

Approved As Amended
PLANNING COMMISSION MINUTES
September 3, 2014
7:30 PM
Jamestown Town Hall
93 Narragansett Ave.

I. Call to Order and Roll Call

The meeting was called to order at 7:30 p.m. and the following members were present:

Michael Swistak – Chair	Duncan Pendlebury – Vice Chair
Rosemary Enright – Secretary	Mick Cochran
Bernie Pfeiffer	Michael Smith

Not present – Michael Jacquard

Also present:

Lisa Bryer, AICP – Town Planner
Cynthia Reppe – Planning Assistant
Wyatt Brochu – Town Solicitor
Michael Darveau – Professional Land Surveyor
Peter Brockmann – Attorney
Christian Infantolino – Attorney
Dan Cotta – Professional Engineer - American Engineering
Mark Smith

II. Approval of Minutes August 20, 2013

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

III. Correspondence

1. FYI – Letter from Barbara Herrmann Re: Historic Education. Received
2. FYI – Letter from Jack Hubbard – Re: Historic Community Character. Received

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

V. Reports – nothing at this time

1. Town Planner's Report
2. Chairpersons report
3. Town Committees
4. Sub Committees

VI. Old Business – nothing at this time

VII. New Business

1. **Mark Smith - Plat 15, Lot 108 – Starboard Ave. - Zoning Ordinance Section 314 Sub District A Review, High Ground Water Table Impervious Overlay District – Recommendation to Zoning Board**

Peter Brockmann - 400 Westminster St. Providence is representing the applicant Mark Smith. The owner of the property is Louis Vigars. There is a purchase and sales agreement in place.

A motion was made by Commissioner Cochran and seconded by Commissioner Smith to accept Mr. Brockmann as an expert witness. So unanimously voted.

This lot has Category 9 soils, it is a single lot 8899 sq ft. Mr. Michael Darveau prepared the site plan, OWTS and drainage plan. He will make a presentation. This is a new 2 bedroom dwelling with a 2 bed approval from DEM. Mr. Brockmann went through the packet enclosures included for the Planning Commission.

Mr. Michael Darveau, explained the drainage to the Planning Commission. This dwelling is situated on the lot with the narrowest side at the front and back. It allowed them room to place the rain gardens to disperse the runoff. There is a crushed stone driveway. The septic is designed and approved by DEM. There is a 2 bedroom deed restriction on this house. The OWTS across the street has to be moved before construction starts.

Town Planner Lisa Bryer asked about the rain garden behind the bottomless sand filter Mr. Darveau said it was a last minute edition. Mr. Darveau stated he tries to go above and beyond what is required as long as it is not so costly to the applicant.

Commissioner Smith asked about the easement on the abutters driveway. Instead of having the neighbor move the driveway an easement was given. A discussion ensued regarding the driveway, it was decided that the neighbors driveway will be made impervious on the subject lot so the impervious footprint will not exceed 10%. This will be noted under conditions of approval and findings of fact along with others noted tonight. The approval will be held until the updated plans are submitted and approved.

A motion was made by Commissioner Swistak and seconded by Commissioner Cochran as follows:

At the September 3, 2014 Planning Commission meeting, the Planning Commission voted to recommend to the Jamestown Zoning Board, approval of the application of Mark Smith, Plat 15 Lot 108, Starboard Avenue. The Planning Commission reviewed this application under Zoning Ordinance Section 314 High Groundwater Table and Impervious Overlay District Sub-district A in accordance with the plans by Darveau Land Surveying, Inc. entitled Proposed Site Plan for Mark Smith, Plat 15, Lot 108, Starboard Ave. Jamestown, Rhode Island. 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 is proposing to construct a two-bedroom dwelling on a 8,899 SF vacant lot.

2. There are no wetlands on the subject property nor are there any wetlands within 150 feet from the applicable components of the OWTS per Zoning Ordinance Section 82-308.
3. Based on soil evaluation reports, the subject lot is in sub-district A.
4. Justin Jobin, Environmental Scientist, has been meeting with the applicant throughout the design phase to insure the application meets the criteria of the ordinance.
5. A "Narrative of Proposed Improvements and Restrictions" has been provided by Darveau Land Surveying, Inc. and outlines the scope of the project along with all operation and maintenance requirements and procedures for said development.
6. A Memorandum (attached) dated August 26, 2014 to Town Planner Lisa Bryer, provided by Michael Gray, PE and Justin Jobin, Environmental Scientist notes that the proposal meets the requirements of the Ordinance as follows:
 - a. Is below the allowable impervious coverage limit of 10%. The applicant is proposing 9.8% impervious coverage;
 - b. The applicant is not proposing more than 12" of fill and it does not appear that the predevelopment runoff patterns will be significantly altered or that additional runoff will be directed towards abutting properties;
 - c. The proposed 2 bedroom SeptiTecOWTS and bottomless sand filter leach field provides advanced treatment, and meets the requirements of this ordinance. The applicant has enclosed a copy of the RIDEM OWTS Approval;
 - d. The proposed two rain gardens exceed the criteria of the Ordinance to accommodate the increase in runoff for a 10 year storm. The rain gardens are 350± square feet by 8" deep. In addition a third rain garden was added to the design to treat and intercept stormwater to the rear of the property.
7. The applicant, Mark Smith, is not the owner of the subject lot.
8. The abutter's driveway, Plat 15 Lot 109, encroaches onto the subject property and is provided an easement by the subject parcel.

