Zoning Ordinance Section 314 High Groundwater Table and Impervious Overlay District Sub-district A review in accordance with the plans entitled **Town Submission for Donna Perry, Located at Pole #12 – Stern Street, Jamestown, Rhode Island**, dated **revised 4/9/13**. 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 application was first reviewed by the Planning Commission on February 20, 2013. The Planning Commission provided the Zoning Board a recommendation for approval at that time. The Zoning Board of Appeals reviewed this application on March 26, 2013 and remanded the application to the Planning Commission to look at the issue of flooding and drainage.
2. The applicant proposes to construct a new 24' x 30' dwelling on the above referenced 7,200 SF lot. The proposed dwelling will be a tri-level, 'slab on grade' design due the high water table on the site.
3. The applicant seeks a Special Use Permit under Zoning Ordinance Section 82-314.
4. The soil evaluation report indicates that the depth to seasonal high groundwater is 14" and the depth to Category 9 (impervious) soils is 43", placing the property in sub-district A as defined by the ordinance. Based on the calculations the ordinance allows for no more than 10% of impervious cover, and the plans reflect impervious cover of 10%. There are no wetlands on the lot.
5. The applicant's Engineer redesigned the stormwater rain-garden to handle a 25 year storm instead of a 10 year storm and has provided mapping showing detailed flow patterns on site and in the larger neighborhood. Mike Gray and Justin Jobin provided a Memorandum to the Planning Commission in response to this new information dated April 23, 2013 indicating that the proposed development meets the requirements of Section 314 of the Zoning Ordinance.
6. Three Memoranda from Michael Gray, Town Engineer, and Justin Jobin, Environmental Scientist, to Lisa Bryer, Town Planner dated 1/30/13, 2/14/13 and 4/23/13 are attached to this motion. The April 23 Memo states that "In our opinion, the Applicant meets the requirements of the ordinance."

7. The proposed SeptiTech onsite wastewater treatment system and bottomless sand filter leach field provides advanced treatment, and meets the requirements of the ordinance.
8. In order to mitigate increased runoff from the proposed improvements, the applicant has proposed the use of a rain garden, as shown on the plans – which has increased in size from 370 C.F to 442 C.F. The proposed rain garden meets the criteria of the ordinance which requires handling a 10 year storm. The applicant has provides on-site storage to handle a 25 year storm.
9. The applicant is proposing new access to the site via a pervious driveway connecting to Stern Street.
10. A Well Variance required for siting a well less than 50' feet from a paved surface has been issued by DEM, and was included with the plans.
11. The design of the OTWS and site plans were prepared by American Engineering Inc., Daniel R. Cotta PE, dated 1/17/13. Daniel Cotta PE presented the application on behalf of the applicant, and was accepted as an expert witness with regards to drainage and OTWS design.
12. The applicant was also represented by Robert Marcello of Knollwood Building Corp of Exeter RI, who identified himself as the contractor who will build the home.
13. RIDEM requires maintenance of all storm water mitigation systems by the owner, which is critical to continued mitigation of runoff, and maintenance requirements for the proposed rain garden are included on the plans.
14. The applicant has demonstrated that fill and grading around the perimeter of the dwelling will not direct runoff onto the abutting properties to the east and west as shown on the plan by American Engineering LLC dated 2/13/13 and reviewed by Michael Gray and Justin Jobin in a Memo dated 2/14/13.
15. William MacLean (sp), who was representing owners/family members of the abutting lot to the east, testified and expressed concerns that the proposed development would alter the condition of their lot. Mr. MacLean requested an alternate benchmark be identified for use during the as-built inspection, and noted that there is only benchmark currently identified on the plans in the rear southeast corner of the lot.
16. Daniel Cotta, PE, PLS, also testified to the water issues on the adjacent lot; he indicated that American Engineering, his company, conducted the soil evaluations on the adjacent lot owned by Mr. MacLean and the water table, according to the soil evaluation, is similar to the subject lot.
17. Michael Gray, Town Engineer testified and re-confirmed that the proposed design meets the intent of the ordinance. He also affirmed that in his opinion the current natural flow of surface water across lots and through the neighborhood, will not be impacted, even though surface water will be channeled around new structures. He commented further that there is currently ponding of water on the subject lot as well as the lot to the west after a significant rain event, and there will continue to be ponding post-development due to the existing topography and elevations. Mr Gray stated that there are challenges with this particular lot, but the applicant

