

Approved As Written
PLANNING COMMISSION MINUTES
January 3, 2018
7:00 PM
Jamestown Town Hall
93 Narragansett Ave.

I. Call to Order and Roll Call

The meeting was called to order at 7:0 p.m. and the following members were present:

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

Also present:

Lisa Bryer, AICP – Town Planner
Wyatt Brochu – Town Solicitor
Cinthia Reppe – Planning Assistant
Michael Darveau – Darveau Land Surveying
Emily Rutherford
Jerry McIntyre
Chad George
Arthur Milot
Bill Maynard
Fred Reis
Jeff Alexander
Dorcy Beard
Mary Marshall

- II. Approval of Minutes December 20, 2017;** review, discussion and/or action and/or vote
A motion was made by Commissioner Enright and seconded by Commissioner Cochran to accept the minutes as written. So unanimously voted.

III. Correspondence

1. FYI – DPR approval letter Jamestown Landing. Received
2. FYI – Memo to Zoning Re: - Melroy HGWTO recommendation. Received

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

V. Reports

1. Town Planner's Report – Town council approved marijuana ordinance at their meeting and she gave the commission a copy of both this and 308.
2. Chairpersons report
3. Town Committees
4. Sub Committees

Master Plan/Preliminary Public Hearing

Estate of Jane Alden Scott Subdivision (Scott Michael Scott & Emily Alden Rutherford), Tax Assessors Plat (AP) 10 Lot 40, Highland Drive - 2 lot Subdivision with two existing structures requiring waivers to subdivision regulations for access to the site and zoning variances for Parcel B for being an undersized lot (A variance for size 31,650 sq. ft. where 80,000 sq. ft. is required) and side lot line variance for 19.1 ft. where 30 ft. is required. Parcel A for not having proper frontage (A variance for frontage which is not accessible on Newport St.) nor the required lot size for a multi-family dwelling of 3 units (A variance for size 88,808 sq. ft. where 200,000 sq. ft. is required) in the RR 80 district.

A motion was made to change this application to a major review including combining the phases of review including the public hearings and open the public hearing by Commissioner Pfeiffer and second by Commissioner Enright. So unanimously voted.

A motion was made to accept Mr. Darveau as expert witness by Commissioner Smith and second by Commissioner Cochran. So unanimously voted.

Mr. Darveau explained that each building has its own septic and water services. The water service to the main house is through a granted easement from the abutting property to the north that shares a driveway with one of the houses. It was deeded as 3 separate parcels originally and somewhere down the line they were merged.

The variance for the side setback for the stone cottage is a variance they are creating because frontage was created on Highland Dr. for the main house. Otherwise it would have enough frontage on Highland Drive. No new buildings or construction are being proposed to the properties. This property was left to a brother and sister who want the lots separate that they have inherited.

Commissioner Pendlebury wants to know why Newport cannot be used for frontage? Bryer responded that frontage has to be physically accessible in order to be considered frontage. If it were to be opened and improved to town standards then it possibly could be but currently it is overgrown and blocked. Commissioner Swistak said that would be at the expense of the applicant.

Part of the planning commissions responsibility is to determine undue hardship for granting of the waivers as well as making a recommendation for the variances, and that has not been clearly stated. Commissioner Swistak asked if it was 3 parcels prior and merged in the late 70's or 80's. Developing Newport St. is a hardship that would be a road for 1 house that already has access to Highland Dr. Commissioner Swistak asked Mr. Darveau to go through the requested variances.

Parcel A proposed area 88,808 where 200,000 ft. is required for a 3 unit dwelling.

Parcel A proposed 15 ft. of frontage where 200 ft. is required.

Parcel B lot size proposing 31,650 where 80,000 for a single family is required.

Parcel B frontage 188.4 ft. where 200ft. is required.

Parcel B 19' side setback from proposed new lot line where 30 feet is required.

Commissioner Swistak asked Bryer if we looked at existing condition of the property before the merger. Bryer noted that in the town records it was deemed a legal non-conforming situation in 2010 and we have records of the large house being 3 units as far back as 1983.

Lisa Bryer read from a letter dated March 18, 1987 it was to Ms. Scott regarding the merger of lots 40, 41, and 99.

Wyatt Brochu, town solicitor said was it merged for just tax reasons or something different because that possibly might mean they are still 3 separate lots.

Commissioner Smith asked is the big house still used as a 3 family? Yes, Emily Rutherford answered. Its been that way her whole life. Brochu has some questions for her attorney Mark Liberati this may be just for tax lot lines and record lots still exist. 3 lots taxed as 1 Wyatt Brochu said. Under zoning enabling it could have been merged for tax lots and not lot lines. But there could be 3 lots that were there originally and they might still exist. Was there an administrative subdivision done at the same time? What was going on in Jamestown at that time.

Town Planner Lisa Bryer said after they were merged, the Crawford's re-subdivided and the property was sold to Scott. Commissioner Swistak asked should we put the brakes on or go ahead with the hearing since there are people in the audience interested in this application. Wyatt Brochu said go ahead with the public hearing. We believe this is 1 lot currently. This is where they want the lines to be so let's go ahead with the proposal.

Jerry McIntyre – 57 Newport St. a neighbor – he thinks its important that in this area where the Scott residence is there are 8 other buildings similar in size and presumably these other property owners might want to divide their property for later development which would be a detriment for this area. In reviewing this application, a lot of questions need to be addressed like the 3 units. The tax rolls of town from 85 to 2000 it was taxed as a 01 single family and not a 02 multi-family. The town recognized it as a single family. There is nothing in the records of this town that says the 3 units were done legally. That's a problem. Is it up to code? It was confirmed as a legal non-conforming use. 2 houses on 1 lot. This property is assessed at 1.5 million. Hardship is not met in his opinion.