Conditions of Approval

1. A 2 bedroom deed restriction was required in accordance with the RIDEM OWTS approval. This restriction must be recorded in the Office of the Town Clerk with the Zoning Approval.
2. The Operation and Maintenance (O & M) requirements for the proposed development (design of OWTS, Plantings and grading for the stormwater mitigation rain garden and crushed stone driveway) shall be recorded in the Office of the Town Clerk with the Zoning Approval.
3. The O & M shall be amended prior to recording to indicate that driveway shall remain pervious in perpetuity. Any change in this requirement will require additional approval by the Zoning Board of Review.
4. All recommendations and approvals shall apply to this specific application, any future development to the site will require resubmittal under zoning sec 82-314.
5. Relocate the existing Bottomless Sand Filter on Plat 15, Lot 84 owned by Mark Smith as required by the RIDEM OWTS approval.
6. The abutter's driveway, Plat 15 Lot 109, which encroaches on the subject lot will be made impervious on the subject lot so the total impervious footprint will not exceed 10%. The

Planner will handle this plan change administratively and will ensure the updated plan is included with the recommendation for approval.

The following attachments shall be included:

- 1) Memo from Michael Gray, PE and Justin Jobin, Environmental Scientist dated August 26, 2014
- 2) Site Plan for A.P. 15 Lot 108 Starboard Avenue, Jamestown, Rhode Island dated Aug. 22, 2014

~~All in favor.~~ **5-Yeah – 1 Nay**

2. Nelson/Uustal – Plat 15, Lots 319 & 320 – Garboard St. & Dolphin Ave. - Zoning Ordinance Section 314 Sub District A Review, High Ground Water Table Impervious Overlay District – Recommendation to Zoning Board

Christian Infantolino, Morneau & Murphy, Attorney for the applicants explained that Mr. Darveau, who was accepted as an expert witness, will present the application.

Michael Darveau, PLS, Darveau Land Survey, Inc. stated that all the test holes had 30 inch water tables and it is the impervious layer that put this in Category A. Since it is below the maximum impervious, any new improvements for instance a garage or expansion will have to come back before Planning and Zoning. It would be required under the ordinance but if they added a second story it would not trigger the ordinance. Mr. Darveau said they wanted to minimize the fill and grading.

The septic is approved for 4 bedrooms but they are proposing a 2 bedroom house. Commissioner Swistak told Mr. Infantolino that the Maintenance of the raingarden must be recorded with the Approval.

A motion was made by Commissioner Swistak seconded by Commissioner Smith as follows:

At the September 3, 2014 Planning Commission meeting, the Planning Commission voted to recommend to the Jamestown Zoning Board, approval of the application of Robert Nelson and Thomas Uustal, Plat 15 Lot 319, at the corner of Garboard and Dolphin. The Planning Commission reviewed this application under Zoning Ordinance Section 314 High Groundwater Table and Impervious Overlay District Sub-district A in accordance with the plans by Darveau Land Surveying, Inc. entitled Proposed Site Plan for Robert Nelson and Thomas Uustal, Plat 15, Lot 319 and 320, Dolphin Avenue and Garboard Street. Jamestown, Rhode Island. 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 is proposing to relocate an existing single story 1,220 square foot residence to this 21,600 square foot vacant lot.
2. The house to be relocated is assessed as a 2 bedroom dwelling by the Jamestown Tax Assessor.
3. The RIDEM OWTS approval is for a 4 bedroom dwelling therefore no deed restriction is required.