has made attempts to minimize the impact of the new development and comply with the regulations.

Conditions of Approval

1. The proposed development is constructed in substantial conformance with the final plans approved by the Zoning Board.
2. The bio-retention areas (rain gardens) shall be installed and maintained in accordance with the plans approved by the Zoning Board. The plants may be replaced with other such compatible plantings as approved in the RI Stormwater Design and Installation Manual.
3. The applicant will provide proposed elevations and floor plans to the Zoning Board illustrating gutters and drainage connections to the stormwater mitigation plan.
4. The driveway shall remain pervious unless further approval is granted by the Town of Jamestown.
5. Rain Garden Maintenance Procedures contained on the original plans and a statement noting the perpetual requirement to maintain the driveway as a pervious surface shall be prepared on an 8 ½” x 11” page and attached to the Special Use Permit and recorded with the Office of the Town Clerk to ensure awareness of these requirements as they relate to the transfer of the property and requests for building permits.
6. An as-built plan, in compliance with the approved plans, shall be prepared by the applicant, approved by the Town Engineer and recorded in the land evidence records of the Town of Jamestown prior to issuance of Certificate of Occupancy.
7. Fences may be erected on the subject lot but no fence shall be erected on the property that will block or impede surface water flow to or through the property.
8. An additional fixed benchmark shall be established within close proximity to the lot and the location shall be noted on plans submitted to the Zoning Board.
9. A deed restriction will be attached to the application, which restricts the proposed dwelling to no more than two bedrooms; as required by RIDEM. (According to Daniel Cotta, this document had not been prepared at the time of the meeting.)

So unanimously voted:

2. Shoreby Hill Historic District – Proposed Zoning Ordinance – per request of the Jamestown Town Council – continued

Since the Planning Commission last met the town council discussed this issue. The majority of the councilors want a separate commission. Commissioner Swistak and Lisa Bryer agreed that tonight they will proceed with finalizing the review of the proposed ordinance. Commissioner Swistak

noted there is no need to be nitpicky tonight since we will be forwarding to the Town Council and the Solicitor and they will make changes also.

Town Planner Lisa Bryer was asked where this ordinance will reside and she said the way it is currently drafted it looks like it is part of zoning, it makes sense to have it there so there will not be duplicative appeal and amendment provisions as these processes are already provided for in Zoning.

Town Solicitor David Petrarca said it does belong in zoning. The state legislation shows it should be part of zoning. Procedurally once the document is approved if there are future changes it is either generated or referred to the Planning Commission. The Town Council holds the hearing and they are the approving authority.

They began at the beginning of the document again for review. The definitions will be looked at to make sure they are consistent and not contradictory.

A discussion ensued regarding how the members are selected. Currently it states that the Town Council president has authority with the consent of the Town Council.

Other areas of Jamestown can do this if they want. Commissioner Smith thinks it should not be something that is easy to do. He feels that the property owners rights are being compromised. It was noted by the Planner that because this is a change to the map individual notices will be given to those affected. An amendment to the zoning ordinance can be done by anyone, it is a defined process with public hearings.

This will be on the June 5th Planning Commission meeting accompanied by a draft motion.

Commissioner Cochran made a motion to adjourn at 9:57 that was seconded by Commissioner Enright. So unanimously voted.

Attest:



Cynthia L Reppe

This meeting was digitally recorded