Emily Rutherford – I have lived in the house for 33 years she has the historical deed the Crawford's divided the land and in the deed it is 3 lots and 4 dwellings. Her family fixed up the interior of the house. The stone house has existed since 1920, signed easement from the Crawford's that shows the shared driveway, the big house has had 3 kitchens since they have had it. Nothing has been added, they put new stoves and refrigerators in. Large house has 3 units in it. One on the side 2 lofts and kitchen. The 1st and 2nd floors have 3 bedrooms and 5 baths. 3rd floor has always had a kitchen. When her mother passed she and her brother inherited it. They first they thought about selling it because that is what her brother wanted. The multi family has been there since probably the 40's. 3rd floor has living room bathroom and 2 bedrooms.

Chad George 215 Walcott Ave. – not an abutter, a neighbor, they are recent buyers about 4 or 5 years ago, he would like to say that he thinks Mr. McIntyre explained the legal issues and all the other issues and he agrees. When he looked at the house he saw a regular house with a gatehouse. A lot of things were done in wartime here and those legal issues would have to be flushed out. He thinks of the amount of money invested in the area. As a neighbor he thinks it's a lot and these large houses don't sell for much more than the lot value because they are so expensive to renovate and upkeep. He does not understand what the long-term purpose would be for the town.

Jeff Alexander – not an abutter – He wants to add clarity on use of house. It has been used as a wedding venue where up to 250 guests can be accommodated according to the website and 1 wedding per week can be performed. Rooms in the big house can be made available to the bride and groom. He is concerned with this many cars to accommodate that many people.

Arthur Milot – Walnut St. not an abutter. He is concerned about the precedent that might be established here, houses that come up from time to time single family and they sell slowly, people might decide to turn it into a multi-family to be more attractive to buyers. Presence of weddings in the area this and 1 or 2 others in the area that needs to be addressed, this might not be the venue for it here but it needs to be addressed.

Bill Maynard - 358 Highland Dr. shares the other neighbor's concerns and 3 family can that be researched and ensure it is a 3 family. Wedding venue is a concern.

Mary Marshall - 44 Ft Wetherill Rd. – not an abutter, important we determine when and how it became a 3 family. Back in the 60's and 70's it was a single family. Newport St. she said there was as a road that ran parallel to Walcott Ave and joined Highland drive. It was always private and all the roads were back then, in the 1990's.

Fred Reise - 133 Fort Wetherill owned since 1983 he just found out it is a 3 family house he knew Jane very well and moving forward further dividing this property would not be a good thing. To begin with right now it's a 3 family and he thinks it is distasteful.

Emily Rutherford said there have been a total of 12 weddings there in 33 years including her wedding and a political fundraiser. There is a website to rent the apartments in the house and it says you can host an event there, this is on the old website. On a short term basis a week rental is what the website said.

The Chair asked whether the apartments rented long term? She rented the first and second floor for a month last summer. But in general they are long term rentals

Commissioner Swistak said precedent or legal precedent was mentioned at least 4 times, is this application different than others and what happens if this is granted? Are these all questions for Mr. Costa to address?

Mr. Brochu said each application is on a case by case basis. Chris Costa needs to look at the multi family situation and make a determination if it is existing, legal-nonconforming.

Swistak said we need to investigate further the history on this lot so there is a more clear and definitive picture on what was done in the past with the lot lines and abutters and use of property pertaining to existing non-conforming uses that are relevant here and at the zoning board. We also need to have the questions of neighbors and abutters addressed.

Commissioner Pendlebury asked Mr. Brochu is there any responsibility of the owner to have their deed revised when the lot is revised. There is not a requirement currently if lots are merged that an owner has to revise the deed. State law does not require that property owners do subdivision.

Commissioner Cochran asked if this was multi family for the last 33 years is it grandfathered? Yes, Chris Costa has to do some research. It is an undersized lot if not grandfathered in. Bryer noted that she had done thorough research and will do more but it may not be any clearer than it is today. Wyatt noted that it will then be the determination of the building official. He will do his due diligence and the applicant if she disagrees can appeal to the zoning board.

Commissioner Swistak asked if we continue the public hearing there is no additional notice sent out correct? Bryer stated that we must continue to a date certain if it is to be continued without further notification.

McIntyre – what should the use be and what has it been since the town records changed to multi family. How can we get this information out? Either through Emily Rutherford there should be a lease or a rent roll as actual use.

Commissioner Pfeiffer said a multi family requires special use permit in this case so it should at least be applied for unless it is grandfathered.

Commissioner Cochran asked if any of the neighbors have filed a formal complaint with the police because of noise from the weddings? Yes, Reise did.

Dorcy Beard- 1 Blueberry Lane they called the police for noise from a wedding.

Chad George said the fact that something was granted for a different property it would be to look at on an individual basis.

Lisa Bryer would recommend this not be on for at least another month since much information has been asked for and it will require more than a weeks time to prepare and Commissioner Swistak would like another TRC.

A motion was made by Commissioner Swistak and seconded by Commissioner Cochran to continue the hearing to Feb 21st So unanimously voted.

VI. Old Business – nothing at this time

VII. New Business - nothing at this time

VIII. Adjournment

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A motion was made by Commissioner Enright and seconded by Commissioner Smith to adjourn the meeting at 8:30 pm. So unanimously voted.

Attest:

A handwritten signature in cursive script that reads "Cynthia L. Reppe".

Cynthia L. Reppe