4. There are no wetlands on the subject property nor are there any wetlands within 150 feet from the applicable components of the OWTS per Zoning Ordinance Section 82-308.
5. Based on soil evaluation reports, the subject lot is in sub-district A.
6. Justin Jobin, Environmental Scientist, has been meeting with the applicant throughout the design phase to insure the application meets the criteria of the ordinance.
7. A "Narrative of Proposed Improvements and Restrictions" has been provided by Darveau Land Surveying, Inc. and outlines the scope of the project along with all operation and maintenance requirements and procedures for said development.
8. A Memorandum (attached) dated August 26, 2014 to Town Planner Lisa Bryer, provided by Michael Gray, PE and Justin Jobin, Environmental Scientist notes that the proposal meets the requirements of the Ordinance as follows:
 - a. Is below the allowable impervious coverage limit of 10%. The applicant is proposing 6.2% impervious coverage;
 - b. The applicant is not proposing more than 12" of fill and it does not appear that the predevelopment runoff patterns will be significantly altered or that additional runoff will be directed towards abutting properties;
 - c. The proposed 4 bedroom SeptiTecOWTS and bottomless sand filter leach field provides advanced treatment, and meets the requirements of this ordinance. The applicant has enclosed a copy of the RIDEM OWTS Approval;
 - d. The proposed rain garden exceed the criteria of the Ordinance to accommodate the increase in runoff for a 10 year storm. The rain garden is 1,060± square feet by 8" deep.

Conditions of Approval

1. The Operation and Maintenance (O & M) requirements for the proposed development (design of OWTS, Plantings and grading for the stormwater mitigation rain garden and crushed stone driveway) shall be recorded in the Office of the Town Clerk with the Zoning Approval.
2. The O & M shall be amended prior to recording to indicate that driveway shall remain pervious in perpetuity. Any change in this requirement will require additional approval by the Zoning Board of Review.
3. Discussions have occurred with the applicant regarding the potential of a future garage on site. It appears that there is impervious coverage remaining to allow this to occur, however, any future development to the site will require resubmittal under zoning sec 82-314.

The following attachments will be included with the application:

- 1) Memo from Michael Gray, PE and Justin Jobin, Environmental Scientist dated August 26, 2014
- 2) Site Plan for A.P. 15 Lot 319Garboard and Dolphin, Jamestown, RI dated Aug. 22, 2014

All in favor.

3. **Eric Bottaro – Plat 15, Lot 215 - Zoning Ordinance Section 314 Sub District A Review, High Ground Water Table Impervious Overlay District – Recommendation to Zoning Board**

Christian Infantolino -Morneau and Murphy, attorney for the applicant Eric Bottaro.

The applicant is proposing a single family residence. He introduced Dan Cotta.

Dan Cotta – P.E. American Engineering has appeared before the commission several times. A motion was made to accept Mr. Cotta as an expert witness by Commissioner Pendlebury and it was seconded by Commissioner Cochran. So unanimously voted.

Dan Cotta presented. This is a unique lot triangular in shape. The house is situated in the largest portion of the lot. The proposed rain gardens are sized for the entire impervious area, and the driveway is impervious. They will be asking for setback relief from the zoning board for both the front and back yards.

Commissioner Cochran asked what is the required setback? Ms. Bryer answered that the setbacks were determined by Fred Brown, Zoning Enforcement Officer and are accurate on the plan. Town Solicitor Wyatt Brochu said Mr. Brown is not here and also the setbacks are not part of the 314 review, setback relief is up to the zoning board. Commissioner Pendlebury said this is a unique site and the intent of the ordinance is that this has three front yards since it fronts on three streets. Commissioner Cochran thinks there should be documentation about it from the Building Official. Commissioner Swistak wants the solicitors opinion. What is before the Planning Commission is the recommendation on 82-314. It is up to the applicant to show what relief they need, not up to either the Planning Commission or Zoning Board to tell them. If this commission disagrees with that opinion then you can put it in a recommendation.

Commissioner Swistak asked “How many of the commissioners are inclined to weigh in on the setback?” Solicitor Brochu said they can include a memo for the zoning board to consider. Mr. Brown determined there is a front, side and rear yard. Brochu said you can agree with the interpretation or not. Zoning board needs to rule on the application before them. Technically the variance application is not before you it is only 314.

The Planning Commission discussed what they think the front, side and rear lots consist of.

A discussion ensued about the shed. Jobin has no issues with the design of the drainage system this way. When we revise the ordinance we may change ours to mimic the RI Stormwater Design Manual.

Their one change to the conditions is to redesign the rain garden guidelines to meet the state requirement for a 10 year storm calculation. The relocated shed will be elevated as required by 314 b 6.

Brochu said the commission could make a statement on their opinion of the setbacks.

Commissioner Pendlebury read a statement that he wants to put as a note on the approval.

Commissioner Smith says the only problem with that is we are saying this is an unbuildable lot. He thinks that it should be designed with what the building inspector has determined. Are these two separate issues? Mr. Brochu said the standards of review are separate. A discussion ensued with the additional Conditions of Approval and Findings of Fact to be included.

Mr. Infantolino said they are aware of all these issues but they also feel they have met the requirements of 314. Are these variances based on what zoning has said? No Christian said they are based on the conversations with Fred Brown. Brochu said the other thing they can do is make findings on 314 and qualify the comments on the setbacks.

Mr. Infantolino justified the reasons that the house is designed the way it is.

A discussion ensued regarding whether or not to postpone this application until the next meeting. Commissioner Swistak does not want to hold the applicant up so therefore we will go forward with our recommendation on 314 and a memo regarding the dimensional relief.

A motion was made by Commissioner Swistak and seconded by Commissioner Pfeiffer as follows:

At the September 3, 2014 Planning Commission meeting, the Planning Commission voted to recommend to the Jamestown Zoning Board, approval of the application of Eric Bottaro, Plat 15 Lot 215, Seaside Drive. The Planning Commission reviewed this application under Zoning Ordinance Section 314 High Groundwater Table and Impervious Overlay District Sub-district A in accordance with the plans by American Engineering, Inc. entitled Drainage Plan for Eric Bottaro Located at Pole 27, Seaside Drive, Jamestown, Rhode Island. 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 is proposing to construct a four-bedroom dwelling on a 25,014 SF vacant lot.
2. The RIDEM OWTS approval is for a 4 bedroom dwelling therefore no deed restriction is required.
3. There are no wetlands on the subject property nor are there any wetlands within 150 feet from the applicable components of the OWTS per Zoning Ordinance Section 82-308.
4. Based on soil evaluation reports, the subject lot is in sub-district A.
5. Justin Jobin and Lisa Bryer have been meeting with the applicant throughout the design phase to insure the application meets the criteria of the ordinance. The applicant is aware that reducing the size of the 2,121 square foot house will negate the need for a Zoning Variance.
6. This application has received a well variance from RIDEM for being 30 feet from the road where 50 feet is required.
7. A list of Rain Garden and Driveway Notes have been provided as an Exhibit.
8. A Memorandum (attached) dated August 26, 2014 to Town Planner Lisa Bryer, provided by Michael Gray, PE and Justin Jobin, Environmental Scientist notes that the proposal meets the requirements of the Ordinance as follows:
 - a. This application is proposing 7.9 percent impervious coverage. This is below the allowable impervious coverage limit of 10% and also below the 2,000 square foot cap permitted by Ordinance.
 - b. This application is seeking a dimensional variance for front and rear yard setbacks. Because this is a triangular shaped lot, the front yard setback is along Seaside Drive and requires 40' where they are requesting 30.5 feet. The required rear yard setback along Beach Avenue 30 feet where 23.2 feet are requested; * see note below

- c. The applicant is not proposing more than 12” of fill and it does not appear that the predevelopment runoff patterns will be significantly altered or that additional runoff will be directed towards abutting properties;
- d. The proposed 4 bedroom SeptiTecOWTS and bottomless sand filter leach field provides advanced treatment, and meets the requirements of this ordinance. The applicant has enclosed a copy of the RIDEM OWTS Approval;
- e. The proposed rain garden exceeds criteria of the Ordinance to accommodate the increase in runoff for a 10 year storm. The second floor overhangs, front porch and shed are designed to allow for infiltration below and are therefore exempt from impervious cover. The applicant has agreed to mitigate the runoff for 2,265.5 sf of proposed roof area including those exempted areas. The rain garden is 673 cubic feet.

Conditions of Approval

4. The Exhibit which includes Rain Garden and Driveway maintenance requirements shall be recorded with the Zoning Board Approval
5. The Operation and Maintenance Agreement for the approved OWTS shall be recorded in the Office of the Town Clerk as required by RIDEM approval.
6. The existing shed shall be elevated to comply with 82-314. B. 6.
7. The Rain garden shall be redesigned to meet the State of Rhode Island Stormwater Design Manual 10 year storm. **

* Note: The Planning Commission believes that the intent of the dimensional regulations is uniquely affected by their lot configuration with streets on all sides of a minimal dimension of 122.5 feet of depth. And therefore all sides should be considered as front yards when reviewed in the context of adjacent front yards. As a minimum Section 82-307 should be applied.

** Note: The Attached runoff calculations indicate that a 10 year storm (4.9 inches of rain) was used and therefore Condition #4 above has been met.

The following Attachments will be included with the approval:

- 1) Memo from Michael Gray, PE and Justin Jobin, Environmental Scientist dated August 26, 2014
- 2) Site Plan for A.P. 15 Lot 215 Seaside Drive, Jamestown, Rhode Island dated Aug. 21, 2014
- 3) Operation and Maintenance Exhibit for Rain Garden and Driveway

All in favor

VIII. Adjournment

A motion was made by Commissioner Enright and seconded by Commissioner Cochran to adjourn at 9:30 p.m.

Attest:



Cynthia L. Reppe

This meeting was digitally recorded